

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

DISTRICT OFFICES:  
51 MONROE STREET, #507  
ROCKVILLE, MD 20850  
(301) 424-3501  
  
205 CENTER STREET  
SUITE 206  
MOUNT AIRY, MD 21771  
(301) 829-2181

[www.vanhollen.house.gov](http://www.vanhollen.house.gov)

October 13, 2016

Hon. Julia Frifield  
Assistant Secretary  
Bureau of Legislative Affairs  
U.S. Department of State  
2201 C Street NW  
Washington, DC 20520-0099

Dear Assistant Secretary Frifield:

I am writing on behalf of my constituent, Dr. Yonas Biru, regarding an urgent issue related to his employment with the World Bank. Dr. Biru's situation is dire as he has chosen to go on a hunger strike to compel action on his issue, which has lingered without resolution for the past seven years. It is my hope that the Department of State will take appropriate action to ensure that the World Bank remedies Dr. Biru's situation. Dr. Biru is currently in the 34<sup>th</sup> day of his hunger strike.

Dr. Biru is a former employee of the World Bank. He served as the Deputy Global Manager on the International Comparison Program (ICP), which compares the economic outputs of over 150 countries. Dr. Biru started with the World Bank in 1993 and, despite his excellent performance evaluations, asserts that he was the victim of racial discrimination throughout his time at the Bank.

While serving as ICP's Deputy Global Manager, Dr. Biru applied for promotion to Global Manager. In response to his application, he was told that he could not be promoted because "Europeans are not used to seeing a black man in a position of power." Additionally, to further justify the denied promotion, Dr. Biru asserts, the World Bank then retroactively downgraded his past performance evaluations and official employment record, deeming his glowing record as "hagiographic" – too good to be true. He has informed me that the Bank deleted his name and leadership roles from its publications and websites.

In its response to his allegations of racial discrimination, the Bank's Appeals Committee concluded that there "was no business reason" for the actions taken against Dr. Biru. The Appeals Committee recommended that the World Bank take "immediate measures" to provide Dr. Biru with "a healthy working environment" and to "immediately enter into binding mediation." I have been advised that World Bank management did not pursue any of the recommendations made by the Appeals Committee. After Dr. Biru shared his concerns with the Chief Ethics Officer at the World Bank about data manipulation issues that could risk the Bank's credibility, he was put on a performance improvement plan. Several months later, he was terminated, he believes, for criticizing managers and showing contempt to the organization.

Several organizations and prominent figures have stepped forward to advocate to me for Dr. Biru. Former U.S. Ambassador to the United Nations Andrew Young expressed his concern regarding Dr. Biru's case and his belief that it warrants immediate action. The Government Accountability Project (GAP) wrote a report requesting Dr. Jim Kim's intervention in 2010, and in 2015 the DC Civil Rights Coalition conducted a review and issued a proposal for addressing racial discrimination at the World Bank using Dr. Biru's case as a case study. U.S. Senator Barbara Mikulski, a member of the Senate Appropriations Committee, corresponded with the U.S. Treasury Department and World Bank regarding Dr. Biru's case. Ultimately, the World Bank internally restored Dr. Biru's original, correct personnel record so that it would include the seven years of favorable reviews, promotions and titles. However, to the rest of the world, there is little evidence of Dr. Biru's hard efforts and professional accomplishments. I have enclosed copies of Dr. Biru's original overall performance evaluation and the redacted version that were used during his appeals and Tribunal hearings, as well as a list of the damaging citations that remain on the World Bank's website that contradict his personnel record.

Dr. Biru has sought relief through the World Bank's Administrative Tribunal. However, Dr. Biru asserts that the Bank continued to discriminate against him by providing false testimony to the Tribunal. Complicating the situation further, the Tribunal advised Dr. Biru in 2016 that it would not hear any further appeals or requests from him, advising that it no longer had jurisdiction after issuing its 2010 ruling. This was despite the fact that that 2010 ruling was based on what is now known to be false testimony. I have enclosed a copy of GAP's report that contains a table comparing the Bank's sworn statements both before the World Bank's Appeals Committee and its Tribunal. The statements provided are contradictory.

In this same report, GAP states:

*"The Tribunal only allowed instances of false testimony and written submissions to stand, but rendered them material by basing its judgment on them as if they constituted valid evidence. Material statements that were shown to be false were not stricken or rejected but instead became part of the record and the basis of the logic underlying the judgment."*

Furthermore, the DC Civil Rights Coalition's 2015 proposal, also enclosed, states:

*"There is overwhelming evidence, as shown (below), supporting allegations that the Tribunal willfully and systematically (i) suppresses material evidence, (ii) bases 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."*

Dr. Biru has not been given the opportunity for a fair, external arbitration of his claim. He does not wish to return to the World Bank, but wants to have his professional record restored so that he may pursue other opportunities and be able to provide for his family. Dr. Biru requests that the World Bank withdraw the untrue and defamatory records of him from its website and restore his name and leadership titles to the World Bank's publications and websites.

Hon. Julia Frifield  
October 13, 2016  
Page 3

I am deeply concerned by the numerous reports I have received. I respectfully request your review of this urgent matter and advising me of your findings in a timely manner. Please direct all questions and further correspondence to me through Ms. Catherine Provost at (301) 424-3501 or [catherine.provost@mail.house.gov](mailto:catherine.provost@mail.house.gov).

Thank you for your attention to this urgent matter.

Sincerely,



Chris Van Hollen  
Member of Congress

cc: Hon. Anne Wall  
Assistant Secretary for Legislative Affairs  
U.S. Department of the Treasury

*Yonas Biru*

## CONGRESSMAN CHRIS VAN HOLLEN'S PRIVACY RELEASE

The Privacy Act of 1974, Title 5, U.S. Code Section 552a, provides that as of September 27, 1975, disclosure of information of a personal or confidential nature of an individual will no longer be released to third parties without written consent of the individual concerned. Therefore, I hereby grant Representative Chris Van Hollen my written permission to intercede on my behalf. I also duly authorize that any information which is contained in my records and necessary to provide a substantive response may be disclosed to Representative Van Hollen.

Name: Mr./ Ms./ Mrs./ Miss/ Dr. Yonas Biru  
Address: 1 Moonlight Trail Ct.  
Silver Spring, MD 20906  
Email Address: biruyonas@yahoo.com  
Telephone Numbers: Home: 202 361 7458  
Work: \_\_\_\_\_  
Mobile: \_\_\_\_\_  
Fax: \_\_\_\_\_

PLEASE STATE THE NATURE OF YOUR REQUEST, PROBLEM OR COMPLAINT AND HOW YOU WOULD LIKE THE CONGRESSMAN TO ASSIST YOU. PLEASE BE SPECIFIC AND, IF NECESSARY, ATTACH A SHORT LETTER AND/OR COPIES OF ANY RELEVANT DOCUMENTS OR NOTICES.

I have been on a hunger strike for 19 days for justice.  
I have been racially discriminated and denied  
access to justice by the World Bank. The WB tribunal has  
written saying they would no longer hear him. We want  
help enforcing the 2012 + 2014 Appropriations Act which requires  
the US government to block WB funding until it grants aggrieved  
staff external arbitration.  
Social Security Number (if applicable): 577 89 9780

Case/Account Number (if applicable): \_\_\_\_\_

Date of Birth: 12/20/1957

I authorize the Office of Congressman Chris Van Hollen to make inquiries on my behalf:

Yonas Biru  
Signature

9/27/16  
Date

PLEASE RETURN THIS SIGNED FORM AND ALL SUPPORTING MATERIAL TO:

Rep. Chris Van Hollen  
51 Monroe Street, Suite 507  
Rockville MD 20850  
FAX: 301-424-5992

**October 10, 2016 Letter of Request**

from the

**National Congress of Black Women, Inc.**

regarding

**Dr. Yonas Biru v. The World Bank**



# NATIONAL CONGRESS OF BLACK WOMEN, INC.

1250 Fourth Street, SW | Suite WG-1 | Washington, DC 20024

A 501(c)(3) Nonprofit Organization

October 10, 2016

The Honorable Chris Van Hollen  
1707 Longworth House Office Building  
Washington, DC 20515

Dear Congressman:

It is with a sense of urgency and steadfast confidence that I write to you as President and CEO of the National Congress for Black Women (NCBW), including our chapters in the State of Maryland, to request that you assist us in the case of *Yonas Biru v. World Bank*. Dr. Biru, an Ethiopian national, who has been discriminated against and denied justice by the World Bank, is currently on a hunger strike to bring his ordeal to the attention of people of conscience and moral conviction. I cannot think of a better person in a position of influence than you to respond to Dr. Biru's call for justice.

Dr. Biru was an internationally praised Deputy Global Manager of a high profile international program with an "outstanding/best practice" performance evaluation over a span of several years. In a move that outraged the civil rights community and all people of conscience, the World Bank retrospectively degraded Dr. Biru's stellar personnel record to disqualify him from becoming Global Manager. They declared his hard-earned performance record as Deputy Global Manager ***too good to be true!***

The act did not end with giving false testimonies about his record under oath. It also involved deleting his name and title from World Bank publications. As a trained lawyer and a lifelong civil rights advocate I find the injustice as painful to read as it is to comprehend.

My purpose in writing this letter is not to brief you about Dr. Biru's case. My aim is to bring your attention to the systemic personnel policies and practices that have created a culture of lawlessness and impunity behind the veil of the Bank's sovereign immunity from lawsuits. Looking at Dr. Biru's case from a broad and systemic perspective lays bare the institutional racism of which Black World Bank employees are a victim.

## I. Institutional Discrimination

Numerous World Bank studies have documented for several decades that racial discrimination in the World Bank is systemic. A 1998 official memorandum that was

Dr. E. Faye Williams, Esq., National Chair  
Washington DC National Headquarters  
Telephone: (202) 678-6788  
Email: [info@nationalcongressbw.org](mailto:info@nationalcongressbw.org)  
[www.nationalcongressbw.org](http://www.nationalcongressbw.org)

authored by high-level Bank officials revealed that "There is a cultural prejudice among some managers who rated Africans as inferior."<sup>1</sup>

A follow up 2003 World Bank commissioned report that was prepared by outside experts took note that racial-discrimination in the World Bank Group has been documented "with varying degrees of empirical rigor, in 16 earlier Bank Group diversity studies."<sup>2</sup>

In 2015, the latest World Bank diversity report noted: "Although the institution has made some progress to gender issues and some on LGBT issues, race specifically issues for Black staff, continue to be problematic... Some staff referred to their assignment as kind of apartheid..."<sup>3</sup>

The 2015 report rated the Bank's race relations between 2 and 3 on a scale of 6. Institutions "hovering between 2 and 3" lack accountability "to discriminated groups" and "are not open to those who challenge the *status quo*," The threshold "where institutions develop an intentional identity as an 'anti-racist' institution and begin to develop accountability to [their] racial and ethnic constituents" is when they reach stage 4. At an average scale of 2.5, the Bank is far below the minimum threshold.

## II. The Denial of Access to Justice

Many World Bank reports have found that the Bank's justice system is unfit to adjudicate staff grievances in general and racial discrimination cases in particular. In 1999, two internal World Bank Committees provided recommendations to fix the internal justice system<sup>4</sup>.

In 1999, a US Congressional Report, prepared by the US Government Accountability Office (GAO) concluded that the recommendations of the above-mentioned 1998 Internal Grievance Process Review Committee were not sufficient. The US-GAO report stated: "Based on our review of the plan and other alternatives considered by the [World Bank] Committee, we note that the measures recommended by the Committee refine and enhance but do not fundamentally alter the Bank's grievance system."<sup>5</sup>

In 2000, the World Bank Staff Association identified "several serious problems with the structure [of the internal justice system] and record of the World Bank Tribunal" and called for fundamental reforms, but the Bank's management showed no interest in implementing systemic changes.<sup>6</sup>

---

<sup>1</sup> World Bank (1998), "Report of the Team for Racial Equality"

<sup>2</sup> World Bank (2003), "Enhancing Inclusion at the World Bank: Diagnosis and Solution"

<sup>3</sup> A Strategic Review of Current Diversity, inclusion and Racial Relation (2015)

<sup>4</sup> World Bank (1999), "Report of World Bank Internal Grievance Process Review Committee"; and World Bank (1998), "Report of the Team for Racial Equality"

<sup>5</sup> US Government Accountability Office (1999), World Bank: Status of Grievance Process Reform

<sup>6</sup> World Bank Staff Association (August 2000) Report

In 2003, the US Senate Appropriations Committee stressed that the Bank needs to "do more to ensure that complaints are independently investigated and adjudicated in accordance with due process, and that managers are punished for misconduct..."<sup>7</sup>

The Senate Committee noted that it was "particularly concerned 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 defend management when it would have been in the interest of the institution to represent the complaints."

More important, two independent reports by the Government Accountability Project (2009)<sup>8</sup> and the DC Civil Rights Coalition (2015)<sup>9</sup> found the World Bank Tribunal racially biased against people of African origin.

### **III. Official World Bank and Staff Association Studies have been calling for External Arbitration for nearly two decades.**

The May 2005 issue of the Staff Association Newsletter called for an independent justice system. The Newsletter highlighted: "At bottom, the Bank's internal justice system lacks the essential judicial characteristics of independence and due process."

The Newsletter further noted, "There's enough concern in the U.S. Congress about the Bank's internal justice record to prompt the Legal Department to hire an outside consultant to produce another report (there have been many)."

According to GAP's 2011 report<sup>10</sup>, World Bank commissioned studies that recommended the use of external arbitration include: "Reforming the World Bank Group's Internal Conflict Resolution System," by the Grievances Process Review Committee (1998); "Assessment of the Functioning and Performance of World Bank Mechanisms, Offices and Services for the Resolution of Personnel Complaints and Grievances," by CDR Associates (2005); "Report on the World Bank's Whistleblower Procedures" by Robert Vaughn (2005); "World Bank Group Conflict Resolution System: Some Issues and Recommendations," by Graham Scott (2006) and Staff Association Newsletters.

### **IV. US Laws Have Been Calling for External Arbitration for a Decade**

In reaction to the Bank's failure to reform its internal justice system, the US Congress passed a law in 2006. The law required the US Executive Director at the Bank to advocate for the right of staff access to independent adjudicative bodies, including arbitration.<sup>11</sup>

<sup>7</sup> Foreign Operations, Export Financing, and related Programs Appropriation Bill, 2003 S. Rept. 107-219

<sup>8</sup> Government Accountability Project (2009), Racial Discrimination at the World Bank: A review of the treatment of black employees in recruitment, retention and justice decisions

<sup>9</sup> DC Civil Rights Coalition (2015), Proposal to End Racial Discrimination at the World Bank

<sup>10</sup> "How the World Bank's Peer Review Services Deny Staff the Right to a Fair Hearing.

<sup>11</sup> Sec. 1505 (a)(11) of the 2006 Foreign Operations, Export Financing and Related Programs Appropriations Act, which became Public Law 109-102 on November 14, 2005



The US Consolidated Appropriations Act (2012) requires that World Bank staff have access to independent adjudicative bodies. The Act as stipulated in Public Law 101-513, 22 U.S.C. 2901 et seq. dictates that US funds may not be disbursed for the general capital increases of the World Bank until it has continued to make progress toward providing staff access to independent adjudicative bodies.<sup>12</sup>

In 2014, the US Congress passed yet another law requiring the World Bank and other international agencies to use external arbitration for employment disputes. This 2014 law is outlined in Section 7048 (a) of the 2014 Consolidated Appropriations Act, "Transparency and Accountability." The law imposes withholding 15 percent of U.S. funding against institutions failing to comply with the law.<sup>13</sup>

#### V. US Treasury's Call to Resolve Dr. Biru's Case Through External Arbitration

In 2010, the US Treasury and the office of the US Board of Director to the World Bank approached the World Bank to resolve Dr. Biru's then-pending **retaliation** and **termination** case through external arbitration.<sup>14</sup>

In 2013, the office of the US Board of Director asked Dr. Biru to provide concrete evidence, including the exact locations of the public records where the defamatory personnel records that were "hindering" his efforts "to find employment."<sup>15</sup> Three weeks later, Dr. Biru received a message from the US Director's office that his request for external arbitration has been sent to the US Treasury and advised to "expect a response sometime next week."<sup>16</sup> Dr. Biru has not heard anything from Treasury.

As one of the leading voices of justice and equality in the US Congress, I feel confident that you will demand an explanation why Dr. Biru and others like him are denied access to justice in an institution that is a recipient of US financial support.

Dr. Biru has a wife and three young children. It is unfortunate that he had to embark on a hunger strike seeking racial justice. It would be a travesty of justice if he dies of the hunger strike or sustains permanent damage from it. Please help before it is too late.

Sincerely,

  
Dr. E. Faye Williams, Esq.

National President/CEO

<sup>12</sup> <http://www.whistleblower.org/storage/documents/whistleblowerlanguageinHR2055.pdf>

<sup>13</sup> <https://www.whistleblower.org/sites/default/files/HR3547pg541.pdf>

<sup>14</sup> A joint memo by the US Treasury and the US Board of Directors dated September 29, 2010.

<sup>15</sup> An email message from Mr. Daniel Peters (Senior Advisor to the US Board of Director) addressed to Mr. Biru dated July 11, 2013.

<sup>16</sup> An email message from Mr. Daniel Peters (Senior Advisor to the US Board of Director) addressed to Mr. Biru dated August 6, 2013

# **Summary of Discrimination**

as provided by

**Dr. Yonas Biru**

## **Yonas Biru v. World Bank (2015, World Bank Tribunal Decision no. 510)**

### **On a hunger strike since September 8, 2016 to protest racial injustice**

The World Bank, immune from lawsuits, claimed that my official record of many years as the Deputy Global Manager of a high-profile program was "hagiographic" - too good to be true - and retrospectively degraded it. This was done to disqualify me from becoming the Global Manager of the program because **"Europeans are not used to seeing a Black man in a position of power."**

I served as Deputy Global Manager on the International Comparison Program (ICP), which compares economic outputs in over 150 countries in 6 regions, including Europe. According to *the Economist* magazine, it is "the largest statistical undertaking in the world."

In degrading my personnel record, the Bank went as far as deleting my name and leadership roles from its publications and websites. Subsequently, two World Bank officials testified under the oath of law that I was never involved in the global management of the program and lacked relevant experience to be its Global Manager. When I protested, the Bank terminated me.

The World Bank is immune from lawsuits. The only legal venue available to me was the World Bank Administrative Tribunal that is beholden to management, lock, stock and barrel.

Over two dozen witnesses (including a CEO and several chief economists of international agencies) wrote testimonials and references confirming my role and impact as Deputy Global Manager. My official personnel record also exposed the Bank's claim as patently false (see annex 1). Ignoring all the material evidence the Tribunal ruled that the Bank's actions were "justified by business reasons" and dismissed my racial discrimination claims. This was its official judgment.

Confidentially, the Tribunal acknowledged that the Bank's legal defense was "dishonest". They copied me on this correspondence inadvertently.

The Tribunal reviewed my termination case separately and found that it was "unlawful and capricious." Nonetheless, it ruled that I should not be reinstated. The explanation was: "Applicant had criticized his managers and showed contempt to the organization."

**The Bank restored my official record in 2014, four years after the Tribunal ruled in its favor, but insisted that the judgment that was based on perjured evidence must stand.**

In 2014, under relentless pressure from the US government and the DC Civil Rights Coalition, the Bank sent me a memo stating that the deleted parts of my managerial record "will be scanned into your staff record." Furthermore, the memo explicitly validated my record as "official." However, the Bank will neither withdraw the defamatory record from its website, nor reinstate my name and leadership roles that it had deleted from its publications and website.

As a result, the Bank currently maintains two contradictory personnel records for me: my restored internal record (see Column 1 below) and the false and defamatory record on the Bank's website (see column 2). The irreparably damaging defamatory remarks shown in column 2 represent merely the tip of the iceberg. Presenting the full extent of the false record would take several pages.

<b>COLUMN 1</b> <b>Mr. Biru's personnel record that the Bank restored in 2014 and validated as "official."</b>	<b>COLUMN 2</b> <b>What the World Bank currently maintains on its website</b>
<b>Global Management:</b> "Mr. Biru has multiple roles in the Bank's global management... He continues to be a very strong performer managing one of the most critical programs that the Bank has ever managed..."	"He had no management responsibility in the Bank's global management..."
<b>Partnership Building:</b> " He broadened the scope of the Bank's global partnership by bringing several international partners on the global program's bandwagon... His work in managing sensitive relationships between international stakeholders is very impressive... He is praised for his many skills."	"He doesn't have the judgment and relationship management skills to be a global manager. He lacks credibility with the international community... Some of the international agencies do not want to work with him."
<b>Leadership:</b> "The global program just couldn't be successful without his technical expertise and knowledge of key players."	"The global project would be put at risk if he was made global manager"
<b>Research Management:</b> "He managed and brought to fruition important methodological innovations in critical areas that have created a lasting legacy."	[My leadership position was removed from the Bank's publications and the credit was given to other Bank managers.]

In 2015, the Bank's General Counsel and Senior VP for Legal acknowledged that World Bank Staff Rule 2.01, Paragraph 5.03 requires "disclosure of personal information if the appropriate Bank officials decide that it is necessary to correct false or misleading information" that is in the public domain. Nonetheless, "the Bank has not deemed it necessary to disclose" the restored official record because it is "hagiographic" - too good to be true. "The Bank is not in the business of painting a hagiographic image of him."

This despicable too-good-to-be-true argument is a reflection of the Bank's longstanding perception that Blacks are "inferior" and "not bright or competent," as revealed in its 1998 and 2003 diversity reports. For more information on the Bank's 16 diversity reports visit [www.longerthanapartheid.com](http://www.longerthanapartheid.com)

**What am I fighting for?**

I am currently fighting for my right to have my lifelong professional identity restored. This includes withdrawing the defamatory information from the Bank's website; and restoring my name and leadership roles that the Bank deleted from its publications and websites. The injustice has disenfranchised me of my right to earn a living in my field of expertise since December 2009.

In general, the World Bank Tribunal takes defamation claims very seriously. In a 2015 case involving an Argentinean World Bank former staff, the Tribunal stressed that it will not tolerate defamation, especially when "the Bank's actions and inactions caused professional and personal harm to its staff or former staff." Accordingly, it ruled in favor of the Argentinian claimant and awarded him financial compensation to redress the reputational and emotional damages he endured.

The fact that the Bank has systematically disenfranchised me of my professional identity and defamed me to disqualify me from becoming the Global Manager of the ICP is not in dispute. The fact that the Bank had deleted my leadership roles from its publications is beyond contention (see [www.longerthanapartheid.com](http://www.longerthanapartheid.com) for hard evidence). What is in contention is whether the Bank is obliged to accord me the same level of legal protection it has accorded the aforementioned Argentinian and other non-Black claimants of defamation.

In 2014 and 2015, the Bank's General Counsel argued that the Tribunal does not have legal basis or jurisdiction to review my claims of defamation and the disenfranchisement of my professional identity. The legal argument was that the Bank has successfully contended in 2010 (using false evidence) that I had no management responsibilities and lacked relevant experience to become the Global Manager. Since the Tribunal accepted the Bank's evidence as valid in 2010 and used it as the basis of its decision to dismiss the case, the Tribunal has no jurisdiction to reconsider its judgment.

The only way the Tribunal can reconsider its judgment is if new evidence is presented. Stripped of its legalese, the Bank's argument is that there is nothing new about the fact that the Bank used false personnel evidence that the Tribunal was not aware of, and therefore the Tribunal has no legal basis to reconsider the matter. In November 2015, the Tribunal upheld the Bank's motion to dismiss my appeals without reviewing their merits, for lack of jurisdiction.

In 2016, the Tribunal informed me that it will not hear any more claims from me. Since the Tribunal lacks the jurisdiction to review my claims, there are only two options for the resolution of my case.

First is external arbitration, pursuant to two US laws (Consolidated Appropriations Acts, 2012 and 2014). The laws require the US government to block US funding to the World Bank until it grants aggrieved staff access to external arbitration. The US provides the World Bank with more than \$4 billion in financial aid every year. It has the financial leverage to rein in the Bank's naked abuse of its immunity.

As background, it should be noted that in 2010, the US Treasury and the office of the US Board of Directors to the World Bank sent me a joint memo stating: "*after an extensive review of your supporting materials from the record in your case, we met with both World Bank management... We noted that your case, appeared to be one in which external arbitration seemed warranted [but the Bank refused to use arbitration.] Further engagement in your case with the Bank would not be productive...*" In a follow up email the US Treasury informed me that they have directed the matter to US policy makers. Two years later Congress passed the aforementioned 2012 law, followed by a similar law in 2014. To date, the US has failed to enforce them.

The second option is administrative action by President Kim. He has both the authority and institutional obligation to instruct his General Counsel to honor the Bank's Staff Rules and correct the unequivocally false public records. Rather than addressing the injustice, President Kim lobbied the US government not to enforce the two Appropriations Acts. In the meantime, his General Counsel has argued that the Tribunal has no jurisdiction to review my case.

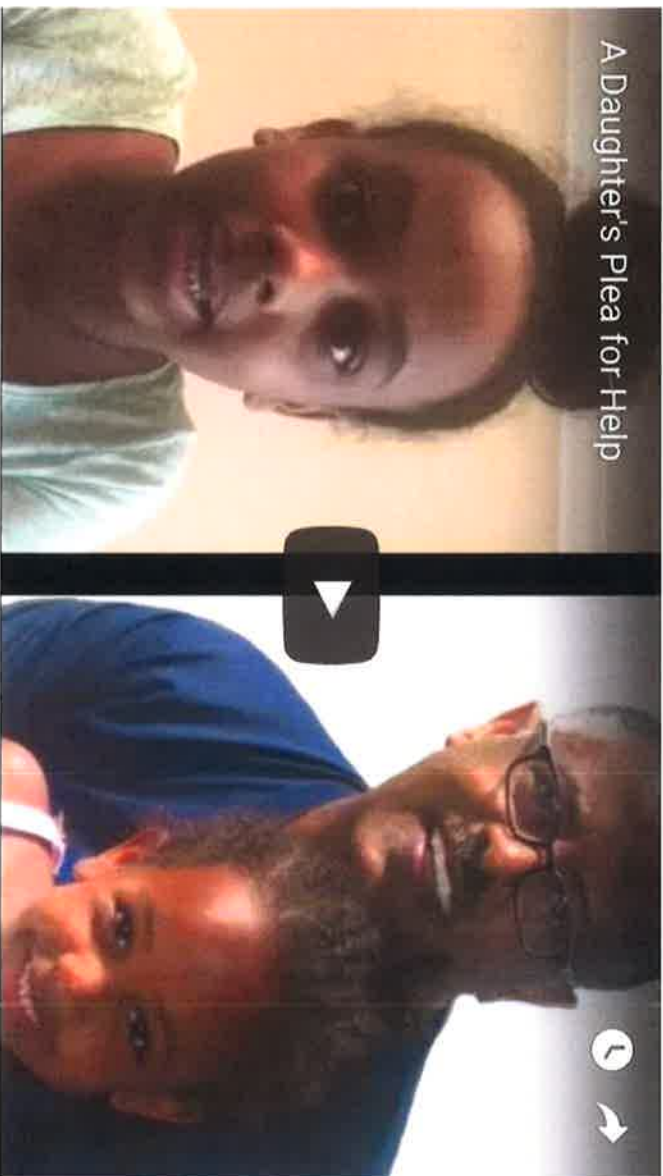
I have been denied access to justice, both by the US government and by the World Bank on what the Bank's own study and its Senior Advisor for Racial Equality have independently labeled as a blatant case of racism. To protest this systemic racial injustice, I have been on a hunger strike since September 8, 2016.

Petitioning President of the United States and 5 others

# Help Stop My Father's Hunger Strike - Hold the World Bank Accountable For Its Racism



Edén Yonas United States



My first experience with racial discrimination was when I was five years old in first grade in December 2006. I remember the day, the hour and what I was doing when it happened.

## Share this petition

2,087 supporters

413 needed to reach 2,500

 Share on Facebook

Add a personal message (optional)



Help Stop My Father's Hunger Strike - Hold the World Bank...

 Post to Facebook

 Send a Facebook message

Send an email to friends

# World Bank TOLD an African His 8-Year Performance Record is 100-Good-10-BE-True And Degraded it



*Dr. Ben Carson*

I m appalled by the World Bank. We need to hold them accountable.



*Senator Barbara Mikulski*

This is a very serious issue. I hope the Department of Justice will take every appropriate action ASAP.



*Rev. Jesse Jackson*

Dr. Biru's case provides compelling evidence that racism in the World Bank is institutionally sanctioned.



*Congressional Black Caucus*

We are asking the US Treasury Department to take action. [Mr. Biru's] issue, in particular, is being addressed.



*Diversity Report, 2015*

This is a Blatant and virulent case of racism.



*Peer Review Panel*

The Peer Review Panel could not find business reasons to explain the Bank's actions.



*Sr. Adviser, Racial Equality*

The injustice that Mr. Biru is subjected to is profoundly beyond the pale.



*Chair, Staff Association*

Mr. Biru's case shows that several aspects of the Bank's justice system are broken.





We met with World Bank management and inquired about the possibilities of arbitration or settlement, [to no avail]. We believe that further engagement in [Dr. Birus] case with the World Bank would not be productive.



The Bank's grievance system had a number of serious shortcomings. It did not adequately protect grievants' rights or hold managers accountable. Employees often saw it as neither fair nor credible..



The Senate Appropriations Committee is concerned with the professionalism of the Bank's legal department.. Among other things, the Banks lawyers defended management when it would have been in the interests of the institution to represent the complainants.



Fifteen percent of US Contribution to the World Bank shall not be obligated until the State Department reports whether the Bank is making substantial progress implementing independent adjudicative bodies, including external arbitration.



*Click*



*Click*



Two attorneys familiar with the World Bank HR practices, who could not speak publicly, told GAP unequivocally that Dr. Biru's was the worst case of racial discrimination they had ever seen.



**DC Civil Rights Coalition**  
*First Racism at the World Bank*

The Bank has moral and legal obligations to honor Dr. Biru's professional identity. His case remains unanswered on President Kim's desk. President Kim cannot credibly promise a better future while ignoring current cases of gross racial injustice.



**World Bank**  
**2002 Overall Performance Evaluation**  
**for Dr. Yonas Biru**

### **Mr. Biru's Overall Performance Evaluation (OPE -2002)**

**This includes two documents. The first document shows that parts of Mr. Biru's 2002 OPE was deleted. The Second document shows a copy of the original document before the Bank deleted the material.**

**The Bank's argument about the deleted section was that the Bank did not use the deleted record (see page 2) during the Tribunal's proceedings. The Bank's assertion during the Tribunal proceedings that Mr. Biru had no managerial responsibility was made by the Bank's witnesses, not by the deleted 2002 OPE. The Bank went as far as claiming that the Bank did not delete the 2002 OPE. This is despite the fact that the Bank had written to Mr. Biru on 2/25/2014 stating his 2002 OPE "will be scanned into your staff records."**

**Here is what the Bank submitted to the Tribunal.**

**"[Mr. Biru] asserts that Respondent [the Bank] and certain witnesses appearing for Respondent provided false statements or committed perjury during the Tribunal proceedings leading to Decision Nos. 402 (discrimination claim) and 437 (termination claim). The facts claimed by Applicant to be new were in fact known to both the Applicant and the Tribunal when the two judgments were delivered."**

# Overall Performance Evaluation

Print

Period covered from 4/1/2001 to 3/31/2002

Name Yonas Biru/Person/World Bank	Title Sr Economist	UPI 000065125
Supervisor(s) (to sign) Misha V. Bolkindas/Person/World Bank	Unit DECDG	Level GG
Reviewing Manager (to sign) Shaida Badiee/Person/World Bank		EOD 9/27/1999
Other Reviewers (to review)	Network PREM	Sector RPOL
Readers (read-only)		

## Results Assessment

(Up to 5 Key Work Program Results/Team Contributions for which staff member was responsible.)

- Unsuccessful
- Partially Successful
- Fully Successful
- Superior
- Outstanding/Best Practice

1. Fund raising - Prepared successful fund-raising strategies for Africa and Asia. Africa used the strategic framework to launch a fund-raising drive for

RA1  
RESULT2  
RA2  
RESULT3  
RA3  
RESULT4  
RA4  
RESULTS  
RASS

Missing Text

Missing

"Outstanding"

"Outstanding"

"Superior"

"Superior"

"Fully Satisfactory"

**Supervisor(s) Comments (optional):** It was an exceptionally productive year for Yonas, when the ICP next round is getting of the ground. His tireless work on the development of global and regional proposals, building partnerships with regional bodies is bringing the preparatory work of the round to a fruitful conclusion.

**Staff Comments (optional):** No Comments Written

## Behavioral Assessment

- Not Applicable
- Unsuccessful
- Partially Successful
- Fully Successful
- Superior
- Outstanding/Best Practice

<b>Client Orientation:</b>	
• Understands clients' needs and concerns; Responds promptly and effectively to client needs; Customizes services and products as appropriate	Superior
<b>Drive for Results:</b>	
• Makes things happen; Is proactive; Balances "analysis" with "doing"; Sets high standards for self; Commits to organizational goals	Superior
<b>Teamwork:</b>	
• Collaborates with others in own unit and across boundaries; Acknowledges others' contributions; Works effectively with individuals of different culture and gender; Willing to seek help as needed	Fully Successful
<b>Learning and Knowledge Sharing:</b>	
• Open to new ideas; Shares own knowledge; Applies knowledge in daily work; Builds partnerships for learning and knowledge sharing	Fully Successful
<b>Managerial Behaviors (For Managers ONLY):</b>	

Overall Performance Evaluation

Print

Period covered from 04/01/2001 to 03/31/2002

Name Yonas Biru/Person/World Bank	Title Sr Economist	UPI 000065125
Supervisor(s) (to sign) Misha V. Belkindas/Person/World Bank	Unit DECDG	Level GG
Reviewing Manager (to sign) Shalda Badlee/Person/World Bank		EOD 09/27/99
Other Reviewers (to review)	Network PREM	Sector EPOL
Readers (read-only)		

<b>Results Assessment</b> (Up to 6 Key Work Program Results/Team Contributions for which staff member was responsible.)	(U) Unsuccessful (SU) Partially Successful (S) Fully Successful (A) Superior (B) Outstanding/Best Practice	Guideline
--	--	-----------

1. Fund raising - Prepared successful fund-raising strategies for Africa and Asia. Africa used the strategic framework to launch a fund-raising drive for \$10 million dollars and is expected to meet its target by the end of the summer. In Asia the fund-raising effort produced sufficient pledges and commitments from regional agencies to cover all the expenses for the region. The accomplishment on the regional front was a critical component of the global fund-raising success.	Outstanding/Best Practice
2. Regional and global coordination - (a) prepared regional proposals and work plans for Asia, Africa, and the middle East, and worked closely with Latin America and the CIS regions to organize well coordinated regional programs; (b) successfully promoted ICP as a flagship regional capacity building program in Africa, Asia, and the Middle East, and as such laid the ground work for bringing ICP into the mainstream of national statistical work; (c) lined up national and regional level support for the global program; and (d) broadened the scope of global partnership by bringing ILO, WHO and FAO on the ICP bandwagon as active partners in research and program collaboration.	Outstanding/Best Practice
3. Identified critical areas of ICP research and organized a successful global ICP conference, and expert group meetings. The conference and the expert group meetings were attended by 80 prominent experts and practitioners from all corners of the world. Twenty two papers were presented on a number of outstanding issues.	Superior
4. Prepared specifications and functional requirements for a comprehensive and integrated ICP software, and co-managed the development of the software with Yuri and SU team. The software has been widely endorsed for data collection, verification and processing. IMF, ILO and the editors of the forthcoming CPI manual have shown interest to adopt the software as a standard software for national price data collection both for ICP and CPI purposes.	Superior
5. Produced PPP data for WDI and SWDI and responded to data queries both from internal and external sources.	Fully Successful

Supervisor(s) Comments (optional):	It was an exceptionally productive year for Yonas, when the ICP next round is getting of the ground. His tireless work on the development of global and regional proposals, building partnerships with regional bodies is bringing the preparatory work of the round to a fruitful conclusion.
Staff Comments (optional):	No Comments Written

<b>Behavioral Assessment</b>	(U) Unsuccessful (SU) Partially Successful (S) Fully Successful (A) Superior (B) Outstanding/Best Practice	Guideline
------------------------------	--	-----------

	78: Partially Successful 7B: Fully Successful 8: Superior 9: Outstanding/Best Practice
<b>Client Orientation:</b>	
Understands clients' needs and concerns; Responds promptly and effectively to client needs; Customizes services and products as appropriate	Superior
<b>Drive for Results:</b>	
Makes things happen; Is proactive; Balances "analysis" with "doing"; Sets high standards for self; Commits to organizational goals	Superior
<b>Teamwork:</b>	
Collaborates with others in own unit and across boundaries; Acknowledges others' contributions; Works effectively with individuals of different culture and gender; Willing to seek help as needed	Fully Successful
<b>Learning and Knowledge Sharing:</b>	
Open to new ideas; Shares own knowledge; Applies knowledge in daily work; Builds partnerships for learning and knowledge sharing	Fully Successful
<b>Managerial Behaviors (For Managers ONLY):</b>	
Selecting, Coaching & Appraising Staff -- Selects on basis of skills; Coaches staff to help them perform effectively; Appraises performance accurately	
Influencing & Resolving Differences Across Boundaries -- Builds useful alliances & collaborates with others; Breaks down barriers between units; Gains support from others without using formal authority	
Planning & Managing Staff to Achieve Quality Results -- Communicates unit's goals clearly; Develops realistic plans; Empowers staff by removing obstacles	
Encouraging Innovation and Open, Team Based Environment -- Creates an environment for collaboration and teamwork; Shares information well; Thinks beyond existing paradigms	
Inspiring Trust and passion in Bank's mission -- Treats everyone fairly, consistently, and with respect; Maintains high standards of personal integrity; Demonstrates commitment to poverty reduction	
Creating an Environment for learning & knowledge sharing -- Uses knowledge to equip clients and staff; Promotes continuous learning environment; Shares knowledge and information	
Focusing on big picture and overall framework for development -- Develops strategic priorities consistent with Bank's mission; Communicates strategy to diverse constituencies	
<b>Supervisor(s) Comments (optional):</b>	No Comments Written
<b>Staff Comments (optional):</b>	No Comments Written

<b>Development Actions Assessment</b>		<b>Guidelines</b>
(Development Actions staff member agreed to pursue.)		NA: Not Accomplished PA: Partially Accomplished FA: Fully Accomplished
1.		
2.		
3.		
<b>Supervisor(s) Comments (optional):</b>	Yonas, was very busy this year. Next year he should take advantage of training offered in the Bank - courses like time management, etc.	
<b>Staff Comments (optional):</b>	No Comments Written	

<b>Skills Profile</b>	
(focus on technical skills/sector specific skills)	
1. Skills in which individual is strong	Strong both in the technical and organizational aspects of the ICP work, including national, regional and global levels.

Understand the needs, strengths and weaknesses of each regional programs and capable to customize regional programs reflecting the capacities and priorities of each region.

**2. Skills individual needs to focus on for development**

Project Impact Evaluation - Qualitative

Supervisor(s) Comments (optional):	No Comments Written
Staff Comments (optional):	No Comments Written

**Overall Comments**  
Specify examples of (a) noteworthy contributions; (b) areas in need of improvement.

Supervisor(s): ( Do not recommend HR actions here )	No Comments Written
Staff:	No Comments Written

**Signatures**

Supervisor(s):	Signed by Misha V. Belkndas on 5/6/2002 7:01:37 AM <small>(Authentication 621622030404040404)</small>
I have discussed this evaluation with my Supervisor(s). Staff:	Signed by Yonas Blru on 5/8/2002 8:57:58 AM <small>(Authentication 621622030404040404)</small>

**Actions Recommended or Decided (Please describe below) and Reviewing Manager Comments (Optional)**

This has been an extremely busy and successful year for Yonas when he has done an excellent job of working with the team and bringing together research, advocacy, software, financing, project planning, and many other parts needed to get ICP program ready for the next global round. The outcome of the work so far is very promising with a very wide international and national acceptance. I am very pleased with all that Yonas has achieved and look forward to his work for the coming year when we will be launching the new ICP round, which will be the largest international statistical program ever. Yonas will have a key role in our ICP work and the program just couldn't be successful without his technical expertise, knowledge of key players, dedication, and hard work.

Signed by Shalva Badlee on 6/3/2002 3:08:08 PM (Authentication 621622030404040404)

# **Timeline of Rejections of Mediation, Settlement or Arbitration**

Regarding the Case of

**Dr. Yonas Biru**

## **The Bank's Rejection of Mediation, Settlement and/or Arbitration**

**[2008]** As underlined in the Government Accountability Project's (GAP) 2009 report, in February 2008, the Bank's Appeals Committee (aka Peer Review Panel) rejected Mr. Biru's racial discrimination and retaliation claims, but "strongly recommended that 'the Bank take immediate measures' to provide Mr. Biru 'with a healthy work environment' and 'immediately enter into binding mediation.' The Bank failed to follow any of these recommendations" (original emphasis, see Gap's report, page 3). GAP does not normally handle individual racial discrimination cases. They took Mr. Biru's case as an exception because of the egregious nature of the injustice. They had to get permission from their Board to represent him 'informally' since the issue was outside of their institutional mandate.

**[2008]** The Bank's HR VP wrote to Mr. Biru stating: "Your appeal is hereby denied. If you are dissatisfied the next step would be recourse to the Administrative Tribunal" (see page 3).

**[2009]** During the Tribunal proceedings, the Tribunal asked the Bank the following question: "Did the World Bank Implement Appeal Committee's Recommendation to Resolve Mr. Biru's Case?" The Bank responded under the oath of law stating: "Applicant scorned the attempt to re-assign him when it was broached to him."

**[2009]** During the Tribunal hearing, Mr. Biru's lawyer asked the Bank's HR manager (Ms. Patricia Neil) if the Bank had offered Mr. Biru any alternative assignment, including re-assignment. Her answer was unequivocal "NO".

**[October 2009]** In fact, she testified that it was Mr. Biru who was asking for an external assignment. She stated: "I was contacted by the Ombudsman who said that Mr. Biru was interested in external services assignment" (Tribunal Transcript, P 71). "No option for reassignment was ever presented to Mr. Biru ... No reassignment opportunity was actually made available to him because there was none found" (Tribunal Transcript, P 74).

**[November 2009]** Three weeks later the Bank's lawyers filed Post Hearing Briefs falsely claiming "Respondent [the Bank] went the extra mile and offered to subsidize internal or external opportunities that may be identified by the applicant, but he was not amenable to those options." (See Post Brief Hearing Para 6, Page 3).

**[March 2010]** Ignoring all the evidence, the Tribunal willfully misrepresented the facts in its judgment: "The record suggests that management explored the possibility of reassigning the Applicant elsewhere, but according to the Bank, [he] 'scorned the attempt to reassign him when it was broached to him.'" (See Paragraph 125 of the Tribunal's judgment).

**[March 2010]** Mr. Biru's lawyer approached the Bank with an offer that he will drop his then-pending wrongful termination claims if the Bank would allow him to retire early and give him a reference letter confirming his managerial roles and accomplishments. His lawyer assured the



Bank that Mr. Biru will sign a statement that he will not file any complaint against the Bank or criticize the Bank in any way. Mr. Biru's primary interest was to salvage his professional credentials that the Bank falsified. He provided the Bank with a sample letter based verbatim on his official HR record. The Bank refused to withdraw his termination. It agreed to write some form of reference letter but the letter will have to be substantive edited because the Bank will not use any superlative statement about Mr. Biru's managerial competence that were taken verbatim from his official record.

**[2012 to 2015]** Between 2012 and 2015, several entities including Senator Mikulski, leaders and representatives of over 500 faith-based organizations, the Congressional Black Caucus and the DC civil rights Coalitions appealed to the World Bank to find a fair and just resolution, all to no avail.

### **The World Bank Willfully Misled the US Government**

In September 2010, the US Treasury approached the Bank with a proposal to resolve Mr. Biru's case through arbitration, mediation or settlement, the Bank rejected the proposal. According to a joint letter by the US Treasury and the office of the US Board of Director to the World Bank dated 9/29/2010 (see page 4): The Bank management "emphasized that they had taken what they believed to be extraordinary measures to try to provide mediation or otherwise accommodate your concerns and did not express an interest in engaging further in settlement or mediation efforts."

# **Conclusion of Efforts by U.S. Treasury**

for the Case of

**Dr. Yonas Biru**

----- Forwarded Message -----

**From:** "Gary.Sampliner@do.treas.gov" <Gary.Sampliner@do.treas.gov>

**To:** biruyonas@yahoo.com; ltaylorkale@worldbank.org

**Sent:** Wednesday, September 29, 2010 6:34 PM

**Subject:** RE: Thank you for your efforts to resolve my termination case

Dear Mr. Biru:

Thank you for your e-mail, which we have also passed on to Mr. Solomon and policy staff at Treasury. We wanted to confirm with you our discussions about your case with your representatives from the Government Accountability Project (GAP).

As we had informed the GAP, following your meeting with our staff and U.S. Executive Director Ian Solomon and an extensive review of your supporting materials from the record in your case, we met with both World Bank management and the Staff Association. In our meeting with Bank management, we reminded them of U.S. policy in support of best practices in whistleblower protection, which includes the option of external arbitration based on consensus selection of arbitrators and shared costs. We noted that your case, in which you specifically requested external arbitration of the appeal of your termination and expressed willingness to share the cost, appeared to be one in which external arbitration seemed warranted. We also inquired about the possibilities for mediation or settlement of your case. Bank management indicated that they were not likely to agree to external arbitration in your case in its present posture. They also emphasized that they had taken what they believed to be extraordinary measures to try to provide mediation or otherwise accommodate your concerns and did not express an interest in engaging further in settlement or mediation efforts.

After further discussion with the Staff Association, we believe that further engagement in your case with the Bank would not be productive and informed your representatives at the GAP of this last Friday. At the same time, as we had informed the GAP, 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 or an alternative such as the UN's reformed dispute resolution system.

With best regards,

Gary and Laura

----- Forwarded Message -----

**From:** "Gary.Sampliner@do.treas.gov" <Gary.Sampliner@do.treas.gov>  
**To:** biruyonas@yahoo.com; ltaylor@worldbank.org  
**Sent:** Wednesday, September 29, 2010 6:34 PM  
**Subject:** RE: Thank you for your efforts to resolve my termination case

Dear Mr. Biru:

Thank you for your e-mail, which we have also passed on to Mr. Solomon and policy staff at Treasury. We wanted to confirm with you our discussions about your case with your representatives from the Government Accountability Project (GAP).

As we had informed the GAP, following your meeting with our staff and U.S. Executive Director Ian Solomon and an extensive review of your supporting materials from the record in your case, we met with both World Bank management and the Staff Association. In our meeting with Bank management, we reminded them of U.S. policy in support of best practices in whistleblower protection, which includes the option of external arbitration based on consensus selection of arbitrators and shared costs. We noted that your case, in which you specifically requested external arbitration of the appeal of your termination and expressed willingness to share the cost, appeared to be one in which external arbitration seemed warranted. We also inquired about the possibilities for mediation or settlement of your case. Bank management indicated that they were not likely to agree to external arbitration in your case in its present posture. They also emphasized that they had taken what they believed to be extraordinary measures to try to provide mediation or otherwise accommodate your concerns and did not express an interest in engaging further in settlement or mediation efforts.

After further discussion with the Staff Association, we believe that further engagement in your case with the Bank would not be productive and informed your representatives at the GAP of this last Friday. At the same time, as we had informed the GAP, 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 or an alternative such as the UN's reformed dispute resolution system.

With best regards.

Gary and Laura

**D.C. Civil Rights Coalition 2015 Proposal**  
**Regarding Racial Discrimination at the**  
**World Bank and the Case of Dr. Yonas Biru**



DC Civil Rights Coalition  
End Racism at the World Bank

---

## 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.]

# CONTENTS

<b>1. THE PROPOSAL IN SUMMARY .....</b>	<b>2</b>
<b>2. BACKGROUND NOTES AND JUSTIFICATIONS .....</b>	<b>11</b>
2.1 Excerpts from World Bank Reports Confirming Institutional Discrimination .....	11
2.2 Excerpts from World Bank Reports Confirming the Denial of Access to Justice .....	12
2.3 The Bank's 2015 Affirmative Action Policy Perpetuates a Racist Policy Against Blacks .....	13
2.4 Tension Between the 2015 Compact and Reorganization: <i>Blacks and Redundancies</i> .....	14
2.5 Africa Orphaned and Under Guardianship in the World Bank .....	14
2.6 The Tribunal Uses Different Standard for Black and White Complainants.....	15
2.7 "Niggers Go Home" Graffiti in the Corridors of the Bank's Flagship Building .....	16
2.8 Black and Non-Black Senior World Bank Officials See Institutional Racism Differently .....	17
2.9 Lack of Transparency: The Indefinite Embargo of the 2014 Diversity Report .....	17
<b>3. THE PROPOSAL IN DETAIL .....</b>	<b>19</b>
3.1 Resolve Dr. Yonas Biru's Case.....	19
3.2 Establish An Aggressive and Equitable Affirmative Action Program For Blacks in General and for African Americans in Particular .....	24
3.3 Establish A High-Level External Commission .....	26
3.3.1 <i>Why External Commission</i> .....	26
3.3.2 <i>Terms of Reference for the Proposed External Commission</i> .....	27
3.4 Grant Complainants of Racial Discrimination Access to External Arbitration .....	28

# 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 &amp;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)
<b>The question:</b> Who decided <b>not to appoint</b> Mr. Biru as the Global Manager of ICP?	<p><b>The External Board</b> – “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 &amp; Belkindas, Transcript p. 40 &amp; 43</i></p> <hr/> <p><b>The External Board</b> - “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><b>The World Bank</b> – “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><b>The World Bank</b> - “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>
<b>The Question:</b> Did the Bank advocate on behalf of Dr. Biru before the ICP Board?	<p><b>Yes</b>, “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><b>We advocated on his behalf:</b> “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><b>No</b>, The decision was mine and it was made independent of the Board. ~ <i>Badiee, Tribunal Transcript</i></p> <hr/> <p><b>We did not advocate on his behalf:</b> “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."



**Government Accountability Project (GAP)  
2010 Report on the Case of Dr. Yonas Biru**

1612 K Street, NW · Suite 1100  
Washington, DC, USA 20006  
202-457-0034 · fax: 202-457-0059  
Website: www.whistleblower.org

---

July 8, 2010

The World Bank Board of Executive Directors  
1818 H Street, NW  
Washington, DC 20433

Dear World Bank Executive Director:

I am writing to request your intervention in the case of Mr. Yonas Biru, a former World Bank staff member who was terminated on June 17, 2009 after making protected disclosures about data fabrication involving China, India and 21 African countries<sup>1</sup> and racial discrimination in the World Bank's International Comparison Program (ICP). Specifically, Mr. Biru would like the Board of Directors to direct the Bank to engage in binding external arbitration, based on consensus selection of arbitrators and shared costs in order to resolve his pending termination case.

Mr. Biru believes that external arbitration is necessary at this stage, given the World Bank Administrative Tribunal's prior handling of his racial discrimination and retaliation complaints. In reviewing these previous claims, the Tribunal violated Mr. Biru's due process rights<sup>2</sup> and failed to hold the Bank accountable for systematic and significant misrepresentations of fact, as outlined in brief below.

### **Racial Discrimination Complaint**

Mr. Biru joined the Bank's Development Economics Data Group (DECDG) in 1993 as a consultant. In 1999, he received a term appointment as a senior economist (grade GG)<sup>3</sup> and in 2001 he was appointed team leader for the ICP.<sup>4</sup> Prior to making his disclosures, Mr. Biru received outstanding performance reviews for seven years and had the second highest evaluation ratings compared to DECDG staff at the same level.

---

<sup>1</sup> Mr. Biru submitted a detailed report about the data fabrication to the Bank's Chief Ethics Officer.

<sup>2</sup> For example, Mr. Biru was denied timely access to critical documents that the Bank submitted to the Tribunal as supporting evidence. A portion of the documents were eventually released to Mr. Biru after the Tribunal's hearings, denying him the opportunity to cross examine the Bank's witnesses about information contained in those documents.

<sup>3</sup> Mr. Biru holds a Ph.D in economics from George Mason University.

<sup>4</sup> The ICP is a worldwide statistical partnership designed to collect comparative price data and compile detailed expenditure values of countries' gross domestic products (GDP), and to estimate purchasing power parities (PPP) of the world's currencies.

In February 2007, Mr. Biru filed a racial discrimination complaint with the Bank’s Appeals Committee, in which he alleged that his supervisors denied him equal access to promotions and career development opportunities because of his race and national origin (he is a black Afro-descendant from Ethiopia). During his career at the Bank, Mr. Biru was repeatedly promised promotions, only to be denied them later. After resurrecting the ICP project as team leader (which was failing when he inherited it) and turning it into “the world’s largest statistical program,” Mr. Biru was told by his director that the project had become “too big” and too “high profile” for him and a new global manager was hired whose Terms of Reference were nearly identical to his own. This manager, who is white, was not hired through the Bank’s normal HR procedures. Moreover, the manager confessed that the reason that Mr. Biru was not promoted, despite his excellent work, was because “Europeans are not used to seeing a black man in a position of power.”

It should be noted that there is a virtual absence of black professionals in the department where Mr. Biru worked. In 1995, during a departmental reorganization led by the Director of DECDG (one of the chief discriminators and retaliators in Mr. Biru’s case), 60% of black staff members in the department were asked to leave. The chart below compares this redundancy rate to other groups. Similarly, none of the seven black staff members who worked at DECDG under the same director between 1996 and 2009 was ever promoted. Over the same period, the Director promoted 17 non-black staff members by at least one pay grade, as shown below:

**Table 1: Nationality of staff and consultants declared redundant in DECDG in 1995 and staff promoted in DECDG between 1996 and 2009<sup>5</sup>**

Race/Origin of Staff members	Percentage declared redundant in DECDG 1995	Percentage Promoted in DECDG Between 1996 and 2009
Black	60%	0%
Asia	22%	30%
CIS and East Europe	17%	50%
Iran	0%	50%
White Western Europe	0%	50%
White North America	0%	60%

At the time that Mr. Biru submitted his racial discrimination claim, he was the only black staff member in DECDG at grade GG, a senior professional level. There was no black person at GF. Having reviewed the above, as well as evidence specific to Mr. Biru’s case, the Tribunal concluded: *“Considering the record, the Tribunal does not see any pattern of prejudice”* in the department.

<sup>5</sup> This chart excludes North Africa, the Middle East and South America because of insufficient data (less than 2 staff members from each region). Western Europe includes the UK. Iran is shown because the director is Iranian. Also, absolute numbers are not included as they are different for different time periods.

Last year, our organization, the Government Accountability Project (GAP),<sup>6</sup> released a report that supports Mr. Biru's racial discrimination claim. Our investigation found that Bank studies uniformly show that Sub-Saharan African, Caribbean and black American staff members are disadvantaged, relative to other staff, when they pursue careers at the Bank. For example, as of 2003, the latest year for which statistics were available,<sup>7</sup> black World Bank employees were 36.3% less likely to hold a managerial grade relative to equally qualified non-black employees.

### Appeals Committee

In 2008, The Appeals Committee issued its decision in Mr. Biru's case, in which it found "no business reason" to explain some of the actions taken by Mr. Biru's line supervisor. This caused the Committee to question whether Mr. Biru's supervisor "harbored personal animosity toward the Appellant." The Committee also found that Mr. Biru's managers<sup>8</sup> "poorly managed the work environment on the ICP Team" and "placed the Appellant in a difficult situation."

The Committee, however, rejected Mr. Biru's racial discrimination case. In doing so, it stated that it "recognized that the Appellant, as a tenured, talented and hard-working staff member, grew dissatisfied over the years when his significant contributions to the ICP program went without as much public recognition as he believed was appropriate ... the Panel found that as much as the Appellant may have earned the opportunity to perform the ICP/GM [Global Manager] functions, he was not *entitled* to have the function assigned to him at any particular time." (*original emphasis*)

Regarding Mr. Biru's claim that the Bank retaliated against him after he filed his discrimination complaint, the Panel ruled that it "could not conclude that the Appellant's managers retaliated against him. At the same time, the Panel was not convinced that they *did not* retaliate against him." (*original emphasis*) The Panel strongly recommended that "the Bank take immediate measures" to provide Mr. Biru "with a healthy work environment" and "immediately enter into binding mediation." The Bank failed to follow any of these recommendations.

In its decision, the Panel stated that because "the burden of proof to establish retaliation rests with the Appellant, the Panel therefore could not conclude that the Appellant's managers retaliated against him." It should be noted that this onerous burden of proof standard on a complainant favors the institution and is inconsistent with international

---

<sup>6</sup> GAP is a U.S. nonprofit public interest group that promotes accountability by protecting whistleblowers, advancing occupational free speech, and empowering citizen activists. GAP's report is available at <http://www.whistleblower.org/storage/documents/RDWB.pdf>.

<sup>7</sup> The fact that these studies are not publicly available, that apparently more recent analyses do not exist, and that the Bank does not make available the racial/ethnic profile of its staff raises serious questions about the Bank's oft-stated commitment to "diversity."

<sup>8</sup> Ms. Shaida Badiie – Mr. Biru's director and one of the chief retaliators in his case – was one of the chairs of the Appeals Committee before and during the pendency of Mr. Biru's case.

discrimination jurisprudence<sup>9</sup> and with the Bank's whistleblower protection policy, which was passed several months after the Panel issued its decision. World Bank Staff Rule 8.02 states that "*where a staff member has made a prima facie case of retaliation for an activity protected by this Rule (i.e., by showing that the staff member reported suspected misconduct under this Rule and has a reasonable belief that such report was a contributing factor in a subsequent adverse employment action), the burden of proof shall shift to Management to show – by clear and convincing evidence – that the same employment action would have been taken absent the staff member's protected activity.*" (emphasis added, para. 3.01)

If this burden shifting framework had applied in Mr. Biru's case, the burden would have shifted to Management to show that they had legitimate, non-retaliatory business reasons for the actions taken, which he alleges included: 1) refusing to provide him with meaningful terms of reference (TOR); 2) undermining his authority with his staff including denying him access to data and data processing software; 3) excluding him from important projects; 4) humiliating him in front of his colleagues; 5) sabotaging the tasks he was managing and 6) falsely assigning credit for his work to a different employee.<sup>10</sup> Management did not meet the hurdle to refute Mr. Biru's evidence and therefore should not have prevailed in this case.

According to Mr. Biru's sources, the Committee wrote a confidential letter to the Vice President of HR in which they said that they didn't rule in Mr. Biru's favor because they didn't want to set a "precedent." In this letter, which the Bank has failed to release, the Committee reportedly recommended that the VP take immediate administrative action on Mr. Biru's behalf. The Bank never denied the existence or content of this memo, but refused to release it claiming that it had "no relevance" to the case before the Tribunal.<sup>11</sup>

### **The World Bank Administrative Tribunal**

The World Bank Administrative Tribunal (AT) was originally scheduled to review Mr. Biru's case in June 2009. However, the Bank refused to release critical information that the Tribunal needed for its deliberation, which forced the AT to postpone the hearing. Mr. Biru was informed of this postponement two weeks after his manager recommended his termination in retaliation for his whistleblowing activities (described below) and a week before his termination memo was issued. The Tribunal application was finally heard in October 2009, and its ruling was not issued until March 2010. The Tribunal normally issues its decisions within four to six weeks after the hearing. No explanation

---

<sup>9</sup> In the US and EU, circumstantial evidence of discrimination is enough to shift the burden of proof to the employer. In the burden shifting framework, fairness obliges the institution to present evidence to establish that its decision was legitimate and that it was not a pretext, once the complainant has established a prima facie case of discrimination.

<sup>10</sup> For example, the Bank falsely credited the former Global Manager for guiding methodological innovations and their implementation in all regions of the world. All the consultants who took part in ICP methodological development and implementation submitted written testimonials confirming that it was Mr. Biru who managed and guided their assignments and that the former Global Manager had nothing to do with their work.

<sup>11</sup> Mr. Biru would appreciate any help that you can provide in obtaining this memo.



was given for the inordinate delay in releasing Mr. Biru's decision. In the meantime, Mr. Biru had been terminated.

GAP's evaluation of racial discrimination at the World Bank found that in the past 12 years the Tribunal has reviewed 21 cases of racial discrimination (not including Mr. Biru's), but failed to substantiate a single case. That record stands despite internal Bank studies that have repeatedly found racial discrimination to be prevalent within the institution. Given this record, it is not surprising that the AT failed to find racial discrimination in Mr. Biru's case.

In order to dismiss the racial discrimination charge, the Tribunal made three inexplicable judgments. First, it stated that the ultimate decision in the appointment of the ICP Global Manager position rested with the ICP Executive Board, which consisted of members from other Intergovernmental Organizations, rather than with his director.<sup>12</sup> But the director's testimony before the Tribunal directly contradicted this, as she admitted that she only *consulted* with the Board and that all staffing decisions were ultimately hers, not the Board's.<sup>13</sup> Furthermore, one of the Bank's HR managers and two Board members testified before the Tribunal confirming (i) the Board has no authority to appoint the Global Manager and (ii) the responsibility squarely rests with the Bank.

Second, in October 2006, the Global Manager (Mr. Vogel) retired, but was retained as a short term consultant. Contrary to normal Bank practice whereby consultants play a support role, Mr. Vogel was allowed to keep his title as Global Manager. However, since Bank rules would not allow him to perform managerial duties, Mr. Biru managed the day-to-day coordination of the program, supervised staff and administered the ICP trust fund. There was no business reason to maintain Mr. Vogel as Global Manager when he was not managing anything. Mr. Biru established this with numerous supporting documents. However, the Tribunal paid no attention to any of the documents, nor to the testimonies of Bank officials who established at the Appeals hearing that as a consultant, Mr. Vogel was not allowed to manage fund or staff.

Third, the Tribunal failed to make the Bank accountable for giving starkly conflicting testimonies and for submitting scores of false statements during the course of the proceedings. Several substantive and material examples are described below:

---

<sup>12</sup> In its ruling, the AT stated that "the Tribunal concludes that it is not in dispute that the Applicant made an important contribution to the ICP. His good performance has been acknowledged by the Bank in his OPES. But performance alone does not entitle a staff member to a particular title or promotion." (para. 73)

<sup>13</sup> In an internal email exchange that Mr. Biru was copied on by mistake, the Tribunal questioned the credibility of this supervisor, while ultimately relying on her as credible witness to rule against Mr. Biru. This email was sent by the Executive Secretary of the Tribunal, who is supposed to administer the Tribunal's proceedings, to three judges residing over Mr. Biru's case. The email, which was recalled, included a set of questions that the Secretary and another lawyer in his office drafted. This email showed that the Tribunal Secretary – who is appointed by the Bank's president – is involved in reviewing documents, analyzing arguments advanced by the Bank and Applicants, and preparing drafts for the judges. The involvement of Bank employed lawyers in the analysis and drafting of opinions and questions puts into question the independence of the Tribunal's decision-making process, which, according to the Statute of the Administrative Tribunal, is supposed to function independently of the management of the Bank Group.

**Table 2: Examples of Conflicting Statements Made  
by Bank Managers in Mr. Biru's Case**

ISSUE	Sworn Statements or Signed Submissions by Senior HR and DECDG Officials	
	Appeals Hearing (November 8, 2007)	Tribunal Hearing (October 5, 2009)
<b>Who appoints the Global Manager for ICP, The Bank or the external ICP Executive Board?</b>	<p><b>The Board</b> - "Filling the ICP Global Manager function is exclusively within the authority of the external ICP Executive Board."</p> <p><i>~Ms. Badiee and Mr. Belkindas (Respondent's written submission to Appeals Panel, Sept. 21, 2007)</i></p>	<p><b>The Bank</b> - Filling the ICP Global Manager is exclusively the prerogative of the Bank. "The role of the ICP Board is limited to providing input, but its recommendations have no relevance with the impugned administrative decisions."</p> <p><i>~ Ms. Badiee and Mr. Belkindas (Respondent's Post-hearing briefs submitted to the AT Nov. 3, 2009)</i></p>
	<p><b>The Board</b> – "As far as the Global Manager function is concerned, who should perform the function, for how long and in what format, is the decision of the Board" ... "The decision to appoint Global manager lied with the Executive Board."</p> <p><i>~Badiee and Belkindas (Appeals Hearing Transcript p. 40 and 43)</i></p>	<p><b>The Bank</b> – With respect to the Global Manager decision, "any consultation with the Board regarding staffing or functions or anything to do with the World Bank, either World Bank budget or World Bank staff of World Bank offices and so on, were input to me. And I was the decision-maker."</p> <p><i>~Badiee (Tribunal transcript p. 257)</i></p>
	<p><b>The Board</b> – I proposed to the Board for Yonas to become Global Manager, at the February 2007 meeting, but the Board wanted to continue with Fred. "I'm sorry, it broke my heart, the result, too. But, you know, and I wish the result was different."</p> <p><i>~ Badiee's sworn testimony (Appeals Transcript, p. 61)</i></p>	<p><b>The Bank</b> – At the Tribunal hearing the Bank's counsel asked Ms. Badiee: "So you had taken an independent decision [independent of the Board]...So it's not quite accurate when, in responding to this question of promise and promises and assurances, when you say, 'Well, I kept my promise. My promise was to submit your name and I did submit your name.'" Ms. Badiee replied her promise was to "Consult with the Board." The bank's counsel continued: "[you] consulted with the Board, but not to get at your decision" She responded: "Exactly."</p> <p><i>~ Tribunal Transcript p. 258</i></p>
<b>OPE Assessments:</b> In 6 years the lowest rating Mr. Biru received in (i) program management, (ii)	<b>Valid OPE-</b> "Every OPE that you see that [Yonas] has in the records is written or signed by me. So, I'm one	<b>Not Valid OPE-</b> We "regret" giving him high ratings. His OPEs were "overinflated" and "had the

<p>partnership building and (iii) leading methodological studies was “superior.” In total he had 9 “superior” and 8 “outstanding” ratings.</p>	<p>of his big fans and, you know a big supporter of what he has achieved and, you know, what he has done.”</p> <p>~<i>Badiee (Appeal Transcript p. 57)</i></p>	<p>unintended consequence of feeding into his megalomaniacal view of his performance and the resultant sense of entitlement to the Global Manager position.”</p> <p>~ <i>Badiee’s and Belkindas’ written submission to Tribunal (Nov. 3, ‘09)</i></p>
<p><b>Did the Bank follow Bank rules and guidelines in the recruitment of the former Global Manager?</b></p>	<p>No, the appointment did not go through the Bank’s formal clearance process and was not cleared by the relevant Sector Board. “With the understanding ICP Board is selecting the Global Manager we asked HR if we can circumvent the Sector Board and they said fine...”</p> <p>~ <i>Belkindas (Appeals Transcript p. 114)</i></p>	<p>Yes, Mr. Vogel was selected in 2002 following “typical Bank recruitment process.” ~ <i>Patricia Neil (HR), (Tribunal Transcript p. 57)</i></p> <p>“Absolutely, Absolutely... We followed Bank rules both in 2002 and 2006.” ~ <i>Badiee (Tribunal Transcript p. 228)</i></p>
<p><b>Did Mr. Vogel face administrative constraints to undertake his Global Manager functions as a consultant?</b></p>	<p>Yes, At the February 2007 Board meeting “[Ms. Badiee] explained that as a consultant Fred does not have the same level of administrative discretion as he had as a full-time staff member. He can only work part time for up to 150 days per fiscal year, for example, and he can not sign documents of a legal or financial nature.”</p> <p>~ <i>Board Minutes issued on 07/20/07</i></p> <hr/> <p>Yes, “All the day-to-day coordination of the ICP work and the Global Office team was basically taken over by Yonas” when Mr. Vogel’s status changed from staff to consultant.</p> <p>~ <i>Badiee (see Appeals Transcript page 38)</i></p>	<p>No, Mr. Vogel did not face administrative constraints. “Since Global Manager is <i>functional</i> title, and because Mr. Vogel continued to perform that <i>function</i>, he continued to use the Global Manager functional title” as a consultant.</p> <p>~ <i>Badiee and Belkindas (written submission to the Tribunal, Emphasis added)</i></p>

Despite this, the Tribunal concluded that Mr. Biru did not provide “any convincing reasons why the Tribunal should disregard the testimony of the Manager and the Director of DECDG.” The Tribunal not only allowed instances of false testimony and written submissions to stand, but rendered them material by basing its judgment on them as if they constituted valid evidence. Material statements that were shown to be false were not stricken or rejected but instead became part of the record and the basis of the logic underlying the judgment.<sup>14</sup> In this case, the Tribunal also: (i) erroneously blamed Mr.

<sup>14</sup> Upon request, Mr. Biru can provide additional examples of false information submitted by the Bank that was inappropriately accepted by the Tribunal. For example, the Bank falsely claimed (and the Tribunal

Biru for rejecting the Bank's alleged overtures to go to mediation, ignoring the written statement by the Mediation Office proving that the Bank was the party that refused mediation, (ii) wrongly blamed Mr. Biru for rejecting the Bank's overtures to reassign him elsewhere, even after the Bank's HR manager testified before the Tribunal that Mr. Biru was never presented with reassignment, and (iii) dismissed evidence submitted by Mr. Biru, such as an evaluation prepared by an expert witness on work place abuse, which explained the emotional and psychological toll that he suffered as a result of the Bank's failure to remedy the retaliation in his case.

### **Whistleblowing**

In March 2008 – well before the Tribunal reviewed Mr. Biru's racial discrimination claim – Mr. Biru sent an email to the Acting Senior Vice President in which he disclosed issues related to data manipulation in the ICP Global Report, which he believed put the credibility of the Bank at risk. Specifically, he maintained that the Gross Fixed Capital Formation (GFCF) data for 21 countries in Africa were fabricated by another economist. In April he sent two additional emails to the Senior Vice President in which he explained his concerns in more depth.<sup>15</sup> In addition Mr. Biru maintained the same economist tried to falsify China's and India's ICP data using data fabrication software but his attempt was rejected by the Asian Development Bank (ADB). In support of this allegation Mr. Biru submitted a written and signed testimony from the former manager of ICP-Asia at ADB.

Mr. Biru's manager subsequently issued a negative performance review (OPE) for him. That review included several statements that appeared to be made in retaliation for his whistleblowing, such as: "A number of e-mails were sent out from [the Applicant] to the team and wider audience accusing team members of fabricating data, which was very demoralizing for the team..."<sup>16</sup> The people Mr. Biru copied on his email were the Ombudsman and the Bank's Chief Ethics Officer.

In December 2008, Mr. Biru sent an email to his manager and to the people involved in the data production in which he again questioned the published data. Two days later, he was placed on a Performance Improvement Plan (PIP), eventually leading to his termination. In this PIP he was primarily critiqued for communications that "singled out individuals or groups of individuals, impugning their professionalism, competence or integrity." The PIP also stated that it was "non-productive and disruptive to share with staff and/or external parties your claims against management." This comment was made

---

wrote in its decision) that Mr. Biru was hired in 1995 by the alleged discriminators in his case. In reality, Mr. Biru was recruited in 1993 as an ICP consultant. He was not recruited by the alleged discriminators – who were not even in the Department at that time – but by two other managers.

<sup>15</sup> After Mr. Biru's OPE was issued, two eminent professors, both of whom were members of the ICP Technical Advisory Group, published an article echoing the same concerns that Mr. Biru raised. Mr. Martin Ravallion, the head of the Bank's poverty work, also validated Mr. Biru's data concerns. As a result, a section of the report had to be rewritten, data errors in a number of tables were corrected, and thousands of hard copies of the report were destroyed and new copies were printed.

<sup>16</sup> Because Mr. Biru had an appeal pending before the Tribunal, he was not allowed to contest his OPE rating to senior managers and HR.

in response to Mr. Biru's decision to ask a number of experts and regional agencies to send him written testimonials in support of his case.

The reasons ultimately used to terminate Mr. Biru clearly lacked merit. For example, some of the reasons given for his termination included:

- He prepared two papers on a topic that required complex data work and analysis, rather than one. Mr. Biru separated his report from the complex data analysis and produced two papers without requiring extra resources. The Bank used this as a reason to terminate him.
- He failed to meet the original December 31 deadline on a project completion report. Mr. Biru's managers ignored the fact that he had been granted an extension until January (which he met) to submit this report, because the consultant whose work and project were to be evaluated was not able to complete the project until January. In other words, Mr. Biru was expected to prepare a project completion report for a project that was not yet completed.
- He was instructed to produce a synthesis of six papers by March 2. At the same time, he was told that he would not receive the reports to be summarized until April 15. Mr. Biru asked for an extension of the March 2 deadline on the grounds that he could not prepare a synthesis of six papers six weeks before he was scheduled to receive the first drafts from the consultants. One reason cited for his termination was his failure to meet the impossible March 2 deadline despite the existence of a written document granting him an extension.

Mr. Biru believes that his termination represents a breach of legal, moral, and professional responsibility by the Bank, as well as a violation of the Bank's "zero tolerance" policy for racial discrimination.

### **External Arbitration Request**

Mr. Biru can challenge his termination case through the Bank's justice system. However, he has lost all faith in that process and believes that pursuing a case through these channels will not lead to his reinstatement. This belief is supported by GAP's research, as we found that of the complainants who *successfully* challenged termination on due process or substantive grounds before the AT between 2000 and March 30, 2008, less than 15 percent were actually re-instated. The remaining 85 percent were dismissed from institutional employment despite prevailing.<sup>17</sup>

---

<sup>17</sup> It should be noted that the failure of the Bank to reinstate a vindicated employee was just successfully challenged in a national tribunal. In June a Bangladesh District judge ruled that the termination of Ms. Ismet Zerín Khan, a former World Bank external affairs officer who was terminated in 2001, was "illegal, mala fide, arbitrary and that the Plaintiff is entitled to be reinstated in her post and get all arrear salaries and benefits." The Judge ruled that "the World Bank as an employer doesn't enjoy unfettered power regarding any suspension or dismissal of its employee and must follow rules contained in the Staff Manual of the bank." (emphasis added)

Mr. Biru believes that his case should be resolved through external arbitration, which can reduce some of the delay, expense,<sup>18</sup> inefficiency, and hostility associated with litigation. Labor-management arbitrations have been highly effective when the parties share costs and select the decision-maker by mutual consent through a “strike” process. It can provide an independent, fair resolution of whistleblower disputes, while circumventing the issue of whether Intergovernmental Organizations waive their immunity from national legal systems. As a Multilateral Development Bank (MDB) best practice, it was adopted as a potential resolution measure by the African Development Bank in January, 2007. Moreover, the U.S. executive director to the World Bank is required by U.S. law to promote “access to independent adjudicative bodies, including external arbitration based on consensus selection and shared costs,” for whistleblower cases.<sup>19</sup>

In addition to external arbitration in his termination case, Mr. Biru is also requesting an independent review of his racial discrimination claim. Mr. Biru is currently preparing a website that records in great detail the racial discrimination, retaliation, harassment and unjust termination that he experienced as a World Bank staff member. He is willing to present this evidence with independent, external reviewers, assuming that the Bank agrees to such an investigation.

Thank you for your consideration of this request. We look forward to a response at your earliest convenience.

Sincerely,



Bea Edwards  
International Program Director

---

<sup>18</sup> External arbitration could reduce expenses for Mr. Biru and the Bank. Mr. Biru spent more than US \$80,000 on his first Tribunal case. Regarding the Bank’s expenses, a survey by the Center for Public Resources found that its 652 reporting companies saved on average more than US\$300,000 each by implementing such alternative dispute resolution programs.

<sup>19</sup> See Sec. 1505 (a)(11) of the 2006 Foreign Operations, Export Financing and Related Programs Appropriations Act, which became Public Law 109-102 on November 14, 2005.

**Mr. Yonas Biru’s Application that the Tribunal Ruled “irreceivable” in November 2015.**

In 2015, Mr. Biru filed a complaint alleging defamation and disenfranchisement of his personnel credentials and identity. His evidence was overwhelming and concrete (see table below). The Bank argued that the Tribunal has no jurisdiction to address the matter and filed a motion to dismiss his application without reviewing the merits of the case. Accordingly, the Tribunal ruled his Application was “irreceivable”.

The first column below shows Mr. Biru true Personnel Record that World Bank officials denied under oath in 2010 and replaced it with patently false remarks shown in Column 2. In 2014 the Bank reinstated his personnel record shown in column 1 as his “official” record, but insisted on keeping the falsified record (column 2) on its website.

Mr. Biru’s personnel record that the Bank restored in 2014 and validated as “official.”	Mr. Biru’s Falsified Personnel Record that is currently on the World Bank website
<b>Global Management:</b> "Mr. Biru has multiple roles in the Bank's global management... He continues to be a very strong performer managing one of the most critical programs that the Bank has ever managed..."	"He had no management responsibility in the Bank’s global management. To be sure, he has been asked to help during spikes in work assignments as a team member"
<b>Partnership Building:</b> " He broadened the scope of the Bank's global partnership by bringing several international partners on the global program's bandwagon... His work in managing sensitive relationships between international stakeholders is very impressive... He is praised for his many skills."	"He doesn’t have the judgment and relationship management skills to be a global manager. He lacks credibility with the international community... Some of the international agencies do not want to work with him."
<b>Leadership:</b> "The global program just couldn’t be successful without his technical expertise and knowledge of key players."	"His leadership and communication skills were found wanting...The global project would be put at risk if he was made global manager"
<b>Research Management:</b> "He managed and brought to fruition important methodological innovations in critical areas that have created a lasting legacy."	[His leadership position was removed from the Bank’s publications and the credit was given to other Bank managers.]
<b>Client Orientation:</b> Biru’s 6-year annual performance evaluation before he applied for the Global Manager consisted: 4 “Superior” and 2 “outstanding- best practice” ratings. Client orientation is defined as “Understands clients' needs and concerns; Responds promptly and effectively to client needs.”	“Some regions do not want to work with him – they do not think he listens or tries to understand their perspective. He was not regarded a team player nor able to work cooperatively with others.”

The World Bank never denies the fact that it has an institutional obligation to take appropriate measures to minimize, if not eliminate, the detrimental consequences of false and defamatory public information. In Mr. Biru's case it used inexplicable argument not to honor its rules.

In 2015, the Bank's General Counsel and Senior VP for Legal acknowledged that World Bank Staff Rule 2.01, Paragraph 5.03 requires "disclosure of personal information if the appropriate Bank officials decide that it is necessary to correct false or misleading information" that is in the public domain. The Bank has three written explanations why it is not honoring this rule.

**First**, "the Bank has not deemed it necessary to disclose" the restored official record (shown in column 1 above) because the record is "hagiographic" - too good to be true. "The Bank is not in the business of painting a hagiographic image of him."

**Second**, "Paragraph 5.03 requires also that where possible, efforts shall be made to safeguard the confidentiality of the staff member... In sum, [the Bank] has always respected the confidentiality of Applicant's personnel information, in accordance with the Staff Rules." Therefore, presumably, in the interest of protecting the confidentiality of Mr. Biru's "hagiographic" record the Bank will not correct the defamatory record in the public domain.

**Third**, the Bank argued that Mr. Biru's official performance record that the HR restored in 2014 is nothing more than his "self-assessment or self-apellation of his management responsibilities and accomplishments." This is the most bizarre explanation. Dr. Biru's director is on the record stating under oath: "Every OPE [overall performance evaluation] that 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."

In 2015, the Tribunal ruled in favor of an Argentinean citizen who filed a defamation claim. The Tribunal stated that the Argentinean citizen has inviolable rights to his identity, and found the Bank liable for failing to honor and protect his rights against defamation. The judgment emphasized that the Tribunal takes defamation claims very seriously, especially when "the Bank's actions and inactions caused professional and personal harm to its staff or former staff."

The fact that Mr. Biru's record was falsified and what is on the public domain is defamatory is not contention. What is in contention were: Whether Mr. Biru has legal rights to his professional identity? If so, are his rights legally protected from defamation? The Tribunal ruled there is "no legal basis" for it to review the merits of the case and ruled it irreceivable, accepting the Bank's argument that it has neither legal basis the nor jurisdiction to review Mr. Biru's case.

### **Mr. Biru's Challenge of the Tribunal's Race-Based Judicial Double Standard**

Several studies have documented that the Tribunal jurisprudence is biased against complainants of discrimination, including those by the World Bank (1998), the US government (1999), the Government Accountability Project (GAP) and the DC Civil Rights Coalition (2015).



**Mr. Biru challenged the Tribunal's race-based jurisprudence providing several concrete examples. The Tribunal chose to ignore all of them. It chose to deny Mr. Biru access to justice by declaring his application irreceivable than to respond to his case.**

**EXAMPLE 1:** In his Application, Applicant submitted multiple medical certificates including: (i) A 12-page report prepared by Dr. Noa Davenport, confirming that he was subjected to "mobbing." Mobbing is defined in the HR literature as "an attempt to force a person out of the workplace through unjustified accusations, humiliation, demeaning actions, emotional abuse, and/or terror;" (ii) Evidence of multiple emergency room visits; (iii) Medical certificate from a psychiatrist; and (iv) Evidence of prescriptions for depression drugs.

The Tribunal's judgment read: **"The Applicant's heated rhetoric about the injury he perceives simply cannot substitute for material evidence of his serious charges. ... Naturally the Tribunal cannot accept the Applicant's allegations of bullying and intense psychological abuse, unsupported as they are by any evidence save his own assertions."** Once again the Tribunal ignored this important factor in its 2015 judgment. No explanation was given why such important material evidence was omitted or why such an omission does not provide sufficient ground for a review when considered together with other critical omissions?

The Tribunal has not explained why it accepted medical certificates submitted by White and Hispanic applicants, but not from a Black applicant (See *BB v. World Bank*, No 426, 2009; and *Andres Pizarro v. World Bank*, No. 507, 2015).

**EXAMPLE 2:** In 2010, the Tribunal found that my termination was "unlawful" and "arbitrary" but ruled that I should not be reinstated because "he has criticized his managers and engaged in communications that failed to meet the standard expected of a Bank staff member." In May 2015, the Tribunal reaffirmed its decision.

By contrast, the Tribunal's reinstated another staff in *CT v World Bank, Decision No. 512 (2015)*. Ms. CT, was terminated after she sent an email to her manager, a German national, referring to her as "Nazi Third Reich" and much more.

Evidently, the reference to "Nazi Third Reich" was mild in comparison with the rest of her emails. This led the Tribunal to state in its judgment, that "Out of respect for the privacy of [the German national] and for reasons of decency, the Tribunal refrains from reproducing the contents of the email exchange." It was clear from the Tribunal's judgment the email exchanges were many.

Nonetheless, the Tribunal found that Ms. CT's termination was unjustified and ruled: (1) "The disciplinary sanctions imposed on the Applicant are rescinded"; and (2) "The Bank shall reinstate the Applicant to a position similar to the one she was occupying at the time of the termination of her employment."

It is hard to avoid the conclusion that the Tribunal has systemic double standard for claimants who file racial discrimination claims and those who file other allegations that the judges sympathize with.