ABHANDLUNGEN / ARTICLES

The BRICS Bank's potential to challenge the field of development cooperation

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Abstract: *The five fast-growing economies, known collectively as BRICS, have recently announced their intention to create their own development bank. The so-called BRICS Bank will be the first world multilateral development bank controlled solely by emerging economies. This paper asks whether the new bank has the potential to bypass the World Bank, destabilizing the current development finance framework. Specifically, if the BRICS Bank project succeeds, what are the possible scenarios for the field of development cooperation? To map these scenarios, we propose a typology of practices in development finance, drawing from operations of the World Bank and national development banks in Brazil and China. Assuming that the BRICS Bank is likely to adopt one of the practices currently used by Brazil or China, we speculate about the outcomes of the interaction between the BRICS Bank and the World Bank and their respective practices. Acknowledging that it is still uncertain what these outcomes will be, in part due to the uncertainties regarding how the BRICS Bank will operate, this paper provides a map of possible scenarios.*

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A. Introduction: Development Cooperation as an autonomous field

The field of development cooperation has been historically marked both by strong continuities and sharp changes of structures and practices. One of these changes is the multiplication of organizations operating in the field. In the aftermath of the Second World War, the first multilateral organizations designed to guarantee the stability of the international financial system and to foster economic development, the International Monetary Fund and the World Bank,

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were created. Now, a myriad of multilateral international banks, bi-lateral agencies, international organizations and NGOs cooperate in or compete for development projects. The continuities, in turn, are related to the fact that development cooperation has gradually acquired its own dynamics and established its own normative and operational structures, which have been quite stable for the last decades. This article asks what is likely to happen with the existing dynamic and these structures if a group of countries decides to create a new multilateral development bank.

Our main assumption in this analysis is that it is possible to understand development cooperation as an autonomous sphere vis-à-vis other international spheres – such as the ones focused on security, politics and economic issues. [1] Such assumption relies on the emergence of a rationale, belief systems and social organization structures that are unique to each development institution, and are not necessarily related to or dependent on the interests and the powers of individual nation-states.[2] This is not an uncontroversial assumption. There has been much debate in the academic literature on how to best capture political dynamics in the international scenario. While constructivists assume – as we do – that international relations can be detached from the power dynamics among nation states, creating actors that are not merely agents of their principals; realists assume the opposite.[3]

A similar debate takes place among international law scholars. The New Haven School of International Law has long emphasized the importance of international agreements in governing international legal relations, claiming that such relations cannot be fully captured by

1 In the aftermath of the creation of the Bretton Woods' organizations (IBRD and IMF), it was not possible to conceive development cooperation as an autonomous field of action, given that its dynamics were closely linked to the international agenda of security and, therefore, subordinated to the political game of the Cold War. However, over time, these organizations, especially the World Bank, started to accumulate different types of capital (technical, scientific, financial, social and symbolic) that allowed them to assume a more autonomous position as agents of development. It is only by the mid-1970 s (in the aftermath of the Pearson Commission) that development cooperation consolidates itself as an autonomous field, embedded by battles among different agents to attribute particular meanings to the "development agenda". *Fernanda Cimini Salles*. O campo da cooperação internacional para o desenvolvimento e o papel do Banco Mundial: algumas aproximações. Master's Dissertation submitted to the Departament of International Relations, PUC-MINAS, March 2010.

2 This assumption is in line with those that apprehend the dynamics of development cooperation under the concept of "social fields", as originally proposed by the sociologist Pierre Bourdieu and further extended to international relations by others. See: *Didier Bigo*, Globalized (In)Security: The field and the Ban-Opticon, in: Didier Bigo / Anastassia Tsoukala (eds.), Terror, Insecurity and Liberty. Illiberal practices of liberal regimes after 9/11, 2008, pp. 10-48; *Trine Villumsen* Theory as practice and capital. NATO in a Bourdieusian Field of Security in Europe: towards a sociological approach to IR. Phd thesis submitted to the Departament of Political Science, University of Copenhagen, 2008; *Stefano Guzzini*. A Reconstruction of Constructivism in International Relations, European Journal of International Relations 2 (2000), pp.147-182.

3 *Robert Jackson/Georg Sørensen*, Introduction to International Relations: Theories and Approaches, Oxford 2010. For some of the pioneers in developing this field, see *Alexander Wendt*, The Agent-structure Problem in International Relations Theory**,** International Organization 41 (1987), pp. 335-370; *Nicholas Onuf*, World of Our Making: Rules and rule in Social Theory and International Relations, Columbia 1989.

simply analyzing force and power of the actors involved.[4] In contrast, the Critical Legal Studies of International Law shares much of the realists' assumptions, conceiving of such international dynamics as a political product of the particular interests of the nation states that stand behind (and often control) these institutions.[5] Unlike them, we assume that development cooperation is as autonomous sphere. As such, development cooperation can be described as a game with its own dynamics.[6] This dynamic is defined by the actors that are playing in this field (development organizations) and their interests, and by the outcome of the interactions between these actors, which will vary depending on how these actors interact in the field.

I. The centrality of the World Bank in the field

Under this assumption, the World Bank has assumed a central position, becoming a key actor in the field of development cooperation. The Bank has not only actively engaged in all the "battles" the field has came across during its history, but it was also able to take advantage of the political and economic circumstances – alongside with a strategic use of its financial assets -- to strongly influence the development cooperation dynamic. This central position of the Bank becomes especially clear at the end of the Cold War, which marked the victory of the project supported by the World Bank vis-à-vis the one promoted by its opponent, the United Nations (hereafter UN).[7] In contrast to the UN agencies, and other development organizations that promote development through technical assistance and grants, the World Bank has been providing lending operations to finance development projects in its 188 member countries. Asserting these loans, which are "hard" instruments of development financing,[8] as the prevailing mechanism to promote development is the primary evidence of the central position that the World Bank occupies in the field today.

4 W. *Michael Reisman*, The View from the New Haven School of International Law, in: W. Michael Reismann / Arsanjani Reisman (eds.), International Law in Contemporary Perspective, New York 1992;*W. Michael Reisman/Siegfried Wiessner/Andrew R. Willard*, The New Haven School: A Brief Introduction, Yale Journal of International Law 32 (2007), p. 575; *Siegfried Wiessner*, The New Haven School of Jurisprudence: A Universal Toolkit for Understanding and Shaping the Law, Asia Pacific Law Review 18 (2010). p. 45.

5 *Richard Steinberg/Jonathan Zasloff*, Power and International Law, American Journal of International Law 100 (2006) pp. 64 – 87; See also *Anne-Marie Slaughter/Andre S. Tulumello/Stepan Wood*, International Law and International Relations Theory: A New Generation of Interdisciplinary Scholarship, American Journal of International Law 92 (1998), pp. 367-397.

6 Having its own dynamics does not mean that development cooperation is completely isolated and detached from international politics. On the contrary, *Fernanda Salles*, note 1, argues that the "winner" of these battles is likely to be those that are able to articulate the *modus operandis* of development practices with the games of international economic politics. In this context, political power and financial might matter.

7 *Richard Jolly/Louis Emmerij/Thomas George Weiss*, The Power of UN ideas. Lessons from the 60 years, in: United Nations Intellectual History Project Series, New York 2005.

8 *Morten Bøås/Desmond McNeill*, Multilateral Institutions: A critical Approach, London 2003.

A piece of evidence of the central role played by the World Bank is the fact that despite the differences in the nature and mandate of the actors that currently operate in the field of development cooperation, they converge on a number of points such as the conception of development and the legitimate practices to promote it.[9] It is not simply by chance that these points of convergence coincide with the practices and a long-standing agenda promoted by World Bank. For instance, today almost all actors are strongly influenced by the assumption that any project financed under development cooperation has to be designed to enlarge the productive resources of the recipient country and, in order to do so, has to be long-term oriented and efficiently implemented. This represents the formula of development cooperation originally formulated by the Bank in the 1950 s. To be sure, international agencies have overtime changed the definition of "productive resources" and "efficiently implemented", adapting the concepts to the evolutions in the development agenda.[10] Still, it is the agenda of the Bank that prevails.

While being a central actor, the Bank has promoted multiple – and sometimes contradictory -- approaches to development. As a result, in the last six decades, the Bank has gathered both support and resistance from other actors in the field. From the 1950 s to the 1960 s the main purpose of the Bank's loans was to finance heavy infrastructure, in close connection with the economic doctrines of development that prioritized the creation of the basic conditions for boosting private investments and industrialization in low and middle-economies. During the 1970 s, combating poverty became an important element of the Bank's agenda. Until then, the social dimension of development was off the Bank´s radar. Consequently, the Bank increased its investments in sectors that could reach the low-income people, such as agriculture and education. The 1980 s saw a new shift in the Bank's agenda, this time towards the support of macroeconomic reforms, known as "structural adjustments". This shift was certainly the most controversial one, raising great criticism against the World Bank – in fact, due to the disappointing results in countries that received adjustment lending, the 1980 s was later nicknamed as the "lost decade of development".

Recently, the Bank has started to promote an institutional agenda for development, with widespread support from academic and policy circles. It is hard to pinpoint when and how exactly the institutional turn took place. As Phillip Dann observes, different agencies had different purposes and adopted the institutional concern for different reasons.[11] Despite following different paths, during the 1990 s different approaches merged and converged towards

9 *Phillip Dann* also recognizes this convergence and refers to international development cooperation as a legal structure, see *Philipp Dann*, Law of Development Cooperation, New York 2013.

10 For an analysis of the evolution of the agenda of development, see *Erik Thorbecke*, The evolution of the development doctrine and the role of foreign aid, 1950-2000, in: Finn Tarp (ed.), Foreign Aid and Development, London and New York 2000.

11 *Dann*, note 9.

the institutional agenda, which is now strongly promoted by the World Bank. This is also known as the "good governance agenda".[12]

II. Historical battles of the field

Despite being the prevailing actor in the field, the World Bank's leadership has not gone unchallenged. As a result of these significant changes in its agenda, the field of development cooperation has gone through reforms and contestations by different agents throughout its history. Nevertheless, it has never suffered a major rupture. Rather, it has expanded, with more actors joining the field. If anything, it has become more complex, with an ever-increasing list of essential elements added to its agenda. Naturally, as the field gains importance and actors become more numerous and sophisticated, there is greater room for contestation, and more "battles" start to appear. The most recent "battle" is the reform proposed by the Paris Declaration, which is part of an attempt to reform the development cooperation field promoted by the OECD countries.[13] However, none of these attempts to reform the field has seriously challenged core beliefs (or the prevailing "paradigm") or threatened its central actor, the World Bank.

III. The challenge posed to the field by the creation of the BRICS Bank

This situation, however, may be about to change. Brazil, Russia, India, China and South Africa, known collectively as BRICS, have publicly declared their intention to create a multilateral development bank, the BRICS Bank. To be sure, multilateral development banks have already been created in the past, without threatening the World Bank. However, there are three novel and exciting elements in this case: (i) a new *world* multilateral development bank, (ii) controlled by emerging economies (iii) whose development financing conceptions and practices differ from those of traditional donors (OCDE members).[14] Perhaps the closest analogies to this novelty are the Interamerican Development Bank (IDB) and the Corporacion Andina de Fomento (CAF), which are both multilateral development banks in which non-advanced economies are both clients and stakeholders. However, these two organizations (as well as other regional development banks) have a limited jurisdiction, focusing their lending on a particular region of the globe. Thus, IDB and CAF are multilateral, but they are not *world* development banks. Operating with this expanded scope, the new BRICS Bank may become

12 The concept of "good governance" was first formulated in a 1989 report addressing problems of governance in Sub-Saharan Africa, see World Bank, Sub-Saharan Africa: From Crisis to Sustainable Growth, Washington, DC 1989.

13 Available at www.oecd.org/dataoecd/37/39/35023537.pdf (last accessed on 8 April 2014). For an historical view of the reforms suggested, see *Lester Pearson*, El Desarrollo: empresa comun. Informe de la Comisión de Desarrollo Internacional, Madrid 1969.

14 See *Nkunde Mwase/Yongzheng Yang*. BRICs' Philosophies for Development Financing and their Implications for LICs, IMF Working Paper, 2012; *Nils-Sjard Schulz*, Development Agencies in BRICS and Beyond – Experiences and Next Steps, BRICS Policy Center 2013.

a threat to the central role of the World Bank. Moreover, the fact that emerging economies are changing their role from recipients to providers of development finance, and the fact that they have a distinct philosophy about it challenges the essential asymmetry between the "have" and "have nots" that has long dominated the field of development cooperation.[15]

IV. Research Questions

While the announcement about the creation of the BRICS Bank has generated a great deal of excitement, it has not been followed by any official indication of concrete plans regarding its structure or the implementation schedule. Whether the BRICS Bank will be implemented or not is beyond our reach and, and at this point, is nothing more than speculation.[16] This paper offers yet another speculative contribution to the debate: considering the context presented earlier, how likely is the BRICS Bank to challenge the field of development cooperation? In other words, if the BRICS Bank project succeeds, based on the existing institutional arrangements and the preponderance of the World Bank, what are the possible scenarios for the field of development cooperation?

V. Structure of the paper

We answer this question by mapping the multiple scenarios that can emerge with the creation of the BRICS Bank, following three analytical steps.

1. First, we consider the practices and agenda promoted by the World Bank in the last ten years as a *proxy* of what we will refer to as the "current paradigm" of the field of development cooperation. Obviously, a whole field cannot be reduced to the practices of one single actor. We believe that the World Bank serves as a good *proxy* for the field because it is an influential player, as discussed earlier, and it is an organization that has strongly advocated the current paradigm: "the institution matter" agenda. Moreover, the World Bank is the only multilateral development bank with worldwide scope and therefore the main actor challenged by the BRICS Bank. Drawing on the project portfolio carried by the Bank to finance BRICS countries, we identify the main patterns that characterize the current paradigm.

15 *Manaíra Assunção / João Moura E. M. da Fonseca*, A Cooperação Sul-Sul na Nova Parceria Global para uma Cooperação para o Desenvolvimento Eficaz: que papel para os BRICS?, BRICS Policy Center, 2013.

16 For two examples of particularly articulated speculations, see *Stephen Spratt*, What might the BRICS Bank mean for development?, Institute of Development Studies Globalization and Development Blog, 14 June 2013, http://www.globalisationanddevelopment.com/2013/06/what-might-brics-bank-mean-for.html (last accessed on 9 April 2014) indicating the potential for innovation in the new bank and *Jens F. Laurson/George Pieler*, A 'BRICs' Banks? No Thanks, The IMF And World Bank Are Bad Enough, Forbes, 22 April, 2013, http://www.forbes.com/sites/laursonpieler/2013/04/22/a-brics-bank-no-thanks-the-imf-and-world-bank-are-bad-enough/ (last accessed on 9 April 2014) for a more pessimist take on what it could potentially add to the existing system.

2. In the second step, we consider the practices and agenda supported by the two major development banks of the BRICS – the Chinese Development Bank and the Brazilian Development Bank – as potential institutional models for the BRICS Bank. Based on the assumption that existing institutions may inspire or influence (directly or indirectly) the creation of new institutions, we treat the policies, practices and rules adopted by these two banks as potential models for the BRICS Bank. The complex political and economic factors that may determine which of these two models – if any – is used to structure the BRICS Bank is beyond the scope of our analysis. Instead, based on the speculative assumption that one of these two models may potentially be adopted; we ask what would be the consequence for the BRICS Bank. Drawing on secondary data, we identify the main patterns that characterize each of these models and assess how they differ from the "current paradigm".

3. Third, assuming the BRICS Bank may adopt any one of these three models (current paradigm, Brazilian Development Bank and China Development Bank), we develop an analysis of the possible outcomes of interactions between the World Bank and each of the three alternatives. In the analysis, we identify three possible scenarios for the future of the field of development cooperation: 1) the BRICS Bank follows the current paradigm, potentially developing a partnership with the World Bank; 2) the BRICS Bank follows the Brazilian model, and simply complies with the current paradigm, neither challenging nor fully engaging with it; 3) the BRICS Bank follows the Chinese model, promoting a rupture with the existing paradigm by offering a competitive alternative.

As stated earlier, the analysis presented in this paper is a largely speculative exercise, due to the lack of further information about the intention and plans of the BRICS. Nevertheless, envisioning possible scenarios seems to be a fruitful intellectual endeavor, as it allows us to evaluate how feasible it may be for the BRICS Bank to establish a "new paradigm" in development finance, as announced by the leaders of the five proponent countries. Of course, we recognize that the BRICS Bank may be structured in a way that is radically different from the models analyzed here. Thus, it is impossible to take any strong descriptive or prospective conclusion from this paper. If any, the usefulness of this exercise may lie in the fact that this mapping could provide useful information for future normative analyses. Those in charge of structuring the BRICS Bank may be interested in considering the speculations presented here as part of the strategic considerations to fulfill the aspirations that motivated the creation of the Bank in the first place. Moreover, those interested in maintaining the current paradigm in development cooperation, or in avoiding the risk of observing the field taking a turn for the worse (however defined), may consider this speculative exercise as a basis to be able to quickly react to the plans, once these are formulated.

B. Why Create a New Development Bank?

The first step towards the establishment of a new, BRICS-led development bank was formally taken in the 5th BRICS Summit, held in Durban, South Africa on March, 2013.[17] A joint statement was signed by the leaders of the five countries: "following the report from our finance ministers, we are satisfied that the establishment of a New Development Bank is feasible and viable. We have agreed to establish the New Development Bank."[18] The new bank was quickly nicknamed "the BRICS Bank" by the press and specialized blogs, and will be referred to by this name here as well.[19]

Why do the BRICS want to create a new Bank? There seems to be good reasons to believe that this is a form of bypass or protest, i.e. either existing institutions do not meet their needs or that BRICS are not satisfied with existing rules. The proposal came after a number of attempts to reform what the BRICS and other developing countries perceived as problematic governance structures in the Bretton Woods institutions, especially the World Bank.[20] Indeed, the creation of the new bank was preceded by attempts to reform the existing institutions. In 2010, during the Second BRIC Summit, there was no intention of creating a new bank. Instead, the BRIC had a reform-driven agenda. The four member countries (later to be joined by South Africa) [21] endorsed the existing structure of development finance, provided that it would support the developing countries in a more robust, flexible and agile client-driven way:

> *We call for the* ***voting power reform*** *of the World Bank to be fulfilled in the upcoming Spring Meetings, and expect the quota reform of the IMF to be concluded by the G-20 Summit in November this year. We do also agree on the need for an* ***open and merit based selection method****, irrespective of nationality, for the heading positions of the IMF and the World Bank. Moreover, staff of these institutions needs to* ***better reflect the diversity of their membership****. There is a special need to increase* ***participation of developing countries****. The international community must deliver a result worthy of the expectations we all share for these institutions within the agreed timeframe or run the risk of seeing them fade into obsolescence.*[22]

17 The first formal meeting of the BRICS was in 2009 and since then the five countries have been meeting annually on what became known as the BRICS Summit.

18 Available at http://www.thepresidency.gov.za/pebble.asp?relid=15128 (last accessed on 14 April 2014).

19 *Isobel Coleman*, Ten questions for the New BRICS Bank, Foreign Policy, 9 April 2013.

20 *Stephany Griffith-Jones*, Governance of the World Bank, Report Prepared for Dfid, 2002, available at http://www.stephanygj.net/papers.html (last accessed on 9 April 2014).

21 South Africa formally joined the group in 2010, when the letter "s" was added to the acronym.

22 Financial Times, Blog, April 16, 2010 available at http://blogs.ft.com/money-supply/2010/04/16/ (last accessed on 9 April 2014; emphasis added).

I. The World Bank Voting System

The World Bank has a weighted system of voting, which involves the sum of shares and the size of a country's economy.[23] Currently, the largest five shareholders are the United States (15.22%), Japan (8.50%), Germany (4.51%), France (4.02%) and UK (4.02%). Each of them has the right to appoint one executive director and together these five countries control over 36% of the voting power.[24] The five BRICS countries, in contrast, account for 13% of total votes.[25] This means that "borrowing countries that are impacted the most by Bank projects have minimal voice in the Bank's decisions about loans and projects",[26] not to mention that the President of the Bank is chosen unilaterally by the United States.[27]

One could argue that BRICS countries can increase their influence by buying more shares. However, due to the weighted voting system and other institutional constraints, an increase in the percentage of shares held does not necessarily translate into effective voting power. China provides a good example: it increased its shares of stock considerably since 2010, effectively holding more shares than any other country except for United States and Japan (5.48%).[28] However, this increase has not entitled China to the same rights of the countries that have been historically considered the largest five shareholders (listed above). Indeed, the new shares held by China were not automatically converted into voting power. Such conversion required a major reform that had to be approved by other members of the bank.[29]

23 Board of Directors, The World Bank, http://www.worldbank.org/en/about/leadership/directors (last accessed on 9 April 2014). See also IBRD Articles of Agreement (as amended effective 27 June 2012) available at http://siteresources.worldbank.org/EXTABOUTUS/Resources/IBRDArticlesOfAgreement_links.pdf (last accessed on 9 April 2014). See also: Executive Directors, The World Bank, http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/ORGANIZATION/BODEXT/0,,contentMDK:22421219~menuPK:6888902~pagePK:64020054~piPK:64020408~theSitePK:278036,00.html (last accessed on 9 April 2014).

24 IBRD Corporate Secretariat Report.

25 Brazil (1,77%). Russia (2,32%), India (2,93%), China (5,48%) and South Africa (0,81%). Source: IBRD Corporate Secretariat Report. 25 June 2013.

26 *Kristina Kaluza/Mari Kaluza*, Governance and Accountability of the World Bank 2008, available at http://blogs.law.uiowa.edu/ebook/sites/default/files/Governance_&_Accountability-World_Bank.pdf (last accessed on 9 April 2014).

27 *Kristina Kaluza/Mari Kaluza,* note 26, p. 5, indicating that "The World Bank does not have a specific formal selection procedure for choosing the President. The Bank's Articles of Agreement state the "Executive Directors shall select a President... [who] shall be chief of the operating staff of the Bank and shall conduct, under the direction of the Executive Directors, the ordinary business of the Bank." All World Bank Presidents have been United States nationals as a result of tradition and a long-standing informal agreement.

28 *Lesley Wroughton*, China gains clout in World Bank vote shift, 25 April 2010 available at http://www.reuters.com/article/2010/04/25/us-worldbank-idUSTRE63O1RQ20100425 (last accessed on 9 April 2014).

29 *Wroughton,* note 28.

Aside from the concentration of voting power in their hands, the largest five shareholders also have the right to appoint their own executive directors, without running in elections.[30] Yet China does not have the right to appoint its own representative in the board: the executive director that represents China has to pass through the ordinary elections that allow other members to reject or approval the candidature. [31] In sum, China, despite its share purchase, has neither acquired the right to appoint (rather than elect) its director, nor voting powers that reflect the size of its economy or the size of its reserve holdings.

Thus, China alone would have good reasons to be unsatisfied, since its investment in the World Bank was not converted into more voice. Besides, it looks like that China´s frustration reflects a more generalized dissatisfaction of developing countries with the governance structure of the World Bank. As scholars have pointed out, "many developing countries are under-represented, if their share of World Bank votes are compared with their share of world GDP, especially if measured as purchasing power parity (PPP). (…) The current proportions of shares (in the Bank and the Fund) are very heavily influenced by past shares, and insufficiently influenced by the current relative size of countries' GDP. However, the voting shares have changed, even though not enough to reflect the more rapidly changing economic realities."[32]

II. The proposal of creating the BRICS Bank

After the 2010 summit, the BRIC countries were still striving to promote changes in the existing system. In 2011, the five BRICS signed a memorandum of understanding aimed at enhancing the institutional ties among them and promoting technical and financial cooperation among their development banks. Until then, the discussions revolved around creating a solid base for dialogue.[33]

However, since 2012, the tone of these discussions has changed. Discontentment with the existing development cooperation institutions has increased due to the slow pace of quota and

30 Under the IBRD Articles of Agreement, each of the five members having the largest number of shares appoints an Executive Director, and the remaining members elect the other Executive Directors. Presently, IBRD's Board consists of 25 Executive Directors, five appointed and 20 elected. See http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/ORGANIZATION/BODEXT/0,,contentMDK:20124813~pagePK:64020054~piPK:64020408~theSitePK:278036,00.html (last accessed on 9 April 2014).

31 The IBRD's Board consists of 25 Executive Directors, 5 are appointed and 20 are elected during the regular elections held every two years. For the difference between election and appointment in the World Bank, see http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/ORGANIZATION/BODEXT/0,,contentMDK:20124813~pagePK:64020054~piPK:64020408~theSitePK:278036,00.html (last accessed on 9 April 2014).; see also http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/ORGANIZATION/BODEXT/0,,menuPK:64020004~pagePK:64020107~piPK:64020098~theSitePK:278036,00.html (last accessed on 9 April 2014).

32 *Griffith-Jones*, note 20.

33 See BNDES firma, na Rússia, acordo com bancos de desenvolvimento dos BRICS, BNDES 2011, http://www.bndes.gov.br/SiteBNDES/bndes/bndes_pt/Institucional/Sala_de_Imprensa/Noticias/2011/todas/20110617_BRICS_Russia.html (last accessed on 9 April 2014).

governance reforms. In 4th Summit in 2012, the five leaders urged a "comprehensive review of the quota formula to better reflect economic weights and enhance the voice and representation of emerging market and developing countries by January 2013".[34] Most importantly, the five countries started to criticize the modus operandi of the Bank, emphasizing the need to replace an outdated donor-recipient dichotomy with a more equal partnership with all countries.[35]

There were, however, no significant changes in sight. Thus, it comes as no surprise that in March 2012, [36] the five countries developed the proposal to create a brand new organization:

> *We have considered the possibility of setting up a new Development Bank for mobilizing resources for infrastructure and sustainable development projects in BRICS and other emerging economies and developing countries, to supplement the existing efforts of multilateral and regional financial institutions for global growth and development.*[37]

In 2013, important steps have been taken.[38] However, a final decision will only happen at the next major meeting of the group in 2014. Meanwhile, officials from the five countries have to take important decisions regarding its corporate structure, location and operational rules. As of the writing of this article (February 2013), BRICS officials have made bold statements about their intentions, but little has come out in terms of concrete plans.[39] The only concrete measure announced is the creation of a Contingent Reserve Arrangement (CRA). According to the Brazilian Ministry of Foreign Affairs the current status of this arrangement is the following:

34 Available at Fourth BRICS Summit – Delhi Declaration 2012, http://www.brics5.co.za/about-brics/summit-declaration/fourth-summit (last accessed on 14 April 2014).

35 Delhi Declaration, note 34, "The new World Bank leadership must commit to transform the Bank into a multilateral institution that truly reflects the vision of all its members, including the governance structure that reflects current economic and political reality. Moreover, the nature of the Bank must shift from an institution that essentially mediates North-South cooperation to an institution that promotes equal partnership with all countries as a way to deal with development issues".

36 The nomination of a Korean-American for President of the World Bank shortly thereafter (April 2012), following a non-transparent nomination process that reflected the outdated rules questioned by the BRICS (according to which an European will head the IMF and an American the World Bank), just added more dissatisfaction to the mix. Kim for President, The Economist, 16 April 2012.

37 Delhi Declaration, note 34.

38 In parallel with the establishment of the Bank, the five countries are working on the construction of a Contingent Reserve Arrangement (CRA), amounted to US$ 100 billion, that will help BRICS countries forestall short-term liquidity pressures, provide mutual support and further strengthen financial stability.

39 The most recent pronouncements were made during the Annual Meeting of the World Bank and IMF, held on Washington (October 2013) when leaders reiterated their intention on a proposed $100 billion pool. However, they are still deciding on this will work out.: "We spoke in favor of contributions in phases, $10 billion within 10 years, so it is not burdensome to Russia's budget and the budget of other countries" said the Minister of Finance from Russia. See http://in.reuters.com/article/2013/10/11/g20-brics-fund-idINDEE99A0EX20131011 (last accessed on 9 April 2014).

> *The Bank will have an initial subscribed capital of US$ 50 billion from the BRICS countries. On the CRA, consensus has been achieved on many key aspects and operational details regarding its establishment. As agreed in Durban, the CRA will have an initial size of US$100 billion. Country's individual commitments to the CRA will be as follows: China – US$ 41 billion; Brazil, India, and Russia – US$ 18 billion each; and South Africa – US$ 5 billion. (MRE, 2013).*[40]

Despite the agreement on the CRA, there does not seem to be an agreement yet on the burden sharing of the Bank: "About the initial capital, there seems to be two suggested formats by the members. While China is interested to have a large initial capital and for which it has expressed interest to contribute a larger share, other members like India and Brazil are interested in a mechanism in which all countries have equal share. Russia seems to have supported the later format".[41] Thus, the big issue now is whether China will be the largest stakeholder or not.

III. The BRICS Bank: an uncertain future

Alongside all these decisions regarding the governance structure of the new bank, the BRICS will also have to decide on guidelines for development finance. By proposing the new bank, the BRICS are clearly protesting against the existing financial institutions. However, it is still unclear whether, and in what ways, this new institution will engage with other players in the field of development cooperation. Up to now, the BRICS have only mentioned their intention to "supplement" existing efforts towards infrastructure financing. So far (February 2013), there has been no indication that the BRICS want to challenge the existing structures of the field. On one hand, they might opt for playing by the rules. On the other hand, they might want to change the rules of the game, which actually seemed to be their intention in proposing World Bank reforms. It is even possible that they might end up proposing the end of this game and the beginning of a new one. At this point, all possibilities are open.

These uncertainties are connected with the fact that the motivations behind the creation of the BRICS Bank are not fully clear. Why have the BRICS decided to engage in such collective undertaking? What are the incentives for individual countries to engage in this multilateral arrangement? Wouldn't it be less costly, in particular for Brazil and China, to strengthen their own development banks to finance projects overseas? Are the motivations behind the BRICS Bank all about dissatisfaction with existing institutions or is there something else at stake? It is hard to tell.

40 http://www.itamaraty.gov.br/sala-de-imprensa/notas-a-imprensa/reuniao-informal-dos-lideres-do-brics-a-margem-da-cupula-do-g-20-em-sao-petersburgo-sao-petersburgo-5-de-setembro-de-2013/?searchterm=BRICS%20Bank (last accessed on 9 April 2014).

41 http://indrus.in/economics/2013/10/16/brics_bank_closer_to_reality_30165.html (last accessed on 9 April 2014).

It is also uncertain what kind of battle the BRICS are picking by creating a new world development bank. Historically, the field of development cooperation was built upon important political battles between the "have" and "have nots". One of these battles took place in the 1970 s, and was marked by demands for more voice and greater power on the side of the "have nots", which has never been properly addressed by the "haves", who are the ones empowered by the existing governance structures.[42] Since then, the field has gained considerable autonomy, as described earlier, becoming further removed from the interests of its member nations. As a consequence, old battles over redistribution were replaced by battles over the most efficient ways to promote development. In this context, it is not clear whether the BRICS are fighting for: is the new bank about a new alternative for development finance (the new battle) or is this a message to the developed countries about the BRICS's capacity to enter a field historically dominated by them (the old battle)? It will probably be hard to know the answer to this question until the BRICS Bank becomes operational.

Despite all these uncertainties, we intend to shed light on the dynamics that might be triggered by the new bank in the field of development cooperation. The exercise would be less speculative if there was more certainty about the questions mentioned earlier. Alternatively, the exercise could speculate what would be the answer to these questions. However, such speculation is beyond the scope of this paper. As stated in the introduction, we will largely operate under the assumption that development cooperation is an autonomous field. Thus, its dynamic is determined by the interactions of the actors playing in the field, and to analyze such interaction we do not need to unveil the political interests of the nations who stand behind the curtain. We turn now identifying the menu of choices available for the BRICS Bank: the current paradigm and its two potential challengers (the Brazilian and Chinese models).

C. What Could be the Modus Operandi of the New Bank? A Typology of Development Finance Practices

The BRICS announced their intention to create a bank that will focus mainly on infrastructure.[43] Such declaration reveals *what* the BRICS Banks intends to finance, but not *how* it

42 The most prominent instance of this political battle dates back in the 1970 s when developing countries, under the approval of the UN, claimed for a "new international economic order" (NIEO) advocating global equality. Instead of engaging with the NIEO, the field of development has become essentially blind to the issue of inequality in the international system, given that incorporating the demand of redistribution into the agenda of development would necessarily challenge the status quo of advanced economies. The proposal for a new order was formally addressed by the Third World nations in the "Charter of Economic Rights and Duties of States," and further adopted by the United Nations during the 29th regular General Assembly on December 12, 1974. See *Michael Doyle*, Stalemate in the North-South Debate: Strategies and the New International Economic, World Politics, 35 (3) 1983; *Jagdish Bhagwati*, The New International Economic Order: The North-South Debate,Cambridge, Massachusetts 1977; *Johan Galtung*, Poor Countries vs. Rich: Poor People vs. Rich: Whom Will NIEO Benefit? Oslo, 1977; *Robert Cox*, Ideologies and the New International Economic Order, International Organization 33 (1979), p. 257.

43 See Fifth BRICS Summit, http://www.brics5.co.za (last accessed on 9 April 2014).

intends to finance it. This section analyzes three models of development finance that could potentially influence the design of the BRICS Bank. These models are all primarily focused on financing for infrastructure and each one is grounded on the practices of an existing institution, namely: the International Bank for Reconstruction and Development (IBRD), the Brazilian National Bank of Economic and Social Development (BNDES), and the two Chinese banks, the China Development Bank (CDB) and the China Exim Bank.

The IBRD was chosen because it is the institution that the BRICS were trying to reform and the one they seemed to be bypassing through the creation of a new bank. The other institutions are national development banks in two of the BRICS countries, Brazil and China, respectively. These banks were chosen because they are the ones most heavily engaged with development financing, measured by the volume of investments allocated both nationally and internationally.[44] Moreover, Brazil and China are the only developing countries whose national development banks appear among the fifth largest global development banks, the CDB being the largest development bank in terms of volume of assets and total amount of loans disbursed.[45]

We start our analysis by defining the modus operandi of the IBRD as the *current paradigm*, which has incorporated institutional concerns into the agenda of development financing in the last decade or so. The IBRD tries to improve a country's institutional framework by engaging in a process of creation of rules, norms, organizations and procedures that can directly or indirectly promote development. Then, we move to the alternative models, asking how they engage with institutions in their development operations. BNDES has not actively engaged with an institutional agenda for development. Instead, it operates within the existing framework, forcing borrowers to follow existing rules and norms. This is what we call a *compliant passiveness* towards an institutional agenda for development. The CDB, in turn, has actively engaged with institutions, but it has done so in rather creative ways, always driven by the goal of achieving the concrete objectives of the operation. Thus, CDB has differentiated

44 By selecting development banks based on volume of assets, we end up not including the regional development Banks, such as the Inter-American Development Bank, the Asian Development Bank, or the African development Bank in the analysis. We believe that this omission is not detrimental to the typology created below, as these regional development banks operate very much like the institutions we have chosen to focus on. Therefore, they would not be adding much to the typology. See *Stephany Griffith-Jones, David Griffith-Jones/Dagmar Hertova*, Enhancing the Role of Regional Development Banks, G-24 Discussion Paper Series. United Nations Conference on Trade and Development, 2008.

45 China Development Bank is the largest development bank in terms of assets (US$991 billion), followed by the Germany Bank (US$ 606 billion), the World Bank (US$ 545 billion), the Brazilian Development Bank (US$ 306 billion) and the China Exim Bank ($ 190 billion). See *Henry Sanderson/Michael Forsythe*, China's Superbank: Debt, Oil and Influence – How China Development Bank is Rewriting the Rules of Finance, Whiley 2013.

its practices from those adopted by the World Bank due to the fact that its operations have been informed by *consistent pragmatism*. [46]

At the risk of simplifying the complex practices of these three banks, we will consider how each of these types of engagement can be described as a model for development finance. We analyze each of them in turn.

I. *Current Paradigm: The World Bank Model*

1. From infrastructure projects to the institutional agenda

Until the 1990 s, development financing was focused mostly on infrastructure projects.[47] Such practices were largely based on economic theories of development of the 1960 s, which maintained that a country could promote development by increasing the productive resources of its economy through the creation of basic conditions for boosting private investments and industrialization.[48] Based on these theories, loans and grants to build dams, pave roads and install water pipes became paramount both internationally and nationally. The World Bank financed such projects, and the national development banks, such as the Brazilian Development Bank, followed a similar rationale.

In the 1990 s, the focus has changed, as institutional reforms became one of the development priorities both in academia and in development circles. There is no clear consensus on how institutional arrangements should be promoted and enforced through development projects. There are also debates about why to promote institutional change: some view institutions as an instrument to promote economic growth, while others have argued that certain institutional arrangements, such as the rule of law and democracy, should be ends in and of themselves.[49] Institutions can yet be instruments to improve one of the other development indicators, such as health and education, rather than simply being conceived as a means to promote economic growth.[50] Thus, institutions recently became the primary focus of the international development field, despite the divergent rationales that justify them, and the little consensus about how to promote functional institutions.

46 This typology is not meant to be exhaustive or comprehensive. On the contrary, it is supposed to coexist with other typologies offered in the literature. For instance, *Philipp Dann* offers a typology of development banks that largely complements the one offered here. He distinguishes between a more technocratic model, in which the institution focuses on its developmental goal only (e.g. the World Bank) and a more diplomatic model which tries to balance different interests, especially political ones, alongside with its agenda to promote development and fight poverty, see *Dann*, note 9, pp. 200-201.

47 *John Degnbol-Martinussen/Poul Engberg-Pedersen*, Aid: Understanding International Development Cooperation, London 2003.

48 *Thorbecke*, note 10.

49 *Michael Trebilcock and Ronald Daniels*, Rule of Law Reform and Development: Charting The Fragile Path for Growth, Cheltenham 2009. See also *David Trubek/Alvaro Santos*, The New Law and Economic Development, Cambridge 2007.

50 *Daniel Kaufmman/Aart Kraay*, Growth Without Governance, Economia 3 (2002), p. 169.

While the institutional agenda has changed the focus of development projects in the last decade, it has not crowded out funds from infrastructure projects. As we will show in this section, the World Bank – one of the most influential advocates of the institutional agenda today – continues to invest heavily in infrastructure, but has added an institutional component to its financing mechanisms. Indeed, many projects to finance infrastructure have terms and conditions related to institutional and policy reforms. Moreover, the Bank has recently developed financing mechanisms to directly fund institutional change, such as its Program for Results operations.[51] It is in this context that the International Bank for Reconstruction and Development (IBRD), the most important branch of the World Bank Group for financing development programs, operates.[52]

While an institutional agenda for development has gathered widespread support from academic and policy circles, the way in which the World Bank has incorporated this agenda in its financing practices has been heavily criticized. The Bank has been often accused of adopting blue prints that ignore each country's unique legal, economic and cultural circumstances. Moreover, the particular institutional reforms required by the Bank may not be aligned with the political priorities or preferences of a particular country, what can potentially reduce the legitimacy of the changes fostered by the Bank.

2. The World Bank's support to BRICS countries: analysis of the financed sectors

Despite the BRICS' dissatisfaction with the IBRD governance structure,[53] they have not revealed whether they consider the Bank's practices problematic. One the one hand, we do not have any elements to support the idea that they may be dissatisfied with them. On the other hand, we also do not have any elements to affirm that they may be satisfied with the practices either. The only concrete piece of information available is the fact that BRICS have been actively borrowing from the World Bank, significantly exposing and subjecting themselves to the Bank's institutional agenda. Indeed, in the last 10 years (2003-2012), the Bank has lent more than US$ 80 billion to BRICS. During this period, India has had the largest portfolio

51 The World Bank, A New Instrument to Advance Development Effectiveness: Program-for-Results Financing (2011), http://siteresources.worldbank.org/EXTRESLENDING/Resources/Program-for-Results_CN_2-23-2011_SECPO_final.pdf (last accessed on 9 April 2014).

52 Besides the IBRD, the World Bank group consists of four other organizations: International Development Association (IDA) http://www.worldbank.org/ida/ (last accessed on 9 April 2014).;International Finance Corporation (IFC) http://www.ifc.org (last accessed on 9 April 2014); International Centre for Settlement of Investment Disputes (ICSID) https://icsid.worldbank.org (last accessed on 9 April 2014) and the Multilateral Investment Guarantee Agency (MIGA) http://www.miga.org (last accessed on 9 April 2014).

53 See note 41.

with World Bank, amounting to US$33 billion, followed by Brazil (US$ 22.8 billion), China (US $16 billion), South Africa (US$ 4 billion) and Russia (US$ 1.5 billion).[54]

To explore these loans to the BRICS in greater detail, we selected the ten largest projects in each BRICS country (by volume of resources allocated) from a total of 524 projects that took place in the last 10 years (2003-2012).[55] We then identified the sector to which the money has been allocated. This limited sample of 47 cases is not representative of the total amount of resources allocated to BRICS, but it provides a glimpse into some of the World Bank practices. The results show that a significant amount of World Bank loans to the BRICS has been allocated to infrastructure projects.

Energy is the largest sector by volume of resources allocated in this sample, totaling US $ 6,344 million, from which US $3,750 million represents one single project directed to the South African state-owned electricity company, Eskom. This initiative was the largest project financed for BRICS countries from 2003-2012 and it represents 93% of the South African portfolio.[56] The second largest allocation was US$ 3,271 million to multisectoral projects, representing 12.8% of the sample. These projects were those in which not one single sector was predominant (i.e consumed more than 50% of the total amount of resources allocated to the project). It should be noted that many projects may involve two or more sectors, but aside from the "multisectoral" projects, they are classified under one single sector whenever projects have more than 50% of resources devoted to that particular sector.

The amount of money allocated by the World Bank per sector indicates that infrastructure projects are at the core of the Bank's support to BRICS. The biggest projects are related to investments in sectors such as energy, highways or agriculture. However, if we consider the number of projects financed by sector (and not the amount of resources allocated per sector), an interesting figure stands out: in Brazil, Russia and India, projects related to government administration (either central or local level) were the most prominent between 2003-2012, accounting for about 35% of the projects (on average). In China, solid waste, water treatment and sanitation comes in as first place (35,2%), followed by government administration (33,8%). South Africa is clearly an outlier, where energy and agriculture projects prevail, with practically no projects related to government administration.[57]

54 The total amount represents the sum of all projects (524) involving BRICS countries listed in the World Bank's project database for each country from 2003 to 2012, available at http://www.worldbank.org/projects/country?lang=en (last accessed on 9 April 2014).

55 Russia only had 7 projects during this period (2003-2012).

56 The Loan is part of major program totaling US$10 billion intended to enhance South Africa's power supply and energy security. See World Bank, South Africa – Eskom Power Investment Support Project, (2009), http://documents.worldbank.org/curated/en/2009/10/11842554/south-africa-eskom-power-investment-support-project (last accessed on 9 April 2014).

57 The information was collected from the aggregated data provided by World Bank for each country, refined by our period of analysis (2003-2012). This database classifies the number of projects financed by sector in each country. For an example of the aggregated data, see http://www.worldbank.org/projects/search?lang=en&searchTerm=&countrycode_exact=BR (last accessed on 9 April 2014).

This means that the World Bank is also investing in non-infrastructure sectors, such as government administration, but these are smaller than the infrastructure projects. Most importantly, this finding reveals the willingness of BRICS, except for South Africa, to engage with World Bank financing in sectors other than heavy infrastructure. Surprisingly, even China has borrowed money to implement projects in the government administration sector.

3. Delving into cases: understanding the World Bank's practices

This analysis of sectors, however, does not reveal to what extent the World Bank is engaging with an institutional agenda for development. The World Bank could be financing either electricity infrastructure or reform of the institutions regulating the electricity sector. Both of these projects would be classified as energy projects. The same is true for government administration: a loan may be allocated to the construction of a new government building or to civil service reforms. Thus, to evaluate if the World Bank is investing resources in an institutional agenda, it is necessary to look beyond the sectors.

One way of looking beyond sectors is to analyze the details of the projects. More specifically, the World Bank identifies the main objectives and goals of its projects by associating them with a long list of themes. While the sectors provide very little information regarding the institutional dimension of the projects, the themes includes what are considered central institutional concerns, such as "rule of law" and "public sector governance". [58] In this regard, certain sectors are naturally connected to certain themes. For instance, the "law and justice" sector is highly correlated with the "rule of law" theme. Another example is the "government administration" sector, and the "public administration governance" theme.

While there is high correlation between certain sectors and themes, generally these can be combined in a wide variety of ways, allowing for a great diversity of project designs. One example is a US$500 million loan to the Brazilian government for housing sector reform. Disbursed in 2005, this loan aimed at "improving access by the poor to better housing and serviced/serviceable land, while maintaining fiscal discipline (…) Specifically, the project intended to a) develop a sound national policy, and institutional framework for housing and urban development; b) strengthen the housing credit, and savings systems, and provide incentives for the housing finance market to expand, as well as move "down-market"; c) design and implement a unified federal housing subsidy system, to address the affordability of housing solutions for the poor; and, d) reduce the costs of formal, urban land development, by

58 The themes are: economic management, public sector governance, rule of law, financial and private sector development, trade and integration, social protection and risk management, social development/gender/inclusion, human development, urban development, rural development. Each of these themes is divided into sub-themes. For instance, "rule of law" projects include those related to the following sub-themes: access to law and justice, judicial and other dispute resolution mechanisms, law reform, legal institutions for a market economy, legal services, personal and property rights, and other rule of law projects. For a complete list, see http://www.worldbank.org/projects/theme?lang=en (last accessed on 9 April 2014).

strengthening land legislation, regulations, and real property registries."[59] This project is associated with "rule of law" (and four other themes),[60] while its sectors are related to social services and public administration. [61]

It is also important to note that projects are often related to more than one goal, and therefore the World Bank classifies them as associated with more than one theme. For instance, the "Brazilian Programmatic Fiscal Reform – Social Security Reform" (US$658.30 million) was approved under "the central government administration" label.[62] However, only 13% of the funds are allocated to a "public sector governance" theme, namely administrative and civil service reform.[63] The funds are also associated with four other themes: debt management and fiscal sustainability (25%), improving labor markets (25%), social risk mitigation (24%), and regulation and competition policy (13%).[64] Nevertheless, each of these themes or goals has been implemented in a way that is directly connected with institutional reforms. The program focused primarily on supporting the reform to the pay-as-you-go rule, which is the basis of public sector workers social security system (RPPS). The rule was introduced through Constitutional Amendment no. 41 of December 2003. The project also includes first steps to comprehensive administrative reforms to the pay-as-you-go rule for private sector workers (RGPS), which will include the recertification of pensioners, and initiating disability benefits reform through approval of National Program of Health and Safety at the Workplace. Moreover, the project also intends to improve the regulatory and supervisory framework for private pension funds, including the creation of an autonomous pension supervision agency. In sum, the Social Security Reform Project was clearly directed to support a number of different goals (themes) through institutional reforms.

59 http://www.worldbank.org/projects/P078716/programmatic-loan-sustainable-equitable-growth-supporting-housing-sector-policy?lang=en&tab=overview (last accessed on 9 April 2014).

60 It is important to note rarely projects will be classified one single theme. Indeed, this project only allocates 17% of its funding to a rule of law theme (Legal institutions for a market economy), while the remainder went to other themes, namely 33% for urban development (Urban services and housing for the poor), 17% for social protection and risk management (Social safety nets), 17% for financial and private sector development (Other financial and private sector development), and 16% for environmental and natural resources management.

61 http://www.worldbank.org/projects/P078716/programmatic-loan-sustainable-equitable-growth-supporting-housing-sector-policy?lang=en&tab=overview (last accessed on 9 April 2014) Housing finance – 47%, Other social services – 23%, General public administration sector – 15%, Housing construction – 15%.

62 The World Bank, BR Programmatic Fiscal Reform – Social Security Reform (2005), http://www.worldbank.org/projects/P086525/br-programmatic-fiscal-reform-social-security-reform?lang=en (last accessed on 9 April 2014).

63 Ibid.

64 Ibid.

4. The centrality of the institutional agenda in the World Bank's project portfolio

How much money has been allocated by the World Bank to projects related to institutional reforms? This is difficult to estimate. According to the World Bank website, the amount of money allocated to projects that includes "rule of law" among their themes is around US$30 billion.[65] This does not mean, however, that World Bank has invested this entire amount solely in "rule of law" projects. Instead, it means that it has disbursed US$ 30 billion in loans to projects that are related to multiple themes, including "rule of law" (see examples provided above). Assuming that all of these projects are somehow related to an institutional agenda for development, this is not an insignificant amount of money for institutionally related reforms. This number is even higher if we consider that projects related to the "public sector governance" theme can also be easily classified as institutionally oriented projects as they include the following sub-themes: administrative and civil service reform, decentralization, managing for development results, accountability/anti-corruption, public sector governance, public expenditure, financial management and procurement, tax policy and administration, e-Government.[66] The total amount of resources allocated to projects that covered some component of "public sector governance" was even larger than that allocated to rule of law, totaling around US$ 250 billion.[67]

The same estimation difficulty exists if one tries to calculate how much was allocated per sector. Even projects with a predominant sector (i.e. energy, highways, railways and general agriculture, fishing and forestry, etc.) are not necessarily allocating resources only to these sectors. Thus, even the amount of money indicated above will not necessarily reflect the total amount of money allocated for each sector. For instance, central government administration, as a dominant project sector, represents only 6.4% of the commitment amount. In contrast, central government administration appears as a secondary sector in about 30% of the cases of our sample.

In sum, the classification by sectors cannot fully inform the level of engagement of World Bank projects with an institutional agenda for development. It does, however, show something rather important: the World Bank is still deeply engaged with the more traditional development agenda, investing significantly in infrastructure. The details of the projects, however, reveal

65 See http://www.worldbank.org/projects/search?lang=en&searchTerm=&mjthemecode_exact=3 (last accessed on 9 April 2014). If we break down the numbers by region: US$ 10.3 billion for Latin America and Caribbean, US$ 8.7 billion for Europe and Central Asia, US$ 4 billion for Africa, US $ 3.6 billion for East Asia and Pacific, US$ 3.3 billion for South Asia, US$ 2.7 billion for Middle East and North Africa.

66 http://www.worldbank.org/projects/theme?lang=en (last accessed on 10 April 2014).

67 http://www.worldbank.org/projects/search?lang=en&searchTerm=&mjthemecode_exact=2 (last accessed on 10 April 2014).. If we break down this number by region: US$71.7 for Latin America and the Caribbean, US$ 51.3 billion for Africa, US$ 45.6 billion for Europe and Central Asia, US$ 43.1 billion for East Asia and the Pacific, US$ 34.5 billion for South Asia, US$ 13.1 billion for Middle East and North Africa.

that the Bank often structures its financing in a way that combines a heavy commitment to infrastructure (which is the declared focus of the BRICS Bank) with institutional concerns.

While all of the sectors listed above may embrace some kind of commitment to institutional reforms, there are different ways in which this can be structured. Our analysis of the cases shows that there are at least three different ways in which the support for the institutional agenda may be structured.

5. The current paradigm: institutions matter for development finance

a) First, the World Bank may provide direct financing for institutional reforms. Indeed, the Bank had to adopt more flexible instruments that allow the disbursement of funds against commitments not directly related to physical achievements, such as rule of law reforms that include modernizing judicial systems, promoting access to justice or empowering women.[68] The most recent and innovative financing operation designed by the Bank in order to strengthen the institutional capacity of beneficiaries is the Program-for-Results (PforR), approved on January 24, 2012. [69] This instrument links disbursement to the achievement of results in the policy sectors selected (during project preparation by the two parties) to be part of the loan operation. For example, in a project that aims to provide sustainable water supply and sanitation services, some verifiable and tangible outputs, such as the percentage of treated water or the number of families with access to sanitation services, work as disbursement-triggers: each tranche of the loan can only be disbursed after the accomplishment of a set of triggered targets.[70]

b) The second way in which the World Bank may promote an institutional agenda is by indirectly funding institutional reforms. Conditionalities are one of the ways in which this may take place.[71] Such conditionalities allow the World Bank to push for some kind of institutional strengthening along with the project implementation. The Bank has also innovated on this front, creating a different instrument of financing, called "the development policy

68 For an overview of these projects and an assessment of their results, see *Trebilcock/Daniels,* note 49.

69 The World Bank, A New Instrument to Advance Development Effectiveness: Program-for-Results Financing (2011), http://siteresources.worldbank.org/EXTRESLENDING/Resources/Program-for-Results_CN_2-23-2011_SECPO_final.pdf (last accessed on 10 April 2014).

70 For a critical analysis of the program, see *Philipp Dann*, The World Bank's Program for Results Financing: Central but timid instrument for the 'Age of Choice'?", Paper Outline presented at the NYU Conference in Innovations of Governance of Development Finance: Innovation in Governance of Development Finance: Causes, Consequences and the Role of Law, 8 – 9 April 2013, http://www.iilj.org/newsandevents/DevelopmentFinanceConferenceProgram.asp (last accessed on 10 April 2014).

71 The use of conditionalities goes back to the 1980's, when the World Bank started to support structural adjustment projects, through which the borrower complied to some macroeconomic requirements in order to receive the loan. Nowadays, the idea of conditionality has been linked to changes in regulatory and policy frameworks related to the project object of financing. See: *John Pender*, From 'Structural Adjustment' to 'Comprehensive Development Framework': Conditionality Transformed?, Third Word Quarterly 22 (2001), p. 397.

operation". [72] Under this type of operation, the Bank can grant the financing in the form of budget supports, in which the payments are conditional to the implementation of certain reforms.[73] Once the payment is granted, the borrower is committed to the maintenance of "a sound macroeconomic policy framework". If these conditions are not met, the borrower (and the guarantor) will have to anticipate the repayment (default situation).

An example of an institutional conditionality applied to a non-institutional project is the "Indian Banking Sector Support Loan". The project, designed as a development policy loan, aimed to stimulate the economy through the provision of capital to sound public banks. The objective was to help these banks maintain credit growth and contain the adverse effects of the global financial crisis of 2008. In order for the banks to receive the money, however: (i) the Government of India had to have executed Statements of Intent with each of its Public Sector Banks; (ii) the Reserve Bank of India had to have taken necessary actions to strengthen prudential norms for the banking sector; and (iii) the Government of India, in coordination with the Reserve Bank of India, had to have ensured that elections of directors to Public Sector Banks were in compliance with the Reserve Bank of India's "fit and proper" criteria for such elections.[74]

c) In addition to conditionalities, the third way in which the World Bank may promote institutional reforms is by offering technical assistance to strengthen the institutions responsible for certain projects. This may happen in loans for infrastructure sectors and social policies alike. For instance, the financial support provided for "Bolsa Familia", a conditional cash-transfer program implemented by the Brazilian Government, was classified under "Other Social Services" and not under the "Government Administration" sector. However, the lending had a technical assistance component that aimed to strengthen the institutions responsible for the implementation of the program. This assistance sought to consolidate and improve the social program's rationale by financing expenses related to management and supervision of its activities.[75]

Another example of using technical assistance to improve institutional capacity for projects not directly related to institutional reforms is the "China Energy Efficiency Financing" project. The project's main goal was to improve the energy efficiency of medium and

72 Development Policy Loans (DPLs) typically support a program of policy and institutional actions to promote development and reduce poverty. The DPLs resemble the instruments used during the structural-adjustment period (1980 s), for its focus on medium-term policies and its requirement that borrowing countries have an adequate macroeconomic framework. Under a DPL, the funds can be fully disbursed almost immediately after the signature of the loan contract, as long as the country shows that it has an adequate macroeconomic policy framework. For more detailed information, see: World Bank, OP 8.60,available at http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:23113171~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html (last accessed on 10 April 2014).

73 See *Dann* note 9.

74 Loan Agreement number 7788-IN.

75 See: The World Bank, BR Bolsa Familia 1st APL (2004), available at http://www.worldbank.org/projects/P087713/br-bolsa-familia-1st-apl?lang=en (last accessed on 10 April 2014).

large-sized industrial enterprises in China. One of the components of the project was to strengthen the national government's capabilities to implement industrial energy efficiency policies and programs and to ensure that the National Energy Conservation Center (NECC) was operational and fully functional.[76] This project was labeled an energy project, and was considered primarily as investment in infrastructure in our sample.

The indirect forms of engagement are especially relevant because they show how the World Bank may have invested heavily in institutional reforms while at the same time funding mostly infrastructure projects. In other words, the indirect engagement shows that embracing institutional concerns does not necessarily mean abandoning the traditional investment agenda in development, i.e. infrastructure. And, at least in the loans to the BRICS, there seems to be more money allocated to the indirect than to the direct financing of reforms.

In sum, there are at least three ways in which the World Bank has tried to incorporate the institutional agenda into its lending operations: (i) by directly financing institutional reforms; (ii) by imposing institutional-related conditionalities to approve loans; and (iii) by offering technical assistance to improve institutional capacity related to the implementation of policies or projects, including infrastructure projects. In other words, the institutional dimension of the loans may constitute respectively the core of what is being financed; a condition for something else to be financed; or an operational feature of a much larger policy or project.

It is important to note that, in one way or another, the World Bank is actively trying to establish a new legal framework for a project´s implementation. For instance, the Bank´s procurement policies[77] clearly supersede national procurement laws by setting a common guideline for all the borrowers.[78] However, these attempts have not been incredibly successful. As the academic literature has extensively shown, the results have been mixed, at best.[79] Thus, the *current paradigm* can be described as the intention – but not necessarily the ability -- to improve institutional frameworks in developing countries.

II. Compliant Passiveness: the Brazilian Model

The *Banco Nacional de Desenvolvimento Econômico e Social* (BNDES), a Brazilian Development Bank, is a financer that complies with the institutional setting of the borrower (be it a subnational government in Brazil or a country recipient of Brazilian private investments). For this reason, we call it a *compliant passiveness* regarding an institutional agenda for de-

76 See: The World Bank, China Energy Efficiency Financing (2008), http://www.worldbank.org/projects/P084874/china-energy-efficiency-financing?lang=en (last accessed on 10 April 2014).

77 For more information, see: http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/PROCUREMENT/0,,pagePK:84271~theSitePK:84266,00.html (last accessed on 10 April 2014).

78 See the complete guideline http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/PROCUREMENT/0,,contentMDK:20060840~pagePK:84269~piPK:60001558~theSitePK:84266,00.html (last accessed on 10 April 2014).

79 *Trebilcock/Daniels*, note 49. *Matt Andrews*, The Limits of Institutional Reform in Development: Changing Rules for Realistic Solutions, Cambridge 2013.

velopment. The term "compliant" suggests that the Bank prioritizes the enforcement of local legislation, and the term "passiveness" emphasizes the fact that BNDES does not try to impose any substantive binding requirements on borrowers.[80]

1. The Brazilian Development Bank in figures

A state-owned bank, the BNDES has always been connected to the developmental agenda pursued by the federal government, and became over time one of the most important instruments of state intervention in the economy.[81] Created in 1952, BNDES was originally designed to provide long-term credit for investments in infrastructure projects, filling the gap in long term financing that existed in the country at the time.[82] Shortly after its creation, BNDES's financing expanded to industrial sectors, and the bank performed a key role in Brazil's Import Substitution Industrialization policies.[83] BNDES became especially prominent in 1956, when the government designed a five-year development plan, known as *Plano de Metas* (Plan of Goals). Since then, it has performed an active role in providing credit to Brazilian companies. It continued to perform this role during the military dictatorship (1964-1985), and after Brazil's return to a democratic regime.[84]

The BNDES's most significant change happened during the Cardoso Presidency (1995-2002). Cardoso significantly reduced the size of the state and its role in the economy through a series of macroeconomic and privatization reforms.[85] During this time (late 1990 s), the Bank changed its core activities slightly, becoming directly responsible for organizing and financing the privatization of state-owned enterprises.[86] This role, however, was quickly reversed in 2003 with the inauguration of President Lula da Silva, whose agenda favored state interventionism in the economy. Since then, there has been a considerable strengthening of the BNDES's role, with an expansion of its financing activities both in the

80 *Philipp Dann* has also observed the absence of what he called a "legally binding criteria for evaluating project proposals" in the practices of European donors. Similarly to BNDES, these donors do not impose substantive binding requirements.

81 *Almeida Mansueto*, O Papel Do BNDES No Financiamento Do Desenvolvimento: Novos e Velhos Desafios,in: Regis Bonelli, A Agenda de Competitividade Do Brasil, Rio de Janeiro 2011.

82 *Sônia Draibe*, Rumos e Metamofoses: Estado e Industrialização No Brasil, 1930 -1960, Rio de Janerio: Paz e Terra, 1985.

83 *Armando Pinheiro/Regis Bonelli/Ben Schneider*, Pragmatic Policy in Brazil: The Political Economy of Incomplete Market Reform, Insitute of Applied Economic Research, Working Paper, 2004.

84 *Mario Schapiro*, Rediscovering the Developmental Path? Development Bank, Law, and Innovation Financing in the Brazilian Economy. in: Trubek et al. (eds.), Law and the New Developmental State: The Brazilian Experience in Latin American Context, Cambridge 2013.

85 *Armando Castelar Pinheiro*, A Experiência Brasileira de privatização: o que vem a seguir?, Paper presented in the Second Anual Conference on Global Developement, Tokyo, 10 – 13December2000.

86 *Sergio Lazzarini*, Capitalismo de Laços, Rio de Janeiro 2011.

public and the private sectors. [87] Through loans and the participation of the BNDES as a minority shareholder both in private and in state-owned companies, the bank became again a conduit of state influence in the economy of Brazil.[88]

The BNDES is one of the largest development banks in the world.[89] If measured by loans disbursed, the BNDES has been a prominent bank worldwide for at least a decade. Indeed, in 2005, the BNDES disbursed US$ 20 billion, whereas the World Bank disbursed US$ 9.7 and the IADB US$ 4.9 billion. The numbers are also higher than large national development banks, such as the German Development Bank (*Kreditanstalt für Wiederaufbau*), estimated to have disbursed US$ 5 billion in the same year, and the Korean Development Bank, which disbursed US$ 10 billion. Since 2003, the BNDES's disbursements have increased, reaching a peak of almost US$ 85 billion in 2010 (see Chart 3).[90]

Not only have the BNDES disbursements become three times larger than the total provided by the World Bank,[91] but recently the BNDES assets have also significantly increased.[92] This is a significant change, as BNDES assets have often been significantly lower than other large development banks. For instance, in 2005, the BNDES's assets were only a third of those of the World Bank (US$ 74.7 and US$ 222 billion, respectively), but by 2011, the proportion had increased to more than half (US$ 306 billion and US$ 545 billion, respectively).[93] The particularly large increase starting in 2008 is due to the fact that the Brazilian government used the bank to adopt counter-cyclical measures to protect the economy from the effects of

87 *Mario Schapiro*, Novos Parâmetro de Intervenção do Estado na Economia, Saraiva, 2010. *Rodrigo de Almeida*, Entrando no Clube, O BNDES e a inserção brasileira no capitalismo internacional, in: Renato Boschi, Variedades de Capitalismo, Política e Desenvolvimento na América Latina, Belo Horizonte 2011.

88 *Aldo Musacchio/ Sérgio G. Lazzarini*, Leviathan in Business: Varieties of State Capitalism and Their Implications for Economic Performance(30 May, 2012), unpublished working paper, available at SSRN: http://ssrn.com/abstract=2070942 or http://dx.doi.org/10.2139/ssrn.2070942 (last accessed on 10 April 2014), p. 16.

89 See note 43.

90 *David Trubek/ Mario Schapiro*, Innovation and finance in the political economy of Brazil: the role of BNDES (2013), paper presented at the NYU Conference in Innovations of Governance of Development Finance: Innovation in Governance of Development Finance: Causes, Consequences and the Role of Law, 8 – 9 April 2013, available at http://www.iilj.org/newsandevents/DevelopmentFinanceConferenceProgram.asp (last accessed on 10 April 2014).

91 *Sergio G. Lazzarini/Aldo Musacchio/Rodrigo Bandeira-de-Mello/Rosilene Marcon*, What Do Development Banks Do? Evidence from Brazil, 2002-2009,Harvard Business School, Working Paper 12-047, 2012.

92 *Luciano Coutinho*, The Role of Development Banks for Growth in Emerging Economies,in: Rencontres Economiques d'Aix-en-Provence: A la recherché de la nouvelle croissance 263 (2010), p. 264 (indicating that in 2009, BNDES had U.S.$ 222 billion in assets); *Rodrigo de Almeida*, Entrando no Clube: O BNDES e a Inserção Brasileira no Capitalismo Internacional, in: Renato Boschi (eds.) Variedades de Capitalismo, Política e Desenvolvimento na América Latina, Belo Horizonte 2011, p. 180.

93 See note 43.

the global financial crisis.[94] The high level of disbursement is likely to continue, as indicated by a US$ 27 billion disbursement from March to April 2013.[95]

The importance of the BNDES to the Brazilian economy cannot be overstated. It is responsible for largest share of credit (20%) provided by Brazilian Banks to the private sector. [96] Its portfolio is 63% larger than the second largest provider of credit (*Banco do Brasil*, a state-owned bank) and 106% larger than the third largest provider (*Bradesco*, a private bank).[97] The BNDES's disbursements are concentrated on the industrial sector and infrastructure, as part of the government's industrial policy and development plan. [98] In these sectors, BNDES disbursements with debt and equity exceed the volume of resources from the private sector (except for retained earnings). In sum, the BNDES has primarily considered its mission as providing long-term, subsidized credit to the private sector.

2. BNDES' support to sub-national governments: analysis of the financed sectors

Yet the amount approved to state governments increased considerably after 2008.The sum of operations approved in 2012 for the public sector account for almost 50% of total approved by the BNDES during the last ten years, revealing that the BNDES has recently assumed a prominent role in this sector as well. Due to this increase, BNDES loans are equivalent to the amount of credit approved by the World Bank for Brazil over the last 10 years (including federal, state and local governments).[99]

The sharp increase in operations in 2012 was induced by the Federal Government, which appointed BNDES the main operator of "Provinvest", a credit line of US$10 billion aimed at financing states and the federal district.[100] The funding available through Proinvest could be directed to different purposes, from amortization of debts with the BNDES to the acquisition

94 BNDES was responsible for more than 30% of the credit expansion between 2008 and 2009 in Brazil, Id. See also: *Guilherme Lamenza/ Felipe Pinheiro/Fabio Giambiagi*, A capacidade de desembolso do BNDES durante a década de 2010, Revista do BNDES 36, December 2011.

95 Brazilian Development Bank, http://www.bndes.gov.br/SiteBNDES/bndes/bndes_en/ (last accessed on 10 April 2014).

96 *Almeida*, note 92, p. 177.

97 Ibid.

98 Ibid., pp. 178-179.

99 BNDES has approved around US$22.5 billion for the public sector in the last 5 years against US $22.8 billion from the World Bank in the last 10 years.

100 See Resolution n 4.155, 1 November 2012 from Banco Central do Brasil that allows BNDES to operationalize the credit line of US$ 10 billion (US$20 billion) available at http://www.bcb.gov.br/pre/normativos/res/2012/pdf/res_4155_v1_O.pdf (last accessed on 10 April 2014).

of equipment and vehicles, eligible public expenditures, and venture capital in public funds.[101] Moreover, in the last 5 years, the BNDES has launched and enhanced many financing mechanisms to support the public sector.[102]

However, BNDES private or public sector lending does not engage with an institutional agenda for development. Not even the new mechanisms, such as Proinvest, are informed or influenced by institutional concerns. A more detailed analysis of the loans approved to state governments illustrates this point. Between 2003 and 2012, the Bank assigned roughly R$45 billion (US$22.5 billion) to state governments, financing over 570 projects in the 26 states and in the federal district..

The largest portion of the funds allocated by the BNDES to state governments falls into the category of "budget support" (47%). Operations structured under this category do not finance specific investment projects, but items of expenditure already listed in the state's annual public budget. This means that approximately US$ 9.5 (R$19 billion) was lent by the BNDES to supplement local government budgets, covering primarily capital expenditures. Through these loans, BNDES funds become part of the state's resources and are supposedly managed, spent and controlled according to local procedures governing public finance management.[103] It is important to note that these loans are not associated with a single investment project. Rather, the BNDES provides funding for the state to spend on items listed in the annual budget when the state lacked the fiscal resources to cover these costs.

The state government of Rio Grande do Sul, for instance, borrowed US$542 million (R $1,08 bi) from BNDES for budget support. According to the contract loan, this funding was directed to implement actions already listed in the Multiannual Investment Plan and in the resolutions of the Legislative Chamber approving such Borrower's expenditures.[104] This does not mean that the borrower can use the funds to cover expenses related to any action listed in the budget. Instead, the BNDES only authorizes the use of the funds to cover expenses considered eligible according to each line of credit. In this case of Rio Grande do Sul, the loan

101 For more detailed information about this credit line see: *Programa de Apoio ao Investimento dos Estados e Distrito Federal – PROINVESTE*, BNDES, http://www.bndes.gov.br/SiteBNDES/bndes/bndes_pt/Institucional/Apoio_Financeiro/Programas_e_Fundos/proinveste.html (last accessed on 9 April 2014) and also BNDES aprova primeira operação do Proinveste: R$ 512,5 milhões para Santa Catarina, BNDES, http://www.bndes.gov.br/SiteBNDES/bndes/bndes_pt/Institucional/Sala_de_Imprensa/Noticias/2012/institucional/20120816_proinveste.html (last accessed on 9 April 2014).

102 *Produtos*, BNDES, http://www.bndes.gov.br/SiteBNDES/bndes/bndes_pt/Institucional/Apoio_Financeiro/Produtos/ (last accessed on 9 April 2014). For an overview see: *Leticia Vieira Correa*, *Atuação do BNDES nos investimentos na gestão do setor público: estudo de caso do PMAT –Santo André (SP)* (BNDES, Working Paper, 2009).

103 Ibid.

104 Loan Contract Number 12.2.0085.1.

was funded through the "BNDES State" (BNDES Estado),[105] under which the state was authorized to use the loan to fund expenses related to the following sectors: (i) transportation (US$275million); (ii) private sector development and technological innovation (US$70 million); (iii) modernization of rural sector (US$61 million); (iv) public security (US$ 49 million); (v) credit supply for municipalities and enterprises (US$45 million); (v) housing for the poor (US$ 42 million).[106]

The most important characteristic of budget support operations is the autonomy of the borrower to define its priorities, as long as the money is used according to the parameters set by the bank. Thus, budget support operations are meant to work within the borrower's existing institutional and regulatory framework. Within these operations, the bank neither creates incentives for leveraging to a pre-determined development strategy nor for meeting special requirements. Local governments are held accountable to the same procurement, financial, managerial and environmental standards as they would be in the absence of BNDES's support. However, if the borrower fails to comply with the legislation, the Bank has the right to terminate the contract and declare default.[107] Hence, by financing budget support programs, the BNDES is not promoting change but merely enforcing the compliance with local rules and budgetary needs.

The second sector most financed by the BNDES in terms of volume of credit disbursed to state governments is transport and logistics (33%). Up to US$ 6.5 billion (R$13 billion) were directed to finance road construction, modernization of ports and expansion of public transportation systems. Here again, borrowers are required to follow the local and federal laws that apply to project implementation.

In third place comes financing for "events" (7%). The main projects in this category are related to the construction of soccer stadiums and other touristic infrastructure related to the FIFA 2014 World Cup and the Olympics in Rio de Janeiro in 2016. In contrast to budget support, these loans are related to specific projects and often have a defined output, such as a road or a soccer stadium. As with budget support, these projects must also comply with existing laws and regulations. Many of these laws are new, as recent statutes and decrees were enacted to facilitate the construction projects related the mega-events.[108]

105 For detailed information about this line of credit, see: http://www.bndes.gov.br/SiteBNDES/bndes/bndes_pt/Institucional/Apoio_Financeiro/Produtos/FINEM/bndes_estados.html (last accessed on 9 April 2013).

106 See http://www.rs.gov.br/noticias/1/99688/BNDES-aprova-financiamento-de-R$-1-bilhao-para-RS/19/83// (last accessed on 9 April 2014).

107 See Resolution 660/87 BNDES – "*Dispositivos Aplicáveis aos Contratos do BNDES*", available at http://www.bndes.gov.br/SiteBNDES/export/sites/default/bndes_pt/Galerias/Arquivos/produtos/download/disaplic.pdf (last accessed on 14 April 2014).

108 A number of statutes were approved by the Brazilian Congress in connection with the mega-events. These statutes change the regime applicable to contracts with public administration and the legal standards governing public investments in infrastructure. For an overview, see *Mauricio Portugal Ribeiro*, Regime Diferenciado de Contratação: Licitação de Infraestrutura para Copa do Mundo e Olimpíadas, Ed. Atlas, 2012. There have been controversies around the legitimacy and constitu-

3. The compliant passiveness model: financing infrastructure by the books

The percentages presented in the previous section show that public sector financing by the BNDES is primarily focused on capital expenditures and infrastructure. Only 1.5% of the total amount committed to state governments aimed at directly funding the improvement of the public administration. The "BNDES PMAE" – Modernization of Fiscal, Financial and Patrimonial Management of Subnational Public Administration – is the most important credit line directed to finance public sector reforms, amounting to up to R$300 million/year.[109] It is noteworthy, however, that even what is considered to be modernization of the public administration is basically financing for infrastructure. Indeed, the PMAE intendeds to finance information technology (hardware and software), human resources capabilities, consultant services, equipment to support fiscal supervision and physical infrastructure, such as the refurbishment of public buildings.[110] Most of the loans disbursed under this credit line were used by states to finance the upgrading of technologies of information and management, such as national registries and other electronic systems.[111]

Perhaps the only exception to this lack of institutional concern is the line of credit "*BNDES States",*[112] which includes "institutional development and modernization of the public administration" as one of its six priority sectors. However, as discussed above, modernization of public administration is often translated into investment in infrastructure for the public sector. Moreover, the bank has neither an institutional agenda for development nor appropriate mechanisms to support public sector reforms along with its loans. Thus, any financing for institutional reforms will be driven by the borrower's agenda. The BNDES's only requirement is the borrower's compliance with the existing legal framework.

Another feature that reinforces the *compliant* type of engagement by BNDES is the fact that its policy frameworks and safeguards are broadly formulated and do not require any upfront binding commitments. It doesn't mean that BNDES does not impose any constrain on its borrowers, but the absence of a clear guidelines allows for case-by-case negotiations

tionality of these measures, and there is a risk that the Brazilian Supreme Court may strike down statutory provisions related to the World Cup in the near future. Estado de S. Paulo, Fifa não vai aceitar mudanças na Lei Geral da Copa – Ação do Ministério Público Federal no STF cai como uma bomba na entidade e pode colocar o Mundial em risco, 11 July 2013, available at http://www.estadao.com.br/noticias/esportes,fifa-nao-vai-aceitar-mudancas-na-lei-geral-da-copa,1052121,0.htm (last accessed on 9 April 2014). Until then, however, BNDES will request borrowers' compliance with statutes enacted by Congress.

109 Modernização da Administração das Receitas e da Gestão Fiscal, Financeira e Patrimonial das Administrações Estaduais – PMAE, BNDES, http://www.bndes.gov.br/SiteBNDES/bndes/bndes_pt/Institucional/Apoio_Financeiro/Produtos/FINEM/pmae.html (last accessed on 9 April 2014).

110 Roteiro de informações para consulta prévia, BNDES PMAE, (2009) http://www.bndes.gov.br/SiteBNDES/bndes/bndes_pt/Ferramentas_e_Normas/Roteiros_e_Manuais/ (last accessed on 9 April 2014).

111 Available at the database prepared by the authors with information available on BNDES's website.

112 See http://www.bndes.gov.br/SiteBNDES/bndes/bndes_pt/Institucional/Apoio_Financeiro/Produtos/FINEM/bndes_estados.html (last accessed on 9 April 2014).

that are informed by the existing laws, as opposed to a pre-existing agenda imposed by the lender. Most importantly, the conditionalities linked to the loans, when they exist, do not seem to be driven by any concern with lack of appropriate institutional framework, but by the concern to comply with an environmental and technical standards as well as procurement obligations. It is important to note, however, that the BNDES always operates according to the existing environmental and technical standards required by legislation, instead of imposing its own.

While most of BNDES investment has been in Brazilian territory, the bank has provided loans to foreign governments as well. There are no official data about these transactions, but a Brazilian newspaper has estimated that BNDES has provided US$2.17 billion in loans to 15 countries in 2012.[113] In such cases, the money is often connected with projects that involve Brazilian companies,[114] but the concern with compliance with the local legal framework remains the same. [115]

113 *Rubens Valente*, "Brasil coloca sob sigilo apoio financeiro a Cuba e a Angola", Folha de São Paulo, 9 April 2013. Available at http://www1.folha.uol.com.br/poder/1259471-brasil-coloca-sob-sigilo-apoio-financeiro-a-cuba-e-a-angola.shtml (last accessed on 9 April 2014). Information regarding some financial transactions involving Brazilian companies and BNDES are not disclosed because they are considered confidential (art. 6º, I, of the Decree 7.724/2012).

114 *Shunk Rojas*, Understanding Neo-Developmentalism in Latin America: New Industrial Policies in Brazil and in Colombia, in Trubeket al. (Ed.), Law and the New Developmental State: The Brazilian Experience in Latin American Context, Cambridge 2013, pp. 65-113, 108 (arguing that, overall, in the 2000 s, the BNDES has clearly focused on Brazilian companies operating in Brazil and abroad). This type of financing should be differentiated from the Bank's decision to provide financial support for mergers and acquisition of large Brazilian companies that would eventually allow for the expansion of their commercial activities abroad. This became known as the "national champions" program, which intended to support the creation of multinational corporations in Brazil. After investing around R$18 billion (US$9 billion) in a handful of Brazilian companies over a period of 8 years without producing significant results, the program seems to have been officially discontinued in April 2013. See *Angelita Matos Souza,* "BNDES, campeões nacionais, expansionismo e integração regional, Paper presented at III Congreso Latinoamericano de Historia Económica y XXIII Jornadas de Historia Económica (2012). Available at http://www.google.de/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CDMQFjAA&url=http%3A%2F%2Fwww.aahe.fahce.unlp.edu.ar%2Fjornadas-de-historia-economica%2Fiii-cladhe-xxiii-jhe%2Fponencias%2FLopez%2520Rasch.pdf%2Fat_download%2Ffile&ei=1pxGU9nKJ6j9ywPVkIGwBA&usg=AFQjCNGRrLaXh_2AXcFKz0T4qr-i8rZgxg&sig2=Tb0VPRqiZVHKuasRJ4KveA&bvm=bv. 64507335,d.bGQ&cad=rja (last accessed on 9 April 2014).). See also http://economia.estadao.com.br/noticias/economia-geral,bndes-abandona-politica-de-criar-campeoes-nacionais,151373,0.htm (last accessed on 9 April 2014).

115 There are no public reports on international loans for Brazilian private companies. However, a recent example of a loan granted to a company operating in Bolivia may suggest that compliance might also be the case for international projects. In 2011, the BNDES had approved a loan to cover 80% of the costs of constructing a highway in Bolivia. However, this project was cancelled by the Bolivian Congress, which prohibited the construction of highways crossing land occupied by indigenous communities. Once this statute was in place, the BNDES considered that the contract to provide the loan had become illegal as it was funding a project forbidden by the law. Thus, in 2012 it decided

The lack of the BNDES's own requirements and standards, in turn, is illustrated by the criteria to approve the loans. To request a loan, each borrower fills out a form known as "consulta prévia" (previous consultation), with detailed information about its request, and submits this form to the BNDES's evaluation.[116] What determines whether or not the project will be approved is the ability of the borrower to provide accurate information about its request, to promptly make the adjustments required by the bank, and to respond to the bank officer's specific questions. Differently from the World Bank, the BNDES does not seek to harmonize its requirements across all operations, except for the requirements of each line of credit within BNDES.

In sum, the main difference between the BNDES and the IBRD is that the former is not directly or indirectly concerned with institutional reform and does not promote institutional changes. Instead, the Bank's assessments are based on project-specific analysis, such as technical, economic and financial considerations directly related to the financed activities. Moreover, BNDES operations comply with the existent legal and institutional frameworks. This is why we describe this type of practice as one characterized by *compliant passiveness* towards an institutional agenda for development.

III. Consistent Pragmatism: The Chinese Model

The China Development Bank (CDB) and the Export-Import Bank of China (EximBank) are engaging with an institutional agenda for development in a *consistently pragmatic* way. The term *consistently pragmatic* is used to suggest that the Chinese institutions prioritize the achievement of results. The difference between the Chinese model and the other two (*current paradigm* and the *compliant passiveness*) is its pragmatism regarding institutional frameworks. By being focused on the final output, Chinese institutions of development cooperation take existing rules as a means to an end. Thus, if these institutions do not threaten or impose obstacles to the project's goal, Chinese banks will not take any measures related to them. However, if these institutions create obstacles to the financial operation, or if the project's implementation ends up confronting local rules, Chinese institutions may try to bypass, change or undermine them.

1. The China Development Bank and the Export-Import Bank of China in figures

The CDB is the largest development bank in the world today and the EximBank is the fourth largest, after the Brazilian Development Bank (BNDES) and the German Development Bank

to cancel the operation, thereby terminating its agreement to provide 80% of funds for this US$415 million highway in Bolivia. See: http://amazonia.org.br/2012/02/bndes-exige-um-novo-contrato-para-financiar-estrada-na-bol%C3%ADvia/ (last accessed on 9 April 2014).

116 See BNDES (2013). Roteiro de Informações para Consulta Prévia – Administração Pública Direta, available at http://www.bndes.gov.br/SiteBNDES/bndes/bndes_pt/Ferramentas_e_Normas/Roteiros_e_Manuais/ (last accessed on 10 April 2014).

(KFM).[117] Both institutions were created in 1994. Together with the Agricultural Development Bank of China (ADBC), they aimed to reduce the commercial banks' burden with respect to financing state-directed trade and development projects.[118] As Deborah Brautigam describes, "while other state-owned banks were asked to operate more on commercial principles, the three policy banks remained tools of the government, allowing Beijing to allocate preferential or targeted finance through a hybrid of planning and market means."[119]

These two institutions have promoted a rapid expansion of China´s engagement in development finance internationally. According to Chinese Government sources, "by the end of 2009, China had provided a total of US$37.7 billion (256.29 billion yuan) in aid to foreign countries, including US$15.6 billion (106.2 billion yuan) in grants, US$11.3 billion (76.54 billion yuan) in interest-free loans and US$10.8 billion (73.55 billion yuan) in concessional loans".[120] Both banks have lent more money to other developing countries than any international development bank.[121] Indeed, between 2009 and 2010, they lent more than the World Bank and IMF combined (US$ 110 billion versus US$ 100).[122] While the precise numbers may not be reliable[123] (often there is conflicting information provided by different Chinese agencies), there is no doubt that most of these resources are being directed at Africa.[124] Since 2009, African nations have been receiving nearly half of the Chinese money disbursed overseas.[125]

2. Chinese banks' support to local and international projects

Originally, each bank specialized in one particular type of policy. The Eximbank was created with a mandate "to facilitate the export and import of Chinese mechanical and electronic products, complete sets of equipment and new- and high-tech products, assist Chinese com-

117 See note 43.

118 *Xiaochi Lin/Yi Zhang*, Bank Ownership Reform and Bank Performance in China, Journal of Banking and Finance 33 (2009), pp. 20 – 29.

119 *Deborah Brautigam*, The Dragon's Gift: The Real Story of China in Africa Oxford 2011, pp. 79–80,. See also *Mark Klaver/Michael Trebilcock*, Chinese Investment in Africa, The Law and Development Review. Volume 4, Issue 1, pp. 168– 217; *Carl Walter/ Fraser Howie*, Red Capitalism: The Fragile Financial Foundation of China's Extraordinary Rise,Wiley, 2012, Revised Edition.

120 State Council and *Brautigam*, note 119, p. 207.

121 *Dyer Geoff, Jamil Anderlini/Henny Sender,* China's lending hits new heights, Financial Times,17 June 2013, http://www.ft.com/cms/s/0/488c60f4-2281-11e0-b6a2-00144feab49 a.html (last accessed on 9 April 2014).

122 Ibid.

123 *Brautigam*, note 119,p.179 (calling attention to the difficulties of making these comparisons).

124 *Lucy Corkin*, Uncovering African Agency: Angola's Mangement of Chinas Credit Lines,Ashgate Pub Co, 2013.

125 State Council 2011, p.12. See also *Dambisa Moyo*, Winner take all: China's Race for Resources and what it means for the World,2012,indicating that it is primarily Africa, but includes other regions as well.

panies with comparative advantages in their offshore project contracting and outbound investment, and promote international economic cooperation and trade".[126] The CDB's original mandate, in turn, was "to provide medium- to long-term financing facilities that assist in the development of a robust economy and a healthy, prosperous community. It aligns its business focus with national economic strategy and allocates resources to break through bottlenecks in China's economic and social development."[127]

While the original mandates of the CDB and the EximBank conceived of very specialized and distinct policy areas for each bank, the two banks have become increasingly similar in their objectives. The EximBank has always had operations outside of Chinese territory, but it has increasingly become more than simply an export credit agency. Indeed, in 2010 the EximBank announced its plans to become "an international economic cooperation bank" through the provision of official development aid and other means of financing facilities.[128] The CDB, in turn, has focused on development since its creation, but was primarily financing companies and governments within Chinese territory. Most investments were allocated to infrastructure projects as part of a large Chinese urbanization plan.[129] Indeed, between 1994 and 2005 nearly 90% of lending was allocated to power, road construction, railway, petro-chemical, coal mining, telecommunications, public facilities, and agriculture and related industries within China.[130] Only recently it has expanded its operations to foreign countries.[131] Indeed in 2007, it committed to provide US$5billion to the first phase of the China-Africa Development Fund, an equity fund designed to foster Chinese investments in Africa.[132] Despite this increase, most of the Chinese financing for development abroad still comes from the EximBank. In sum, the EximBank is growing increasingly concerned with development, like the CDB, and the CDB is expanding its operations abroad, like EximBank.[133]

The projects financed by these institutions both at the national and international levels focus primarily on building infrastructure and financing economic production. The annual reports published by both institutions from 2003 to 2012 reveal that the majority of projects

126 The Export-Import Bank of China, http://english.eximbank.gov.cn/ (last accessed on 9 April 2014);

127 China Development Bank, http://www.cdb.com.cn/english/ (last accessed on 9 April 2014).

128 A Review of the Eleventh Five-Year Plan, Eximbank, 2010 available at http://english.eximbank.gov.cn/annual/2010/2010nb20-22.pdf, Page not available!

129 *Henry Sanderson / Michael Forsythe*, China's Superbank: Debt, Oil and Influcence – How China Development Bank is Rewriting the Rules of Financep.65, (Whiley 2013).

130 Strategic Focus, CDB (2009), http://www.cdb.com.cn/english/Column.asp?ColumnId=86 (last accessed on 9 April 2014). See also *Brautigam*, supra note 119, p. 116 (Statying that "Between 2005 and 2007, CDB's overseas loans accounted for only 1 to 3% of the total portfolio.".).

131 *Brautigam*, supra note 119, pp.115-116. See also *Sanderson* and *Forsythe*, note 129.

132 Ibid. at p.93.

133 The main difference may be the fact that the Eximbank is the only institution authorized to grant Chinese Government concessional loans, i.e. this is the only institution granting foreign aid. (See: *Brautigam*, supra note 119, at p. 114.) However, there are questions as to whether the concessional loans indeed represent the majority of Eximbank's operations. See, e.g. *Corkin*, note 124 (arguing that Eximbank operates more as a commercial bank).

financed were related to investments in infrastructure sectors.[134] According to the China Development Bank´s 2010 annual report, the projects that received the most bank lending were those related to public infrastructure (29 percent of all outstanding loans), as follows.[135]

In 2010, the total of the Eximbank´s loans amounted to 426.75 billion yuan (US$62.7bi). The sectors that received the most of these credits were overseas investment projects, amounting to 51.684 billion yuan (US$7.6bi) or 33.22% of the total, followed by exports of new-and high-tech products (30.39 percent), shipping (8.96 percent), general mechanical and electronic products (8.56 percent), overseas construction contracts (5.84), equipment (5.60 percent), other types of export (3.82) and agricultural products (3.6%).[136] It is worth noting that a great part of what the Chinese government includes as overseas investment financed by its policy banks is directed to Chinese companies in order to promote their internationalization.[137]

3. Delving into cases: understanding the Chinese Banks' practices

Despite investing largely in infrastructure like the World Bank and the Brazilian Development Bank, the way in which the Chinese Banks structure this investment is different from its counterparts. The Chinese model may ignore institutions and public administration themes in general not only because these issues lie outside of their agenda, but also because they are not perceived as essential "ingredients" of investment projects. Thus, in many cases, the Chinese Banks are happy to proceed with their operations without ever considering the underlying institutions that exist in the country where the investment is taking place. The lack of an institutional concern provides the officials of these Banks with a great deal of discretion to negotiate and define the terms of the contracts. Such discretion is certainly higher than the one of World Bank or BNDES officials, who are generally constrained by institutional con-

134 A report published by Friends of Earth estimates that, between 2002 and 2012, 25% of CDB's overseas loans go to metals and mining, followed by telecommunication services (15%), electronics and computers (11%), oil and gas (11%), banking and other financial services (10%), transportation and infrastructure (8%), chemicals (3%), food and beverage (3%), alternative energy sources (2%), petrochemicals (1%) and public administration (1%). See: Friends of Earth, China Development Bank's overseas investments: an assessment of environmental and social policies and practices Report, available at http://libcloud.s3.amazonaws.com/93/2b/2/2245/China_Development_Banks_overseas_investments_-_An_assessment_of_environmental_and_social_policies_and_practices.pdf (last accessed on 9 April 2014).

135 CDB Annual Report 2010, available at http://www.cdb.com.cn/english/Column.asp?ColumnId=217 (last accessed on 9 April 2014).

136 2010 Annual Report, Eximbank, available at http://english.eximbank.gov.cn/annual/2010.shtml, Page not available.

137 Neither China Development Bank nor the China Export-Import publish detailed information about their project portfolio, not being possible to precisely determine which projects and what amount of money go to public entities. Some researchers have tried to estimate the total numbers of lending by supplementing official information – which are not standardized in the annual reports – with media announcements and interviews with Chinese officials, but still, these are only estimates. It is even more difficult to have access to the lines of credit available to public entities, let alone their conditionalities and the terms of loan.

cerns (be it the World Bank's programmatic framework in the *current paradigm* or the national legal framework such as in the *compliant passiveness*). The situation in which a country's institutions may become part of the concerns of Chinese Banks is when they offer some sort of obstacle or difficulty for the project. In such cases, these Banks may try to bypass, modify or undermine these institutions. This attitude is focused on the idea that the end goal – implementing the project – should prevail over institutional concerns.

This type of pragmatism has generated a great deal of criticism, especially from Westerners. Take, for example, the account provided by Sanderson and Forsythe of Local Government Financing Vehicles (LGFVs). According to them, these off balance sheet instruments were designed by a CDB official to bypass laws forbidding local government from borrowing money or selling bonds.[138] As of September 2011, there were estimates of 10,468 LGFVs in China.[139] LGFVs's loans were backed by land owned by local governments, which were extra budgetary assets and lacked any type of control from the central government. According to the authors, the CDB's scheme relied on the increase in land prices as a result of an urbanization process that would be sparked and/or fostered by infrastructure projects.[140] However, there are problems associated with the use of land as collateral in this system. Companies connected to the government did the land appraisal, and some overvalued land assets did not offer true collateral.[141] Thus, LGFVs ended up unleashing credit to local governments with little oversight.[142] Now the Chinese financial system is facing the risk of a significant number of non-performing loans.[143] Many of these projects did not generate the expected cash flow, and in a number of cases the land has not increased in value as expected.[144] In line with the authors' fears, the Wall Street Journal published an article indicating that there is a significant risk of default associated with the LGFVs in the near future.[145]

While this account shows dangerous and potentially damaging behavior on the part of CDB, it should not come as a total surprise that a financial institution may look for loopholes and take advantage of lack of regulation and oversight to increase its assets. The sub-prime crisis in the United States does not look much different from the account of LGFVs provided

138 *Sanderson / Forsythe*, supra note 129, at pp. 3 and 14.

139 *Ada Wang / Susannah Kroeber,* Year of the (White) Elephant How Efficient is China's New Infrastructure?, J Capital Research (2012) at p. 12, available at http://www.economia.unam.mx/deschimex/cechimex/chmxExtras/documentos/catedra/catedra2013/cursointensivo/Programacion/Materialapoyo/YearoftheWhiteElephant.pdf (last accessed on 9 April 2014).

140 For a detailed description of the scheme, known as "Wuhu Model", see *Sanderson / Forsythe*,note 129, pp. 7-9.

141 Ibid., pp. 16, 28.

142 Ibid., p. 32.

143 Ibid, p. 13.

144 Ibid., p. 34 (calling this the world's biggest property bubble).

145 China Bank Loans to Local Government Financing Vehicles Slow Down, The Wall Street Journal, 25 June 2013, http://online.wsj.com/article/BT-CO-20130625-701251.html (last accessed on 18 May 2014)..

by Sanderson and Forsythe. Indeed, both cases are also similar regarding the fact that these mechanisms and schemes used by financial institutions have created strong interest groups, who started resisting any reform that could reduce the benefits generated by these schemes. In the case of China, an example is the Vice-President of the CDB urging the Chinese government not to overregulate the financial sector lest hurt CDB lending.[146] However, a very similar outcome – strong resistance to regulation by interest groups benefiting from the scheme can also be found in the American case.

The similarities between the behavior of CDB and the behavior of financial institutions that led to the sub-prime mortgage crisis in the United States suggest that this behavior is not totally unexpected. Indeed, the only concrete thing that the LGFVs example seems to be illustrating is the fact that the CDB operates with the same level of ruthless pragmatism that is often observed in private financial institutions. In fact, a similar example of pragmatism can be found among private institutions in the development field: sovereign debt has been a hotly debated issue, and influential scholars such as Joseph Stiglitz have argued that regulation and effective sanctions for private financial institutions that engage in over-lending to low-income countries would be advisable.[147]

A different type of criticism is the manipulation of existing laws in ways that create injustices. The scheme created by CDB relied on land collateral that was expected to increase in value once the urbanization projects were completed. Sanderson and Forsythe argue that some of this land was appropriated from farmers, rezoned as urban and resold at higher prices (in some the resale price was 15 times higher than the compensation paid).[148] According to them, from an economic perspective, this is creating a great deal of inequality in the country.[149] However, from a legal perspective, it is not fully clear if these landowners should be entitled to a higher compensation for the takings, as they got the land from the government at subsidized prices in the first place.[150] In this context, the appropriations would be unfair if the difference in price ended in the hands of an individual, instead of being appropriated by the state, and some of these disputes have been brought to courts due to concerns with corruption and collusion. [151] Property rights in China are protected through formal and informal legal mechanisms,[152] so it is not clear what has happened outside the course. For the court cases, there have been media reports that some of the lawyers protecting landowners have been threatened, beaten, and even imprisoned in local governments' attempts to dissuade them from

146 *Sanderson* and *Forsythe*, note 129 p. 33.

147 *Joseph Stiglitz,* The Burden of Debt, in Making Globalization Work, (New York: W. W. Northon & Company Ltd., 2006). But see, for the opposite view, William Easterly, Forgive Us Our Debts, The Elusive Quest for Growth (Cambridge, MA: The MIT Press, 2002).

148 Ibid., pp. 19-20.

149 Ibid., pp. 19-20.

150 *Randall Peeremboom*, China Modernizes: Threat to the West or Model for the Rest? (Oxford University Press, 2007), p.349, n. 60.

151 *Peeremboom*, note 150, p. 227.

152 Ibid.

pursuing their cases further.[153] This type of abusive practice against its citizens, especially when contrasted with the fact that the Chinese government rarely seizes assets from companies, [154] may be questionable from a legal perspective, but it is still unclear if the simple appropriation of land and its resale for a higher price constitutes an injustice.

Another set of criticisms, supported by the development economist Paul Collier, is the idea that Chinese lending to Africa has strengthened dictatorial regimes and undermined efforts to promote good governance in the region.[155] Such criticisms often are accompanied by arguments that overseas lending provided by Chinese policy banks to foreign governments is clearly self-interested and closely aligned to the country´s project of expanding its global influence.[156] However, it is important to separate the two concerns. Using development financing and aid as an instrument of foreign policy is not a strategy unique to China´s Government.[157] In this context, to label (and condemn) this as self-interested behavior seems questionable, to say the least. Thus, we avoid this label because it is not clear that the other models described here are any less guided by self-interest than this one.

4. The consistent pragmatic model: the end justifies the means

What is unique in the Chinese model is the fact that it has entered the development field very recently – either as financer or as recipient – and clearly it does not share the historical commitments and concerns of Western nations or even of other developing countries. Instead, the agenda and the modus operandi of development finance promoted by China seems to have conditionalities and requirements that are very different from those promoted by other development banks.[158] This has raised criticisms of China, which is accused of providing money to rogue regimes, and to countries with dysfunctional institutions, in exchange for natural

153 Ibid., p. 1. See also, e.g. https://www.hs.fi/english/article/Chinese+lawyer+investigating+Stora+Enso+land+dispute+still+faces+threats/1135246884490 (last accessed on 9 April 2014).

154 *Peeremboom*, note 150, p. 75.

155 *Paul Collier*, The Bottom Billion: Why The Poorest Countries are Failing and What Can be done about it (Oxford University Press, 2007), p. 86. See also *Paul Collier*, History is repeated as tragedy in the new scramble for Africa, The Independent, 16 November 2009. Available at http://www.independent.co.uk/voices/commentators/paul-collier-history-is-repeated-as-tragedy--in-the-new-scramble-for-africa-1821278.html (last accessed on 9 April 2014).See also *Klaver* and *Trebilcock*, note 119.

156 For an overview of the arguments, see Les Roopanarine, China: 'rogue' donor or beacon of south-south co-operation?, The Guardian, 2 April 2013. Available at http://www.theguardian.com/global-development-professionals-network/2013/apr/02/china-aid-africa-development (last accessed on 9 April 2014).

157 *Axel Dreher* / *Andreas Fuchs*, Rogue Aid? The Determinants of China's Aid Allocation, Courant Research Centre 'Poverty, Equity and Growth' Discussion Paper 93, University of Göttingen, September 2011. See also *Brautigam*, The Dragon's gift, note 119.

158 *Brautigam*, note 119, p.11.

resources or preferential terms of trade.[159] However, it is not fully clear if these measures are necessarily detrimental to developing countries. [160] And even if they are, it is not clear whether the burden of reducing their negative impacts should lie on China or on the recipient countries themselves.[161] One may even resort to the idea that even if it is bad, it may not be worse than the options offered by the *current paradigm*. Indeed, many African leaders consider the conditionalities imposed by the World Bank to be paternalist and humiliating,[162] while some academics have claimed that World Bank lending has done more harm than good to the continent.[163] Instead of contributing to this debate, our point here is more pedestrian: the Chinese Development Banks are not excessively concerned about complying with existing laws or respecting existing institutions when engaging with development cooperation.

The Chinese pragmatism may lead to questionable practices. Take corruption for instance. This problem is rampant in many developing countries, and it is especially present in contracts to build infrastructure. Thus, corruption is likely to happen in infrastructure projects funded by any development Bank. The difference is that the World Bank has implemented procedures to investigate such deals, sanctioning and blacklisting companies that have engaged in bribes and kickbacks. The same may not be said about China's EximBank. In contrast, Chinese companies that have been temporarily debarred from the World Bank projects for corruption, continue to receive significant amounts of funds from the Chinese Development Banks.[164] If we consider that most Chinese loans are tied to hiring Chinese companies, and combine this with the fact that neither the bank nor the companies receiving the money are overly concerned about being involved in corruption schemes,[165] it seems that the probability of corruption will be fairly high.

However, it would be wrong to assume that the *consistent pragmatism* of the Chinese model always lead to undesirable arrangements. There is an important upside to the pragmatic attitude of the Chinese Banks: its ability to get to places and to finance projects that are very unlikely to be financed by the regular development cooperation institutions. An example is post-conflict countries where laws may not be fully clear and political dynamics are likely to be extremely complex, especially for outsiders.[166] Such lack of clear rules and norms may be an obstacle for an institution that adopts a *compliant passiveness* model. The *current*

159 See notes 155 and 156.

160 *Klaver* and *Trebilcock*, supra note 119.

161 *Brautigam*, note 119 (arguing that it should lie on African nations). See also *Klave*r / *Trebilcock*, note 119 (identifying potential measures that African nations could take to benefit from Chinese investment).

162 *Brautigam*, note 117, at pp. 148-151, 296-297.

163 *Damisa Moyo*, Dead Aid: Why Aid is not Working and how there is a better way for Africa,,Farrar, Straus and Giroux2009.

164 *Brautigam*, note 119,p. 295.

165 Transparency International has ranked Chinese companies the second highest propensity group to bribe overseas among a total of 30 countries surveyed., Ibid, p. 295.

166 Ibid., p.263.

paradigm, in turn, may require significant institutional reforms in advance or in connection with the loan, what may generate resistance, as the uninvited interference may be perceived as illegitimate and/or to undermine local and/or organic processes of institution building. The Chinese model may avoid both scenarios by simply providing the finance while not interfering with the country's institution building process.

While the *consistent pragmatism* may take development finance to places where the other two models would face obstacles, it is not immune to challenges of illegitimacy. The fact that it may be operating in places where the rules are not clear, combined with the fact that it may not pay sufficient attention to the existing (and sometimes informal) rules and norms, can also generate charges of violation of local laws and practices. Take the example of land claims and property rights in war-torn Sierra Leone. A major sugar cane operation in Magabass turned sour when the Chinese company requested an expansion of the operation from 9,000 metric tons of sugar to 12,000 tons. The company signed a lease contract with the government securing the expansion, but the councils for local farmers claimed that they had not been consulted about the contract. Also, local farmers were concerned with expropriations and the amount of compensation that would be paid. The government has then produced reports on legal violations by Chinese companies financed by the Chinese Development Banks. For instance, one ministerial report indicated "they started surveying the area without awaiting the usual agreement with the local heads in the area."[167] There were also eviction notes against Chinese companies, indicating that there had been illegal occupation of land. This type of behavior was aggravated by two other factors. The Chinese had agreed to comply with labor laws, but would pay the lowest wage standard in the region. In addition to low wages, they made no investments in social services. The combination proved explosive, the local population turned against the project, and the Chinese company decided to abandon it in 2009.[168] It is not clear whether other models of financing could have easily avoided this situation, given that much of the legal framework in this case seemed to be largely in flux. In any event, this illustrates that the Chinese model, similarly to the World Bank, can also be associated with failed reforms and charges of illegitimacy.

It is also important to note that the relationship between the Chinese Banks and the institutional agenda may change over time. While it may not have paid attention to these issues at first, since 2007 the CDB has released annual reports on social responsibility, affirming its commitment to sound social, environment and governance policies.[169] The book *Dragon's Gift* by Debora Brautigam emphasizes that despite not being a champion on these issues, China has learned a few hard lessons in Africa and has adjusted accordingly.[170] Similarly, China has

167 Ibid., p. 263.

168 Ibid., pp.259-265.

169 Friends of Earth, supra note 134. See also China Development Bank Social Responsibility Report, 2011, available at http://www.cdb.com.cn/english/Column.asp?ColumnId=190 (last accessed on 9 April 2014).

170 *Brautigam*, note 119. See also Friends of Earth, note 134..

signed the United Nations Convention against Corruption, committing to curtail the corrupt behavior of Chinese companies operating abroad.[171] However, it is not clear what the Chinese banks mean by targeting "social responsibility" or how they intend to foster compliance with social, environmental and institutional standards.

At this point, however, it seems safe to say that the Chinese model has no institutional concerns, as the concerns with social responsibility and corruption have not been incorporated in projects funded by the Chinese Development Banks. An example is the financing of the APP group in Indonesia. The group has been charged with violations of Chinese environmental laws in its operations in China, and it has been accused by an NGO in 2012 of felling roughly one-third of forests designated for conservation in Indonesia. This was clearly a violation of an environmental covenant the group had signed with its creditors.[172] In sum, "so far the [China Development] Bank has tended to reference broad and aspirational norms such as the UN Global Compact rather than more specific transactions-oriented standards, clearly lagging behind its international peers such as the World Bank and the Asian Development Bank".[173]

Its flexibility towards local rules and norms distinguishes the Chinese model from those analyzed earlier. The lack of institutional requirements and conditionalities by Chinese Development Banks allows them to get to places that the other models may not be able to reach. Moreover, they cannot be accused of imposing their own standards on other countries, the borrowers, unlike the World Bank. They are also distinct from the BNDES, as the Brazilian Development Bank structures its operations according to the existing laws and regulations applicable to that territory. Such complaint attitude is not present in the Chinese model, as the examples above illustrate.

This flexibility towards local rules and norms is accompanied by a rather simplified process for loan approval, reinforcing the idea of a pragmatic engagement. Neither CDB nor the Exim China Bank follow the steps of the project cycle adopted by other development banks, which include technical project evaluation, social and environment project assessment, governance and management appraisal, etc. Instead, they adopt a much simpler and agile system to approve loans. [174] The simplified modus operandi adopted by the Chinese development banks has sparked considerable concerns in advanced countries, since these banks are not unburdened by the traditional standards applied to finance from the West. However, such simplicity has been perceived as an advantage by many governments around the world, since it allows for the disbursement of funds without many constraints.[175]

171 For an updates list of signatories, including China, see http://treaties.un.org/Pages/ViewDetails.aspx?mtdsg_no=XVIII-14&chapter=18&lang=en (last accessed on 9 April 2014).

172 Friends of Earth, note 134, pp.32-33.

173 Ibid., p.17.

174 *Brautigam*, note 119.

175 For an overview of this debate, see Ibid.

In sum, similar to the Brazilian Development Bank, the Chinese model does not have a programmatic framework for promoting institutional reforms alongside infrastructure projects. However, there is very little effort at compliance with existing laws either in Chinese territory or overseas: legal and institutional considerations are subordinated to the achievement of the ultimate goal of the projects. This is why we define this type of engagement as *consistently pragmatic*.

D. How the BRICS Bank Could Impact the Field of Development Cooperation?

How likely is the BRICS Bank to challenge the field of development cooperation and more specifically the *current paradigm* adopted by the World Bank? Assuming that domestic institutional legacies are likely to be of relevance and may inform the BRICS Bank, we use the three models presented in the previous section to identify three possible scenarios here. In one, the BRICS Bank adopts the Chinese model, in another the Brazilian model, and in a third – an unlikely scenario – it adopts the World Bank model. How each of these models is likely to interact with the *current paradigm* and whether it is likely to change it is the question addressed in this section.

I. The BRICS Banks as a Threat

As mentioned earlier, there may be two possible battles that the BRICS are entering into with the creation of a *world* multilateral development bank. One battle is the one over how international financers conceive of development and integrate the developing countries in the conversation. This can be called the political battle and it is one that seems to have been largely abandoned after the 1980 s. The other battle is about the way financial institutions conceive of the most "appropriate" or "efficient" methods in promoting development worldwide. This can be called the operational battle and it is very much alive today.

This will not be the first and it is unlikely to be the last time that the field of development cooperation witnesses a battle. Although pretty much stable, the field of development has encountered different "battles" along its history. Most of them envisaged reforms in the field's *modus operandi*. The most recent one was launched by the "Paris Declaration on Aid Effectiveness" sponsored by the OECD.[176] The Declaration called for five principles to be considered by both multilateral and bilateral development institutions: ownership, harmonization, alignment, results and mutual accountability.[177] The guiding concern of the Declaration was the respect for the borrower's voice in defining development strategies, institutions and procedures pursued by development agents. The Declaration can be interpreted as a direct attack against the World Bank, whose practices are commonly viewed as disregarding the borrower's voice and undermining its leadership.

176 See note 13.

177 Ibid.

There is, however, something different about the BRICS Bank's battle: it has the potential to challenge the institutional concerns that inform the *current paradigm*. This is one of the features of the *current paradigm* that has not been subjected to a battle until now. Thus, the creation of the BRICS Bank creates the potential for a novel and interesting dispute about the assumption that strengthening and building institution capacities is an essential ingredient to promote development in an effective way.

We believe that this particular battle may take place with the creation of the BRICS Bank because, as discussed in the previous section, the three most important national development banks managed by two of the most important emerging countries, Brazil and China, are not considering institutions as relevant for their operations. While they were only financing development projects in their domestic spheres, they were not posing any threats for the international development field. Now they have not only expanded their financing beyond their national territories, but they have also joined efforts in order to launch a new multilateral bank that might be suited for mobilizing large-scale investment all over the world. Thus, the BRICS Bank may effectively threat the *current paradigm*, especially if it decides to ignore the institutional agenda as their most important development banks do.

II. The Attractiveness of the Brazilian and Chinese Models for the BRICS Bank

The Brazilian and the Chinese development banks are the institutions, alongside the Ministries of Finance of each BRICS member, taking the lead in the negotiation process of the BRICS Bank.[178] Thus, it seems reasonable to expect that the agenda and modus operandi pursued by the BRICS Bank will reflect to some extent those supported by these institutions members. The World Bank model, in contrast, looks like the least attractive option for the BRICS Bank, as discussed in the next section.

Between the Brazilian and the Chinese model, is there a one that is more likely to be adopted? There are two factors that may influence this choice. First, the corporate structure of the Bank will determine which country (if any) gets the largest share of votes, and this country may impose its own domestic model. Second, strategic considerations driving the creation of the BRICS Bank may lead its designers to adopt one model or the other in light of particular advantages it may offer.

Regarding the governance structure of the BRICS Bank, there are currently two options on the table. The Bank can follow the corporate structure agreed to the CRA, according to which China becomes the largest shareholder with 41%, followed by Brazil, India and Russia with 18% each, and South Africa with 5%.[179] Alternatively, the Bank can adopt a structure in which all countries have equal share. In the first option, the Chinese model is more likely

178 The first concrete step was the signature of two agreements strengthening the relations among the development institutions in the BRICS. Seehttp://www.bndes.gov.br/SiteBNDES/bndes/bndes_en/Institucional/Press/Noticias/2013/20130327_brics.html (last accessed on 9 April 2014).

179 See note 38 and accompanying text.

to prevail whereas in the second, both models, the Brazilian and the Chinese, would be possible, and the final decisions is likely to depend on the preference of the other members.

<table>
<tr><td rowspan="3">Possible models of development finance adopted by the BRICS Bank</td><td colspan="3">Corporate Structure</td></tr>
<tr><td>China as the largest stakeholder</td><td colspan="2">Equal share among stakeholders</td></tr>
<tr><td>Consistently pragmatic (Chinese model)</td><td>Consistently pragmatic (Chinese model)</td><td>Compliant passiveness (Brazilian model)</td></tr>
</table>

By adopting a *consistently pragmatic* model, the BRICS Bank would be focusing on the financing of infrastructure projects as its primary goal with no specific guidelines regarding legal and institutional frameworks. In this model, institutional considerations are not among the concerns of the financing institution. If this model prevails, the BRICS Bank agenda will be solely concentrated on long-term finance for infrastructure projects and its *modus operandi* will not be substantively different from commercial banks in terms of the conditionalities tied to the loan.

A *compliant passiveness* model would be also focused on the financing of infrastructure projects as its primary goal, but rules and institutions would be part of the financier's consideration. The understanding that project's implementation cannot go against existing frameworks would require some investment in either establishing common operational guidelines for all the different departments of the bank, or strengthening legal and policy departments responsible for project assessment and monitoring. The distinctiveness of this model is that there is no guideline regarding how institutions should look like. If this model prevails, the BRICS Bank agenda will be concentrated on long-term finance for infrastructure projects, but there will be also room for government administration projects. Besides, its modus operandi will look like other development banks and agencies that have not engaged seriously with the institution reform agenda, such as CAF or IADB.[180]

III. The Unattractiveness of the World Bank Model for the BRICS Bank

As discussed in section II, the creation of the BRICS Bank seems to be a manifest form of discontentment with the existing financial institutions, especially the World Bank. It is not fully clear how exactly the BRICS plan to manifest such discontentment, but the option to adopt the *current paradigm* seems to be the least effective way for the BRICS to threaten the agenda or the modus operandi pursued by existing institutions of development cooperation. In this case, the BRICS Bank would become a "competitor", but it would not become a "challenger", i.e. an actor capable of pushing for a new battle in the field that may fundamentally challenge the very concept of development as defined today and/or the methods to pursue it.

180 *Griffith-Jones*, S. et al., note 44.

Moreover, the BRICS would need to incur in significant costs to adopt the *current paradigm*. By adopting the World Bank model, the BRICS Bank would be focusing on the financing of infrastructure projects, but it would also include institutional considerations in its operations. Such considerations could range from attaching condititionalities and adding technical components for capacity building, to financing entire projects on institutional reforms. To be equipped to perform these functions, the BRICS Bank would need to incur significant research costs and political costs. We turn now to analyze them in detail.

1. Research costs to adopt the current paradigm

To adopt the *current paradigm* the BRICS Bank would need to develop a programmatic agenda on institutional reforms. Such undertaking demands investments in research, training and hiring of highly skilled staff responsible for devising and operationalizing the institutional agenda. Considering that neither of the BRICS's financial institutions has adopted such agenda so far, they would be required to start the process from scratch, what can be very costly.

In principle, to reduce costs, the BRICS Bank could imitate the modus operandi of the World Bank, adopting conditionalities linked to institutional reforms and directly financing "good governance". The problem is that such a scheme requires a great deal of accumulated knowledge about governance and institutional reforms: the new bank would not be able to impose conditionalities or financing reforms without knowing first what is working or not, and what should be done to improve existing institutions. The World Bank, for example, spent US$ 4bi in 2010 alone on knowledge services related to its governance agenda. [181] This research is primarily conducted by the World Bank Institute, the research arm of the Bank, and made available to the public. The World Bank Governance Indicators are a good example of this type of research: while the World Bank Institute website says that these indicators are not used as criteria to grant loans, the types of concern generated by this research have guided the allocation of money within the IBRD, as discussed earlier. There is, therefore, the possibility that the BRICS Bank could just free ride on the research made available by the World Bank.

There would be, however, at least two potential problems with the possible use of World Bank research by the BRICS Bank. The first problem is intellectual: some of the research conducted by the Bank has been scrutinized and heavily criticized by the academic literature. The governance indicators are probably one of the clearest examples. While there seems to be robust research indicating that institutions matter for development (see section II supra), it is not clear whether the criteria designed by the World Bank's indicators project are adequately measuring what kind of institutions are indeed conducive to development (economic

181 *Michael Riegner*, Innovation at the "Knowledge Bank": The role of law. (2013), paper presented at the NYU Conference in Innovations of Governance of Development Finance: Innovation in Governance of Development Finance: Causes, Consequences and the Role of Law, 8 – 9 April 2013, http://www.iilj.org/newsandevents/DevelopmentFinanceConferenceProgram.asp (last accessed on 9 April 2014).

or otherwise).[182] Moreover, the Bank’s track record in trying to promote institutional reforms is not very positive.[183]

The second problem is operational: even if the BRICS Bank were to adopt the research produced by the World Bank, the mechanics of translating academic findings into contractual clauses and policy documents determining e.g. conditionalities into loans is complicated and nuanced. Considering that the development banks in Brazil and China have not engaged in this type of exercise, a great deal of upfront investment in training would still be required to make this viable. If this commitment does not happen at the outset of the BRICS Bank´s creation, once its bureaucratic structure is up and running, path dependence and bureaucratic resistance to reforms could pose great obstacles for internal change in the medium term, as the numerous failed attempts at promoting reforms at the World Bank illustrate.[184]

In sum, significant initial investments would be necessary for the BRICS Bank to embrace the institutional agenda in structuring its financing mechanisms. On the one hand, the amount of these investments would be smaller if the BRICS Bank decided to adopt the indicators and the research produced by the World Bank Institute, but it would still need to train its personnel to operate according to the new agenda. On the other hand, there may be reasons for the BRICS Bank to also invest in the production of a new body of knowledge on governance: it could potentially address the intellectual problem (and/or the political problem, as discussed below), but it would require a much larger investment. Also, it would take much longer for the Bank to become operational.

2. Political costs to adopt the current paradigm

The chances of the BRICS Bank engaging with the *current paradigm* to promote an institutional agenda for development depend on how politically attractive this agenda is for the BRICS countries. If we consider the *current paradigm* to mean adopting both the strategies to improve institutions and also the substantive agenda of the World Bank, this may be of very little appeal to the BRICS. China, for instance, may not be interested in signing up for a system of development finance where loans are conditional upon conditions such as transparency, rule of law and democratic participation – some of the criteria currently used in the World

182 *Melissa Thomas*, What Do the Worldwide Governance Indicators Measure?, European Journal of Development Research 22 (2010), pp. 31–54. See also *Ved P. Nanda*, The “Good Governance” Concept Revisited, The ANNALS of the American Academy of Political and Social Science 603 (2006), pp.269-283. Mary Shirley, Institutions and Development, Edward Elgar 2008, p. 98 stating that “The World Bank has the funds and expertise to collecte comparative data, but is capricious towards standardized measures. There are exceptions, (…), but generally the Bank aggregates data from other sources or collects simpler measures, such as Doing Business”.

183 Seenote 77 and accompanying text.

184 See e.g. *David A. Phillips*, Reforming the World Bank. Twenty Years of Trial – and Error, Cambridge University Press, 2009; *Katharine Marshall*, The World Bank: From Reconstruction to Development to Equity., Routledge, 2008.

Bank's governance indicators –, as these may impair the pragmatism employed by the Chinese institutions.[185]

Moreover, there are those who claim that the governance structure of the World Bank gives too much power to developed countries, while excluding developing countries from meaningfully participating in important decision-making forums inside the bank.[186] To those who subscribe to such concerns, buying into the research and indicators developed by the World Bank would be a way of introducing the agenda of developed countries into the BRICS Bank through the back door.[187] In other words, by adopting such option, the BRICS would be signaling their dissatisfaction with the game but still playing according to its rules.

If we consider *current paradigm* to mean only adopting strategies to improve institutions (not necessarily subscribing to what the World Bank defines as "good governance"), it would be necessary for the BRICS Bank to generate its own programmatic agenda, which would require significant investments.[188] Here, the BRICS would face the same problems as those of the existing institutions regarding the equilibrium between intervention and local ownership. How can the Bank tailor institutional reforms to the needs of each country? The BRICS Bank could be facing the risk of receiving charges of imperialism or neo-colonialism if it adopted a pro-active stance in promoting institutional reforms around the world. This risk may exist even if the BRICS Bank decides to mimic the strategies adopted by the World Bank, while promoting a different substantive agenda.

In sum, if the BRICS intention is simply to offer an alternative to existing development institutions, the engagement with the *current paradigm* would be politically problematic and the operational costs would be high. Yet, if the BRICS intention is to restructure the field of development and change the existing rules as a means to threaten the dominance of advanced countries, adopting the current paradigm would not be the best option at all. That is the reason why we see the BRICS Bank engagement with the *current paradigm* as a possible scenario, but a very unlikely one.

185 Recent innovations in the Chinese development Banks may suggest that things can change in the near future, but this currently remains uncertain. For instance, in spite of this strong commitment to infrastructure, Exim China reported some initiatives favoring poverty alleviation projects, what might indicate its intention to broaden its agenda: "in 2012, the Bank developed new financing models to carry out programs of poverty alleviation through development. Up to date, the Bank has launched 143 such pilot projects in 4 batches. Loans totaling RMB7 billion have been provided to 50 projects in 22 provinces and municipalities, including Yunnan, Guangxi, and Qinghai", Exim China, 2012 Annual Report p. 33, available at https://web.archive.org/web/20131103134413/http://english.eximbank.gov.cn/annual/2012.shtml (last accessed on 18 May 2014).

186 See section II supra.

187 The U.S is one of the strongest supporters of result-based lending through which Bank disbursements are linked to the achievement of tangible, transparent and verifiable indicators. See: US. Position on the World Bank's Program for Results available at http://www.treasury.gov/resource-center/international/development-banks/Documents/1_30_2012_P4R_US_Position%20Statement_Final.pdf (last accessed on 9 April 2014).

188 For the amount invested in research by the World Bank, see note 181 and accompanying text.

IV. Multiple scenarios for the development field

At the present moment, we know little about how the BRICS Bank will look like. We know much less about how the field of development will look like once the BRICS Bank is established and fully operating. Yet, the practices and agenda promoted by existing institutions can indicate possible paths. As argued, the BRICS Bank can adopt three different models: the current paradigm, the compliant passiveness and the consistently pragmatic. Each model can trigger a different dynamic in the development field. This section speculates what these dynamics might be, considering the models identified earlier.

While focusing on the kind of dynamic that may be created, this section does not discuss the intensity of these dynamics. Intensity will depend on how much capital the BRICS Bank will be able to mobilize, how extensive its scope of influence will be and to what extent it will be able to compete with existing institutions in terms of volume of assets and disbursements. Becoming a world institution is not an easy task. None of the development banks owned entirely or almost entirely by emerging countries are considered *world* institutions. Moreover, taking the example of IADB and CAF, the BRICS Bank might face higher constraints in raising capital and achieving higher credit ratings than the World Bank faces, since their financial portfolio will be quite limited. Insofar as these issues will only be defined once the Bank is established, it is not possible to discuss the intensity of the dynamics with any level of certainty. We decided to also leave any speculations about it for future research.

1. If the BRICS Bank adopts the current paradigm

What are the possible scenarios? First, if the BRICS Bank adopts the agenda and modus operandi under the *current paradigm*, it will become a direct competitor of the World Bank, but it will not offer the risk of rupture with the field. In this scenario, the BRICS Bank could potentially bypass the World Bank and eventually become the "nuclear" agent in the field. However the normative and operative structures, on which the field relies, are unlikely to be substantially altered in the process (although they could potentially be altered afterwards, once the BRICS Bank becomes the key player). This is not to say that the competition process between the two banks may not generate innovations in the field. On the contrary, the BRICS Bank, by becoming a competitor under the *current paradigm*, could be create incentives for the creation of innovative mechanisms of development finance that promote institutional reforms while addressing the problems that have reduced the effectiveness of World Bank mechanisms. Another possibility is collusion between the two, which could potentially happen if the BRICS Bank decided to copy the agenda and modus operandi of the World Bank.

However, this path seems unlikely, considering the operational costs that the BRICS Bank would have to incur in the short-term in order to catch up with the practices of the World Bank. Besides, and most importantly, it doesn't seem to be a politically attractive option for the BRICS, as discussed earlier.

2. If the BRICS Bank adopts the compliant passiveness model

The second scenario is the adoption of the *compliant passiveness* model. In this case, the BRICS Bank would offer an alternative to the World Bank without directly challenging the *current paradigm*. However, by choosing this model, the BRICS Bank would not try to compete directly with the World Bank or to imitate its *modus operandis*. In this scenario, the incentives for innovation in finance mechanisms would be lower, as there would be less chances of the BRICS Bank's operation clashing with those proposed by the BRICS Bank. A possible outcome is a peaceful co-existence of the two institutions.

Another possibility is that the *compliant passiveness* model could potentially open up room for cooperation between the two banks. Despite not addressing institutional concerns among its priorities, this model also doesn't impose obstacles to institutional adjustments. If there is no clash of agendas, a collaboration could benefit both sides. The World Bank could potentially help the BRICS Bank mitigate the costs of leveraging without giving up its autonomy. The World Bank, in turn, is currently facing difficulties in raising more capital for its operations.[189] Thus, the Bank could benefit from a potential collaboration with the BRICS to have access to extra funds for its projects. This may come at a cost, however. For intellectual or political reasons, the BRICS may be uncomfortable with providing money to support the World Bank's agenda for institutional reform. In this case, the World Bank would need to consider being more flexible with its own requirements. While some may perceive this as a downside, others can also see this as a window of opportunity that would benefit both organizations.

3. If the BRICS Bank adopts the consistently pragmatic model

The third scenario is the most challenging one. If the *consistently pragmatic* model prevails, the operations of the BRICS Bank will clash directly with the normative and operative structures of the field. In this case, not only the World Bank will be "threatened", but also will the organizations that have been pushing for the institutional turn in the field. The institutional turn has endorsed the importance of taking into consideration the *means* through which development institutions should finance development projects: development cooperation is not only about delivering financial resources, but it is about ensuring the sustainability of the investment through capacity building. The pragmatic model inverts this idea, emphasizing the *ends* and deemphasizing the *means*. The "effective aid" in the pragmatic logic is the one in which financial resources can be quickly transformed in concrete outputs – railways, roads, energy, etc.

189 *Devesh Kapur*, Rethinking the Financial Design of the World Bank (2013), paper presented at the NYU Conference in Innovations of Governance of Development Finance: Innovation in Governance of Development Finance: Causes, Consequences and the Role of Law, 8-9 April 2013, available at http://www.iilj.org/newsandevents/DevelopmentFinanceConferenceProgram.asp (last accessed on 9 April 2014.).

Interestingly, this idea is not strange to the development field. For decades, development institutions have operated under this logic: quick results without regard for institutions. Thus, if the BRICS Bank engages with the pragmatic model, in which an infrastructure agenda prevails without any institutional consideration, this could potentially trigger a step back from the *current paradigm*. But this does not need to be the case. The *consistent pragmatism* may also bring a refreshing blow of flexibility and effectiveness, generating a much-needed renovation of the entire field. The persistent failures of the World Bank projects have provided very little reason to believe that the current model should prevail over any other alternative.

In either one of these outcomes (step back or step forward into unforeseen innovations), the BRICS Bank has the potential to provoke a rupture with the field as the entire assumption that institutions matter for development would either be abandoned or significantly revisited. This may triggered a discussion about abandoning our current conception of development, which is today largely based on a set of material and non-material conditions, such as human rights, democracy, sustainability. While a "lighter" conception of development may make the field more agile, and avoid the current charges of imperialism and neo-colonialism, it may also undermine what some would perceive as important achievements made in the last decades.

There is, therefore, no certainty as to whether adopting the *consistent pragmatism* would make the field move to a better place. What is certain is that this is the scenario in which a great deal of tension between the World Bank and the BRICS Banks will likely characterize the field of development cooperation for some time to come. This tension could bring back the political debate about the global division between the haves and have nots in a renewed fashion: the *current paradigm* could be politically associated to the agenda promoted by the global north whereas the *consistently pragmatism* to the one promoted by the global south. However, a major political rupture along these lines seems unlikely, as the BRICS countries remain as major beneficiaries of World Bank financing, and therefore cannot easily detach themselves from the current paradigm, unless they stop receiving development support from the World Bank and other development institutions. Moreover, it is not certain to what extent the BRICS Bank will be able to raise large-scale capital to effectively displace existing institutions.

Alternatively, the consistently pragmatism could induce the World Bank to try to be more creative and more experimental with its financing mechanisms, while at the same time keeping its engagement with an institutional agenda for development. In this scenario, the potential threat can offer the necessary incentives to innovations in the *current paradigm*, just like in the first scenario, but following a more pragmatic orientation. If this is the case, then the current agenda will need to be redefined in order to remain attractive.

World Bank	BRICS Bank	Dynamic	Possible Outcomes
Current Paradigm	Current Paradigm (Unlikely)	Direct Competition (with or without collaboration)	No rupture with the field Operational Innovation
Current Paradigm	Compliant Passiveness	Peaceful Coexistence without direct competition	No rupture with the field Possible partnership
Current Paradigm	Consistently Pragmatism	Tense Coexistence with no collaboration	Rupture with the field Structural innovation

In sum, independently of what kind of approach the BRICS Bank adopt, we are likely to see changes in the field of development cooperation in the near future. The impact of a new *world* multilateral development bank controlled by emerging countries goes beyond financial and political considerations. As we have shown, the BRICS Bank has the potential to call into question the basic normative and operational structures of the field of development and even to provoke a rupture with the existing architecture. The intensity of such changes remains to be seen.

E. Conclusion

The creation of the BRICS Bank has generated much speculation about how it will be structured and how it will operate. This paper joins these speculative efforts in an attempt to assess the possibility of the BRICS Bank impacting the current field of development cooperation. To do so, we have canvassed the models currently employed by some of the largest development banks in the world, and discussed whether some features of the agenda and modus operandi of these banks could be adopted by the BRICS Bank.

This paper has suggested that there is a *current paradigm* in the development field, which claims that institutions matter for development. The World Bank is considered as a *proxy* of this paradigm in the sense that it has been the organization that went further in attempting to operatize such paradigm. The paper also suggests that the Brazilian (BNDES) and Chinese (CDB and Eximbank) institutions offer alternative models of development finance that could potentially provide the BRICS Bank the tools to challenging the *current paradigm*. Considering the practices of those institutions, we have labeled these models *compliant passiveness* and *consistent pragmatism*.

Each of these models can trigger different dynamics in the field of development, with the least amount of changes happening if the BRICS Bank adopt the *compliant passiveness* model. In contrast, the Chinese pragmatic model is the one that has the potential to promote the largest modifications in the field, but it is not clear if such changes would be positive or desirable. If the Chinese pragmatism prevails in the configuration of the BRICS Bank (which is very likely considering its propensity to become the largest shareholder), it could trigger a “step back” in the field (moving back to the infrastructure agenda of the 1950’s), but it could also force the field to move forward and radically reinvent itself, offering the necessary incentives to change the “modus operandi” with high levels of experimentation.

Although we cannot say much about the magnitude of these dynamics, the paper has shown that the creation of a new *world* multilateral development bank controlled by emerging countries has the potential to call into question the basic normative and operative structures of the field of development and even to install new rules of the game.

Of course, the models and scenarios identified in this paper do not exhaust the realm of possibilities of what may happen with the creation of the BRICS Bank. There are many possibilities that were not fully explored in this paper. Take, for instance, two possible variations on the model adopted by the Brazilian development Bank, the *compliant passiveness*. The BRICS Bank may well develop a new model of development finance inspired by this, which embraces the institutional agenda but is not related to anything that we observe today in the field. For instance, while the World Bank would require compliance with stricter rules created by the Bank, the BRICS Bank could adopt a modified model of the *compliant passiveness* requiring compliance with stricter rules that were created and designed by local agents operating in the particular market. This could be called a *nudging* model of development. Another variation would be something that lies much closer to a *compliant* agenda, but it has a slightly “constructive” tone. For instance, in many developing countries there are good laws “on the books” that are weakly enforced. Anti-corruption legislation is a good example.[190] By identifying which laws are in place that could benefit from stronger enforcement, a development bank could help strengthen institutions by requiring a stricter level of compliance with such laws. This would be one step over and above the *compliant* agenda because the bank would take active and perhaps creative steps to secure compliance with existing legislation, as opposed to simply requiring it on paper as BNDES does. In this case, concerns with ownership would be attenuated by the fact that the development institution is helping the country enforce its own laws and help it achieve its own priorities.

In sum, the possibilities are almost infinite, but one thing is certain: with the creation of the BRICS Bank, the field of development cooperation will most certainly go through one of its most transformative periods since its birth.

190 *Power* and *Taylor*, 2011 (analyzing the case of Brazil).