



PROPOSAL

End Racial Discrimination At the World Bank

Submitted To
Dr. Jim Yong Kim
President
World Bank

March 2015 - Final Version

This proposal was prepared by the DC Civil Rights Coalition, consisting of the DC Chapters of the NAACP, the National Action Network (NAN), the National Congress for Black Women (NCBW), the National Urban League (NUL), and the Rainbow/Push Coalition (RPC). The Coalition was established for the sole purpose of restoring the human dignity and rights of people of African origin in the World Bank.

The Proposal has been fully endorsed by other National Civil Rights organizations, including the Feminist Majority Foundation (FMF), the National Organization for Women (NOW), the Southern Christian Leadership Conference (SCLC), Leaders and Representatives of over 500 faith-based organizations, and by Professor Cornel West. [Note: DC NAN, the original convener of the Coalition, is not currently an active member while it is going through reorganization.]

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1 THE PROPOSAL IN SUMMARY

The Bank's diversity reforms will work only if senior management were willing to knock the heads of those who resist change - a step that would depend entirely on the will of the Bank president. If the president did take such action, it would likely upset many apple carts in the Bank. But it would indeed be a cultural revolution.

Can the Leopard, er, the Bank Group Change Its Spots?
World Bank Staff Association Newsletter, July/August 2005

The Staff Association's suggestion that it would take a "a cultural revolution" before World Bank senior management can summon the moral imperative to "knock the heads of those who resist change" speaks volumes about the endemic racism fueled by a culture of impunity that has taken deep root in the fabrics of the institution. Since 1979, six World Bank reports have documented that racial discrimination against people of African origin is "systemic." A seventh report that was scheduled for release in June 2014 has been embargoed indefinitely. According to staff members who took part in the study's focus groups, the feedback from Black participants was a total rebuke of management's "we have made significant progress, but we can even do better" PR narrative; hence the embargo.

Earlier World Bank reports documented unequivocally that "Race-based discrimination is present in the Bank Group and the problem is serious"; and Blacks receive "inequitable treatment on the basis of the color of their skin." These studies found that Blacks were segregated in the Africa region, consigned to low-profile assignments, denied promotions and paid race-based salaries. Nonetheless, the Bank denies any form of racial injustice. The systemic delinking of institutional racism and racial injustice has allowed the Bank to reduce the issue to a victimless business diversity and inclusion problem. This, in turn, has narrowed the contours of the reform agenda to inclusiveness and diversity, excluding the more important issues of equality and justice.

The President and his senior management team avoid intervening in racial discrimination matters, no matter how egregious the case may be, choosing instead to outsource their moral and institutional obligations to the Tribunal - the Bank's moral and ethical black-hole where racial discrimination claims are sucked and silenced with statutory finality.

A 1992 World Bank report revealed that "There is a cultural prejudice among some managers, who rated Sub Saharan Africans as inferior." A 2003 World Bank report

took note that "Blacks are told that they can only work in the Africa region because [some nationals]

do not want to work with Blacks" and "There is a deep-seated attitude that Blacks are not bright and therefore they should not expect to work on the front lines of the [Bank's] business.” Evidently, the same thinking dictates current policies. This is nowhere clearer than in the Bank's 2015 affirmative action policy.

The current policy officially puts Blacks beneath women and underneath Asians, and Hispanics. For women there are four different official diversity and inclusion targets at the professional, technical and managerial grades. For staff members of Asian and Latin American (Part II) heritage the target is set at the managerial level. For Blacks the target is at the entry level professional grade (GF+), not even at the technical level. Almost a year before Dr. Kim's initiative was launched, the DC Civil

Rights Coalition warned the Bank's HR officials and President Kim's Chief of Staff against such a policy both in a meeting and written communications, but to no avail. Obviously, there is a sinister intention behind the GF+ target. When Blacks go on business travel they will not be team leaders and their contact with senior government officials will be minimum. ***This is what inclusiveness and diversity look like without equality and justice.***

Group	Indicators	Stock Target
Blacks	GF+	12.5%
Women	GF+ & Technical	60.8%
	GG & GH Technical	77.6%
	GH Technical	33.3%
	Managers	45.5 %
Part II	Managers	36.4%

Source: World Bank EAP-VPU, 2105

GF+ (Entry level professional)
 GG+ (Senior Professional)
 GH+ (Lead Professional)
 Technical (Technical Experts)

The insert table shows the "Diversity and Inclusion Compact" signed by the East Asia and the Pacific (EAP) vice presidential unit (VPU). The 12.5 percent "Stock Target" means that the Bank aims to have 12.5 percent Black entry level professionals in EAP-VPU. The target reflects the Bank's corporate affirmative action policy that

has been in place since 1998. The target for Blacks was set at the GF+ level because at the time senior management believed that there were not enough qualified Blacks for technical or managerial positions. The strategy was to open a pipeline to bring Blacks at the professional grade and help them move up the corporate ladder. Seventeen years later, the same deep-seated attitude about the inadequacy of Blacks persists and the new policy hits the reset button back to 1998.

Apart from infringing on the human dignity and rights of Black staff, the self evident institutional racism in the World Bank denies Africa the participation of its experts in the Bank’s policy decisions that determine the destiny of their continent (see below "Africa orphaned and under guardianship in the World Bank"). Many have asked the question: "Can the World Bank advance the interest of 900 million Africans when it discriminates against people of African heritage in its own ranks?" The answer was provided in a 2003 World Bank report by an unnamed World Bank vice president: “We are not likely to treat our clients better than we treat one another.”

How widespread is the problem? The Bank's former Senior Advisor for Racial Equality revealed that his office "received and reviewed over 450 cases of racial discrimination in a span of five years." This does not include claims filed with other conflict resolution offices. The aforementioned 2003 World Bank report found that "Racial bias or prejudice has been experienced at work during the last two years by 21% of the [Black staff]." This means that more than 300 of the Bank's 1500 Black staff and consultants have experienced discrimination in a two-year period. This amounts to over 150 cases of discrimination per year or 3 per week. And the report said "this may be an underreported occurrence." *Yet, no one has ever been held accountable.*

There are two explanations. First, as noted above, senior management has systematically delinked institutional discrimination and racial injustice. This has created an administrative culture that is tone-deaf and blind to the suffering of Blacks. If one is insensitive to the injustice Blacks face, one can neither see their suffering nor hear their cry for justice (See below "Black and non-Black senior

World Bank officials see institutional racism differently). As the Staff Association suggested in 2005, change requires a cultural revolution to jolt senior management's moral consciousness out of deep slumber. But this is unlikely to happen because racism in the Bank is not only cultural. It is structural and institutional (see below).

A Tribunal that openly uses different standards of medical evidence in cases involving allegations of emotional and psychological damages filed by Black and White complainants should have no place in the 21st century. The fact that a judgment based on such a racist jurisprudence is accepted in an institution that is run by a medical doctor is inexplicable.

Second, because the Bank exists outside of the jurisdiction of US laws and courts, the only option available to victims of discrimination is to seek redress from the World Bank Tribunal. Since it was established in 1980, the Tribunal has summarily rejected every racial discrimination claim it has reviewed, with abject disregard for the due process rights of Black staff. In the shadow of the Tribunal's jurisprudence resides a deeply entrenched racism that fails to recognize Blacks as human beings with equal rights.

On April 13, 1999, then President James Wolfensohn assured the US government through a letter to the US Government Accountability Office (GAO) to reform the system. He wrote: "We are now in the process of implementing the reforms and I can assure of my personal commitment to administering a conflict resolution system in the World Bank group that ranks among the most effective and progressive of its kind." His letter was sent in reaction to GAO's report that found the Bank's justice system unfit to adjudicate racial discrimination claims.

Ten years later, in 2009, the Government Accountability Project (GAP) found that the Tribunal is prejudiced against Black complainants. In 2010 and 2014, the Tribunal took its racist jurisprudence to a whole new level when it used different standards of medical evidence in cases involving allegations of emotional and psychological harm filed by Black and White complainants (see below).

The Bank understands that keeping the Tribunal at the apex of its justice system is the only way that it can avoid the questions of racial equality and justice. As a result, the new diversity and inclusion initiative that was announced in March 2015 steered clear of creating a more just organization, focusing instead on "a more inclusive and diverse organization." The initiative resuscitated the Bank's diversity and inclusion agenda and set up an internal "Diversity and Inclusion Advocates" consisting of 110 staff and an "External Advisory Board."

The long awaited new initiative came six months after the Senior Management Team signed a compact with a statement of commitment, promising to hold management accountable towards meeting the stated objectives. The reaction of the Bank's Black community was a swift "been there, done that" collective sigh. The Stern Compact (1993), the Wolfensohn Compact (1998) and the Zoellick Compact (2007) serve as cruel reminders. None of them met their stated goals, and no one was held accountable.

The newly created "External Advisory Board" is an institutional replica of the "US Minorities Working Groups" that was inaugurated with great fanfare in 2009 and dissolved unceremoniously in 2012. It was dissolved without making so much of a dent on the exclusions of African Americans that it was created to address. According to the Bank, the US Minority Group that consisted of high-level external eminent persons, was established "to help the Bank Group forge stronger affiliations with academic institutions to improve outreach" in its pursuit of recruiting more African Americans.

Five years later, in October 2014, President Kim, who evidently was not informed of the US Minority Group, made the following statement at Howard University: "For years, for instance, we have fallen short in recruiting African Americans to our ranks. That is changing. We have asked some of the most thoughtful national leaders on diversity to help us build a broad and sustained outreach to highly qualified African American candidates. In 2015, the President established the External Advisory Board. President Kim does not appear aware of the fact that the Advisory Group is a recycle of the 2009 group. There is no change.

In like manner, the newly minted Diversity and Inclusion Advocates represents the fifth such group. The fact that the advocates are nominated by their respective vice presidents and ultimately approved by HR does not inspire confidence. The Bank's diversity and inclusion reforms have become mere

rituals. They are always triggered by public outcries that are followed by a World Bank study leading to the establishment of a plethora of working groups, advisory boards, and advocates, which, in turn are followed by a compact that ultimately dissolves without any impact.

There are four serious problems that the Kim Compact inherited from past failed compacts. First, the Compact is wholly focused on increasing the number of Blacks professionals, ignoring their systemic mistreatment once on the Bank's payroll. A diversity target is a necessary, but not a sufficient condition for racial equality and justice. For example, a vice president (VP) who has met the 12.5 percent diversity and inclusion target for Blacks at the GF+ level can discriminate against competent Black candidates for managerial positions. There is nothing in the Compact that will protect staff from such discriminations. In fact, such a hypothetical VP may be recognized as a model VP for meeting the 12.5 percent target.

Second, the Wolfensohn and Zoellick Compacts rejected the need for establishing a high-level external commission to help stamp out the malice, stressing that the Bank can and will address the issue through proper channels within the Bank in consultation with the Executive Directors and the Staff Association. Seventeen years after the Wolfensohn Compact and eight years after Zoellick's Compact, the Kim Compact is reiterating almost verbatim the same corporate position, while embargoing its own 2014 report to keep the ugly truth under wraps. After nearly two decades of broken promises, numerous breached statements of commitment, and reneged public announcements of a new era of transparency, the Bank as an institution has lost the moral high-ground to issue yet another round of commitment.

Third, as noted above, the affirmative action policy that the new initiative has put in place reflects an institutional prejudice against Blacks. The Compact signed by the East Asia vice presidential unit (VPU) reads: "Increase the representation of SSA and CR staff in level GF+ position in the next 2 years by hiring 4 new staff from this group. Increase the number of Part II managers by 2." The East Asia region has close to 600 staff and the supposedly "ambitious inclusion and diversity effort" is to add 4 new staff at the entry-level professional grade in two years and there is no commitment to hire Black managers. This is inconsistent with President Kim's "personal commitment" to the African Board of Governors in April 2014 to address "specifically the inclusion of Africans among all ranks of staff at the World Bank."

Even the low target for Blacks came with a familiar loophole. The term Black was avoided, using instead citizens of SSA and CR countries as proxies for Blacks. This means managers can satisfy the Bank's diversity and inclusion requirements by hiring non-Black applicants holding passport from SSA and CR countries. In the past managers have exploited this loophole by hiring White South Africans to meet the SSA requirement.

Fourth, there is no sanction built into the Compact's accountability matrix. Accountability is primarily about sanctioning undesired behaviors or unattained performance levels. According to the Bank's Accountability Sourcebook, "Experience shows that a combination of incentives (e.g., promotion) and the prospect of sanctions (e.g., demotion) is often most effective in achieving accountability." The Kim Compact stipulates that the Bank will "Recognize vice presidential units that have made the most progress towards their targets," but leaves those who have made no progress towards their targets out of the accountability equation.

How is it that the World Bank, which has over 50 years of experience in teaching others how to establish accountability and implement successful reforms, fails to establish accountability within its walls and reform itself out of institutional bigotry? The answer resides in Albert Einstein's often quoted wisdom: "Problems cannot be solved with the same mindset that created them."

The curses of committees, councils, and working groups,

"The African Study Group" (1979); "The African Issues Working Group" (1990); "The Diversity and Inclusion Coordinators" (1992); "The Team for Racial Equality" (1998); "The Diversity Office" (2003); "The Staff Association Diversity Working Group" (2005); "The Diversity and Inclusion Task Force" (2007); "The US Minority Working Group" (2009); "External Advisory Board" (2015); "The President's Council for Diversity" (2015); and "Diversity and Inclusion Advocates" (2015).

All the Bank's reforms and compacts have been designed and implemented by the HR complex, the epicenter of the Bank's racist culture. The intractable racism reside in the architecture of the Bank's business model. As documented in Dr. E. Faye Williams' evidence-based article that drew its evidence from World Bank reports the Bank's race-based wages are used as a cost cutting strategy. Dr. Williams article was titled "World Bank pays race-based salaries and it is immune from lawsuits." The Bank HR understands that implementing structural reforms aimed at addressing race-based wage and grade differentials entail significant financial burden. Focusing on creating a more just organization would require addressing the wage and grade differentials. Focusing on a more diverse and inclusive organization does not necessarily address the wage and grade differentials.

There is also the issue of racial segregation. In 2005, the executive committee of the Staff Association lamented that "The status of racial discrimination in the Bank is very bad" and "urged the Bank "to address seriously the issue of "ghettoization," [segregation of Blacks in the Africa region] to ensure that diversity cuts across the institution as a

whole.” Rather than stamping out the malice, the Bank introduced a quasi certification process to screen Blacks.

In 2009, a former World Bank senior vice president explained the certification process in a video message that "The first thing was to promote them in the Africa region. The second hurdle is that having seen them do well in Africa to convince other regions to accept them." This was said in 2009, nearly a decade into the 21st century. The GF+ target for Blacks is part of this degrading policy. The segregation practice remains in place with exceptions granted to some Blacks on a case-by-case basis after they have been screened in the Africa region, and paraded to other regions as certified Blacks.

Apart from being degrading and dehumanizing, the policy has failed to work. As noted above, in 1998, the Bank set a corporate target to have 12.5 percent Black professionals in each of the Bank's 30 or vice presidential units (VPUs) in 10 years. The year 2008 came and went without a single one of the Bank 12 key VPUs excluding the Africa Region where Blacks were segregated met the target. Seventeen years later, in 2015, the Development Economics (DEC) VPU has **1.4** percent Black professionals (source: World Bank, 2/28/2015). The VPU is considered the ivory tower of the Bank. This is where the Bank's strategic policies and poverty alleviation programs that have significant impact on Africa and the Caribbean regions are designed. The exclusion of Blacks from DEC VPU is not a product of accident and/or coincidence. It is a product of institutional construct, stemming from a long held belief that Blacks are not bright enough to be involved in strategic decisions and people from other regions will not accept them at that level.

To understand the systemic racism that is deeply woven into the fabric of the Bank, the Civil Rights Coalition went beyond the Bank's diversity statistics and failed policies, and zoomed in on individual cases. Having reviewed many disturbing cases, the Coalition chose Dr. Yonas Biru's case as a microcosm of the Bank's institutional racism. Dr. Biru was housed in DEC VPU until his termination after he fought racial discrimination. The purpose of the exercise was to have an intimate look at the contours of the administrative and judicial spaces that foster the Bank's racist culture.

The Biru case, which was the primary reason for the creation of the Civil Rights Coalition, has become the "poster flag" against racial discrimination in the World Bank. In a letter to President Kim dated April 1, 2013, Reverend Jesse Jackson wrote: "The case exposes how far the Bank and the Tribunal would go to protect the perpetrators of human rights abuse thereby denying their victims justice." Leaders and representatives of over 500 faith-based organization condemned the case as "one the most outrageous accounts of racial injustice that is inconceivable to imagine occurring in 2014."

The Staff Association decried that the case "shows several aspects of the Bank's internal justice systems are broken." The Bank's former Senior Advisor for Racial Equality wrote "It is my sincere belief and professional judgment that the injustice that he was subjected to is profoundly beyond the pale compared to the cases that I have officially reviewed or informally discussed with other colleagues." The Government Accountability Project found the Tribunal's judgment "inexplicable." Unprecedentedly, the US Treasury, the US Executive Director to the World Bank, the Chair of the US Senate Appropriations Committee, and the Congressional Black Caucus approached the Bank to resolve the matter. The Bank ignored all voices of justice. Senior officials from the US Treasury and the US ED's office wrote Dr. Biru a joint memo stating: "We believe that further engagement in your case with the Bank would not be productive... We remain interested in seeking to assure that the Bank provides a fair conflict resolution system for its employees, and are continuing to explore the possibility of pressing it to look harder at external arbitration..."

The only Black judge on the Tribunal's Panel wrote to Dr Biru stating: "I held up the publication of the Tribunal's judgment for some months pleading your case but was outnumbered. I did not find it fit then to dissent...I was not yet ready for such a momentous step ... I have been in this business a long time and know what litigating against an employer does to the employee who sees his rights trampled without remedy."

Even though several institutional safeguards and Staff Rules exist to ensure the fair treatment of all staff, they never come to bear in racial discrimination cases. The Chief Ethics Officer visited Mr. Biru's senior vice president three times. The Ombudsman and the Director of Diversity appealed to the HR vice president twice. Neither met with success. The Bank's Peer Review Committee stated that what the Bank did to Dr. Biru "cannot be explained by business reason" and strongly recommended to resolve it through binding mediation. The Bank rejected it.

Senior management's primary preoccupation is to avoid a judicial or administrative precedent for racial justice. Evidently, the fear is that if there is anything less than a categorical dismissal of racial discrimination claims, the proverbial floodgates of lawsuits will be opened. As a result, management avoids intervening in racial discrimination matters, choosing instead to outsource its moral and institutional obligations to the Tribunal, the Bank's moral and ethical black-hole where racial discrimination claims are sucked and silenced with statutory finality.

Would the World Bank have tolerated such a systemic and protracted injustice for over half a century had the victims been any other group than Black? The answer is made obvious by the Bank's successful policies to end discrimination against women, the LGBT community, and other minorities hailing from Asia and Latin America (more on this below). If the Bank is to address the longstanding

racism against Blacks, it must make drastic changes to the way it has been dealing with it in the past. It is in this spirit that the Coalition recommends the following action points.

1. Resolve Dr. Yonas Biru's outstanding case. Currently, Dr. Biru has two distinctly independent cases: judicial and administrative. The judicial case is being reviewed by the Tribunal after the Bank rejected his request for external arbitration. The administrative case remains unanswered on President Kim's desk. President Kim cannot credibly promise to "Personally monitor [the Bank's] action plans to improve upon [its] record of diversity" as he has done in his letter to the editor of the Chicago Sun Times (9/04/2014) while ignoring current cases of gross racial injustice (see section 3.1).
2. Develop and implement an aggressive affirmative action plan to address the systemic exclusion of Blacks in general, and African Americans in particular from professional and mid- to senior-level management positions. This requires ending the Bank's double standard that sets lower level targets for Blacks (see section 3.2).
3. There is overwhelming evidence, as shown below, supporting allegations that the Tribunal willfully and systematically (i) suppresses material evidence, (ii) basis its judgments on irrevocably proven false evidence, (iii) uses different judicial standards for Black and White complainants, and (iv) violates its own rules and articles to deny Black claimants of discrimination the security of justice. Should the commission validate these allegations, it should recommend appropriate remedial actions to those who have been denied due process having spent as much as \$100,000 in legal fees to file complaints with the Tribunal (see section 3.3).
4. Grant victims of racial discrimination access to external arbitration, as recommended by the Bank's own two independent Committees in 1998, and pursuant to three US laws (2005, 2012 and 2014) requiring that Bank staff have access to external arbitration. Introducing external arbitration neither negates the Tribunal's existence nor infringes on the Bank's immunity. Rather, it is an international best practice that the Bank should embrace (see section 3.4).

Over the last three decades the Bank has become more responsive to the concerns of civil society organizations, working closely with different actors running the gamut from champions of LGBT and gender equality to advocates of social and environmental safeguards and democratic governance. As members of the global civil rights society, we see ourselves as an integral part of the continuum of the international human development work and as such regard ourselves as partners in the Bank's mission in equitable human development. It is in this spirit that we are submitting this proposal with unbounded confidence that the Bank will respond favorably.

2 BACKGROUND NOTES AND JUSTIFICATION

2.1 Excerpts from World Bank Reports Confirming Institutional Racism

- 1979: The World Bank African Study Group** submitted a report finding that "The Africans in the Bank staff strongly perceive that, they are the 'most discriminated against.'"
- 1992: The World Bank African Issues Working Group** documented that "Blacks received less favorable treatment than is the norm in the Bank." The study "revealed cultural prejudice among some managers, who rated Sub Saharan Africans inferior." Furthermore it noted that Blacks are segregated in the Africa region.
- 1997: A World Bank Study** found(i) "A work environment that was perceived by black staff to be hostile and prejudiced"; (ii) "Blacks entered on duty at lower [grade] levels and salaries than non-blacks"; and (iii) "Discrepancies between the hiring and promotion of black and non-blacks." The study noted that "The Bank has not acted adequately on previous race discrimination studies."
- 1998: World Bank Report** documented: "Race-based discrimination is present in our institution, and the problem is serious." It reconfirmed the segregation of Blacks in the Africa region. The report recommended that the Bank "Increase the number of qualified black staff through proactive pipeline building and staff development."
- 2003: World Bank Commissioned Study** found that (i) "Being black is associated with a 36.3% reduction in the odds of being manager"; and (ii) "Blacks are told they can only work in the Africa region because [some nationals] do not want to work with Blacks."
- 2004: A World Bank Report** by the HR Strategic Staffing Unit found that only Blacks are segregated in their region of origin. Asians, for example, are diversified throughout the Bank.
- 2005: Staff Association Diversity Working Group** documented that "The status of racial discrimination in the Bank is very bad"
- 2005: Staff Association Executive Committee** "urged the World Bank Personnel Committee to address seriously the issue of 'ghettoization,' [of Blacks in the Africa Region]"
- 2009: World Bank Former Senior Vice President** (Video Message to Staff) explained why Blacks were segregated in the Africa vice presidential region stating that "The first thing was to promote them in the Africa region. The second hurdle is that having seen them do well in Africa to convince other regions to accept them and to stop putting the screens."
- 2009: Black staff outside of the Africa region encountered "Niggers Go Home"** graffiti in the corridors of their offices. A 2009 op-ed piece in Foreign Policy in Focus noted "For days, black staff waited for senior management to condemn the graffiti... This expectation was met with silence."

2.2 Excerpts from Bank and External Reports Confirming the Denial of Access to Justice

- 1998: World Bank Internal Grievance Process Review Committee** found that "The internal justice system lacks independence from management. Providing access to external arbitration is one of many options that are available for augmenting the independence of the [justice system]."
- 1998: World Bank Team for Racial Equality** documented: "Many black staff are reluctant to file grievances of racial discrimination through the existing mechanisms. Therefore it is recommended that the Bank establish a different mechanism for investigating and recommending dispositions for resolving specific allegations of racial discrimination..."
- 1999: The US government** found that the Bank's grievance system had "serious shortcomings," including: (i) limitations on redress for staff who are found to have been treated unfairly and holding managers accountable; and (ii) employees often saw the system as neither fair nor credible and this lack of confidence deterred them from using it.
- 2003: US Senate Appropriations Committee** expressed concern "with the professionalism of the Bank's legal department, and questions its ability to carry out its responsibilities fairly and effectively. Among other things, the Bank's lawyers defended management when it would have been in the interests of the institution to represent the complainants."
- 2009: The Government Accountability Project (GAP)** noted: "It appears that staff members and job applicants of African heritage who allege racial discrimination are unlikely to receive the compensation or vindication they seek before the Tribunal. In contrast, complainants of other races who allege racial discrimination, have better prospects for awards."
- 2010: US Treasury and US ED to the World Bank** wrote to a victim of racial discrimination: "We remain interested in seeking to assure that the Bank provides a fair conflict resolution system for its employees, and are continuing to explore the possibility of pressing it to look harder at external arbitration..."
- 2010: Staff Association:** Having extensively reviewed the Tribunal's judgment in a 2010 case, the Staff Association concluded that "several aspects of the Bank's justice system are broken."
- 2014: Unanswered requests for external arbitration** - Over the last three years, numerous victims of discrimination have been requesting access for external arbitration, stressing that they will not get justice from the Tribunal. Their requests have been ignored.

2.3 The Bank's Affirmative Action Policy For Blacks Perpetuates Institutional Racism

In 1998, a World Bank report "revealed cultural prejudice among some managers" who rated Blacks as "inferior." The study noted that this has led to the segregation of Blacks in the African region. In reaction, President James Wolfensohn announced a desegregation policy, establishing a corporate target to have at least 10 percent Black professionals in every vice presidential unit (VPU) by 2008. The 10 percent target was increased later to 12.5 percent because of the change in the index calculation.

In 2011, three years after the 10-year deadline, Black staff accounted for 5.2 percent of the 12 key network, operational, and regional VPUs, excluding the Africa region where they are segregated (see table below). It should be noted that the Bank's reports show a much higher figure than 5.2 percent by including the Africa region in the calculation. This is misleading because the purpose of the affirmative action was to move Blacks from the Africa Regional VPU into other VPUs. Including Africa's 45.2 percent in the calculation along with 2.1, 2.4 and 4.6 percent figures for other VPUs inflates the institutional average and conceals the segregation problem. To put the 5.2 percent average for the 12 Key VPUs in perspective, in 2011, Africa accounted for 50 percent of the Bank's IDA fund disbursement.

Regional Vice Presidential Units (VPUs) 2011	Diversity Measured as Percentage of Respective Cohort				
	Professionals		Professionals	Managers	
	Blacks (2005)	Blacks (2011)	Women (2011)	Women (2011)	Part II (2011)
1 East Asia & the Pacific	4.9	2.1	40.9	37.1	37.1
2 Eastern Europe and Central Asia	4.8	4.6	47.2	31.4	41.2
3 Latin America & the Caribbean	4.2	6.0	45.1	51.4	40.0
4 Middle East and North Africa	7.9	6.7	41.7	37.0	44.4
5 South Asia	4.8	5.1	36.1	32.1	57.1
6 Development Economics	4.2	2.4	38.9	11.1	38.9
7 Financial and Private Sector Development	7.0	6.6	45.3	33.3	20.0
8 Human Development Network	9.0	5.8	59.0	25.0	75.0
9 Operations Policy and Country Services	7.4	5.1	60.9	44.4	33.3
10 Poverty Reduction & Economic Management	3.0	3.8	48.6	45.5	45.5
11 Sustainable Development	7.2	8.1	41.6	45.5	27.3
12 World Bank Institute	7.9	6.3	61.7	27.8	50.0
Diversity Target for 2008 that was set in 1998	10.0%	12.5%	47.5%	50.0%	45.8%
Simple Average for the 12 VPUs	6.0%	5.2%	47.3%	35.1%	42.5%
Success - Percentage of Corporate Target Met	60.3%	41.7%	99.5%	70.3%	92.9%

Source: World Bank (HR Analytics) 2011 -- Part II Countries represent developing regions -- Asia, Latin America, etc
Data for Black Professional for 2005 is from Staff Association Newsletter July/August 2005

Two points are noteworthy about the Bank's affirmative action policy for Blacks. First, the 12.5 percent target for Blacks was set at the entry level professional grade. For staff from Part II

countries (Asians, Latin Americans, etc) the target was set at 45.8 percent at the managerial grade. For women it was 47.5 percent at the professional level and 50 percent at the managerial grade.

Second, the data for 2011 shows that the Bank met 99.5 percent and 70 percent of its targets for women at professional and managerial levels, respectively. The success for Part II staff was 92.9 percent at the management level. For Blacks the Bank attained only 41.7 percent of its goal, despite the fact that the target was set at the lowest professional grade.

2.4 Tension Between the 2015 Compact and Reorganization: *Redundancy v. Retention*

While the Bank is issuing official statements of commitment to increase the number of professional Blacks, many blacks are afraid that they will be targeted for redundancies and because of President Kim's Reorganization Program. This fear is not unfounded. As noted in the July/August 2005 issue of the Staff Association Newsletter, "Black staff members are the first to go during waves of redundancy."

Given the tension between the Kim Compact (that is supposed to aggressively recruit qualified Blacks) and the Kim Reorganization Program (that is reducing staff through redundancy packages), one would think that the Bank would lean its personnel decisions towards protecting qualified Blacks from the Kim wave of redundancy through retention or redeployment. Ironically, the vice president for change (LLI) is among the first declaring a qualified Black staff (a woman) redundant. This is ironic for three reasons. First, his VPU is five Black staff short of meeting the Kim Compact that the vice president has signed to honor and implement. Second, the Bank's own report the diversity figures are "particularly striking for Black women." Third, the LLI vice president is leading President Kim's change agenda.

2.5 Africa Orphaned and Under Guardianship in the World Bank

In an article, *Unmasking Racist World Bank*, published in Pambazuka News in December 2012, Phyllis Muhammad wrote about "the twin evils that have bedeviled the Bank's relationship with Africa as a continent and Africans as human beings." Her article opened a space for a new discourse, identifying the twin evils as structural and cultural. The structural "concerns a 'democracy deficit' in the Bank's governance architecture that has denied Africa voice in the institution's Boardroom." The cultural "involves institutional discrimination in the day-to-day management of the Bank."

The 47 Sub Saharan Africa countries that together account for over 25 percent of the World Bank member countries and a third of the world's poor are allotted only 5.4 percent voting rights on the World Bank Board. Nigeria with a population of 174 million people and nearly a \$1 trillion Purchasing Power Parity (PPP) adjusted GDP has 0.70 percent voting rights. Kuwait with less than 3.5 million in population and a \$300 billion GDP has more voting power. Ethiopia, one of the founding members of the World Bank, with a \$127 billion PPP-adjusted GDP and a 94 million population has less voting power than Latvia with a \$46 billion PPP-adjusted GDP and 2 million in population.

No voice in the boardroom means no role in administration. It is not by mere coincidence that in 2011, Blacks accounted for 5.4 percent of the professional cohort in the seven key network and operational vice presidential units (VPUs) where the Bank's development policies are formulated. It should be noted that the 5.4 percent figure represents mostly entry level professional grades and also includes white South Africans and Africans of Asian origin. If only blacks were to be counted the 5.4 percent will be far below 5 percent. To put this figure in perspective, in 2011 Africa accounted for 50 percent of the Bank's IDA disbursement.

As noted above, Black professionals are segregated in the African regional VPU representing 45.2 percent of the professional body, but account only for 21.7 percent of the management team. Asians account for 20.1 percent and Europeans, and North Americans represent 51.8 percent of the senior management cohort in the Africa VPU. Leaving Europeans and North Americans (who constitute a large majority in every region's management team) aside, Blacks in general have less say in the management of Africa than Asians, Latin Americans and people from the Middle East. Managers from the three regions account for 26.6 percent. This is unique only for the Africa region. In comparison, Asians account for 36 percent of South Asia's Management teams. Blacks, Latin Americans and Middle Eastern staff account for 10 percent of South Asia's management.

2.6 The Tribunal Applies Different Judicial Standards for Blacks and Whites

There is an institutional culture in the World Bank that regards Blacks as "inferior", as documented by the World Bank's own report. The Tribunal record makes it difficult to avoid the conclusion that the Tribunal treats Black complainants of racial discrimination differently. The Government Accountability Project (GAP) found some evidence of judicial racism in the Tribunal's handling of cases filed by Black complainants.

During the proceedings of a 2010 racial discrimination case the aggrieved staff sought to substantiate the psychological damage he suffered with substantial evidence. In 2010 the Tribunal

refused to take medical evidence and expert reports that the staff submitted into consideration. In his 2014 appeal the aggrieved staff raised this issue again, but the Tribunal refused to accept his medical certificate as evidence. The evidence included:

- A 12-page report prepared by an expert witness (Dr. Noa Davenport), confirming that Dr. Biru subjected to "retaliatory mobbing [involving] emotional abuse and terror... a humiliating assault on his dignity, integrity, and professional competence." Dr. Davenport is one of the world's leading experts in office psychological abuse. Her report stressed that the staff risked suicide or serious heart attack if he was not provided relief from the toxic office environment.
- Evidence of multiple emergency room visits with anxiety attacks and elevated heart rates,
- A report from a psychiatrist noting that the staff was suffering from clinical depression,
- Evidence of prescriptions for depression drugs.
- A 2007 World Bank report that established "exposure to bullying at work has been classified as a significant source of stress that is more devastating than all other work-related stress added together, [leading to] a range of emotional and physical disorders, including blood pressure, depression, and heart attacks."

The Tribunal ignored all the evidence and characterized the staff's suffering as a sign of his lack of professionalism. In contrast, the same Tribunal judges accepted medical evidence submitted by a Caucasian complainant as sufficient to establish psychological damages. No explanation was given about the double standard.

The Staff appealed the Tribunal's judgment and requested extra time to provide DNA evidence that Blacks have "the same physiological conditions as people from other races that make them susceptible to psychological damage when subjected to emotional abuse and terror." The Tribunal rejected his request for extra time to file DNA evidence.

2.7 Niggers Go Home Graffiti in the Corridors of the Bank's Flagship Building

In 2005, at the end of President Wolfensohn's tenure, the Bank had made modest strides toward meeting its target for Black professionals, which was 10 percent at the time. After President Wolfensohn left, Blacks encountered toxic working environment and started moving back to the Africa regional VPU. The toxic environment included recurring "Niggers Go Home" graffiti in the corridors of their offices. The writing on the wall was clear: go back to the Africa region.

The Bank's mute reaction to such a dehumanizing treatment of Blacks was noted in an op-ed article in the July 19, 2009 issue of *Foreign Policy in Focus*: "The General Counsel's office filed an

incident report with security services, much as you might do about a broken lock or a stolen purse. For days, black staff members waited in vain for senior management to condemn the graffiti and inform them about steps that would be taken to ensure that public displays of race hatred would be stopped. This expectation was met with silence."

2.8 Black and Non-Black World Bank Officials See Racial Injustice Differently

In 1978, the late William Raspberry wrote an op-ed article in *the Washington Post* noting that Blacks and Whites in the World Bank have different perceptions of discrimination. The two sides agreed that there were only "3 black Americans out of 619 American professionals." Raspberry wrote: "Racial discrimination? Manifestly, say many of the Blacks who work there. Not a bit of it, say the whites who run the place."

Raspberry's observation still remains true, though those who are running the Bank are no longer exclusively White. In Dr. Biru's 2010 discrimination case, every Black World Bank official, including the only Black Managing Directors, the Ombudsman, the Director of Diversity, and the former Senior Advisor for Racial Equality made concerted efforts to address the problem and redress the aggrieved staff, but met with no success. In contrast, only the Chief Ethics Officer – the only female - out of 17 senior non-Black officials that Dr. Biru contacted sought justice for Dr. Biru. Many of the officials ignored the injustice. Some told him that he should leave the Bank if he did not like it. When GAP sent a letter to the Bank's Board of Directors requesting their intervention on behalf of Dr. Biru, only the US Director, who happened to be an African American intervened and brought the case to the attention of the US Treasury. Similarly, the only Black Tribunal judge fought for justice on Dr. Biru's behalf, but he said he was "outnumbered" by the other judges.

2.9 Lack of Transparency: The Indefinite Embargo of the 2014 Diversity Report

Though the World Bank is a global champion of full access to information through its "Open Data" policy to encourage information sharing, feedback, transparency and accountability, it heavily guards its diversity data and reports as corporate secrets. Even reports that have been authorized for public disclosure have been kept under wraps. For example, a 2003 World Bank report titled "Enhancing Inclusion: Diagnosis and Solutions" (public disclosure authorization number 31873) is heavily guarded as a confidential document. At least this study is posed on the Bank's intranet, marked "for internal use only." The situation with the 2014 diversity report is different. No one has been allowed to see it. This is the first in the Bank's history.

In contrast to the Bank's policy of suppressing racial discrimination reports, the Bank's staff surveys that addresses personnel problems and personnel related general issues are widely circulated and discussed within the Bank. A recent scathing internal review of human-rights

abuses in World Bank funded projects that found major failures in the institution's oversight was shared with staff and the general public. These are issues that the Bank is genuinely interested in addressing. In contrast, keeping racial discrimination reports out of the public domain has allowed Bank officials to deny the systemic and sustained human rights violations that racial discrimination constitutes. This has undermined the need to address the matter.

The 2014 Diversity Report was commissioned in 2013 by the Bank's HR Complex to conduct a comprehensive study "on the state of race within the World Bank Group." The purpose of the study as described in its terms of reference was to:

- Identify potential sources of institutional and individual racial bias and impact;
- Determine specific areas of concern, where perceptions of racial discrimination are more prevalent;
- Identify pockets of success within the Bank Group, where teams are more integrated;
- Conduct a comprehensive review of Tribunal and other Internal Justice System data; and
- Provide specific recommendations for enhancing inclusion throughout the Bank Group.

The Coalition was tipped by several credible sources that the diversity data that the consultant was given by HR officials was compromised to inflate the number of Black professionals. The Bank's professional grade begins at Grade F, but the consultant was given data that included Grade E (a sub-professional grade.) The Coalition shared this information with Bank officials and expressed its concerns. President Kim's Chief of Staff, Ms. Yvonne Tsikata, promised the Coalition that the Bank would release the report by the end of June 2014 and she would share a copy with the Coalition. The Report has never been released nor shared with the Coalition. The Bank cannot meet its moral and legal obligations to end the evils of racism if it cannot summon the moral courage to be open about it, heeding to its open data principles.

3 FOUR-POINT PROPOSAL

3.1 Resolve Dr. Yonas Biru's Administrative Case

Dr. Biru was the Deputy Global Manager of the International Comparison Program (ICP) for six years, with consistent "Outstanding" performance evaluation record. The problem started when he applied to become the Global Manager of ICP. He states unequivocally that he was told in a private meeting that the Bank could not appoint him Global Manager because "Europeans are not used to seeing a Black man in a position of power." The Bank contests his allegations. What cannot be contested, as documented in an independent review by the Government Accountability Project (GAP), is that the consolation the Bank offered Dr. Biru, in lieu of appointing him as the Global Manager of ICP, was to charge him to manage the Program from behind the scenes and front a Caucasian consultant as Global Manager. This was what happened for nearly two years.

The Bank's Appeals Committee (Peer Review Committee) that was chaired by one of the vice presidents recognized Dr. Biru as a "tenured and talented" staff who was qualified "to perform the ICP Global Manager functions." The Committee found "no business reasons" to explain some of the Bank's decisions and "strongly recommended" that the Bank "immediately enter into binding mediation." The Committee decided not to rule in Dr. Biru's favor to avoid setting a precedent. This was noted in a confidential memo to the HR vice president. The Bank rejected the Committee's recommendations. The Bank never denied the existence or content of the confidential memo, but refused to release it claiming that it had "no relevance" to the case.

As documented by GAP, after Dr. Biru decided to file complaints with the Tribunal, the Bank (i) falsified his HR record; (ii) deleted his title from World Bank websites; (iii) nullified his official performance evaluation record of six years, claiming that it was "overinflated [and] it had the unintended consequence of feeding into his megalomaniacal view of his performance and the resultant sense of entitlement to the Global Manager position"; and (iv) claimed that he lacked experience and international credibility to be Global Manager. Nonetheless, the Tribunal upheld the Bank's actions as legitimate business practices.

The only Black judge on the Tribunal Panel sent an email to Dr. Biru stating: "I held up the Tribunal's judgment for some months pleading your case but was outnumbered. I did not find it fit then to dissent. I was not yet ready for such a momentous step... I have been in this business a long time and know what litigating against an employer does to the employee who sees his rights trampled without remedy."

Adding insult to injury, the Bank terminated Dr. Biru and refused to give him his official HR record, presumably fearing that it will expose the perjury that its lawyers had committed. The Tribunal found Dr. Biru's termination "unlawful, capricious and violation of due process," but ruled that the Bank should not reinstate him because "he has criticized his managers." Dr. Biru was left without a job or job prospect, having been robbed of his professional identity and employment record.

In 2013, the Chair of the US Senate Appropriation Committee wrote a letter to President Kim requesting "an official and dated copy of Dr. Biru's full HR record showing his responsibilities and accomplishments." The Senator requested the record be sent "to [her] Baltimore office." The President ignored her request.

After four long years of pressure from the US government, the Bank finally sent Dr. Biru his personnel record on August 23, 2013, but parts of the record were deleted. After five more months of further pressure, on February 25, 2014, the Bank sent Dr. Biru an email stating that the deleted sections of his HR record will be "scanned into [his] staff files." Meanwhile, the Bank's lawyers argued before the Tribunal in 2015 stating: "Any deletion or restoration of record is a figment of Applicants imagination. Since Applicant's records were not falsified in the first place, there was no record to be corrected." This is despite the fact that Dr. Biru has submitted to the Tribunal both the deleted HR file and the Bank's February 2014 written promise to restore it.

Evidently, the Bank has not paid heed to the US Senate Appropriations Committee's expressed concern about the lack of professionalism in the Bank's legal department. The Bank's Chief Counsel knows from the Tribunal's 35-year history that it will not give any weight to factual evidence in racial discrimination cases. As a result, the Bank currently has two contradictory HR records for Dr. Biru - his official HR record that has been confirmed an official World Bank letter in 2014 and the falsified record the lawyers still use as valid (see boxes 1 and 2 below). Box 3 provides evidence that the Tribunal went as far as to flagrantly and blatantly breaking its own rules to protect the Bank from being held accountable.

Dr. Biru has inalienable rights to his professional identity. By robbing him of his professional identity the Bank has not only denied him deserved promotion, but it has also condemned him to be unemployed in his field of expertise since 2009. This is a human rights violation. He cannot highlight his stellar managerial accomplishments on his CV, when the Bank's public record shows he has no managerial role. Similarly, he cannot highlight on his CV that he led seminal research work that has created a lasting legacy (as his restored HR record confirms), when the Bank's public record shows that he had no role.

The Bank has moral and legal obligations to honor his professional identity, irrespective of the Tribunal's judgments on his current or past claims. This is an issue that needs to be addressed administratively, without outsourcing the decision to the Tribunal. The Coalition asks President Kim to (i) honor Dr. Biru's official HR record that has been fully restored in February 2014; and (ii) withdraw the defamatory HR information from the public record and redress Dr. Biru for the irreparable damages he continues to suffer because of it.

Box 1: The World Bank has two Official and Contradictory HR Record on D. Biru

<i>ICP Core Competency Areas</i>	<i>Mr. Biru's Official Record as Deputy Global Manager in the ICP Core Global Management and Coordination Areas</i>	<i>Falsified & Defamatory Record On the Tribunal's Website</i>
Regional and Global Program Management and Coordination	Yonas has multiple roles in the Bank's global management, managing one of the most critical programs the Bank has ever managed... The Program just couldn't be successful without his technical expertise, knowledge of key players, dedication, and hard work... As Deputy Global Manager he continued to make significant contribution and is carrying a heavy load..."	"Applicant had no management responsibility. To be sure, he has been asked to help during spikes in work assignments as a team member"
Research Management	"He managed and brought to fruition important methodological innovations in critical areas that have created a lasting legacy..."	"He lacked core competency"
International Partnership building	"The Bank's role in managing the ICP is extremely important & high profile with many international partners involved in the work on day-to-day basis. Yonas' work in managing sensitive relationships between stakeholders is very impressive." "He coordinated the global effort to promote the ICP strategy; He broadened the global partnership, and lined up support for the global program... He is praised for his many skills..."	"He lacks credibility with the other partners in the international statistical system. They are concerned that the whole project would be put at risk if he was made the Global Manager." [See Box 2 below]
Fundraising and trust fund management	"Yonas prepared the strategy for the Development Grant Facility (DGF) grant request, presented the proposal before the DGF and the Poverty Board, responded to question from the Board, secured a DGF grant and managed the grant's disbursement. He prepared successful fund-raising strategies for Africa and Asia... The accomplishment on the regional front was a critical for the global fund-raising success."	"Applicant is overstating his contribution [for fund raising]. The biggest financial contributions to the ICP included a DGF grant with which he had nothing to do."
Six years of Mr. Biru's official performance evaluation record was disavowed against Bank Rules	Every [Annual Performance Evaluation] you see that Yonas has in the records is written or signed by me. So, I'm one of his big fans and, you know a big supporter of what he has achieved and, you know, what he has done." ~Ms. Shaida Badiee (Mr. Biru's Director)	His evaluation record is "overinflated it had the unintended consequence of feeding into his megalomaniacal view of his performance and the resultant sense of entitlement to the Global Manager position."

Box 2: How the Bank Falsified Dr. Biru's International Standing to Deny Him Promotion

Ten Samples out of 22 remarkably positive testimonies supporting Dr. Biru. Nonetheless, the Bank falsely asserted that he lacked international credibility to become the Global Manager of ICP.

The Middle East: “Dr. Biru has worked diligently with my senior management and has earned their respect... He has remarkable partnership building skills.”

~ Ms. Mervat Tallawy, *Under-Secretary General and Executive Secretary, UN ESCWA*

“Yonas' diplomatic skills, and action-oriented approach to management have served him well to earn the respect of all those who are involved in the [ICP].”

~ Mr. Abdurahman Al Mansouri, *Chairman, Regional ICP Board, Kuwait*

“The hallmarks of Dr. Biru’s quality are his ability his keen sense of organization, and his leadership skills. Everyone who has interacted with him has positive impression.”

~ Dr. Tarik Alami, *Director and Regional Coordinator for ICP-Middle East*

Asia: “Yonas provided yeoman service as we grappled with various issues. His professionalism, expertise and diplomacy have been pivotal in influencing Asia’s Regional ICP decisions.”

~ Dr. Ifzal Ali, *Chief Economist, Asian Development Bank*

“Mr. Biru has strong communication skills, works effectively with ICP coordinators at Regional and National levels as well as with Regional and Global Executive Boards.”

~ Mr. Huang Langhui, *former Director General and national ICP Coordinator, China*

“In all the areas of our involvement with the ICP, Mr. Biru was the manager that we dealt with from the ICP Global Office. I can attest that he is widely respected and highly regarded in Asia both by National ICP Coordinators and by the Managers of the Asian Development Bank...”

~ Dr. Ismail Yusoff, *Member of the ICP Board and ICP National Coordinator, Malaysia*

Europe: “Yonas’ co-operation with OECD was exemplary and we would be very pleased to collaborate with him on future joint OECD-World Bank projects...”

~ Mr. Derek Blades, *Former head of ICP work in the OECD*

“At all the global meetings I have attended where Yonas has been present, I think he has demonstrated a respectable public diplomacy in the best traditions of the World Bank.”

~ Mr. Michael Ward, *former Manager of ICP in OECD, and former World Bank manager*

Latin America: “Promoting ICP in Latin America represented a difficult undertaking. Mr. Biru showed he had managerial skills to work in close relationship with regional and national partners.”

~ Dr. Enrique Ordaz, *Director and Regional Coordinator for ICP Latin America*

“My interaction with Mr. Biru dealt with managerial more than technical issues. These management issues were complex because of funding issues. Mr. Biru was instrumental in securing funds.”

~ Dr. Hubert Escaith, *Director of Statistics at UN-ECLAC*

Box 3: The Tribunal's Systemic Violation of its Own Rules and Articles

This box shows two materially different sworn testimonies of Mr. Biru’s Director (Badiee) and Manager (Belkindas). The first column presents the issue in question. The second column shows their sworn testimonies before the Bank's Appeals (Peer Review) Committee accusing the Bank’s external partners [The ICP External Board] for not appointing Dr. Biru as Global Manager. The third column shows their testimonies before the Tribunal after the ICP Board rejected their sworn testimonies. During the Tribunal hearing the Director admitted that her testimonies during the Appeals Committee hearing were “not true.” In addition, the Bank's HR manager and two members of the ICP External Board testified before the Tribunal that the Director's sworn statements before the Appeals Committee shown in column 2 were patently false. The Tribunal ignored the facts presented before it and based its judgment exclusively on column 2.

Apart from willfully relying on proven false testimonies, using the information in column 2 and categorically ignoring the testimonies in column 3 violates the Tribunal's own Rules. In *de Raet*, Decision No 85, Para. 54, the Tribunal ruled that “The Tribunal is the only body within the Bank that deals with complaints judicially and it does so **only on the basis of the evidence before it** (emphasis added).” Why did the Tribunal ignore the "evidence before it" and based its judgment entirely on what was presented before the Appeals Committee? The answer is obvious: Using the evidence before it would have found the Bank accountable for "falsifying Dr. Biru's HR record to disqualify him from becoming the Global Manager of ICP." By shifting the blame to the Bank's partners the Tribunal mitigated the Bank's criminal forgery of Dr. Biru's HR record.

	Appeals Committee Proceedings (Under Oath)	Tribunal Proceedings (Under Oath)
<p>The question: Who decided not to appoint Mr. Biru as the Global Manager of ICP?</p>	<p>The External Board – “As far as the Global Manager (GM) function is concerned, it is the decision of the Board. The decision to appoint GM lied with the Board.” ~ <i>Badiee & Belkindas, Transcript p. 40 & 43</i></p> <hr/> <p>The External Board - “Filling the ICP GM function is exclusively within the authority of the ICP Board... The Global Manager position is not in the hands of the Bank.” ~ <i>Badiee and Belkindas, Transcript 96</i></p>	<p>The World Bank – “Any consultation with the ICP External Board were input to me. And I was the decision-maker.” ~ <i>Badiee Tribunal transcript p. 257</i></p> <hr/> <p>The World Bank - “The role of the ICP Board is limited to providing input. Its recommendations have no relevance with the impugned administrative decisions.” ~ <i>Badiee and Belkindas, Tribunal briefs</i></p>
<p>The Question: Did the Bank advocate on behalf of Dr. Biru before the ICP Board?</p>	<p>Yes, “I promised Yonas that I will propose to the ICP External Board that he become Global Manager. But the Board said no. I’m sorry. It broke my heart. I wish the result was different.” ~ <i>Badiee, Transcript, p. 61</i></p> <hr/> <p>We advocated on his behalf: “The Director advocated for Mr. Biru to take over the Global Manager Position before the ICP board.” ~ <i>Belkindas, Transcript P 90</i></p>	<p>No, The decision was mine and it was made independent of the Board. ~ <i>Badiee, Tribunal Transcript</i></p> <hr/> <p>We did not advocate on his behalf: “There is nothing to advocate. The decision was to go with the former Global Manager.” ~ <i>Belkindas, Tribunal Transcript, 286-7</i></p>

3.2 Establish a Fast Track Affirmative Action Program for Blacks in General and for African Americans in Particular

In 1978, in an op-ed article in *the Washington Post*, William Raspberry documented two important points: First, the article noted that Blacks are excluded from managerial positions and "the consequence of this is that Africans in particular, and Blacks in general, have no say in the World Bank management policies affecting their countries." Second, the article found only "Three black Americans out of 619 American professionals employed at the bank."

Thirty years later, in 2009, the Government Accountability Project (GAP) found only four African American professionals out of over 1000 Americans. "This represented a proportional decline in representation even from the abysmal levels reported by Raspberry thirty years ago," the report noted.

In October 2009, in reaction to public uproar, the Bank created what it named "The US Minority Working Group" to address the problem. The Working Group was chaired by Dr. Darius Mans, CEO of Africare, and consisted of 16 Bank officials and 12 external experts including Dr. Julianne Malveaux, president of Bennett College and Dr. Leonard Haynes, former executive director of the White House Initiative on Historically Black Colleges and Universities. The Group that was inaugurated with much fanfare and great expectations proved to be mere window dressing and was dissolved in 2012 without notice rather unceremoniously.

Once again, in 2014, in reaction to a public uproar, the Bank acknowledged that African Americans are underrepresented in its professional and managerial ranks, and promised to address it. As noted in the summary section of this proposal, on October 1, 2014, President Kim gave a speech at Howard University in which he stressed:

"For years, we have fallen short in recruiting African Americans to our ranks. That is changing. We have asked some of the most thoughtful national leaders on diversity to help us build a broad and sustained outreach to highly qualified African American candidates. We will set concrete targets to encourage senior managers to hire more diverse staff. I expect to see the results of our work this coming year."

In March 2015, the Bank announced its racial inclusion and diversity policy. Conspicuously , African Americans were excluded. This is conspicuous considering the fact that several studies,

including those by the World Bank, have found that African Americans are the most discriminated group even when compared with other Africans hailing from Africa and the Caribbean regions.

Moreover, as shown in "Africa Orphaned and under Guardianship in the World Bank" Blacks in general are excluded from Key vice presidential units, particularly in decision making positions. The Bank's inclusion and diversity for Blacks is at the low level professional grade, not at the managerial grade, perpetrating the Bank's racist culture as a corporate policy.

The Bank's official line of defense that attributes the problem to the lack of qualified professional Black candidates is patently false. Obviously, the Bank's hiring managers cannot find qualified Black experts if the HR falsifies and degrades the professional profiles of Black candidates. Furthermore, highly qualified professionals that are sought after by other employers are less likely to join an institution where racial discrimination is systemic. Those who join are less likely to stay. Worse yet, those who remain would be subjected to a toxic racist culture. The Coalitions asks President Kim to:

- Develop and implement an aggressive affirmative action plan to address the systemic exclusion of Blacks in general, and African Americans in particular from professional and mid- to senior-level management positions. This must include setting a target for Blacks at the managerial level.
- Establish a legitimate justice system so that Blacks who have been and continue to be denied promotion to professional and management positions would be able to file complaints and rectify the problem.

3.3 Establish a High-Level External Commission

Why has the Bank failed to address the denial of access to justice problem after its own 2003 report noted that "only 10 percent of those who have had [racial discrimination] experience say they have sought help" and its Staff Association published a result of its 2005 survey that the majority of Black staff that were interviewed said that they will "never" use the internal justice system for racial discrimination cases. Why does the Bank continue to deny victims of discrimination access to justice outside of the Tribunal? Why is the Bank refusing to use external arbitration for racial discrimination cases, despite recommendations by its own Internal Grievance Process Review Committee (1998), World Bank Team for Racial Equality (1998), and three US laws (2005, 2012 and 2014)?

Systemic and prolonged racial discrimination and the denial of access to justice represent grave violations of the Universal Declaration of Human Rights, and this should be taken seriously. The questions noted above and many other pertinent questions call for an extensive investigation by a credible, independent, and eminent group of experts.

3.3.1 Why A High-Level External Commission?

Why An External Commission? A cursory look at the recommendations contained in the Bank's past six studies shows that the same proposals were recycled without addressing why past recommendations have failed or why the same recommendations put forth anew can be expected to work. Though each of the past World Bank reports have noted the lack of accountability as the primary problem, none of the reports has indicated where the lack of accountability lied. The Bank's institutional organs are too closely tied to the problem and cannot be expected to provide an independent assessment of the problem or establish accountability. A fresh set of eyes and perspectives free of the entrenched institutional culture are needed.

Why A High-Level Commission? A high-level external commission that is fully independent from HR officials and with direct access to the President will be more likely to get forthright and prompt cooperation from the different institutional organs of the Bank. Its members will bring rich background and profound insights, establish independent and objective accountability, and provide credible recommendations. Its recommendations will carry weight and will be less likely to be shelved.

The World Bank has used such high-level external commissions in the past to address serious issues. One recent example is the Paul Volcker Panel that was constituted during President Robert Zoellick's presidency (2007-2012) to review the work of the Department of Institutional Integrity (INT) and the Bank's Governance and Anticorruption strategy. Racial discrimination represents a

serious violation of human rights and requires the same level of scrutiny by a high-level commission.

3.3.2 The Composition and the Terms of References of the Commission

The Commission should consist of eminent persons with international repute in human rights and civil rights matters. The Civil Rights Coalition proposes the following individuals to chair the Commission: Professor Makau Mutua (Distinguished Professor at Buffalo Law School and former Associate Director of the Harvard Law School Human Rights Program); Mr. Vernon E. Jordan (Business executive, lawyer and civil rights activist); Professor Mary Frances Berry (Geraldine R. Segal Professor of American Social Thought at the University of Pennsylvania and the former chairwoman of the US Commission on Civil Rights); or other persons of similar stature.

The Commission should focus on two areas: the denial of access to justice and the resulting systemic and sustained racial discrimination. The Terms of Reference should include, but not be limited to:

- Investigating allegations against the Tribunal, more specifically: allegations of systemic suppression of evidence filed by Black complainants of discrimination; using different standards for Black and non-Black complainants; deliberate misrepresentation of material facts in its public judgments; and willful violations of the Rules and Articles of the Tribunal(See Annexes below).
- Identify the structural and institutional causes of the Bank's systemic racial discrimination;
- Document an unvarnished account of the problem and establish lines of accountability;
- Recommend reforms that are time-bound, measurable, verifiable and sustainable; and
- Should the Commission find that the Tribunal willfully, actively and systematically denied victims of racial discrimination due process, it should recommend appropriate remedial actions to those who have been denied the security of justice after having spent tens of thousands of dollars filing complaints with the Bank's justice system.

The four annexes shown below are taken out of 27 similar annexes related to one complainant. Similar cases of violation of due process can be presented upon request. Allowing such a manifest and systemic miscarriage of justice without judicial accountability would be tantamount to declaring "Blacks Need Not Apply for Justice!"

3.4 Grant Victims of Racial Discrimination Access to External Arbitration

If there is one thing that can end the endemic culture of racism, it would be establishing an independent justice system, but having an independent justice system is also the one thing that the Bank has adamantly rejected. This is deeply disturbing in light of the following information.

In 2010, having extensively reviewed a racial discrimination case, senior officials representing the US Treasury and the US Executive Director to the World Bank sent the aggrieved staff a joint memo stating: "We remain interested in seeking to assure that the Bank provides a fair conflict resolution system for its employees, and are continuing to explore the possibility of pressing it to look harder at external arbitration..." Since then the US has passed two laws requiring that World Bank staff have access to external arbitration.

On November 12, 2012, Senator Barbara Mikulski wrote to President Kim stressing that "given the Bank's immunity to lawsuits related to its operations, it is vital that the organization holds itself to a high standard in its treatment of personnel." The Senator asked for "an update to any changes that have been made to the grievance system." The response was that the Bank will not comply with any US laws and that it considers its Tribunal as reputable, independent and impartial.

Because racial discrimination constitutes serious human rights violations, it cannot be adjudicated by "a broken" judicial body. The Civil Rights Coalition requests that the Bank provide victims of racial discrimination access to external arbitration. Introducing external arbitration neither negates the Tribunal's existence nor infringes on the Bank's immunity. Rather, it gives an alternative to those who have no confidence in the Tribunal. It is an international best practice that the Bank should embrace. Once again, insisting that victims of discrimination have no other choice outside of the Tribunal would be tantamount to declaring "Blacks Need Not Apply for Justice."