



NEWSLETTER

World Bank Group
Staff Association

Room MC1-700 • Ext. 39000 • <http://sa.worldbank.org>

Freedom of Speech, Freedom Of Conscience, & the World Bank

Two Bank staff members, both intelligent, highly trained, and highly informed, have recently gone on leave without pay or been investigated and charged for publishing opinion pieces in newspapers. Yet the Bank's rules on the topic of external publication are unclear, and their enforcement varies widely. In some ways, External Affairs managers appear to be deciding who may be a bad employee and who not, based simply on their interpretation of fuzzy wording in management documents that do not even have the force of Staff Rules. The real rules seem hidden from staff, and they seem to run along the lines of: where did you publish your opinion; what's the political climate outside the Bank; how many friends do you have in high places outside the institution?

Neither staff member now works for the Bank. First let us consider Ashraf Ghani, an Afghan national who has devoted much of his life to trying to improve the lot of fellow Afghans. Ironically, he came to the Bank (leaving a teaching post at Johns Hopkins) because he felt he could do more for his home country by directly learning the craft of development.

Ghani, who also has American citizenship, had worked at the Bank as a lead social scientist for nine years when he published an opinion piece (without any mention of the World Bank) in the *Financial Times*. The piece appeared on September 26. In it, he shares information about the factions in Afghanistan (his background is anthropology). He recommends that the U.S. approach the country with an effective transitional government in mind before beginning military strikes, and that the U.S. resist allying with warlords who might make the

population look back fondly on the Taliban. To read the piece, go to <http://globalarchive.ft.com/globalarchive/article.html?id=010927002793>.

Two Hours for Clearance

When the *Financial Times* accepted the piece, it gave Ghani two hours to get Bank clearance. He asked EXT and his home unit ESD (Environmentally and Socially Sustainable Development) and was advised that he should not publish the item. He then said he would resign rather than be silenced, and he and management agreed to an arrangement of leave without pay. Ghani wanted to concentrate on the crisis in Afghanistan regardless of the consequences at the Bank, and his opinion was

What rule did Ghani break, and how bad was his offense? Perhaps the official rule would be Staff Rule 5.03, which speaks of partisan political activities: "Staff members who are present in the course of their employment by the Bank Group in a country where they are not citizens may not participate in its political affairs." Even the applicability of this rule is questionable, though, since Ghani's opinion piece in the *Financial Times* did not mention any U.S. political parties, any officials by name or position, and was a wide appeal without partisan references at all.

Defensive Interpretation of the 'Rules'

What Ghani *did* do was cross External Affairs' "Media Guidelines" (available on

interpreted by people in EXT, and in ways that are very defensive."

A long legal opinion written in 1995 by the Bank's general counsel tried to shed some light on the prohibition against political activities in the Bank's work. The opinion acknowledges, "The Bank's adjustment lending, its realization of the direct relevance of many governance issues to the prospects of economic development, and its growing involvement in providing policy advice to its members made it clear [early in the Bank's operations] that the Bank cannot be completely isolated from political forces which affect its work and shape the attitudes of its members." Since 1995, the Bank has come down hard on issues of governance and corruption; certainly Ghani's piece addresses governance, and the corruption issue is implied.

A Book for MIT Press

Let's turn now to the case with the less-happy ending, and with even more ambiguity in the Bank's complaint: the case of William Easterly. A senior research officer in DEC, Easterly had obtained clearance to write a book on some of his research findings regarding what stimulates development, and what doesn't. His study was being published last July by the prestigious MIT Press, and he had sent drafts of it to his supervisor. It has been sold in the Bank's Bookstore (the title: *The Elusive Quest for Growth*). And in fact the Bank was something of a sponsor for the book; it had given permission for Easterly to write it partly during working hours.

Easterly had published many articles based on his research. He says he has never been told to get clearance on them, and in

Continued on page 2

Do staff check their civil rights at the door when they join the Bank Group?

being sought by other media as well—radio and television networks.

While Ghani was on leave without pay, he had a stroke of luck: President Wolfensohn and the managing directors asked him for a briefing on Afghanistan. At the end of the briefing, Wolfensohn expressed full support for Ghani's engagement on Afghanistan and indicated that the Bank would support him. Then Kofi Annan, Nobel Laureate and Secretary-General of the U.N., personally contacted Wolfensohn and asked if Ghani could work with the U.N. on events unfolding in Afghanistan. Ghani was then seconded to the U.N. with Bank pay and benefits for a year.

the EXT website), which have never been incorporated into the Staff Rules, and which are, as the name says, guidelines. These contain some confusing writing, if not pure sleight of hand. Paragraph one says, "Staff members are encouraged to be responsive and provide the public with meaningful, timely, and accurate information." But, by paragraph four, the guidelines say "the focal point for this relationship between the Bank Group and the media" are EXT and its counterparts in IFC, MIGA, and country offices. In Ghani's opinion, and in others', "There are no media instructions now. It's being inter-

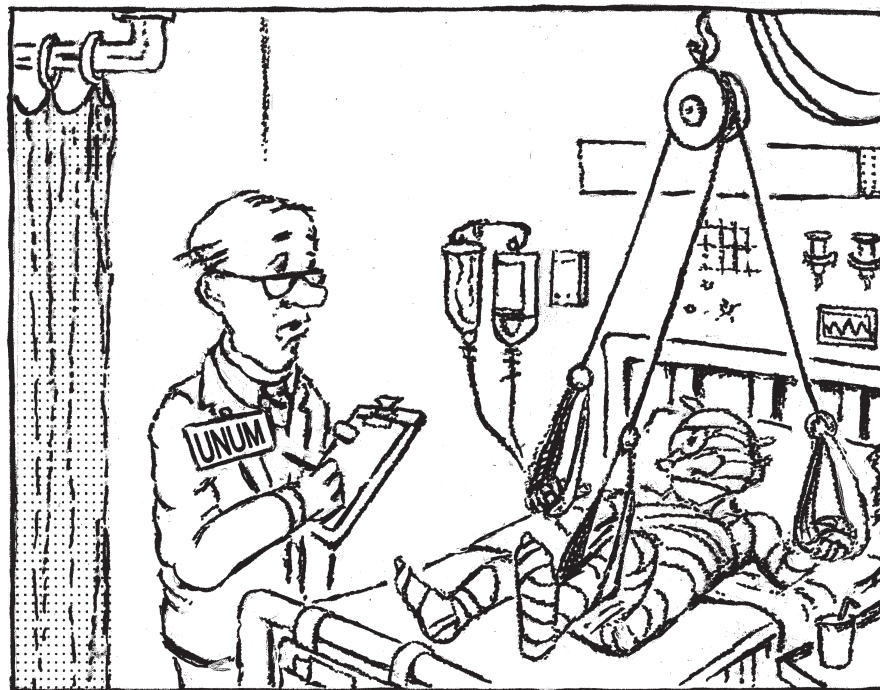
GETTING BANK DISABILITY INSURANCE

UNUM: Promises & Reality Don't Always Match for Staff Who Are Ill

Most Bank staff, bustling along as they are, probably don't give much thought to the topic of disability insurance. Disability is fairly rare, and tends to be filed in mental storage under "A shame; probably not relevant to me." Undoubtedly, this is what staff who are currently disabled thought—until they were struck with illness.

In July 1998, HRS sent a notice to all staff announcing a new disability insurance plan, at no additional cost to the staff. It provided for generous income replacement at 70 percent of net salary for those who were ruled to be disabled. It seemed like a pleasant gift from management, an assurance of security against the unlikely but terrible day when suddenly we could not do our jobs. And it replaced the ad hoc system that existed before for people with medium-term disabilities (the Bank Group already had in place a limited short-term disability program, and a long-term one). The Bank Group contracted with UNUM Provident Corporation, one of the largest commercial disability insurers in the U.S., to administer the plan.

As good as UNUM looked on paper, however, it has proved to be a problem for



"UNUM has to determine your degree of disability. Tell me, how many pounds can you lift? How many words can you type per minute?"

some staff who are truly disabled. The generous promises may be undercut by the real-

ity of UNUM's extremely strict, mechanical definitions of disability. Further, the ulti-

mate appeals board to which a sick staff member can carry a UNUM denial has a questionable makeup. Fortunately, the head of Benefits, Mark Bowyer, has agreed to an extensive review of the Bank's contract with UNUM early in 2002 (see the box on page 4 entitled "The Good News from

Continued on page 2

MAY YOU USE YOUR SICK LEAVE? ASK UNUM FIRST

One more point about sick leave that most staff may not know: no matter how large your sick leave balance is, you can't use more than 20 days of it at once without UNUM's permission. Bank policy is that accrued sick leave does not belong to the staff member, and Benefits representatives point out that medical justification has always been a requirement for using long balances. However, before the advent of UNUM, the decision was made by the doctors in Health Services, on an individual basis, not by a for-profit company with large, shielded data banks.

Freedom of Speech

Continued from page 1

fact received rapid promotion because of his prolific writing and strong research skills. As the publication date neared for his book, MIT Press encouraged him to write op-ed pieces (opinion articles usually published opposite a newspaper's editorial page) and to do interviews. This is standard practice to help promote a new book and disseminate its findings. Since the volume even enjoyed Bank sponsorship, Easterly did not notify his supervisor, who had seen drafts of the book repeatedly, that he was writing an op-ed piece on the findings in the book.

On July 4, Easterly published the op-ed

In a subsequent Ethics notification, he was charged with disregarding the Media Guidelines, and not following Administrative Manual section 14.20. Easterly was not even allowed to have a copy of the completed Ethics report on the investigation; he could only read it and reply. (Both Ghani and Easterly sought help from the Staff Association, and the SA paid for several hours of legal assistance for Easterly to draft his reply to Ethics.)

The Administrative Manual, whose legal force is ill-defined to begin with, is filled with loose terminology that does not provide much concrete instruction for the staff

The notification from Ethics to Easterly cited a Staff Rule...that staff must "conduct themselves at all times in a manner befitting their status as employees of an international organization"

piece in the Financial Times (see http://news.ft.com/ft/gx.cgi/ftc?page_name=View&c=Article&cid=FT33TPUR-BRC). He was identified at the end as affiliated with the Bank, but the column was clearly marked, in display-sized type, "Personal Opinion." The piece sums up Easterly's findings that international aid since the 1960s has "failed to attain the desired results" because it's misdirected. Easterly quickly reviews economic theories that have been tried and discarded, and points to a new, incentives-based plan for lending that would be quite different from current practice.

Within a week, Easterly was contacted by EXT and his vice president, Nicholas Stern. Easterly says that consultations with these parties were unclear; that he was told by his VP to "be careful" and to hold off further writing until two other Bank reports came out (he did). Shortly, he received a notice from Ethics saying that he was under investigation. The notification cited a Staff Rule, part of the Principles of Employment, that only says, ambiguously, that staff must "conduct themselves at all times in a manner befitting their status as employees of an international organization" (Principle C3).

member but *does* provide a tremendous amount of latitude to managers in a mood to censor and censure. The manual says, for example, "The maintenance of good external relations depends upon the exercise of *discretion and judgment* [emphases added] by all staff members....In public statements, staff should promote public knowledge of the Bank Group's strategy, policy, activities, and expertise to the extent that they have been publicly announced [Easterly was in fact sharing his expertise, about to be published full-blown with the Bank's support]....staff members have a responsibility to be fully informed about the Bank Group's *policy posture*Discretion should be exercised with regard to public statements on issues not directly concerning Bank Group policies and activities, but which may affect its *public image*...." (For the full Administrative Manual, see <http://wbln0011/Institutional/Manuals/AdminMan.nsf/Admin?OpenView&Count=12&Expand=0>.)

These instructions come perilously close to saying that staff members must not publicly suggest changes in the institution's practice or policies, past or present, despite the fact that the Bank publicly commits

UNUM: Promises & Reality

Continued from page 1

Management, and What the SA Is Requesting").

The claims numbers supplied to the SA by the Benefits unit are favorable; the large majority of staff who have applied for income replacement have had their claims granted. Management especially wanted to provide for staff with medium-term disabilities (more than three months, less than 24 months), and most claims have been for this category of illness. Out of 173 applicants for disability benefits of all terms (during the period 7/1/98 to 10/6/01), UNUM has

denied benefits to only nine. Three of these nine staff members re-applied to UNUM (i.e., made the first round of appeal), and then got benefits.

But for the six people who were denied, the failure to get benefits is disastrous. They are faced with illness, high medical bills, and loss of income all at the same time, plus the stress of having tried to deal with UNUM's barriers. The same thing could happen to currently healthy staff who feel disability is a back-burner subject for themselves. According to Dr. Bernard Demure, head of the Health Services Department, HSD has evaluated 500 to 600 staff per year who are suffering with musculo-skeletal pain, cancer, psychological problems, and other severe disorders. "Out of these, HSD or UNUM is helping only half. It's definitely not enough."

Besides the staff who have actually been denied benefits, there are others who have received benefits but found the process a struggle. Still others who were ill inquired and then did not apply for any type of disability, because UNUM rules are such that some staff don't even qualify to apply. This is particularly true of women with breast cancer and men with prostate cancer (see the box on page 4 entitled

Continued on page 3

THE KIOSK: HOLY WRIT?

In the case of William Easterly, the Bank made much of the fact that he had not observed the "Media Guidelines" put out by External Affairs. EXT said it had published these guidelines on the Kiosk last year. To see how big an impression they made at that time (they have since reappeared), the SA Newsletter took a small poll. The result: 11 of 14 respondents who gave yes-no answers said they didn't remember the guidelines' appearance in 2000. Three people said they did. One additional person said he knows clearance is required; another person said that the Kiosk is not the main issue in the censorship cases.

Former Ethics head Anita Baker, when asked if appearance on the Kiosk makes something a rule binding on staff, says simply "No." SA chair Morallina George comments, "I have seen no announcement that the Kiosk is required reading, or that things that appear on it have the force of Staff Rules."

Publishing the Media Guidelines on the Kiosk cost no more than ongoing overhead. By contrast, the Bank spent about \$100,000 to introduce staff to the Code of Professional Ethics two years ago, and about \$500,000 to give staff a heads up on SAP before it went live (excluding the costs of change management).

In answering inquiries about the Easterly affair, EXT staff gave confusing replies to the Wall Street Journal and the New York Times. Claudia Rosett, a columnist from the Wall Street Journal, reported after the journal approached EXT: "A World Bank press officer acknowledges that staffers often don't bother to get clearance before publishing in or speaking to a newspaper. And bank officials I talked to this week were unable to come up with a single other example of an internal disciplinary investigation targeting a full-time staff member for a 'clearance' infraction. The Bank press officer says this is 'a gray area' and 'not a situation for which we have extensive written rules.'" Yet an EXT spokeswoman told a New York Times reporter that the inquiry into Easterly's newspaper article was "standard practice." Neither Caroline Anstey or Mats Karlsson of EXT, nor David Rivero of the Legal Department, would give the SA Newsletter an interview.

In the end, while Easterly's book was receiving favorable reviews in many newspapers, some of the same papers were carrying articles about the attempt to stifle his op-ed writing. Forbes magazine, the Washington Post, as well as the Wall Street Journal and the New York Times, carried such articles on the Bank's behavior. This reflects poorly on all of us—staff, management, and the supposedly transparent institution we work for.

itself to finding the best way to fight poverty and pays researchers to do so. How can the institution share "best practice" that inspires any public confidence, if research staff cannot discuss "poor practice" based on high-quality scholarship? Does public image matter more than germane research findings?

One of the main points Easterly made in his defense was that other Bank staff had published similar pieces in similar publications, without prior permission. The charges against him say, inexplicably, that publishing an opinion in the Journal of Commerce (where others had published without permission) is not the same as doing so in the Financial Times.

Easterly took leave without pay, and for two months his future hung in the balance since HR had rendered no decision about what to do with him. Then he was offered a research position at the Institute for International Economics, and he leapt at it. By mutual agreement, he has been allowed to retain his Bank benefits for two years under external service leave.

Since Easterly's experience, the Ethics Office has been folded into a new, much larger investigative unit called the Institutional Integrity Department (which appears to have more powers and fewer controls than Ethics). The former manager of the Ethics Office, Anita Baker, is thus more free to discuss the Bank's rules and practices vis-à-vis staff "wrongdoing." She says candidly that, in various iterations of staff responsibilities, "There's often not clear guidance for staff." She agrees with Easterly that selective enforcement is a problem. "If the Bank were an American organization, we would have problems because we are not consistent in enforcement regarding publication. The criteria have not been well worked out. I cannot point staff to a specific Staff Rule and say 'you fall under this' regarding publications. I don't think we provide staff with very good guidelines. Also, a guideline is just a guideline. It needs to be backed up by detailed policies and procedures."

Baker, who helped set up a proactive ethics program for Lockheed Martin Corporation before coming to the Bank,

also says she was "very reluctant to pursue Easterly's case—his opinion had already been expressed by a number of other people in the press." In her view, the Bank's license to self-police, with no outside checks, makes it easier for management to abuse the rules and censor staff who should be heard. The Bank Group is a public organization, supported by the taxes of millions of citizens. Yet, Baker says, "The Bank doesn't have good government, a good self-governing structure. The *need* for a policing function is a sign of failure." Interestingly, Baker says that the SA was one internal check on the Ethics unit. "We were always trying to include the SA's grievance advisor. We always thought, 'How are we going to explain this to the SA?'"

The cases of Easterly and Ghani raise a final, very basic question: do staff check their civil rights at the door when they join the Bank Group? Known for their drive and dedication, staff in general seem to take the Mission Statement and Core Values as meaning what they say: that the Bank's goal is "to help people help themselves...by sharing knowledge...and should attract, excite, and nurture diverse and committed staff;" that Bank principles include being "inspired and innovative;" that Bank values include "personal honesty, integrity, commitment...with openness and trust...encouraging risk-taking and responsibility."

Neither Ghani nor Easterly appears to regret his actions. Easterly says, "I found I had to speak out on what I found in my research. I had an obligation to speak out." Ghani comments, "Staff should have an inalienable right to express themselves on issues of human welfare." He believes the involvement of his own country is "really secondary. As human beings, apart from our employment at the Bank, we have an individual moral obligation to the poor. It is only through individual moral decisions that Bank staff can transform the mission of the Bank from a mere statement into a collective reality." Ultimately, the departures of Ghani and Easterly, two articulate, principled, experienced employees, represents a bigger loss to the Bank Group and to its clients than to the two men. ■



The SA Newsletter is published monthly by the World Bank Group Staff Association, x39000. The articles are reviewed and approved by the SA's officers and Executive Committee.

Chair: Morallina Fanwar George
Editor: Pat Singer
Assistants: Gladys Gicker,
 Nina Caballero Lanton

GUEST EDITORIAL

Mixing Truth & Power: Implications For a Knowledge Organization

Ed. note: This opinion was written by David Ellerman (senior economist in DECVP). The Staff Association favors an open and constructive dialogue within the Bank Group, whether on internal policy or the broader development framework, and is publishing the article in that spirit. The SA would like to encourage such open dialogues, and even management response.

“But we all hate criticism. Nothing but rooted principle will cause us willingly to expose ourselves to it.” — Lord Keynes

In the past few years, the World Bank has had some difficulty in handling internal dissent and criticism. After Chief Economist and (now) Nobel-laureate Joseph Stiglitz took the “consensus” out of the “Washington Consensus” (the liberalization and privatization recommendations of Washington institutions for developing countries), he resigned rather than stick to the Party Line. Ravi Kanbur, the director of the important millennial *World Development Report* (2000/2001) on poverty, resigned rather than give in to pressure from the gurus of growth fundamentalism. They wanted him to remove the report’s equal emphasis on the empowerment of poor people. And, within months of publishing a book, *The Elusive Quest for Growth*, marshalling evidence of the ineffectiveness of the major postwar development assistance strategies, William Easterly, senior researcher in DEC, took the hint and his leave.

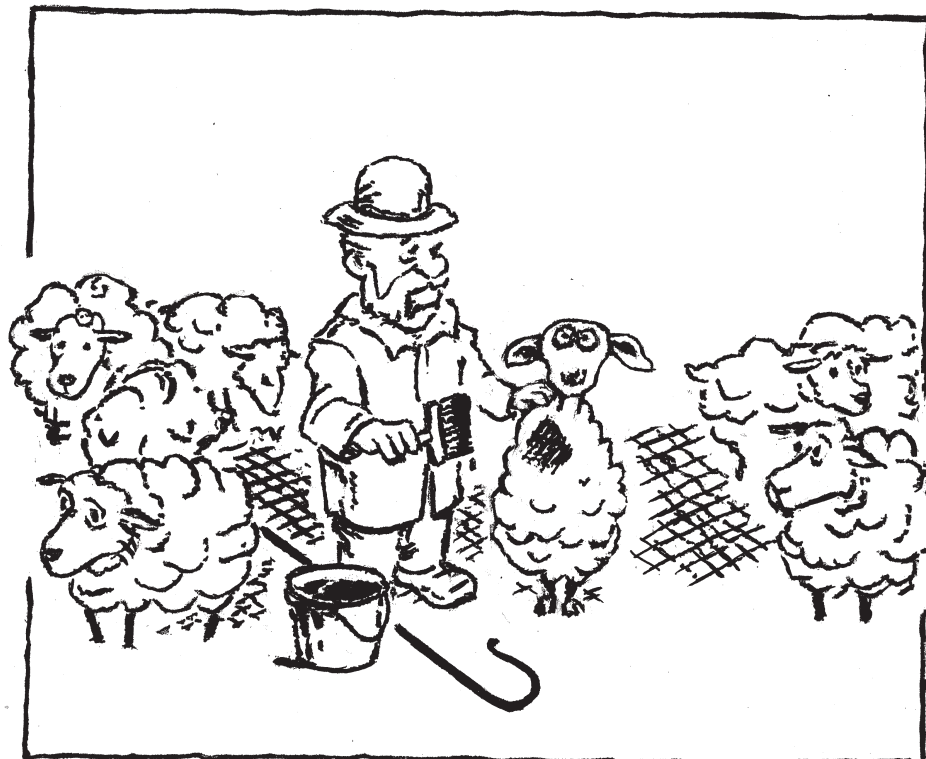
On observing these exits, outside critics might compare the Bank more to the Catholic Church at the time of the Spanish Inquisition than to an open learning organization dedicated to the promotion of learning about development. Sophisticated insiders, however, point to the positive contrast with the IMF, where none of the above apostates would have gotten a foot in the door in the first place. Compared to the IMF, the Bank is a raucous debating society, and, in their view, the exits were unnecessary—particularly if the transgressors had shown a little more decorum and restraint.

In any case, it certainly looks like there is some problem with handling internal criticism and dissent within the World Bank. These matters actually run to deeper concerns about the mixing of truth and power within a knowledge-oriented organization and about the whole practice of having “Official Views” on some of the most complex questions facing humankind. It is not a matter that can be papered over with better public relations; indeed, it seems that the public relations function is more a part of the problem than a part of the solution.

Perhaps it is time to stand back and review the arguments for welcoming rather than repulsing internal criticism, for promoting a knowledge culture or ecology that rigorously separates truth and power, and for resisting the temptation to have a Party Line of Official Views in a knowledge-oriented organization.

The Ecology of Knowledge

The interplay between questions of truth and power is a most subtle matter. We have learned from the history of totalitarian regimes that once “truth” is mixed with power, then it is truth that suffers. The principle of religious tolerance (e.g., separation of church and state) is a special case of a broader principle of the separation of truth and



power within organizations (not just in the state).

Power corrupts the ecology of knowledge—the conditions under which knowledge grows and flourishes. Those in power in an organization tend to enshrine their views as the Official Views. Nothing of any scientific value is added to a theory by having an Official Imprimatur, and, indeed, there are many negative consequences. Experimentation, debate, and the exercise of critical reason are curtailed to stay within the safe boundaries of the Official Wisdom. To those in power, others who argue within the organization against Official Views only reveal their unreliability and lack of fitness for positions of authority. Those who argue against Official Views *outside* the organization—particularly with any public notice—are seen as traitors being disloyal to the organization itself.

Thus critical reason gives way to bureaucratic conformity; a community of development researchers gives way to a company of intellectual clerks; and honest and open debate gives way to an organizational ideal of agreement, accommodation, and “playing with the team”—to approximate a small society like that satirized by 18th century philosopher Immanuel Kant as the Arcadian ideal where men would be “as good-natured as the sheep they tended.”

Barrington Moore (a Harvard social theorist) has noted that “among contemporary social arrangements the modern western university is the main one that has endeavored to make intellectual criticism and innovation a legitimate and regular aspect of the prevailing social order.” The university does not set itself up as an arbiter of truth; it takes no Official Views. The university, ideally, is an arena within which contrary theories can be examined and the collision of adverse opinions can occur in open debate. Reporters do not rush to the phone when two senior professors disagree in public.

The same general principles of separating truth and power apply to any organization aspiring to be a knowledge institution—such as the World Bank functioning as the Knowledge Bank—even though it is not technically a university. The basic principles that foster the development of knowledge—such as the open contestation of rival ideas—do not change simply because an organization does not take in students or grant degrees. There seems to be little reasoned basis for a development organization that is dedicated to promoting development knowledge to explicitly or implicitly adopt Official Views on some of the most complex and subtle questions facing humankind.

Like oil and water, truth and power do not mix. So, what is the solution? It is not to expect researchers to be suddenly emboldened to risk their jobs by speaking truth to power, but instead for those with power to cease taking on the role of arbiters of Truth, to encourage intellectual modesty (Socratic humility), and to begin fostering an atmosphere where the public exercise of critical reason and the open contestation of alternative views is welcomed.

When the organization has more of an active role in the world than the classical university, then the public relations function seems to include always presenting the organization in the best possible light—with the most positive spin. This is the classic PR function of disseminating only the positive information and trying to vet any public distribution of potentially negative information. Clearly such a PR function needs to be wholly separated, as if by a Chinese wall, from internal research on the effectiveness of development strategies—the latter being fundamental to learning and improvement, not to mention the intellectual integrity of the research function in the organization.

The Role of “Public Relations”

The basic role of the public relations or external affairs office in an organization is to disseminate information about the programs, activities, and mission of the organization. Universities have public relations offices as a matter of course. There is no inherent conflict between the public relations function and the separation of truth and power in a knowledge-based institution.

When an organization adopts Official Views, then the public relations function seems to morph into the function of propagating the Official Messages and acting as the thought

police to the black sheep in the organization who—within public view—are not “on message” with the rest of the flock. Thus organizational self-protection corrupts the ecology of knowledge and the spirit of critical inquiry.

Managers show no moral turpitude in doing their job to follow the logic of adopting Official Views. The problem lies much deeper in the original notion of trying to be a premier knowledge-based institution that nevertheless mixes truth and power and adopts Official Views to begin with—in spite of all the hard lessons learned over the centuries about the sort of organization that does or does not foster the development of knowledge.

How an Organization Might Work

Suppose a reporter writes a story based on the “contradiction” between the published views of two senior researchers. Instead of responding by tightening up the vetting of publications and interviews, the public relations office should celebrate the evidence of vibrant diversity showing that the organization does *not* operate like Big Brother. When public disagreements become commonplace, such stories would lose their news value.

In fact, the advisors from the organization should see to it that clients hear the best arguments (usually by their proponents) on all sides of complex questions—and that the final decisions are up to the clients. It is fine for an advisor to state his or her preferred view or perhaps a predominant view *so long as* the client’s “assent” to that view is not the condition for aid. It is more important that a client be genuinely committed to reform, even with “Incorrect Views” (e.g., China), and that mechanisms of learning by the client, the organization, or both be part of the project.

Finally, on the complex questions of development where intelligent and knowledgeable people differ, alternative approaches should be allowed to compete and to be implemented within the confines of the same open learning organization. There is no royal road to learning, no road that bypasses real competition and local experimentation—even within the organization itself. One of today’s preeminent thinkers on development, Albert Hirschman of the Institute for Advanced Study, has often ridiculed the “rage to conclude” that tends “to cut short that ‘long confrontation between man and a situation’ (Camus) so fruitful for the achievement of genuine progress in problem-solving.”

Those in power in the organization should harken to the admission and admonition of John Maynard Keynes (the principal founder of the World Bank): “But we all hate criticism. Nothing but rooted principle will cause us willingly to expose ourselves to it.” Instead of aspiring to Official Truths, the organization should aspire to a self-critical fallibilism or Socratic humility of knowing that one does not know, and then on the basis of “rooted principle” to promote the knowledge processes shown to be “so fruitful for the achievement of genuine progress in problem-solving.”

[For further information: The ideas expressed here are developed at greater length by the author in Policy Research Working Paper #2693: “Helping People Help Themselves: Toward a Theory of Autonomy-Compatible Help.” The paper can be downloaded at http://econ.worldbank.org/files/2513_wps2693.pdf and is a précis of a book of the same title that is under preparation. Forthcoming as well, a paper entitled “Should Development Agencies Have Official Views?” will appear in the August 2002 issue of the journal Development in Practice, a special issue devoted to development and the learning organization, edited by Laura Roper of Oxfam America and Jethro Pettit, formerly international director of World Neighbors in the U.S.] ■

UNUM: Promises & Reality

Continued from page 2
“UNUM and Cancer”).

Particular issues with UNUM, and the Bank Group’s contract with the company, follow. The comments are based on staff members’ actual experience, on interviews with doctors, and on the findings of a law firm that the SA consulted to evaluate parts of the disability program.

UNUM’s approach to the staff member is excessively suspicious. One staff member, whose disability was actually granted, says, “It became clear immediately that you were guilty until proven innocent. The answers they were looking for were like for a manu-

al laborer, although at the time I was barely able to lift a glass. They were asking questions like I was a factory worker on an assembly line.” The doctor of another staff member commented, “UNUM goes after fraud, that’s their mindset.”

Medical tests required are numerous, and staff on appeal feel that UNUM presents an ever-shifting target, with no information about what test may be ordered next. In addition, staff with disabilities that cannot be diagnosed with “hard evidence” (for example, x-rays, blood tests) may be denied benefits or forced to jump through extra hoops, regardless of their own doctors’ diagnoses. Dr. Henry Roth, a local rheumatolo-

gist and former head of the national Arthritis Foundation, says the demand for test after test is “an excuse for nonpayment. Whatever information you give [disability insurers], it’s not enough. The company often finds it convenient not to recognize the patient’s report of pain.” He adds, “It’s ridiculous, unreasonable: the forms and the whole processing procedure that they’ve dreamed up.”

UNUM particularly wants tests to support a patient’s report of disabling pain. But a local MD who specializes in pain management, Dr. Justin Wasserman, says that “a patient’s subjective report of pain is the most reliable indicator. You must take pain seriously. An x-ray is not going to show up a microscopic neurochemical process. And when someone has chronic pain, something

called ‘brain central sensitization’ takes place—the brain becomes hypersensitive.” He lists conditions that do not have “objective” tests, and that are often denied on disability applications: fibromyalgia, chronic migraines, chronic myofascial pain, repeated stress injury.

It is ironic that Bank Group staff, of all people, are regarded with suspicion. The Bank’s manager of insurance contracts, Deborah J. Wright, says UNUM has specifically been told that staff are not malingerers or abusers of sick leave. However, UNUM’s administration and rules are what the Bank is paying for, and they can sometimes run patients through the mill.

Staff who have been ill say that, if any-
Continued on page 4

UNUM: Promises & Reality

Continued from page 3

thing, they attempted to hide their conditions to avoid being thought of as incapacitated. One woman who was treated for a major first occurrence of cancer, observes, "Many people at the Bank, when they have these things, just work to try to appear strong, until they collapse." Dr. Demure points out that "the Bank culture is very work-oriented. Our sick leave rate is far below what we can observe in a U.S. corporate situation, and also below the U.N. where I worked."

Is UNUM qualified to judge Bank staff disabilities? Staff wonder if UNUM really understands working conditions at the Bank Group. One staff member talks about the number of hours employees work, routinely. "The moment the Bank lets you count your actual time spent working and traveling, door to door, that's the time I will know the Bank truly cares." (When SAP time recording was instituted, the SA strongly opposed the programming that lets you record only 40 hours a week.) Are UNUM doctors aware of the effects of repeated jetlag; the coronary, respiratory, and joint disabilities caused by frequent long flights; the exotic diseases that staff can contract in the poorest of poor countries; the never-ending stress at the Bank Group?

Further, Dr. Demure raises the question of cultural context. UNUM is an American company. Demure points out that some diseases are recognized in the U.S. but not Europe (e.g., chronic fatigue syndrome) and some in Europe but not the U.S. (spasmophilia, a chronic condition of tendons and muscles). There are also cultural differences in how patients of different nationalities express their distress. Moreover, there's a major cultural difference within the developed world between medical practice in the U.S. and in continental Europe. Says Demure, "Doctors should look at the person as a whole and not only look at the issues they can expect in a purely American environment. The U.S. is very test-oriented. We are in a mechanical world in the U.S. regarding health care, but [World Bank] patients come from their own environment."

Demure says that "in my own country of France, the criterion for a good doctor is

one who listens to you. Spending time with the patient is critical." He recommends that "maybe our Bank people should make a presentation to UNUM on what it means to be sick in Africa, in Europe, in Asia. I think they can learn from us. We are a very, very specific client."

A related cultural issue is the confrontational nature of determining disability in the U.S. When UNUM turns an application down, you may appeal to them to reconsider (the first appeal). If you are again denied, you may appeal to a Disability Administrative Review Panel (the second appeal; that panel's decision is final). One staff member, a non-American, says, "The Bank provides no assistance" when your initial application is denied. "You are left standing at the mercy of a very big insurance company and it's scary to people not

UNUM is far from transparent

used to dealing with a body that has so much power over your life. You're not familiar with the confrontational legal system of the U.S. I had never even thought of using a lawyer to help with an appeal letter until some friends suggested it."

One staff member decided, after being turned down twice, not to go on to the Disability Review Panel, because she received an attorney's estimate of \$15,000 for the process, and her funds and her health were both declining rapidly. She observes, "In my country, your first year of illness is covered by your employer. If there were a disagreement with an insurance company, it would be settled more like a mediation situation."

UNUM's financial interests and proprietary ground rules represent two other sources of concern. The Bank pays UNUM to administer claims, a situation that presumably could change if too many claims were granted. The Bank also pays for short-term disability benefits (up to two years). For a staff disabled for more than five years, though, UNUM and the Bank split the tab.

There is an inherent conflict of interest in UNUM's being (a) an organization that determines disability for other organizations; (b) a for-profit company, like an HMO, with a financial interest in saving its clients money; (c) the arbiter of appeals; (d) the arbiter of whether someone on short-term disability may be switched to long-term, in which UNUM has a greater financial stake.

UNUM is far from transparent. In the Rules of Procedure for the Disability Review Panel, the company is given the right to exclude documents pertaining to their lawyers' opinions and to proprietary information. Then proprietary information is defined: "It shall include, but not be limited to, documents reflecting or recording UNUM's general processes and procedures, internal company guidelines, reserve information, and the like."

"Internal company guidelines" presumably refers to databases that UNUM uses to decide how long it should take to recover from Disease X, how severely affected someone must be to be disabled by Condition Y. Consequently, staff filing appeals (and their attorneys) cannot know what quality/quantity measures their applications are judged by. According to Theresa Ramos, the Bank's liaison with UNUM, the internal guidelines are developed with input from large industry associations and the American Medical Association. American medical practice has for years been accused of bias in favor of treating limited symptoms, using surgery and medication, and of bias against more integrative, noninvasive approaches that analyze the functioning of the whole person.

Many staff are afraid of having details of their cases recognized by management. They worry about their careers. Such worry of course does not foster healing and gradual return to work, which Dr. Demure would like to see handled better at the Bank through a program he is initiating. (Demure has no involvement with UNUM.) With waves of redundancies at headquarters, staff who are disabled fear that being absent from work or, worse yet, appealing a denial from UNUM, may mark them as trouble cases in managers' eyes.

According to Mark Bowyer, the Disability Review Panel was developed "to save staff from having to take disability disputes to U.S. court." Bowyer says "UNUM would have preferred disputes to go through the U.S. courts because that is the system they are familiar with...We persuaded them to accept a Bank-specific mechanism." Although only one staff member currently is awaiting a decision from the review panel, the panel's composition seriously concerns the SA and staff who have been denied at earlier stages. To their credit, Benefits managers did contact the SA when the disability program was put in place in 1998, and the SA agreed to the program at that time. It also selected an attorney to serve on the Review Panel. But now, three years later, given staff's experience and a law firm's analysis, the SA feels the panel makeup and the program generally need some changes. The SA has also learned lessons from analyzing the decisions and makeup of the Administrative Tribunal, which adjudicates nonmedical grievance appeals.

The Disability Review Panel is made up of three lawyers, not doctors: one attorney appointed by UNUM, one by the Bank Group, one by the Staff Association. It is highly questionable to have a representative of UNUM—which has already said no twice—on the review panel, and the same could be said for the Bank. It is also unclear why lawyers, not doctors, should be making the final decision, based on rehashed information rather than a clean slate. In the opinion of Dr. Roth, who has dealt with dozens of disability cases, the final decision on a patient's condition should be made by "an independent doctor, who has actually examined the patient." ■

THE GOOD NEWS FROM MANAGEMENT, AND WHAT THE SA IS REQUESTING

The good news in the UNUM story is that Benefits managers Mark Bowyer and Deborah Wright have agreed orally to a thorough review of UNUM after the holidays, in collaboration with the SA, the Legal Department, and possibly Health Services. Bowyer says the review will include the Disability Review Panel's makeup. This is a hopeful sign.

The other good news is that management saw, early on, the need for a Bank-employed liaison with UNUM. The person in the position is Theresa Ramos, whom many staff find to be helpful and outgoing (she may be reached at x30974). Ramos cannot, in the end, make UNUM reverse a decision. Still, her long career in the insurance industry is an asset to staff. Bowyer and Wright point to Ramos's position as showing genuine desire on the Bank's part to help staff deal with UNUM.

In the promised review of the disability program, the Staff Association will make the following requests for changes:

- UNUM needs to be sensitized to the cultural uniqueness of the Bank staff and the unusual working conditions of operational staff especially. They also need to be made less mechanistic and American in approach;
- Changes should be made in the 20-day absence needed to qualify staff to apply to UNUM, in order to accommodate illnesses with episodic treatment such as cancer (see the accompanying box on this page);
- Bank rules should shelter at least the last 15-20 days of a staff member's annual leave. Sick leave that is lent to a staff member by their unit should be repaid with sick leave, or annual leave above 15-20 days' accumulation;
- Health Services should be more involved in the disability program, particularly given HSD's whole-patient treatment philosophy;
- Currently there is a time limit on appeals of UNUM denials: 90 days. This should be extended to account for the fact that the appellant is ill, stressed, and needs to gather information.
- The Disability Review Panel should be changed extensively, so that it does not invite 2-to-1 decisions and does not rely on lawyers to make medical judgments. A representative selected by UNUM should not be part of the panel, since UNUM clearly has a conflict of interest. *Independent doctors who have examined the patient* should make up the panel. Panel reviews should be *de novo* presentations of the claim—new presentations (as they would be in a U.S. court), rather than reviews of the whole history of the claim. If the panel decides in favor of a patient, the latter should be able to get legal fees repaid (the Staff Association has funded lawyers for every staff member denied disability who has come to the SA for assistance). Currently, if you win your appeal, UNUM awards no damages or legal fees. And, in cases where UNUM denies the claim on a first appeal and the staff member has been receiving payments in the interim, the Bank can demand that the 70 percent income replacement be returned by the ill staff member. This ought to be done only in cases of clear fraud.

UNUM AND CANCER

In 2000, 79 women in the Bank Group received active treatment or follow-up examinations for breast cancer. An ongoing study seeks to determine why the Bank has a rate of breast cancer that's almost double that of comparable populations. Yet the Bank-UNUM policy is particularly ill-suited to breast cancer. Prostate cancer is less prevalent at the Bank, but UNUM may not serve prostate cancer victims well either.

To qualify to apply for any kind of disability insurance, a staff member must be absent for 20 days, with the absences spaced no more than seven days apart. Active breast cancer treatment, which is long (6-12 months), may never reach the 20-day minimum because the treatment comes in phases. Yet the woman may use far more than 20 days of sick leave, and end up owing the Bank when she should have been on partial disability.

How can this happen? Sometimes, a woman's absence for breast cancer surgery may be less than two weeks. Then chemotherapy starts. (For some patients, the chemo may actually precede surgery.) Typically, chemotherapy treatments occur in rounds of three weeks. Absences of 3-5 days or more per round are not unusual; the woman's reaction to each infusion varies according to the drugs she's receiving, how many treatments she's had (later treatments grow much more debilitating). Then there is radiation; often, lingering side effects to treat (e.g., infections from surgery, anemia); quarterly follow-up visits for the cancer; delayed routine medical visits (dentist, etc.); and possibly breast reconstruction. All these days of illness and medical treatment add up—but they don't necessarily add up to eligibility to apply to UNUM.

In the same way, a man with prostate cancer may choose to treat it with radiation and chemotherapy, and also miss the 20-day qualifying period while going in the hole on sick leave. The 20-day period should be changed or staff should be given more sick leave a year.

Managers do have the right to grant individual staff an extra 10 days of sick leave per disability. However, this option is discretionary and may not be widely known. Another problem is that staff who are lent sick leave may be ordered by their admins to pay it back with annual leave. This practice should be expressly forbidden for a staff member's last 15 or 20 days of annual leave. After a long, exhausting illness, staff who are far from their extended families may desperately need home leave, and they certainly need a rest and psychological support if they have been facing a potentially fatal disease such as cancer.