THE IMF AND SOCIAL PROTECTION

The report was prepared by the International Organizations Clinic at NYU School of Law.

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Executive Summary

Under the leadership of Christine Lagarde, the International Monetary Fund has expressed an unprecedented level of interest in income inequality, poverty, and other social issues affecting its member states. Yet while the Fund's rhetoric has clearly shifted, critics allege that its substantive policies remain unchanged, and continue to negatively affect social protection systems in its program countries.

Using a broad understanding of social protection that encompasses all policies that provide benefits to vulnerable individuals and households, the IMF is alleged to hamper social protection in four main ways:

1. The conditions the IMF attaches to loans mandate cuts that reduce the "fiscal space" available to program countries for social spending;
2. The IMF's structural adjustment programs reduce country "policy space" by eliminating certain policy tools that governments could use to fight poverty;
3. The IMF's preference for social programs that target the poorest in society leaves behind certain vulnerable sectors of the population;
4. The IMF's conception of social protection is based on a neoliberal "charity" model that is incompatible with universal dignity and human rights of all.

In July of 2017, the Independent Evaluation Office of the IMF released a report titled *The IMF and Social Protection*. The report identified deficiencies in the IMF's approach to social protection and issued five recommendations: (1) that the Fund should establish a strategic framework for the IMF's involvement in social protection, (2) that the Fund should provide detailed country-based analysis for those countries where social protection is deemed "macro-critical," (3) that IMF programs and conditionality should be designed carefully to mitigate adverse impacts, (4) that IMF communications should be clear and realistic about what it can and can't do in the field of social protection, and (5) that the Fund should actively engage in inter-institutional cooperation on social protection.

Taking the IEO's report as a starting point, this report—an independent publication of the International Organizations clinic at NYU law school—seeks to evaluate

(i) how and why the IMF has engaged with social protection to date,
(ii) whether the IMF's approach to social protection, as expressed through its policies and operations, is in line with the emerging global consensus about what social protection is and what is required to ensure the fulfilment of Sustainable Development Goal 1 (and, specifically, Target 1.3—implementation of nationally appropriate social protection systems and measures for all, including floors, and by 2030 achievement of substantial coverage of the poor and the vulnerable), and
(iii) what influence the IMF has on social protection in member states.

In order to do so, it is necessary to understand the ways in which the Fund's mandate, functions, and influence operate at the country level.

The Fund has the power to influence the social protection systems of program countries.

- Lending conditionality allows the IMF to enact its fiscal preferences for a given country in exchange for access to IMF funds.
- Article IV surveillance, technical assistance, and domestic political leverage through interpersonal relationships also allow the IMF to exert policy influence.
- Successful implementation of IMF recommendations allows program countries to access third-party sources of capital.

The IMF's mandate, as expressed in its Articles of Agreement, was traditionally read as limiting the IMF to consideration of monetary and fiscal issues, excluding social issues from its recommendations. However, beginning in the mid-to-late 2000's, the Fund introduced the concept of "macro-criticality," which permitted consideration of certain social issues and expanded the scope of activity of the Fund, and hence interpreted its mandate more broadly. Income inequality, female workforce participation, and climate change are examples of issues deemed macro-critical at the country level. Because there are no formal criteria for determining which issues are macro-critical, this judgement has been left to individual decision-makers to make.

This evolution reflects a changing landscape that has put pressure on the IMF to take poverty, inequality, and other social issues into greater consideration. For example, as low-income countries came to form a greater share of the IMF's clientele, its loan conditionality changed to include "indicative targets" mandating certain levels of social spending in LIC borrowers. The aftermath of the 2008 debt crisis, changing IMF leadership, a shift in global policy discourse toward poverty alleviation as reflected in the UN's Sustainable Development Goals, and the recent turn to populism and authoritarianism in much of the world have been additional factors motivating the IMF to expand its mandate to consider social issues.

While the political and cultural background in some country contexts might pose a barrier to direct IMF engagement with issues of social protection, the Fund wields a great deal of influence on countries and their choice of social protection policies both directly through its lending functions and indirectly through its dissemination of various forms of advice and assistance. Indicative targets for social spending (or "social spending floors") are the Fund's most employed mechanism for engaging with the social protection systems of its program countries—yet this policy instrument suffers from important flaws. Indicative targets are difficult to monitor and are non-binding, which has resulted in inconsistent implementation. Further, the IMF's "country-led" approach to domestic budget policy, while representing a move towards greater country autonomy and choice, nonetheless means that spending is often diverted to line items that have little to do with poverty alleviation. The IMF also influences social protection systems through its regular surveillance of member state economies. But in the absence of clear direction on when social issues become "macro-critical," this engagement tends to be ad-hoc and determined by the interest, expertise, and outside relationships of IMF country staff.

This points to the importance of IMF relationships with other international organizations engaged in social protection work. Collaboration with the World Bank, International Labour Organization, and UNICEF is necessary if the IMF is to maximize the expertise and efficiency of its social protection engagement. Past cooperation has largely been ad-hoc and driven by personal staff interests and relationships.

The World Bank has to date been the IMF's most important collaborator on social protection issues and possesses a deeper institutional knowledge of the subject and a larger on-the-ground staff. The Fund and the Bank have traditionally shared a preference for targeted social protection systems, but the Bank's recent endorsement of the ILO's call for universal social protection signals a potential shift. The ILO, and also to some extent UNICEF, have been regular critics of the IMF over its failure to support universal social protection systems and the fiscal policies that could fund them. Indeed, the ILO has recently opposed the growing involvement of the IMF in social issues, fearing that its restrictive fiscal approach and macro-economic focus will have a further negative effect on social protection at country level.

Partly as a result of the rise of concern about domestic and global inequality in recent years, several organizations and actors have been pressurizing the Fund to take social protection issues into account more seriously. The Sustainable Development Goals have fostered greater government receptivity to social protection reforms, serving as an opportunity to press the Fund into paying more attention to the impact of its activities on social protection in member countries.

A better way forward would require the IMF, at a minimum:

- To create strong internal policies for social protection engagement
- To routinely evaluate, both *ex ante* and *ex post* , the impact of its advice on social protection
- To deepen collaboration with key international organizations
- To open up decision-making processes
- To build a diversity of expertise, including by engaging actively with civil society

Indeed, the IMF acknowledges now that inequality fits "squarely within the IMF's mandate." However, its positive role in promoting or supporting social protection systems at present remains minimal, all the while its policy advice and financial programs can have significantly detrimental effects on social protection. While the IMF has recently begun to develop or promote research in the area of inequality and distribution, it has not, to date, built in-house resources on social protection, nor—crucially—does it gather and systematically analyze data on the impacts of its activities. Creating strong internal policies for social protection engagement and deepening collaboration with key international organizations are likely to be essential components for a better way forward for the IMF.

The IMF, however, faces several potential external and internal barriers to collaborating with other actors on social protection issues. Externally, ideological differences with other organizations, divergent operational approaches to social protection, institutional competition, and the influential and authoritative institutional position of the IMF in the global regulatory space vis-à-vis other organizations serve to complicate potential collaboration. Internally, the Fund's organizational structure, lack of staff expertise in social protection issues, insular and rigid institutional culture are impediments to collaboration.

It is not feasible for the IMF to remain on the sidelines, nor is it advisable for other actors concerned with social protection to avoid engaging with the IMF given its influence at the country level. At a minimum, the IMF should

1. Bring its understanding of social protection in line with the emerging global consensus, including by formally endorsing social protection floors,

2. Create strong internal policies for social protection engagement, seeking input from a diverse range of stakeholders,
3. Routinely evaluate, both *ex ante* and *ex post*, the impact of its advice on social protection and seek to alleviate any negative effects, and provide the necessary data for outside experts to verify and replicate IMF's assessments,
4. Be more open, transparent and collaborative in conducting surveillance, for example, with opportunities for different stakeholders to engage and put forward their analysis and priorities,[1]
5. Be more open to public national and international dialogue around its advice, policies, and underlying economic models in the context of lending programs, bringing in all relevant players—including other IOs, unions, academics, and the media. A better-informed and constructive dialogue will likely to lead to better outcomes, including for social protection,[2]
6. Undertake the process of cultural change within the institution, including by diversifying its hiring practices to appoint staff with expertise in micro-economics, law and social sciences, and encouraging and facilitating relationship-building with counterparts in other international organizations working on issues of social protection,
7. Resist the imposition of a strict "top down" collaboration policy, which may not have the necessary buy-in from staff at different levels, and instead consider implementing a broad framework for collaboration with tools that staff at various levels could use to build meaningful relationships with their counterparts,[3]
8. Encourage staff at various levels of the IMF to engage in meaningful dialogue with academics and policy makers holding views or proposing approaches to social protection that may diverge from those traditionally held by the IMF. This includes negotiating with governments to allow access to economic and social data so as to enable experts from outside of the IMF to replicate economic modeling used to calculate distributional impact and otherwise inform IMF's advice, and
9. Undertake an in-depth multi-stakeholder consultation for the purposes of identifying which mechanisms and arrangements might be more conducive to useful inter-institutional learning and knowledge sharing.

Other organizations and actors could similarly be well served by approaching social protection within the broader context of macroeconomic stability and economic growth, with the overall goal of exploring venues for creating and enhancing inter-institutional cooperation.

Introduction

On October 11, 2017, Oxfam Executive Director Winnie Byanyima took the stage to give the keynote address at the IMF's Annual Meeting, delivering a talk entitled "How Much Inequality Can We Live With?"[4] Byanyima told the audience that "subconscious tolerance of extreme inequality is like a seed planted deep within us … Extreme inequality is man-made,

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[1] Oxfam, GREAT EXPECTATIONS: IS THE IMF TURNING WORDS INTO ACTION ON INEQUALITY? 29 (October 2017), https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp-great-expectations-imf-inequality-101017-en.pdf [hereinafter Oxfam, *Great Expectations*].
[2] Interview K.
[3] Interview U.
[4] IMF, *How Much Inequality Can We Live With?*, IMF SEMINARS EVENT (Oct. 11, 2017), https://www.imf.org/external/POS_Meetings/SeminarDetails.aspx?SeminarId=262 [hereinafter IMF, *How Much Inequality Can We Live With?*].

the consequence of mistaken beliefs and misguided policies run amok." She asked the economists and international finance professionals in attendance how many "inevitable losers" they were prepared to accept as the price for prosperity at the top—how many childhood deaths? How many modern-day slaves? How much suffering? She urged that "the time has come to make a decisive break with this destructive path … we must build a truly human economy … we must re-think redistribution."

Until recently, it would have been impossible to imagine the IMF hosting such a talk.[5] Historically, the IMF has avoided engagement with the social dimension of its policies.[6] This appears to have changed primarily during the tenure of present IMF Managing Director Christine Lagarde, who has broadened the IMF's focus to include "emerging macro-critical issues" such as social protection and income inequality.[7] Byanyima however alluded to a gap between IMF statements and reality, remarking in her keynote that "we want to see [the IMF's] new thinking informing their operations, and they're not there yet … They've been responsible for giving bad advice in the past that fueled extreme inequality, now they must help us come to solutions."[8]

Indeed, while the IMF's recent tone-shift has been noticed by many and has met with a qualified welcome,[9] skeptics believe that this change in tone is primarily rhetorical, and that even if the Fund is beginning to engage with the global debate on inequality and distribution,[10] the most important policies of the IMF remain substantively unchanged since the 1980s.[11] These policies have been the subject of a voluminous literature criticizing the social consequences of IMF programs. At least four major critiques have been articulated, which will briefly be discussed below.

A *first* critique is that IMF policy advice and loan conditionality squeeze the fiscal space available to countries for social spending. The term fiscal space refers to the availability of resources that a government can allocate without threatening the sustainability of its financial position.[12] Ascertaining how much fiscal space is available in a given economy can be a question of outlook, and both IMF and UNICEF staff have emphasized that finding fiscal space

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[5] *Id.* ("I'm old enough to remember the years when we used to be held as far away as possible [by the IMF], now here I am in a plenary").
[6] Independent Evaluation Office of the IMF, THE IMF AND SOCIAL PROTECTION 6 (2017), http://www.ieo-imf.org/ieo/files/completedevaluations/SP%20-%202017EvalReport.pdf [hereinafter IEO, *Social Protection*].
[7] *Id.*
[8] IMF, *How Much Inequality Can We Live With?*, *supra* note 4.
[9] Nancy Birdsall & Nora Lustig, *The IMF on Protecting the Poor During Fiscal "Consolidations": Better Late than Never?*, CENTER FOR GLOBAL DEVELOPMENT (Oct. 23, 2017), https://www.cgdev.org/blog/imf-protecting-poor-during-fiscal-consolidations-better-late-never.
[10] *See, e.g.*, Jonathan D. Ostry, Andrew Berg & Charalambos G. Tsangarides, REDISTRIBUTION, INEQUALITY AND GROWTH (Feb. 2014), https://www.imf.org/external/pubs/ft/sdn/2014/sdn1402.pdf; Era Dabla-Norris, Kalpana Kochhar, Nujin Suphaphiphat, Frantisek Ricka & Evridiki Tsounta, CAUSES AND CONSEQUENCES OF INCOME INEQUALITY: A GLOBAL PERSPECTIVE (June 2015), https://www.imf.org/external/pubs/ft/sdn/2015/sdn1513.pdf
[11] Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *The IMF Has Not Lived Up to its Own Hype on Social Protection*, THE GUARDIAN, May 25, 2016, https://www.theguardian.com/global-development/2016/may/25/the-imf-international-monetary-fund-has-not-lived-up-to-hype-on-social-protection [hereinafter Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *The IMF Has Not Lived Up to its Own Hype on Social Protection*]; Interview F.
[12] Peter Heller, UNDERSTANDING FISCAL SPACE, INTERNATIONAL MONETARY FUND 3 (2005), https://www.imf.org/en/Publications/IMF-Policy-Discussion-Papers/Issues/2016/12/31/Understanding-Fiscal-Space-18065 [hereinafter Heller, *Understanding fiscal space*].

"is more of an art than a science."[13] Academics, civil society organizations, and other critics argue that the IMF has struck the wrong balance between fiscal consolidation and fiscal expenditure, pushing tight macroeconomic policies that cannot accommodate poverty reduction in low-income countries.[14] They point out that countries require fiscal space for social welfare expenditures, and argue that IMF-mandated budget cuts have limited the resources available for budget line items like education, healthcare, and anti-poverty programs.[15] In recent years, in recognition of the importance of social spending and inequality reduction, the Fund appears to have expanded its conceptualization of fiscal space.[16] The IMF increased the levels of "allowable" debt levels in certain contexts,[17] and has allowed for countercyclical fiscal stimulus policies in times of recession.[18] However, criticisms that the IMF continues to prioritize fiscal consolidation in ways that are contradictory and harmful to social spending have not abated.

A *second* critique is that the IMF's structural adjustment conditions reduce the policy space that countries need to fight poverty.[19] Whereas broad macroeconomic conditions directly implicate fiscal space by requiring countries to balance their budgets or reduce public debt, specific structural adjustment conditions require countries to make use of certain policy instruments and abandon others. Critics have argued that this practice limits the set of government options for dealing with poverty. For example, structural adjustment conditions which mandate that governments reduce their wage bills may create a positive fiscal balance, but they may simultaneously constrain the reach of health and education ministries.[20] Likewise, conditions requiring pension reforms (*e.g.*, to raise the retirement age or reduce payouts) may create more fiscal space but increase poverty. It has been shown that the average IMF loan program contains 12.1 structural conditions, representing a steady increase following a dip in the wake of the 2008 financial crisis.[21]

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[13] Interview E. *See also* Isabel Ortiz, Jingqing Chai & Matthew Cummins, IDENTIFYING FISCAL SPACE, UNICEF vi (2011), https://www.unicef.org/socialpolicy/files/Fiscal_Space_-_17_Oct_-_FINAL.pdf (asserting that fiscal space can always be found) [hereinafter Isabel Ortiz, *Identifying fiscal space*].
[14] International Monetary Fund, CREATING POLICY SPACE—RESPONSIVE DESIGN AND STREAMLINED CONDITIONALITY IN RECENT LOW-INCOME COUNTRY PROGRAMS 7 (2009), https://www.imf.org/external/np/pp/eng/2009/091009A.pdf [hereinafter IMF, *Creating Policy Space*].
[15] Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *The IMF Has Not Lived Up to its Own Hype on Social Protection*, *supra* note 11.
[16] Interview E ("in the last 10 years, the IMF's conceptualization of fiscal space has broadened out").
[17] Interview E. *See generally* International Monetary Fund, REVIEW OF THE DEBT SUSTAINABILITY FRAMEWORK IN LOW-INCOME COUNTRIES: PROPOSED REFORMS (2017), https://www.imf.org/~/media/Files/Publications/PP/2017/pp082217lic-dsf.ashx.
[18] In the Triennial Surveillance Review, it was recognized that in present conditions the IMF's traditional stance of urging more rapid fiscal and monetary consolidation would be unwarranted. International Monetary Fund, 2014 TRIENNIAL SURVEILLANCE REVIEW (2014), http://www.imf.org/en/Publications/Policy-Papers/Issues/2016/12/31/2014-Triennial-Surveillance-Review-Overview-Paper-PP4897.
[19] *See* Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *Did the IMF actually ease up on structural adjustments? Here's what the data say*, WASHINGTON POST, June 2, 2016, https://www.washingtonpost.com/news/monkey-cage/wp/2016/06/02/did-the-imf-actually-ease-up-on-demanding-structural-adjustments-heres-what-the-data-say/?utm_term=.05e3226b0774 [hereinafter Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *Did the IMF actually ease up on structural adjustments?*].
[20] *See* Akanksha Marphatia, *The Adverse Effects of International Monetary Fund Programs on the Health and Education Workforce*, 40 INT'L J. HEALTH SERVS 165, 165 (2010), https://pdfs.semanticscholar.org/e3bb/944202eb4a20272cd19174e1e5b3ca8c7a76.pdf?_ga=2.55127404.696416667.1523399212-556156280.1523399212 [hereinafter Marphatia, *The Adverse Effects of International Monetary Fund Programs*].
[21] Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *IMF Conditionality and Development Policy Space, 1985-2014*, 23 REV. INT POL. ECON. 543, 556 (2016) [hereinafter Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *IMF Conditionality and Development Policy Space*].

A *third* criticism is that when the IMF does engage with social protection, its preference for a "targeted" approach to the delivery of benefits harms the poor and vulnerable sections of the population.[22] This preference places the IMF on one side of a debate that has riven the social protection field, i.e. whether social protection programs should be targeted to society's neediest or be made available to all on a universal basis.[23] Critics of the IMF's approach argue that targeting is both ineffective at reducing poverty[24] and incompatible with the belief that social protection is a human right held equally by each member of society.[25]. Further, the kind of targeting advocated by the Fund—following the view that only the poorest of the poor should be targeted—has also come in for specific criticism on the basis that this would leave large swathes of the population in some of the poorest countries in the world unprotected and unprovided for.[26]

A *fourth* and related criticism is that the IMF's conception of social protection is informed by a neoliberal vision, based on a charity model that focuses on the poorest of the deserving poor, rather than a citizenship-based model of inclusive protection across the life-cycle. This critique asserts that the IMF's approach to social protection reflects flawed and unattractive beliefs about the nature of justice, citizenship, and dignity. It suggests that the choice between universalism and targeting reflects different underlying normative paradigms, such as (i) empowerment vs. stigmatization; (ii) citizenship vs. charity; and (iii) equality vs. need. LSE development economist Thandika Mkandawire for example argues that universal coverage maps onto "empowerment" for the poor while the choice to target maps onto "stigmatization."[27] Hence targeting may damage the self-respect of program recipients by separating them out from the rest of society, forcing poor people to prove their deservingness through applications, queueing, and other invasive mechanisms that put them at the mercy of a state bureaucracy.[28] Conversely, universal coverage affirms that all individuals are held by the state in equal regard, and receive benefits as a matter of course rather than as a "special benefaction" that emphasizes their separateness.[29] Universality thus is said to encourage self-respect and political engagement by the poor.

In sum, the Fund has faced sustained criticism for the negative impact of its activities on the fiscal and policy space available for countries to reduce poverty, for its targeted approach to the delivery of benefits, and for adopting an approach informed by neoliberal premises.

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[22] *See* IEO, *Social Protection*, *supra* note 6, at 15.

[23] *See* Stephen Devereux, *Is Targeting Ethical?*, 16 GLOBAL SOC. POL. 166, 166 (2016) [hereinafter Devereux, *Is Targeting Ethical?*].

[24] *See, e.g.*, Isabel Ortiz, Jingqing Chai & Matthew Cummins, AUSTERITY MEASURES THREATEN CHILDREN AND POOR HOUSEHOLDS, UNICEF 17 (2010), https://www.unicef.org/socialpolicy/files/Austerity_Measures_Threaten_Children.pdf.

[25] *See, e.g.*, Magdalena Sepúlveda Carmona, DEVELOPMENT PATHWAYS, FROM UNDESERVING POOR TO RIGHTS HOLDER: A HUMAN RIGHTS PERSPECTIVE ON SOCIAL PROTECTION SYSTEMS 7 (2014), http://www.developmentpathways.co.uk/resources/wp-content/uploads/2014/06/1-WP-From-undeserving-poor-to-rights-holder-magdalena-sepulveda.pdf.

[26] *See* Interview AG and Interview K. *See also* Oxfam's criticism of the IMF's recommendation to replace farmer subsidies with targeted cash transfers in Malawi, in which 70% of the country lives in poverty. Oxfam, *Great Expectations*, *supra* note 1, at 16.

[27] Thandika Mkandawire, TARGETING AND UNIVERSALISM IN POVERTY REDUCTION, UNITED NATIONS RESEARCH INSTITUTE FOR SOCIAL DEVELOPMENT 14 (2005), http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.579.9254&rep=rep1&type=pdf [hereinafter Mkandawire, TARGETING AND UNIVERSALISM IN POVERTY REDUCTION].

[28] *See id.*

[29] *Id.*

In response, the IMF has argued that fiscal space is often limited due to liquidity or solvency problems before the start of IMF programs and that choices on expenditure priorities, which are always necessary, are made by governments.[30] At a session on the IMF's approach to fiscal space, women and work at the 2017 World Bank and IMF Annual Meetings, when challenged about whether fiscal consolidations are ever necessary, Marialuz Morena Badia (deputy division chief in the IMF's Fiscal Affairs Department) emphasized that the reality of a limited budget with competing demands:

> You have countries who are really at the edge, who don not have access to the market. They are not collecting revenues. They are completely stuck. What would you do in that situation? Just like your household, how do you fill this hole? Are there ways in which spending can be reprioritised differently? It is about making the best of a bad situation. To answer the last question [when the IMF will decrease promoting fiscal consolidation], I hope this will happen, but I cannot insure countries won't need fiscal consolidation. We all have to be very aware we have to make choices. We have to make trade-offs.[31]

The IMF has also noted that it helps countries that wish to expand access to create the needed fiscal space to ensure the protection of poor and vulnerable. While acknowledging obstacles to efficient and effective implementation of targeting, the IMF remains nevertheless convinced that targeted measures are more effective for protecting vulnerable groups on a fiscally sustainable basis in most cases.[32] An overview of the Fund's response to criticism is provided in the Background Paper to the IEO's Report *The IMF and Social Protection*.[33]

Although the evaluation of the relative merits of the criticism of and response from the IMF is beyond the scope of this Report, an overview of the debate concerning universal vs. targeted approach to social protection, which includes some of the IMF's responses to the various critiques mentioned above, is provided in Annex A. The literature review, as well as the debate between the IMF and its critics that takes place in public fora, suggest that, (1) at the very least, there is ambivalence about the positive impact of the IMF's policies and operations on social protection and (2) while the IMF is willing to explicitly recognize that, without mitigation, its policies can have a negative impact on poverty and inequality, and has been willing to alter *some* of its methods, it has thus far been unwilling to reconsider the core of its approach or to modulate its macroeconomics-above-all framework, as urged to do by some of its critics.

Recognizing the steps taken more recently by the IMF in its work recognizing the importance of inclusive growth, mitigating inequality and paying increasing attention to social issues, this Report aims to ascertain the extent to which IMF's current work and efforts, both

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[30] *See, e.g.*, the response to the ActionAid critique by the Director of the IMF External Relations Department. Thomas C. Dawson, Dir., External Relations Dep't, *Letter to ActionAid International and Other Organizations*, IMF (Sept. 30, 2004), www.imf.org/external/np/vc/2004/093004.htm.

[31] *Contradicting commitments: Why fiscal space matters for women and work*, BRETTON WOODS PROJECT (Oct. 2017), http://www.brettonwoodsproject.org/2017/10/contradicting-commitments-fiscal-space-matters-women-work/ [hereinafter *Bretton Woods Project*].

[32] Joshua Wojnilower, EXTERNAL PERSPECTIVES OF THE IMF AND SOCIAL PROTECTION 4 (July 5, 2017), http://www.ieo-imf.org/ieo/files/completedevaluations/SP%20-%20BD2%20-%20External%20Perspectives%20of%20the%20IMF%20and%20Social%20Protection%20-%20Web.pdf.

[33] *Id.*

at the policy and operational levels, align with the developing global consensus around social protection.

Importantly, some at the IMF have acknowledged that the Fund may not have the expertise necessary to address issues of inequality and poverty satisfactorily. In the talk referenced above, responding to the question about harmful impacts of fiscal consolidation, Marialuz Morena Badia noted that:

> [I]t is important to address issues that are macro-critical where we have expertise. There are many things that can be addressed there and we are working on them, like gender-responsive budgeting. But we are not necessarily the best suited to answer many questions, as we are not the experts in this field. We would be fooling ourselves to think we can fix all things just with fiscal policy for instance. We have to be humble and focus our efforts; we have a finite budget also, so we should not overstretch ourselves.[34]

Indeed, because of the Fund's self-acknowledged limited expertise, this Report has also focused on the IMF's relationship with other international organizations working on social protection for the purposes of ascertaining whether, and if so to what extent, the IMF draws on the expertise of other stakeholders in its efforts to engage with social protection issues.

Methodology and Structure of the Report

This report has been prepared by the International Organizations Clinic at New York University, and is one of a series of own-initiative reports by the Clinic into the work of several of the international financial institutions, particularly as their activities impact the wellbeing of individuals and communities.[35] The report takes as its starting point the report of the Independent Evaluation Office on the IMF and Social Protection, and the critical literature from NGOs and academics who are engaged in research and advocacy in relation to the IMF.

The analysis in the report is based on the examination of publicly available information about the work of the IMF, World Bank, ILO, UNICEF, a survey of academic and policy literature, and supplemented by unstructured off-the-record interviews. In total, thirty three interviews were conducted with the staff of international organizations based in headquarters and field offices, as well as with academic and think tank members working on relevant issues. Roughly equal numbers of IMF and World Bank staff were interviewed. Two staff members of the ILO were interviewed and a written exchange of questions and answers was conducted with a staff member of UNICEF. Interviews were sought with staff who had expertise on issues related to social protection or who had worked in a range of countries in which issues of social protection were salient at the time of IMF involvement. Interviews with staff at organizations other than the IMF were selected based on the extent of the staff's interaction with the IMF.

To ensure candidness of responses, all interviewees were promised anonymity. Conversations with academic scholars and staff members of NGOs working on social protection issues or engaged in monitoring the work of international financial institutions are

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[34] *Bretton Woods Project*, *supra* note 31.

[35] See in particular the reports on the International Finance Corporation and the World Bank Inspection Panel. *International Organizations Clinic*, INSTITUTE FOR INTERNATIONAL LAW AND JUSTICE, https://www.iilj.org/courses/international-organizations-clinic/ (last visited Apr. 4, 2018).

also reflected in this report. In-depth country studies were not carried out, but surveys of a range of countries including Ecuador, El Salvador, Ethiopia, Honduras, Mauritania, Romania, and Vietnam were conducted as part of the research.

One of the main complications in selecting countries and interviews has been the difficulty of ascertaining where the IMF is active and what the substance of its operations is. Much of the IMF's work and, in particular loan negotiations, take place between IMF representatives and Finance Ministers, often behind closed doors. Relying solely on Article IV Surveillance reports can obscure both internal (i.e., intra-national government) and external (i.e., state-IMF) contestation of or disagreements around IMF advice and recommended reforms, as well as any discussions of the relevant trade-offs that take place between the IMF and the government and between government agencies. Moreover, not all Article IV reports are made public. Accordingly, the selection of countries and interviews for this report was guided by a preference for (i) obtaining a geographically and socio-economically diverse perspective on the IMF's operations, (ii) including countries where the IMF conducted social protection pilots, (iii) including countries that appeared to have resisted the IMF's influence, and (iv) including countries that appeared to have been receptive to the IMF's influence.

A preliminary draft of the Report was sent to the IMF's Fiscal Affairs Department and reportedly circulated among other departments with the IMF. Detailed comments as well as technical corrections and clarifications were provided to the authors. These have been incorporated and reflected in the Report, as appropriate.

The report is structured as follows. Part I introduces the concept of social protection. Part II introduces the mandate and functions of the IMF and the different modes of influence it exerts on its member countries. Part III considers the IMF's engagement with issues of social protection at a policy level, and in its country-based operations. It addresses the reasons given for the IMF for addressing social protection issues, as well as the scope and frequency of its treatment of these issues. Part IV addresses the interactions between different international organizations (in particular, the IMF, World Bank, ILO and UNICEF) on social protection issues, both at headquarters and at the field office-level, and outlines some barriers to effective collaboration. Part V concludes.

PART I

What is social protection?

What is meant by the term social protection, for the purposes of these debates? Broadly speaking, "social protection" describes policies, programs, and instruments that are "concerned with preventing, managing and overcoming situations that adversely affect people's wellbeing."[36] However, there is no universally accepted definition of social protection nor a consensus about what policies it includes or how its scope can be defined. The term has been adopted in a variety of ways by international organizations, governments, and academics, some of whom use the term interchangeably with other terms like "social spending," "social

[36] United Nations Research Institute for Social Development, COMBATING POVERTY AND INEQUALITY: STRUCTURAL CHANGE, SOCIAL POLICY AND POLITICS 135 (2010), http://www.unrisd.org/80256B3C005BCCF9/httpNetITFramePDF?ReadForm&parentunid=92B1D5057F43149CC125779600434441&parentdoctype=documentauxiliarypage&netitpath=80256B3C005BCCF9/(httpAuxPages)/92B1D5057F43149CC125779600434441/$file/PovRep%20(small).pdf.

safeguards," and "social safety nets," while others have a more demanding notion focused on the existence of a system to protect against the risks of poverty and ill-health.

The IMF uses the term social protection primarily to refer to cash transfers or social insurance programs that raise the income of specific groups burdened by a pre-defined set of social risks.[37] Indeed, the IEO noted the difficulty of evaluating the IMF's work on social protection due to a lack of clarity as to what the term means. The IEO thus understood social protection "to include policies that provide benefits to vulnerable individuals or households. Food and fuel subsidies are also covered to reflect that such policies have social protection elements, but the evaluation does not cover broader policies for long-term poverty reduction such as health and education spending."[38] The International Labor Organization (ILO) defines social protection "as the set of policies and programmes designed to reduce and prevent poverty, vulnerability and social exclusion throughout the life cycle" and including "nine main areas: child and family benefits, maternity protection, unemployment support, employment injury benefits, sickness benefits, health protection (medical care), old-age benefits, invalidity/disability benefits, and survivors' benefits."[39] Likewise, the United Nations Children's Fund (UNICEF) defines social protection to mean "a set of public and private policies and programmes aimed at reducing and eliminating economic and social vulnerabilities to poverty and deprivation,"[40] encompassing policies like universal healthcare, paid parental leave, and protections against workplace discrimination.[41]

The World Bank groups social protection together with labor and defines them as "systems, policies, and programs help individuals and societies manage risk and volatility and protect them from poverty and destitution—through instruments that improve resilience, equity, and opportunity."[42] Adopting the life cycle approach to social protection, the World Bank notes that its social protection and labor strategy is consistent with the "emerging global consensus … manifested in numerous country actions and global initiatives, including the prominent One-UN Social Protection Floor Initiative (SPF-I), adopted by the United Nations Chief Executives Board in April 2009."[43] The core elements of the Social Protection Floor Initiative include "[a] basic set of social transfers, in cash and in kind, to provide a minimum income and/or employment and livelihood security for the unemployed and working poor and

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[37] IEO, *Social Protection*, *supra* note 6, at 37.
[38] IEO, *Social Protection*, *supra* note 6, at 1.
[39] International Labour Organization, WORLD SOCIAL PROTECTION REPORT 2017-19, 194 (2017), http://www.social-protection.org/gimi/gess/RessourcePDF.action?ressource.ressourceId=54887. Social protection floors, discussed *infra*, are "basic…". *Social protection floor*, INTERNATIONAL LABOUR ORGANIZATION, http://www.ilo.org/secsoc/areas-of-work/policy-development-and-applied-research/social-protection-floor/lang--ja/index.htm (last visited Mar. 14, 2018); *New ILO Recommandation on social protection floors*, INTERNATIONAL LABOUR ORGANIZATION (June 19, 2012), http://www.ilo.org/brussels/WCMS_183640/lang--en/index.htm. The ILO's approach is generally supported by the UN as consistent with the Sustainable Development Goals. UN System Task Team On The Post-2015 UN Development Agenda, SOCIAL PROTECTION: A DEVELOPMENT PRIORITY IN THE POST-2015 UN DEVELOPMENT AGENDA (May 2012), http://www.un.org/millenniumgoals/pdf/Think%20Pieces/16_social_protection.pdf.
[40] UNICEF, INTEGRATED SOCIAL PROTECTION SYSTEMS 12 (May 2012), https://www.unicef.org/socialprotection/framework/files/UNICEF_SPSFramework_whole_doc.pdf.
[41] *Id.* at 47.
[42] The World Bank, THE WORLD BANK 2012-2022 SOCIAL PROTECTION AND LABOR STRATEGY 1, http://siteresources.worldbank.org/SOCIALPROTECTION/Resources/280558-1274453001167/7089867-1279223745454/7253917-1291314603217/SPL_Strategy_2012-22_FINAL.pdf [hereinafter The World Bank, *The World Bank 2012-2022 Social Protection and Labor Strategy*].
[43] *Id.* at 14.

[u]niversal access to essential social services in the areas of health, water and sanitation, education, food security, housing, and others defined by national priorities."[44]

The position of the European Union is that social protection is not only a right but also a "win–win" investment that pays off both in the short term, given its effects as macroeconomic stabilizer, and in the long term, due to the impact on human development and productivity."[45] The EU endorses an approach that balances universal and targeted approaches to social protection.[46]

Although differences in approaches to social protection remain, a consensus has been emerging. The World Bank strategy summarizes it succinctly:

> Consensus that social protection is a core part of pro-poor economic growth. The international community has come to consensus that social protection programs and policies have a key role to play in poverty reduction. Traditionally, this has been viewed singularly through the lens of equity and redistribution. The innovation in the last ten years is the linking of social protection to the economic growth agenda. The role of risk and vulnerability and the effects of shocks on long-term economic growth potential are now accepted as a key driver of pro-poor growth.
>
> Social protection is viewed as a basic human right by many agencies. Social protection figures prominently in many international conventions, but there is divergence among agencies as to how this right is actually perceived. There is, however, convergence on the need for systematic access to a varied set of social protection instruments. Although there is no consensus on the content of the set of social protection instruments, there is also convergence on the need to expand coverage of both social assistance and social insurance programs, notably among the poorest.[47]

Although the differences in approaches to design of social protection can be situated within larger debates about poverty reduction and development, as the discussion below will illustrate, the IMF's narrow approach appears to be out of step with the consensus that treats social protection as a long term system with expansive coverage protecting individuals from risk over the life cycle. Accordingly, this report adopts a broad understanding of "social protection," which includes all policies that provide benefits to potentially vulnerable individuals or householders. This approach is also largely consistent with the working definition provided in the IEO's 2017 report on the IMF and social protection.[48]

The Report of the Independent Evaluation Office on the IMF and Social Protection

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[44] *Id.* at 16.
[45] European Commission, STUDY ON SOCIAL PROTECTION IN SUB-SAHARAN AFRICA. FINAL REPORT 18-20 (2013), https://ec.europa.eu/europeaid/sites/devco/files/study-on-social-protection-in-sub-saharan-africa_en.pdf.
[46] *See, e.g.*, Council of the European Union, THE 2017 ANNUAL GROWTH SURVEY AND JOINT EMPLOYMENT REPORT: POLITICAL GUIDANCE ON EMPLOYMENT AND SOCIAL POLICIES - COUNCIL CONCLUSIONS 3 (Mar. 3, 2017), http://ec.europa.eu/social/main.jsp?advSearchKey=joint+employment+report&mode=advancedSubmit&catId=22&policyArea=0&policyAreaSub=0&country=0&year=0.
[47] The World Bank, *The World Bank 2012-2022 Social Protection and Labor Strategy*, *supra* note 42, at 98.
[48] IEO, *Social Protection*, *supra* note 6, at v.

The IMF's Independent Evaluation Office (IEO) 2017 report on The IMF and Social Protection[49] recommended that the IMF:

1) Establish a clear strategic framework setting the scope, objectives and boundaries of the IMF's involvement in social protection in the face of multiple competing claims on limited staff resources
2) Provide tailored advice based on in-depth analysis of the particular country situation, for countries where social protection is judged to be a macro-critical strategic priority.
3) Find more realistic and effective approaches to program design and conditionality to ensure that adverse impacts of program measures on the most vulnerable are mitigated.
4) In external communications, realistically explain the IMF's approach to social protection issues and what it can and cannot do in this area, given its mandate and limited resources and expertise.
5) Engage actively in inter-institutional cooperation on social protection to find ways to work constructively with development partners, particularly institutions with different mandates and policy priorities.

The IMF's Managing Director Christine Lagarde has expressed support for all of five recommendations and a Management Implementation Plan setting out Management's response to the IEO Report was released on January 17, 2018. A Guidance Note for staff on social protection in low income countries is currently being drafted by the Strategy Policy and Review Department of the IMF, to be issued in the 2019,[50] and a Strategic Framework will also be developed to be adopted at the Board level.[51]

Part II: The Mandate, Functions and Influence of the IMF

Overview of the IMF's mandate

Article I of the IMF's Articles of Agreement sets out the main purposes of the Fund: promoting international monetary cooperation, making the general resources of the Fund temporarily available under adequate safeguards, and contributing to the development of the productive resources of all members.[52] The Fund's mandate is supposed to be guided by these purposes and to be operationalized through its three key functions of lending, surveillance, and technical assistance (increasingly referred to as 'capacity development or capacity building).[53]

[49] *Id*. at 34-36.
[50] Interview D; International Monetary Fund, IMPLEMENTATION PLAN IN RESPONSE TO THE BOARD-ENDORSED RECOMMENDATIONS FOR THE IEO EVALUATION REPORT – "THE IMF AND SOCIAL PROTECTION" (Jan. 2018), http://www.imf.org/~/media/Files/Publications/PP/2018/pp011718-mip-on-ieo-report-onthe-imf-and-social-protection.ashx [hereinafter IMF, *Implementation Plan*].
[51] Interview L; Interview M. *See* IMF, *Implementation Plan*, *supra* note 50.
[52] Articles of Agreement of the IMF, Art. 1., 60 Stat. 1401, 2 U.N.T.S. 39.
[53] *See* International Monetary Fund, INTERNATIONAL MONETARY FUND HANDBOOK: ITS FUNCTIONS, POLICIES, AND OPERATIONS (2007), https://www.imf.org/en/Publications/Manuals-

The original role of the Fund upon its founding in 1944 was to stabilize the international monetary system.[54] In its first phase of operations until 1973, the Fund oversaw currency convertibility, supervised the exchange rate system and provided short-term financing.[55] The IMF's historic lending functions addressed balance of payment troubles, primarily in industrialized European countries.[56] However, the rise of unstable financial conditions led to a reconsideration of the Fund's role, resulting in amendments to its Articles of Agreement in 1978.[57] The amendments established the current functions of the Fund, with a revised focus on lending to less developed countries.[58] As a result of the amendments, the IMF was able to expand the scope of the matters it raised in annual surveillance consultations with member states, as well as the breadth of conditions it attached to loans.[59]

Staff members of the Fund commonly emphasize that the expertise of the IMF is in macroeconomic and financial policy, and describe the institution's mandate as being to promote international monetary cooperation and to help countries build and maintain strong economies.[60] Indeed, historically, there has been reluctance on the part of the IMF to engage with matters seen to lie outside its area of expertise in macro-economic policy and outside its mandate of promoting international monetary cooperation and strong economic systems, such as political unrest and social cohesion. The Fund's Articles of Agreement refer to the IMF adopting principles that "respect the domestic social and political policies of members and in applying these principles, pay due regard to the circumstances of members,"[61] and the IMF has stated that it is guided by a principle of political neutrality.[62] In a note on the legal framework of the Fund's mandate, the General Counsel of the IMF has declared that since all of the Fund's enumerated purposes are of an economic nature, "it has been understood that, unlike some other organizations, the Fund is precluded from using its powers for political objectives."[63]

Over time, however, the Fund's mandate has evolved, and as will be discussed further below, the category of "macro-criticality" has allowed staff to address issues not originally conceived of as being within its legal purview. IMF guidance documents define "macro-critical" issues quite broadly, as those which "affect, or [have] the potential to affect domestic

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Guides/Issues/2016/12/31/International-Monetary-Fund-Handbook-Its-Functions-Policies-and-Operations-19756.

[54] David D. Driscoll, *The IMF and the World Bank How Do They Differ?*, IMF, https://www.imf.org/external/pubs/ft/exrp/differ/differ.htm (last visited Feb. 23, 2018) [hereinafter Driscoll, *The IMF and the World Bank How Do They Differ?*].

[55] *Id.*

[56] *Id.*

[57] Adam McBeth, *A Right by Any Other Name: the Evasive Engagement of International Financial Institutions with Human Rights*, 40 GEO. WASH. INT'L L. REV. 1101, 1117 (2009) [hereinafter Adam McBeth, *A Right by Any Other Name*].

[58] Eric W. Young, The International Monetary Fund and Social Safety Net Construction: Failure in Indonesia 1997-1998 5 (Nov. 14, 2001) (unpublished M.A. thesis, Virginia Polytechnic Institute and State University) (https://theses.lib.vt.edu/theses/available/etd-05012002-230453/unrestricted/young1.pdf) [hereinafter Young, *The International Monetary Fund and Social Safety Net Construction*].

[59] Adam McBeth, *A Right by Any Other Name*, *supra* note 57, at 1117.

[60] Interview T; Interview B; *The IMF and the World Bank*, IMF (March 8, 2018), http://www.imf.org/en/About/Factsheets/Sheets/2016/07/27/15/31/IMF-World-Bank [hereinafter IMF, *The IMF and the World Bank*].

[61] Articles of Agreement of the IMF, Art. 4, § 3(b), 60 Stat. 1401, 2 U.N.T.S. 39.

[62] *The Unique Nature of the Responsibilities of the IMF*, IMF, https://www.imf.org/external/pubs/ft/pam/pam46/pam4602.htm#n33 (last visited Apr. 16, 2018).

[63] International Monetary Fund, THE FUND'S MANDATE—THE LEGAL FRAMEWORK 1 (2010), http://www.imf.org/external/np/pp/eng/2010/022210.pdf.

or external stability, or global stability."[64] During the mid- to late 2000s, the Fund began to expand the scope of the kinds of issues it addressed in its operations through reference to their macro-criticality. The Fund's focus thus broadened from the fiscal, monetary, and structural issues traditionally seen as firmly within its mandate, to also encompass issues less obviously linked to macroeconomics traditionally conceived, including gender equality, climate change, refugee migration, and income inequality.[65]

The notion of "macro-criticality" therefore functions as a gatekeeper in determining which issues can legitimately be considered by the Fund in its work. Importantly, Article XXIX of the Articles of Agreement gives the IMF the sole power to interpret its own mandate.[66] In this way, the IMF may justify its engagement with a certain issue not obviously tied to macroeconomic stability—and may implicitly limit this engagement—by characterizing it as a "macro-critical" factor contributing to economic stability including growth.[67] This power, in combination with the breadth of the mandate, has led academic Robert Hockwett to argue that the IMF's mandate does not really "mandate" anything.[68] Rather, it simply allows the Fund to respond adaptively to the dictates of globalized markets in its "capacity as an information clearinghouse and policy-coordination facilitator."[69]

It is unclear how the Fund determines whether an issue is macro-critical. IMF documents do not provide standardized criteria for ascertaining macro-criticality.[70] Current IMF guidance documents simply note that "[a]nalysis to identify key bottlenecks to growth and their macroeconomic impact may help staff determine the macro-criticality of structural issues."[71] Determining whether an issue is macro-critical is therefore left to the subjective

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[64] International Monetary Fund, GUIDANCE NOTE FOR SURVEILLANCE UNDER ARTICLE IV CONSULTATION 36 (May 2015), http://www.imf.org/external/np/pp/eng/2015/031915.pdf [hereinafter IMF, *Guidance Note*]. Similarly, issues that "may affect a country's domestic or balance of payments stability" are deemed "macro-relevant," which may be addressed in Article IV surveillance, discussed *infra* p. 15. *See* International Monetary Fund, ANNUAL REPORT 2016 (2016), http://www.imf.org/external/pubs/ft/ar/2016/eng/pdf/ar16_eng.pdf [hereinafter IMF, *Annual Report 2016*].

[65] *See, e.g.*, Kalpana Kochhar et al., *Women, Work, and Economic Growth: Leveling the Playing Field* (2017); International Monetary Fund, IMF POLICY PAPER: SMALL STATES' RESILIENCE TO NATURAL DISASTERS AND CLIMATE CHANGE—ROLE FOR THE IMF (2016), https://www.imf.org/external/np/pp/eng/2016/110416.pdf; International Monetary Fund, *Communiqué of the Thirty-Sixth Meeting of the International Monetary and Financial Committee* (Oct. 14, 2017), https://www.imf.org/en/News/Articles/2017/10/14/pr17401-communique-of-the-thirty-sixth-meeting-of-the-imfc ("We will support countries dealing with the macroeconomic consequences of pandemics, cyber risks, climate change and natural disasters, energy scarcity, conflicts, migration, and refugee and other humanitarian crises."). Cf. Despite its turn to inclusive growth, IMF has continued to define the concept of inclusion as "narrowly confined to areas concerning inequality in economic outcomes and opportunities". International Monetary Fund, FOSTERING INCLUSIVE GROWTH, prepared for the G-20 Leaders' Summit, July 7-8, 2017 Hamburg, Germany 9 (2017), https://www.imf.org/external/np/g20/pdf/2017/062617.pdf [hereinafter IMF, *Fostering Inclusive Growth*].

[66] Articles of Agreement of the IMF, Art. 29, 60 Stat. 1401, 2 U.N.T.S. 39.

[67] *See, e.g.*, Stefania Fabrizio et al., IMF STAFF DISCUSSION NOTE, FROM AMBITION TO EXECUTION: POLICIES IN SUPPORT OF SUSTAINABLE DEVELOPMENT GOALS (2015), https://www.imf.org/external/pubs/ft/sdn/2015/sdn1518.pdf (emphasizing that poverty is a facet of economic inequality, which in turn threatens macroeconomic growth).

[68] Robert Hockett, *From Macro to Micro to "Mission-Creep": Defending the IMF's Emerging Concern with the Infrastructural Prerequisites to Global Financial Stability*, 41 COLUM. J. TRANSNAT'L L. 153, 190 (2002).

[69] *Id.*

[70] *See, e.g.*, IEO, *Social Protection*, *supra* note 6, at 34 ("[W]hile macro-criticality has been the operative criterion for determining IMF engagement on structural policy issues, it remains a somewhat nebulous standard that does not provide a clear working guide for when the IMF should or should not become involved in social protection.").

[71] IMF, *Guidance Note*, *supra* note 64, at 37.

judgment of IMF staff based on the specific circumstances of the member country in question.[72] An issue that is macro-critical in one country, and therefore within the mandate of the IMF, might not be considered macro-critical in another country with different circumstances.[73] For example, rising sea levels might be macro-critical for a small island nation but not for an industrialized, landlocked country.[74] One IMF staff member interviewed in effect stated that, given the breadth of the definition of macro-criticality, any issue could be considered macro-critical.[75]

There seems to be a lack of consensus among staff members within the IMF regarding the appropriateness of the recent move into emerging macro-critical issues in light of the institution's traditional mandate.[76] For example, there was an active debate among IMF Executive and other staff about the appropriateness of considering gender inequality in the IMF's operations.[77] Critics argue that the IMF does not have the expertise to address relevant impacts, for example while promoting female labor participation it may ultimately be endangering the lives of women due to unsafe labor conditions.[78] It is also arguable that consideration of such issues is inherently micro-economic or sectoral in nature, pushing the Fund beyond its current macroeconomic expertise.

> Despite its increasing focusing on a wider range of issues deemed macro-critical, the Fund lacks standardized criteria for determining macro-criticality.
>
> Additionally, the expanding mandate is encountering internal as well as external resistance from those skeptical about the appropriateness for and capacity of the Fund to engage with such 'newer' issues as gender inequality and climate.

It is notable that the IMF treats issues of human rights as being outside its mandate. The IMF Special Representative to the United Nations has stated that while the Fund indirectly promotes human rights "by helping create an economic and institutional environment in which human rights can flourish," its Articles of Agreement do not "encompass the promotion of human rights *per se*" and that it is "precluded from using its powers to … directly engage in the promotion of human rights."[79]

The IMF's Functions

i. Programmatic loans

Background

The Fund provides programmatic loans to member states subject to conditions under Articles I and V of the IMF Articles of Agreement.[80] Article I provides that the purpose of

[72] Interview U.
[73] Interview P; Interview Q.
[74] *Id*.
[75] Interview B.
[76] Interview B; Interview L; Interview AA.
[77] Interview B.
[78] Interview F.
[79] IMF Special Representative to the UN, LETTER TO THE UN INDEPENDENT EXPERT ON THE EFFECTS OF FOREIGN DEBT 2 (July 27, 2017), http://www.ohchr.org/Documents/Issues/IEDebt/impactassessments/IMF.pdf. *See also* Interview P; Interview Q.
[80] Articles of Agreement of the IMF, Art. 1 and 5, 60 Stat. 1401, 2 U.N.T.S. 39.

lending by the IMF is "to give confidence to members by making the general resources of the Fund temporarily available to them under adequate safeguards, thus providing them with opportunity to correct maladjustments in their balance of payments without resorting to measures destructive of national or international prosperity."[81] Article V empowers the IMF to adopt conditions to govern the use of its resources.[82]

In line with the gradual expansion of its mandate, the purpose of the IMF's lending has evolved over time.[83] Initially, financial assistance helped countries address short-term trade fluctuations, support adjustment and address balance of payments problems. Today, IMF official documents describe its lending as serving three main purposes: smoothing adjustment to various economic shocks, helping to unlock financing by other lenders, and helping to prevent capital account crises.[84]

Types of Loan Programs

The Fund has several lending facilities available to member states, which include Stand-By Arrangements,[85] Flexible Credit Lines,[86] and Extended Fund Facilities.[87] These facilities are governed by the Articles of Agreement, which constrain how the Fund carries out its functions.

In 1999, the IMF established the Poverty Reduction and Growth Facility ("PRGF"), a concessional facility for low-income countries ("LICs").[88] Following reforms in 2009, this facility is now known as the Poverty Reduction and Growth Trust (PRGT) and is comprised

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81 Articles of Agreement of the IMF, Art. 1, 60 Stat. 1401, 2 U.N.T.S. 39.
82 Articles of Agreement of the IMF, Art. 5, §3, 60 Stat. 1401, 2 U.N.T.S. 39 ("The Fund shall adopt policies on the use of its general resources, including policies on stand-by or similar arrangements, and may adopt special policies for special balance of payments problems, that will assist members to solve their balance of payments problems in a manner consistent with the provisions of this Agreement and that will establish adequate safeguards for the temporary use of the general resources of the Fund.").
83 *Lending by the IMF*, IMF, https://www.imf.org/external/about/lending.htm (last visited Feb. 24, 2018) [hereinafter IMF, *Lending by the IMF*].
84 *Id*.
85 Stand-By Arrangements ("SBAs") are lending instruments commonly used by emerging market countries. SBA lending rates are non-concessional but lower than private market rates. *Id*.
86 Flexible Credit Lines ("FCLs") are facilities without ex post loan conditions, for countries with "very strong fundamentals, policies, and track records of policy implementation." *Id*.
87 Extended Fund Facilities ("EFFs") are designed to help countries address balance of payments difficulties "related partly to structural problems that may take longer to correct than macroeconomic imbalances." *Id*.
88 *The Poverty Reduction and Growth Facility (PGRF)*, IMF (July 31, 2009), https://www.imf.org/external/np/exr/facts/prgf.htm [hereinafter IMF, *The Poverty Reduction and Growth Facility*].

of: the Extended Credit Facility,[89] the Rapid Credit Facility,[90] and the Standby Credit Facility.[91] The PGRT is structured as a trust, meaning that its facilities are not subject to the Articles of Agreement beyond the purposes set out in Article I.[92] The Fund's powers are governed by a separate trust instrument which provides more flexibility in the design of conditions, including social spending targets.

In carrying out its lending functions, the Fund has often been described as an "emergency room doctor." Fund staff members interviewed emphasized that when designing loan programs, the Fund aims to "triage" urgent economic crises.[93] Impliedly, the Fund is working under time-pressured and complex circumstances in which quick decisions often need to be made. Relatedly, IMF staff tend to take the view that the institution's mandate focuses on short-term contexts, rendering the IMF ill-suited for tackling longer-term issues, although lending under the PRGT Extended Credit Facility is generally longer-term and borrowing countries are often repeat borrowers

Loan programs are designed in collaboration with the relevant government authorities.[94] Usually, only IMF mission staff, ministry of finance officials, and officials from central banks have a seat at the table in designing and negotiating loan programs and conditions.[95] Loan negotiations are confidential.[96] Once discussed and agreed by the IMF and borrowing government, loan programs are documented in a Letter of Intent for sign-off by the IMF Executive Board.[97] Letters of Intent may be revised as circumstances change.[98] IMF programs typically last up to three years, but can be extended or followed by another program.[99] Funds are typically disbursed in installments, usually with each installment dependent on any relevant conditions being met, unless they are waived.[100]

[89] Extended Credit Facility ("ECF") loans are available to LICs with protracted balance of payments problems caused by structural problems that may take longer to address than macroeconomic imbalances. IMF, *Lending by the IMF*, *supra* note 83. ECF loans include "higher levels of access, more concessional financing terms, more flexible program design features, as well as streamlined and more focused conditionality." *Id.*
[90] Rapid Credit Facility ("RCF") loans provide rapid financial assistance with limited conditionality to LICs facing an urgent balance of payments need and includes "higher levels of concessionality, can be used flexibly in a wide range of circumstances, and places greater emphasis on the country's poverty reduction and growth objectives." *Id.*
[91] Standby Credit Facility ("SCF") loans provide financial assistance to LICs with short-term balance of payments needs and includes "high access, carries a low interest rate, can be used on a precautionary basis, and places emphasis on countries' poverty reduction and growth objectives." *Id.*
[92] *See Support for Low-Income Countries*, IMF (March 8, 2018), http://www.imf.org/en/About/Factsheets/IMF-Support-for-Low-Income-Countries [hereinafter IMF, *Support for Low-Income Countries*].
[93] Interview H.
[94] IMF, *Lending by the IMF*, *supra* note 83.
[95] Interview E; Interview J; Interview L; Interview M; Teri. L. Caraway, Stephanie J. Rickard & Mark S. Anner, *International Negotiations and Domestic Politics: The Case of IMF Labor Market Conditionality*, 66 INT'L ORG. 27, 33 (2012). *See* Articles of Agreement of the IMF, Art. 5, § 1, 60 Stat. 1401, 2 U.N.T.S. 39 ("Each member shall deal with the Fund only through its Treasury, central bank, stabilization fund, or other similar agency, and the Fund shall deal only with or through the same agencies.").
[96] *See, e.g.*, International Monetary Fund, GUIDANCE NOTE ON THE FUND'S TRANSPARENCY POLICY (2013), http://www.imf.org/external/np/pp/eng/2013/112613.pdf; International Monetary Fund, FLEXIBLE CREDIT LINE—OPERATIONAL GUIDANCE NOTE 37 (2015), http://www.imf.org/external/np/pp/eng/2015/060115.pdf.
[97] *IMF Conditionality*, IMF (March 6, 2018), http://www.imf.org/en/About/Factsheets/Sheets/2016/08/02/21/28/IMF-Conditionality.
[98] IMF, *Lending by the IMF*, *supra* note 83.
[99] *Id.*
[100] *Id.*

ii. Surveillance

In addition to its role as an "emergency room doctor," the IMF has also been described as a "policeman," as it conducts regular bilateral and multilateral surveillance aimed at monitoring the macroeconomic and fiscal policies of member states.[101] As part of this surveillance, the Fund provides advice on policy adjustments in the form of annual Article IV consultations with member states that constitute a regular dialogue between the Fund and national authorities.[102] To some extent, then, the Fund's overall engagement with member countries can be characterized as more long-term than its "emergency room doctor" role might suggest.[103]

Although the Fund's surveillance activities include continuous monitoring of economic developments in the country and interactions with the authorities throughout the year, typically a surveillance mission begins when an IMF mission chief is appointed and a team is formed to undertake a desk review of macroeconomic indicators and previous dialogues had with the relevant government.[104] A questionnaire is sent to the government to ascertain any relevant economic or financial policy changes since the last consultation, and the IMF team considers changes in the macroeconomic environment, including potentially political and social issues.[105] The mission deploys IMF staff to visit the country for approximately two weeks to meet with key government officials.[106] Similar to IMF lending missions, Article IV consultations will be chiefly conducted with officials from the central bank and ministry of finance.[107] Other government authorities and stakeholders, however, might be consulted, though this depends on the specific context of the country and what issues the mission chief deems to be macro-critical.[108] Following the IMF team's evaluation, it presents a report to the IMF Executive Board, which then transmits its own views to the country authorities.[109] A press release and Article IV report might then be released summarizing the issues discussed, subject to the approval of government authorities.[110]

Issues that IMF staff may raise in Article IV consultations might be broader than those macro-critical issues that may be included in loan conditions. IMF staff may include "macro-relevant" issues in surveillance, defined as issues that "may affect a country's domestic or

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101 Interview H; Interview V. *See IMF Surveillance*, IMF (March 8, 2018), http://www.imf.org/en/About/Factsheets/IMF-Surveillance; *Surveillance*, IMF, https://www.imf.org/external/about/econsurv.htm (last visited Apr. 18, 2018) [hereinafter IMF, *Surveillance*].
102 Interview E.
103 *See* Margaret Dennis, *A New Approach to Foreign Aid: A Case Study of the Millennium Challenge Account* 4-5 (Inst. for Int'l Law and Justice Emerging Scholars Papers, Paper 12, 2008), http://www.iilj.org/wp-content/uploads/2016/08/Dennis-A-New-Approach-to-Foreign-Aid-2008.pdf (arguing that although the Articles of Agreement suggest that the time a country spends under IMF programs should be temporary and infrequent, many countries have been "frequent users" of the IMF both in terms of recidivism and the number of years they have spent under IMF programs).
104 Interview E.
105 *Id.*
106 *Id.*
107 IMF, *Surveillance*, *supra* note 101.
108 *Id.*
109 *Id.*
110 *Id.*

balance of payments stability."[111] This definition is wider than that of macro-criticality, discussed *supra*, and has been described as including the "emerging" issues of climate change, gender and inequality.[112]

iii. Technical assistance and capacity building

In addition to lending and surveillance, the IMF also provides technical assistance to member states. IMF documents state that this support is aimed at improving the design and implementation of member states' economic policies and strengthening institutions and the skills of relevant actors.[113] The Fund's technical assistance varies according to a country's needs, which may range from long-term capacity building to short-term policy support in a financial crisis.[114] The Fund provides technical assistance and capacity building in four main areas of its expertise: monetary and financial policies, fiscal policy, compilation and dissemination of statistical data, and advising on economic and financial legislation.[115]

The IMF has stated that technical assistance and capacity development are an "important complement" to its surveillance and lending work.[116] In particular, the IMF notes that training member governments can help increase the usefulness of IMF policy advice to the country, whereas surveillance work can help identify areas which might benefit from technical assistance.[117] Technical assistance can be of the country-specific variety, where the IMF accompanies its surveillance with technical assistance, or it can be more general in the form of seminars and classes on a range of subjects (such as inclusive growth, or subsidy reform) to which government ministers can sign up.

The IMF's modes of influence

i. Conditions in Lending

The conditions the IMF attaches to its loans to member countries function as a primary direct avenue of influence on member states' policies. When a country borrows from the IMF through a lending program, the country agrees to make certain adjustments to its economic policies, which are called "conditions."[118] The stated aims of these conditions are, broadly, to

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[111] IMF, *Annual Report 2016, supra* 64, at 4.
[112] *Id.*
[113] *Technical Assistance*, IMF, https://www.imf.org/external/about/techasst.htm (last visited Feb. 27, 2018) [hereinafter IMF, *Technical Assistance*].
[114] *Id*. Capacity development can be delivered through "short-term staff missions from IMF headquarters, long-term in-country placements of resident advisors, regional capacity development centers, and via online learning." *IMF Capacity Development*, IMF (March 8, 2018), https://www.imf.org/en/About/Factsheets/imf-capacity-development [hereinafter IMF, *Capacity Development*].
[115] IMF, *Technical Assistance, supra* note 113.
[116] IMF, *Capacity Development, supra* note 114.
[117] *Id.*
[118] International Monetary Fund, FACTSHEET: IMF CONDITIONALITY (March 2016), http://www.imf.org/external/np/exr/facts/pdf/conditio.pdf [hereinafter IMF, *Conditionality*].

assist countries in restoring macroeconomic stability and achieve growth while also ensuring that the country will be able to repay the Fund.[119]

Conditions can be very influential on lending countries' domestic policies. The level of influence the conditions exert, however, depends on how they are enforced. "Binding" conditions—those that require the waiver of the Executive Board in order for disbursement to occur—require that a borrowing country meets certain criteria for continued financial assistance from the Fund and apply in areas that Fund staff have deemed critical to the program's success.[120] As discussed *infra*, non-implementation could—at least in theory—result not only in suspension of a loan program, but could damage the borrowing country's reputation in international markets and affect third-party lending.[121] In contrast, conditions which do not require a Board waiver, whether "benchmarks" or "targets," are not subject to strict enforcement and apply only to those areas that are "critical" to the program's objectives.[122] While failure to meet such conditions is not liable to result in suspension of the program, IMF staff interviewed indicated that it is not in the reputational interests of borrowing countries to be listed in a public report as not meeting their benchmarks.[123]

Conditions are designed "in partnership" with country authorities, who, according to IMF documents and staff interviewed, have primary responsibility for "selecting, designing and implementing the policies that will make the IMF-supported program successful."[124] Importantly, all conditionality must be macro-critical, in contrast to issues considered in surveillance, which must only be macro-relevant, as discussed *supra*.[125]

Whether country authorities meaningfully assert ownership over conditions in negotiating loan agreements with the IMF is, however, contested. An IMF staff member asserted that the perception of the IMF's significant influence was overstated, and that the institution was on the contrary "at the mercy" of a government's willingness to take the Fund's advice because the IMF seeks to avoid damaging its relationships with countries through strict enforcement of conditions.[126]

Traditionally, conditionality focused almost exclusively on budget deficit reductions, or restrictive monetary policy and exchange rate devaluation, to address balance of payment problems and help enable countries to repay the Fund in a timely manner.[127] During this period, the doctrine of neutrality[128] informed the Fund's approach to conditionality, in that the IMF provided lending support for a country's macroeconomic adjustment efforts but left it to

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[119] IMF, *Conditionality*, *supra* note 118. *See*, International Monetary Fund, GUIDELINE□ ON CONDITIONALITY 1 (2002), http://www.imf.org/External/np/pdr/cond/2002/eng/guid/092302.pdf [hereinafter IMF, *Guidelines on conditionality*].

[120] Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *IMF Conditionality and Development Policy Space*, *supra* note 21, at 555.

[121] *Id.*

[122] *Id.*

[123] Interview C1; Interview D.

[124] *IMF, Conditionality*, *supra* note 118. *See* IMF, *Guidelines on conditionality*, *supra* note 119, at 8.

[125] *IMF, Conditionality*, *supra* note 118.

[126] Interview E.

[127] Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *IMF Conditionality and Development Policy Space*, *supra* note 21, at 548.

[128] The doctrine of neutrality holds that the IMF (and the World Bank) may only take "neutral" economic considerations into account when making a decision, rather than engaging in borrower's social objectives. *See, e.g.*, Richard Swedberg, *The Doctrine of Economic Neutrality of the IMF and the World Bank*, 23 J. OF PEACE RESEARCH 377 (1986), http://journals.sagepub.com/doi/pdf/10.1177/002234338602300406.

governments themselves to determine how to bring down deficits.[129] However, the use of "structural conditionalities" increased from the 1980s in response to new economic ideas and political pressures, gradually expanding to include social policy, labor market reforms, and "good governance" reforms.[130] As discussed *infra*, the IMF began a process of "streamlining" its conditionalities in the early 2000s in response to extensive criticism of the institution's "mission creep" into areas with no direct relevance to its areas of expertise.[131]

The influence the IMF exerts on member states through conditionality depends on global economic conditions and the need for Fund resources. The demand for IMF loans rises and falls in response to global economic conditions. For example, comparatively stable economic conditions in 2004 resulted in a reduction in demand for IMF loans.[132] The IMF also identified that a decline in lending was linked to a need to adapt its lending instruments to the changing needs of member countries.[133] In March 2009, the IMF further modernized its conditionality framework "in the context of a comprehensive reform to strengthen its capacity to prevent and resolve crises."[134] Following the global financial crisis in 2008, there was a substantial upswing in demand for loans. The IMF currently has loan programs with more than 50 countries, and has committed more than $325 billion in lending resources since the financial crisis.[135]

ii. Expertise in Surveillance and Research

There is a growing consensus that the IMF's surveillance advice has become the institution's primary avenue of influence on member states' policies.[136] A number of interviewees noted that the Fund has loan programs in a relatively small number of countries (approximately 50 out of 189 member states),[137] and has much broader reach through its surveillance activities.[138] The IMF's role as the foremost international institution concerned with ensuring international macroeconomic stability and its almost uniform composition of highly qualified economists lends its surveillance recommendations, research, and publications a great deal of clout. The Fund in recent years has also demonstrated a growing interest in fragile states, and these are generally states where there is less expertise in place and in which governments may be inclined to rely heavily on IMF advice and expertise.

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129 Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *IMF Conditionality and Development Policy Space*, *supra* note 21, at 548.
130 *Id.* at 549.
131 *Id.* at 549; IMF, *Conditionality*, *supra* note 118.
132 *See, e.g.*, IMF, *Lending by the IMF*, *supra* note 83.
133 *Id.* ("While the financial crisis has sparked renewed demand for IMF financing, the decline in lending that preceded the financial crisis also reflected a need to adapt the IMF's lending instruments to the changing needs of member countries. In response, the IMF conducted a wide-ranging review of its lending facilities and terms on which it provides loans.")
134 IMF, *Conditionality*, *supra* note 118.
135 IMF, *Lending by the IMF*, *supra* note 83.
136 Mark Kruger, Robert Lavigne & Julie McKay, THE ROLE OF THE IMF IN THE POST-CRISIS WORLD 1 (2016), http://www.bankofcanada.ca/wp-content/uploads/2016/02/sdp2016-6.pdf [hereinafter Mark Kruger, Robert Lavigne & Julie McKay, *The Role of the IMF*]; Daniel Bradlow, *The Changing Role of the IMF in the Governance of the Global Economy and Its Consequences*, 2007 SOUTH AFRICAN YEARBOOK OF INTERNATIONAL AFFAIRS 21 (2007), http://www.new-rules.org/storage/documents/global_governance/bradlow.pdf [hereinafter Bradlow, *The Changing Role of the IMF*]; Interview K.
137 Interview W.
138 Interview W.

iii. Gatekeeping for Third-Party Lending

In addition to its role as an expert purveyor of macroeconomic knowledge, the IMF also exerts indirect influence on member states' policies through its role in conferring its "seal of approval" for third parties. Given its expertise in macroeconomic stability and regular surveillance of member states, the IMF has come to provide a unique auditing function on which other international lenders rely. The Fund is therefore often described as a "gatekeeper" due to the impact of its lending and surveillance on a member state's access to third-party financing.[139]

It seems that development banks and donors may be unwilling to provide financing to countries unless the IMF has conferred its "seal of approval" by concluding that the country's macroeconomic and fiscal conditions are sufficiently stable.[140] For example, the World Bank's primary loan programs, Development Policy Loans ("DPLs"), are only available to countries which meet the IMF's standards for stability, while only in rare and exigent circumstances will the World Bank provide funding without such IMF approval.[141]

Because the IMF's assessment has broad financial implications for countries, country authorities in need of development aid—especially in low-income countries—are more likely to heed the IMF's recommendations and its approach to social spending. The IMF's support of a country's economic policies, signaled through a program or surveillance report, can be critical to national authorities, especially when they are in need of substantial financial assistance. Academic David Bradlow has argued that as a result, the IMF is now an active part of economic policymaking in developing states.[142]

However, whether the absence of the IMF's seal of approval will impede a member state's access to other sources of financing may depend on the type of assistance sought and the identity of the lender. A Salvadoran government official interviewed for this report noted that despite the fact that the country failed to meet the conditionality in its most recent IMF

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139 Robert Weissman, *The IMF on the Run*, THIRD WORLD TRAVELER (2000), http://www.thirdworldtraveler.com/IMF_WB/IMFOnRun.html [hereinafter Weissman, *The IMF on the Run*].

140 Interview H; Weissman, *The IMF on the Run*, *supra* note 139. One World Bank official, for example, stated that very few development organizations will lend without the IMF's approval. Interview V. There is some evidence of a similar dynamic occurring in El Salvador. A World Bank official explained that because there was no IMF agreement, the World Bank could not provide loans. However, it is unclear whether this was because the IMF's analysis of the poor financial state and the government's inability to mediate the solution *or* because of the IMF's lack of approval. These things may of course be correlated. Interview R.

141 Interview R. *See Development Policy Lending*, WORLD BANK GROUP, http://www1.worldbank.org/publicsector/pe/befa05/OP860.htm (last visited Apr.18, 2018); World Bank, DEVELOPMENT POLICY OPERATIONS: FREQUENTLY ASKED QUESTIONS (Nov. 10, 2009), http://siteresources.worldbank.org/PROJECTS/Resources/40940-1244732625424/Q&Adplrev.pdf.

142 Bradlow, *The Changing Role of the IMF*, *supra* note 136, at 21.

loan, it was still able to receive development aid through other donors, including the European Union[143] and the bilateral U.S. Millennium Challenge Corporation.[144]

iv. Leverage in Domestic Politics

The IMF may also exert indirect influence on member countries' policies by providing leverage in domestic politics and shifting domestic power and influence from member countries' ministries of labor to ministries of finance and central banks. IMF support gives leverage in domestic politics to ministries and political parties that advocate for the adoption of its policy recommendations. [145] The power of IMF support in domestic politics is evident from the fact that some governments proactively seek certain conditionalities in their IMF loans in order to give issues more domestic political leverage and heighten the pressure to meet certain economic goals.[146] However, the IMF does not always serve as a domestic political asset. In Ecuador, President Rafael Correa expelled both the IMF and World Bank, accusing the organizations of "extortion."[147]

The perceived macroeconomic and fiscal expertise of the IMF and the closed-door and exclusive nature of the IMF's meetings with country authorities may enhance domestic power of the finance ministries and central banks, as the chief domestic institutions with whom the Fund meets. [148] These domestic institutions already possess a large amount of power over social and economic policy, due to their power over national budgets. Therefore, such a shift in power might have broader implications for what kinds of policies and spending are prioritized.

[143] It should be noted, however, that the European Union's macro-financial assistance ("MFA") program to non-EU partner countries is intended only as a complement to IMF financing and requires a non-precautionary credit arrangement with the IMF and a satisfactory track record of implementing IMF program reforms. *Macro-Financial Assistance (MFA) to non-EU partner countries*, EUROPEAN COMMISSION, https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/international-economic-relations/macro-financial-assistance-mfa-non-eu-partner-countries_en (last visited March 6, 2018). In addition, IMF financing in Europe is often provided in conjunction with European Union financing. *The IMF and Europe*, INTERNATIONAL MONETARY FUND (March 23, 2016), http://www.imf.org/external/np/exr/facts/europe.htm.

[144] Interview X. The U.S. Millennium Challenge Corporation does, however, use IMF figures to evaluate inflation and budget deficits in evaluating indicators measuring a country's progress in economic openness, good governance, and health and wellbeing. Esther Pan, *Foreign Aid: Millennium Challenge Account*, COUNCIL ON FOREIGN RELATIONS (Feb. 7, 2005), https://www.cfr.org/backgrounder/foreign-aid-millennium-challenge-account; *Guide to Supplemental Information, FY17*, MILLENNIUM CHALLENGE CORPORATION (Sept. 20, 2016), https://www.mcc.gov/resources/doc/guide-to-supplemental-information-fy17.

[145] *See* Michael N. Barnett and Martha Finnemore, *The Politics, Power, and Pathologies of International Organizations*, INT'L ORG., Vol. 53, No. 4 699, 711 (Autumn, 1999) ("International organizations exercise power by virtue of their ability to fix meanings, which is related to classification...The discourse of development, created and arbitrated in large part by international organizations, determines not only what constitutes the activity (what development is) but also who (or what) is considered powerful or privileged, that is, who gets to do the developing (usually the state or international organizations) and who is the object of development.") [hereinafter Michael N. Barnett and Martha Finnemore, *The Politics, Power, and Pathologies of International Organizations*].

[146] IMF, *Guidelines on conditionality, supra* note 119, at 8 ("Conditionality, if well designed and established through a mutually acceptable collaborative process, can promote and strengthen ownership, in particular by demonstrating authorities' commitment to a course of action"); Interview E. *See also*, Interview L; Interview M.

[147] Hal Weitzman, *Ecuador Expels World Bank Envoy*, FINANCIAL TIMES, Apr. 27, 2007, https://www.ft.com/content/2c845102-f4e3-11db-b748-000b5df10621.

[148] In contrast, other development institutions, such as the World Bank, may meet with other ministries involved in social and labor affairs. *See e.g.*, Interview R. *Cf.* International Monetary Fund, EL SALVADOR: 2014 ARTICLE IV REPORT 2 (2015), https://www.imf.org/en/Publications/CR/Issues/2016/12/31/El-Salvador-Staff-Report-for-the-2014-Article-IV-Consultation-42594.

Importantly, finance ministries and central banks might be more likely than ministries of labor or social ministries to take a budgetary perspective focused on economic growth and efficiency rather than one concerned with the social implications of economic policies.

Unlike lending missions, surveillance missions may be growing more inclusive of other voices.[149] According to one IMF staff member interviewed, there is now broader outreach to include stakeholders like social ministries, trade unions and civil society,[150] while others expressed the opposite view.[151] Further, it was reported that even when there was a move towards broader inclusion in IMF surveillance missions, the short time frames and resource constraints required prioritizing which groups were included.[152]

From the perspective of external international actors trying to liaise with government officials, the IMF is often the only international organization with access to country authorities in the ministry of finance. A former IMF staff member indicated that this elevates the power of the IMF over that of other international organizations.[153] Given the ministry of finance's control over a country's budget, any constriction of resources resulting from IMF input will impact the efficacy of other organizations' advice on spending.[154] One World Bank staff member suggested that because of the IMF's exclusive access to these decision-makers, World Bank recommendations wielded more influence when the IMF included Bank staff in its meetings with country authorities.[155]

An ILO staff member criticized the IMF's inclusion of only economic actors in developing macroeconomic policy behind closed doors.[156] They asserted that a more open dialogue with government agencies, inclusive of all relevant stakeholders, would lead to a more informed debate and identification of the best policy solutions.[157] In contrast, an IMF staff member stated that bringing other stakeholders into discussions could derail the dialogue.[158] In Bulgaria, the IMF reportedly tried to bring the ILO and the domestic Ministry of Women into its discussions with the government which did not go well, and the Fund was ultimately blamed for the relationship breakdown.[159] Given the confidentiality of the matters discussed with the IMF, governments often do not wish to involve a larger audience.[160]

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[149] *See* IMF, *Guidance Note*, *supra* note 64, at 42 ("Staff should routinely request meetings with political leaders (e.g., parliamentarians), trade unions, business representatives and civil society organizations (CSOs), and can include their views in staff reports.").
[150] Interview E.
[151] Interview J, a resident country representative in Latin America, indicating that there was no engagement with civil society. Interviews U and AA, a resident country representative of a different country and a regional division chief of another region, expressed a similar view.
[152] Interview E.
[153] Interview B.
[154] Interview B.
[155] Interview R.
[156] Interview K.
[157] Interview K.
[158] Interview L; Interview M.
[159] Interview L; Interview M.
[160] Interview L; Interview M.

Lending conditionality is an important mode of IMF influence on member countries insofar as it incentivizes borrowers to meet specified criteria, as delinquency has potentially wide-ranging negative consequences. Nevertheless, the influence the IMF exerts through conditionality is linked to global economic conditions and demand for financial assistance. Further, some IMF staff challenge the notion that conditionality leads to greater IMF influence on country policy, arguing that the IMF is averse to damaging relationships with member countries. Relatedly, the Fund has in recent years reformed its conditionality in response to criticism.

The IMF's *surveillance advice, research*, and publications are also potentially very influential on country policies given the Fund's unique role as the main international institution concerned with macroeconomic policy, its composition of highly qualified economists, the technical nature of the Fund's work, and the confidentiality of its dialogues with government authorities.

Compliance with IMF lending conditions and surveillance advice are particularly important for countries in need of development aid, as the Fund often (if not always, to judge by the El Salvador example) provides an *auditing or gatekeeping function* for third-party lenders.

A fourth mode of IMF influence is through its *provision of leverage in domestic politics* and the *shift in domestic power* and influence to ministries of finance and central banks which its interventions tend to effectuate. Notably, the IMF is often the only international organization with regular access to countries' ministries of finance, which may give the Fund disproportionate influence over domestic budgets, and certainly relative to other institutions and organizations.

Part III: Social Protection issues in the Policy and Operations of the IMF

In 2014, IMF Managing Director Christine Lagarde asserted that "IMF advice is increasingly mindful of the social impact of economic policies."[161] As evidence of this increasing concern, she pointed to the inclusion of social spending floors under Extended Credit Facilities ("ECFs") for developing countries, the incorporation of social considerations in Article IV consultations, research on inclusive growth, and a strengthening of the Fund's collaboration with other institutions.[162] Ms. Lagarde has also repeatedly called for more emphasis on reducing excessive inequality as a matter of "good economics."[163]

However, the IMF has faced sharp criticism for what some see as a failure to bring its operations into line with its rhetoric on inequality.[164] In a recent critical evaluation of the IMF's

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161 Christine Lagarde, Managing Dir., *Challenges of Job-Rich and Inclusive Growth*, INTERNATIONAL MONETARY FUND (Oct. 8, 2014), https://www.imf.org/en/News/Articles/2015/09/28/04/53/sp100814.
162 *Id.*
163 *See, e.g.*, Christine Lagarde, Managing Dir., *Lifting the Small Boats*, INTERNATIONAL MONETARY FUND (June 17, 2015), https://www.imf.org/en/News/Articles/2015/09/28/04/53/sp061715; Christine Lagarde, Managing Dir., *Building a More Resilient and Inclusive Global Economy*, INTERNATIONAL MONETARY FUND (Apr. 12, 2017), https://www.imf.org/en/News/Articles/2017/04/07/building-a-more-resilient-and-inclusive-global-economy-a-speech-by-christine-lagarde. *See also* Christine Lagarde, Managing Dir., *The Economic Power of Women's Empowerment*, INTERNATIONAL MONETARY FUND (Sept. 12, 2014), https://www.imf.org/en/News/Articles/2015/09/28/04/53/sp091214.
164 *See, e.g.*, Oxfam, *Great Expectations*, *supra* note 1; Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *IMF Conditionality and Development Policy Space*, *supra* note 21; *Are governments and the Bretton*

integration of its inequality agenda into actual operations, in particular in Article IV surveillance, Oxfam argued that while the Fund's concern for inequality was encouraging, it has not resulted in any reduction in inequality.[165] Oxfam concluded that the Fund's surveillance advice continues to address inequality impacts only through mitigation measures, rather than questioning and redesigning its proposed structural reforms to directly benefit the poor and vulnerable.[166]

This section first explores the historic developments and current pressures that have led the IMF to recognize a range of social issues as "macro-critical" and suitable for inclusion in its loan program conditionality and Article IV surveillance recommendations. Next, the section explores the extent to which the IMF engages in social protection both at the policy level and in its operations in countries. Finally, the section considers the extent to which the IMF actually influences the social protection policies of member states.

Reorienting IMF's agenda to include social issues: changing clientele, the aftermath of crises, changing IMF leadership, and global policy & politics

The IMF's historic engagement with social issues has waxed and waned, fueled by a combination of internal and external influences, including fallouts from financial crises, pressures from member states, civil society advocacy, the Fund's relationship with the World Bank, and leadership by certain IMF managing directors.[167] The Fund's latest foray into the field of social protection appears to replicate the same pattern.

The increasingly lower-income clientele of the Fund, the perceived failures of the Fund in recent financial crises, changes to IMF membership, the prevalence of concern about poverty and inequality on the global policy agenda including the adoption of the Sustainable Development Goals, the risk to the Fund's reputation posed by rising populism and anti-globalism, the World Bank's collaboration with the ILO in social protection initiatives, and the leadership of Christine Lagarde have stimulated the IMF's engagement with social issues once again.

Why increased interest in social issues?

- Changing clientele and high social costs of conditionalities led to introduction of social safety nets.
- Global economic crises led the Fund to endorse the objective of poverty reduction and publicly engage in social issues.
- Changing leadership and a growing emphasis in global policy discourse on poverty alleviation and inequality has provided momentum for an increase in IMF engagement in poverty reduction.
- A growing wave of populism and anti-globalist politics around the world appears to have motivated the IMF to address social issues.

Woods Institutions fighting inequality?, BRETTON WOODS PROJECT (Apr. 21, 2017), http://www.brettonwoodsproject.org/2017/04/governments-bretton-woods-institutions-fighting-inequality/; Kate Donald & Nicholas Lusiani, *The IMF, Gender Equality and Expenditure Policy: The gendered costs of austerity: assessing the IMF's role in budget cuts which threaten women's rights*, BRETTON WOODS PROJECT (Sept. 21, 2017), http://www.brettonwoodsproject.org/2017/09/imf-gender-equality-expenditure-policy/.

165 Oxfam, *Great Expectations*, *supra* note 1.

166 *Id*. at 3.

167 For a more detailed discussion of how the IMF became increasingly receptive to social issues, see Antje Vetterlein, *Lacking Ownership: The IMF and its Engagement with Social Development as a Global Policy Norm* (Copenhagen Bus. Sch., GARNET Working Paper No: 52/08, July 2008), https://warwick.ac.uk/fac/soc/pais/research/researchcentres/csgr/garnet/workingpapers/5208.pdf [hereinafter Vetterlein, *Lacking Ownership*].

Yet, an analysis below of the IMF's actual engagement with issues of social protection suggests that its renewed focus at the policy level is not in step with the developing global consensus, and remains superficial at best, manifested in specific short-term interventions rather than the establishment of meaningful or effective systems; it is also often *ad hoc* and largely inconsistent.

Changing clientele

Historically, the IMF viewed its role as limited to setting fiscal parameters, producing a budgetary envelope and taking a "hands off" approach to regulating actual spending by country authorities.[168] However, as the Fund's clientele increasingly included low income countries (LICs) and emerging market economies ("EMEs") from the 1970s, the Fund sharply increased its use of conditionality.[169] This was prompted partly by transparency concerns about how funds were being spent by LIC governments, and in part by the Fund's insistence that for many LICs structural adjustments were required to remedy the balance of payment problems.[170] Over time, critics have found that these structural adjustments have had a direct, detrimental impact on poverty levels and social spending, including on social protection programs.[171] The IMF itself has declared that "that failure to adjust to serious macroeconomic imbalances has high social costs in various forms, including through implicit loss in agricultural income, loss from rising inflation, and cuts in social expenditures."[172]

In response to the negative social effects of structural adjustment programs and calls for "adjustment with a human face,"[173] in the mid-1990s, the IMF began introducing "social safety nets"[174] defined as "ad hoc or permanent arrangements that mitigate possible adverse effects of economic reform measures on the poor."[175] Safety nets may be designed differently in different countries, but typically "include a mix of limited subsidies on basic necessities

[168] Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *IMF Conditionality and Development Policy Space*, *supra* note 21, at 548; Interview B.
[169] Sabine Schlemmer-Schulte, International Monetary Fund (IMF), *in* MAX PLANCK ENCYCLOPEDIA OF PUBLIC INTERNATIONAL LAW (Oct. 2014), http://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e492?rskey=bzwCFi&result=1&prd=EPIL [hereinafter Schlemmer-Schulte, *International Monetary Fund*].
[170] IMF, *Conditionality*, *supra* note 118.
[171] *See, e.g.*, Thomas Stubbs & Alexander Kentikelenis, *Targeted Social Safeguards in an Age of Universal Social Protection*, 28 CRITICAL PUB. HEALTH 132 (2018) (noting that capping of wage bills, which can lead to reduction in the quality of services such as education and health care, is still a feature of many IMF program) [hereinafter Thomas Stubbs & Alexander Kentikelenis, *Targeted Social Safeguards*].
[172] *Social Dimensions of the IMF's Policy Dialogue*, INTERNATIONAL MONETARY FUND, http://www.imf.org/external/pubs/ft/pam/pam47/pam4703.htm (last visited March 14, 2018). *See also* World Bank, APPENDIX HISTORY OF SOCIAL SAFETY NETS AT THE WORLD BANK, http://ieg.worldbankgroup.org/sites/default/files/Data/reports/chapters/ssn_appa.pdf.
[173] *See, e.g.*, *Social and Economic Policy*, UNICEF, https://www.unicef.org/socialpolicy/index_52510.html (last visited March 14, 2018); Giovanni Andrea Cornia et al., *Adjustment with a Human Face : protecting the vulnerable and promoting growth*, UNICEF (1987).
[174] *See* IEO, *Social Protection*, *supra* note 6; International Monetary Fund, *SURVEILLANCE GUIDANCE NOTE* (2005).
[175] International Monetay Fund, *Social Safety Net in Economic Reform* 23, EBS/93/34 (1993) [hereinafter IMF, *Social Safety Net in Economic Reform*]. *See also* Ke-young Chu & Sanjeev Gupta, *Social Safety Nets: Issues and Recent Experience* (1998) [hereinafter Ke-young Chu & Sanjeev Gupta, *Social Safety Nets: Issues and Recent Experience*]; François-Xavier Merrien, *Social Protection as Development Policy: A New International Agenda for Action*, 4.2 INTERNATIONAL DEVELOPMENT POLICY 89, 93 (2013) [hereinafter Merrien, *Social Protection as Development Policy*]; Young, *The International Monetary Fund and Social Safety Net Construction*, *supra* note 58.

(particularly basic foodstuffs), social security arrangements (such as pensions and unemployment benefits), and possibly public works programs adapted for this purpose."[176] The Fund for some time also reduced its conditionalites apparently to provide greater policy space to borrowing countries,[177] but more recently appeared to increase them again.[178]

The aftermath of crises

In 1999, on the heels of the East Asian financial crisis, the IMF officially subscribed to the objective of "poverty reduction" by joining the World Bank-initiated Poverty Reduction Strategy initiative. In order to implement this new framework, the Fund established the Poverty Reduction and Growth Facility ("PRGF"), a concessional lending facility for LICs, subsequently replaced by the Poverty Reduction and Growth Trust ("PRGT"),[179] discussed *supra*. These programs require the development of a Poverty Reduction Strategy ("PRS") by the borrowing country, which functions as the basis for concessional lending and the design of policy conditions.[180] Official IMF documents indicate that a PRS should set out "how macroeconomic, structural, and social policies and programs can promote growth and reduce poverty," outline external financing needs and sources, and be prepared by governments in conjunction with civil society and development partners.[181] Social issues were thus incorporated into conditionality.[182] The IMF's participation in the PRS initiative also required much more data, in particular social indicators and poverty measurements, including an *ex ante* social impact analysis and monitoring.[183]

From the launch of the PRGF, poverty and social impact analyses ("PSIAs") were seen as a core aspect of the Bank's responsibility, and the Fund was expected to integrate the Bank's analysis into program design.[184] However, Fund staff apparently found the Bank's work lacking in quality and relevance to the IMF's needs.[185] Therefore, in 2004 the Fund established its own unit to conduct PSIAs within the Fiscal Affairs Department ("FAD") and hired social scientists to consult Fund economists on the social aspect of their country missions.[186] The Fund thus began to build knowledge in impacts assessment and generating alternative measures.[187] However, the proposal to hire more non-economists on a permanent basis was defeated by the Board.[188] The IMF Executive appears to have decided that this work lay outside

[176] IMF, *Social Safety Net in Economic Reform*, *supra* note 175, at 23. *See also* Ke-young Chu & Sanjeev Gupta, *Social Safety Nets: Issues and Recent Experience*, *supra* note 175; Merrien, *Social Protection as Development Policy*, *supra* note 175; Young, *The International Monetary Fund and Social Safety Net Construction*, *supra* note 58.
[177] *See* IMF, *Creating Policy Space*, *supra* note 14.
[178] Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *Did the IMF actually ease up on structural adjustments?*, *supra* note 19.
[179] *See* IMF, *The Poverty Reduction and Growth Facility (PGRF)*, *supra* note 88.
[180] IMF, *Support for Low-Income Countries*, *supra* note 92.
[181] *Poverty Reduction Strategy in IMF-supported Programs*, IMF (March 14, 2016), http://www.imf.org/external/np/exr/facts/prsp.htm.
[182] Vetterlein, *Lacking Ownership*, *supra* note 167, at 16-18.
[183] *Id.* at 17-18.
[184] Jianping Zhou, IMF COLLABORATION WITH PARTNER INSTITUTIONS ON SOCIAL PROTECTION 7 (July 5, 2017), http://www.ieo-imf.org/ieo/files/completedevaluations/SP%20-%20BD7%20-%20IMF%20Collaboration%20with%20Other%20Institutions%20on%20SP%20-%20Web.pdf [hereinafter Jianping Zhou, *IMF Collaboration*].
[185] *Id.*
[186] Vetterlein, *Lacking Ownership*, *supra* note 167, at 18.
[187] Jianping Zhou, *IMF Collaboration*, *supra* note 184, at 7.
[188] Vetterlein, *Lacking Ownership*, *supra* note 167, at 18.

the Fund's core mandate and absorbed too many resources.[189] This accords with the view of one Fund staff member who described his experience of PSIAs as time-intensive and resource-intensive.[190] In 2008 this unit was accordingly disbanded, and the Fund's engagement with social issues reverted once more to being guided by its historic position that the Fund has neither the mandate nor the expertise to become deeply involved in social policy. The IEO in its recent report notes that it is hard to identify at present whether or what poverty and social impact-assessment work is being carried out by the IMF as opposed to by the World Bank.[191] The PSIA unit was ultimately dissolved,[192] although its work is said to have been "mainstreamed" into the activities of the Fiscal Affairs department. Further, the IMF claims that its recent initiative on inequality has extended such distributional analysis to the impact of macroeconomic reforms.[193] Despite the inclusion of social safety nets in its lending programs, the IMF's policy advice continued to be informed by the so-called "Washington Consensus" neoliberal approach, favoring low government borrowing, privatization, deregulation, and trade liberalization.[194] According to academics Sarah Babb and Alexander Kentikelenis, even after the Asian financial crisis and the Argentine debt crisis in the late 1990s and early 2000s, the Fund refused to question the soundness of Washington Consensus policies.[195] Whereas critics viewed the IMF's neoliberal approach to economic reforms as exacerbating the financial crises and plight of the poor, the Fund believed that the crises resulted from insufficient attention being paid to domestic governance and fiscal policy.[196]

The 2008 global financial crisis both reinvigorated the relevance of the IMF in global financial regulation[197] and at the same time highlighted the fallibility of the Fund's expertise. In particular, the IMF admitted that it had made mistakes in its assumptions, calculations, and decisions taken with respect to Greece during the 2009 Eurozone crisis.[198]

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189 Jianping Zhou, *IMF Collaboration*, *supra* note 184, at 7.
190 Interview C1.
191 *See generally* IEO, *Social Protection*, *supra* note 6.
192 Jianping Zhou, *IMF Collaboration*, *supra* note 184, at 7.
193 *See* Prakash Loungani and Jonathan Ostry, *The IMF's Work on Inequality: Bridging Research and Reality*, IMFBLOG (Apr. 16, 2018, 2:00 PM), https://blogs.imf.org/2017/02/22/the-imfs-work-on-inequality-bridging-research-and-reality/.
194 Sarah L. Babb & Alexander E. Kentikelenis, *International Financial Institutions as Agents of Neoliberalism*, *in* THE SAGE HANDBOOK OF NEOLIBERALISM 16, 20 (Damien Cahill, Martijn Konings, Melinda Cooper & David Primrose eds., 2018).
195 *Id.*
196 *Id.*
197 Leading up to the 2008 global financial crisis, the relative global economic stability resulted in a decline in use of the IMF by member states. *See, e.g.*, IMF, *Lending by the IMF*, *supra* note 83; Interview B. Notably, the 2008 financial crisis also resulted in a reversal of traditional creditor and borrower identities, with advanced economies became debtors and emerging markets and developing countries became creditors. Mark Kruger, Robert Lavigne & Julie McKay, *The Role of the IMF*, *supra* note 136, at 1.
198 Larry Elliott, Phillip Inman, & Helena Smith, *IMF admits: we failed to realise the damage austerity would do to Greece*, THE GUARDIAN, June 5, 2013, https://www.theguardian.com/business/2013/jun/05/imf-underestimated-damage-austerity-would-do-to-greece. The 2016 IMF IEO Report found that the Fund failed to foresee the magnitude of risk and noted its lack of familiarity with how to design programs for Euro-area members. The report also highlighted the perception that the IMF treated Europe more favorably than other borrowers, and that political pressures from dominant shareholders shaped lending and surveillance decisions. Independent Evaluation Office of the IMF, THE IMF AND THE CRISES IN GREECE, IRELAND, AND PORTUGAL 1-2 (2016), http://www.ieo-imf.org/ieo/files/completedevaluations/EAC%20-%20Full%20Report.pdf [hereinafter IEO, *The IMF and the Crises in Greece, Ireland, and Portugal*].

Changing leadership

In the wake of the global financial crisis, then-Managing Director Dominique Strauss-Kahn directed IMF staff to pay due attention to social protection in Fund-supported programs. In 2009, the Fund Directors agreed that "programs supported by the streamlined LIC facilities should safeguard and, whenever appropriate, increase social and other priority spending."[199] At the same time, the Fund introduced significant institutional and operational reforms. In December 2010, the IMF Board approved the doubling of voting quotas with an approximately 6% point shift in voting shares to emerging market and developing countries such as Brazil and China.[200] In December 2015, quota share reform legislation was approved by the US, enabling this increased representation.[201] The reforms were considered necessary "to more accurately reflect the growing global influence of emerging market economies, [...] boost the IMF's legitimacy as a global financial institution," [202] and ensure that the IMF becomes more responsive to the poorest countries (by enhancing the capacity of their representation through an additional Alternate Director).[203]

Global policy discourse

Global policy discourse on poverty alleviation and inequality, including social protection, continues to highlight the tension between the desire of IMF leadership to commit the Fund to an agenda of poverty reduction and the reduction of income inequality on the one hand and concerns about the scope of the Fund's mandate and expertise on the other. For example, since 2014 the Managing Director's twice-yearly Global Policy Agenda has included a commitment on the part of the IMF to provide policy advice on "macro-critical structural issues" including income inequality.[204] However, the Executive Directors continue to assert "that this work should be focused on macro-critical areas related to the Fund's mandate and should not duplicate the efforts of other international organizations."[205]

[199] Alisa Abrams, THE IMF'S ROLE IN SOCIAL PROTECTION: FUND POLICY AND GUIDANCE 4 (July 5, 2017), http://www.ieo-imf.org/ieo/files/completedevaluations/SP%20-%20BD1%20-%20Fund%20Policy%20and%20Guidance%20-%20Web.pdf [hereinafter Alisa Abrams, *The IMF's Role in Social Protection*].
[200] *IMF's Response to the Global Economic Crisis*, IMF (Mar. 22, 2016), http://www.imf.org/en/About/Factsheets/Sheets/2016/07/27/15/19/Response-to-the-Global-Economic-Crisis.
[201] Mark Kruger, Robert Lavigne & Julie McKay, *The Role of the IMF*, *supra* note 136, at iii.
[202] Jeff Tyson, *3 things to know about IMF quota reform*, DEVEX, Jan. 11, 2016, https://www.devex.com/news/3-things-to-know-about-imf-quota-reform-87569. *See, e.g.*, Colin I. Bradford, Johannes F. Linn & Ralph C. Bryant, *Experts Critique Proposal for International Monetary Fund Quota Reform*, BROOKINGS INSTITUTION (Apr. 9, 2008), https://www.brookings.edu/opinions/experts-critique-proposal-for-international-monetary-fund-quota-reform/; Marin Foo, *The unfinished business of IMF quota reform*, EAST ASIA FORUM (Oct. 22, 2015), http://www.eastasiaforum.org/2015/10/22/the-unfinished-business-of-imf-quota-reform/. This development reflects broader shifts in the global economy, such as the rise of BRICS countries and creation of the New Development Bank and Asian Infrastructure Investment Bank.
[203] For skepticism regarding the impacts of reforms, see Ngaire Woods, THE INTERNATIONAL RESPONSE TO THE GLOBAL CRISIS AND THE REFORM OF THE INTERNATIONAL FINANCIAL AND AID ARCHITECTURE (2009), http://www.europarl.europa.eu/document/activities/cont/200909/20090922ATT60987/20090922ATT60987EN.pdf.
[204] Alisa Abrams, *The IMF's Role in Social Protection*, *supra* note 199, at 5.
[205] *Id.*

This tension is further reflected in the IMF's response to the UN Sustainable Development Goals (SDGs), adopted in 2015, which call for an international collective effort among all countries and stakeholders.[206] The SDGs include the goal of "ending poverty," in part through "the implementation of nationally appropriate social protection systems" including social protection floors by 2030.[207] Other relevant goals include ensuring healthy lives for all and achieving universal health coverage,[208] decent work and economic growth,[209] and reduced inequality.[210] In a 2015 official document, the IMF declared that it is "strongly committed, *within the scope of its mandate*" to the Sustainable Development Agenda and that it had "started deepening its focus on aspects of economic, social, and gender inclusion, and environmental protection, which are core SDG objectives and vital for balanced and sustained growth."[211] The document asserts that the IMF will expand its focus on inequality, in particular in developing a framework to analyze the distributional impacts of macroeconomic policies and structural reforms, deepening its analysis of the role of fiscal policy on inequality, creating a template for evaluating the distributional impacts of energy subsidy reform, analyzing the gender dimensions of financial inclusion, and conducting more country-level analysis of policies to raise female labor force participation.[212]

Importantly, however, the IMF's plan for implementing the SDGs does not take a position on social protection floors or universal health coverage.[213] Moreover, despite Ms. Lagarde's statement that the IMF has been working with the ILO and other international organizations to build effective and sustainable social protection floors,[214] such partnerships have not on the whole been successful, as discussed in Part Four *infra*. Indeed, the IEO recently noted that there is a tension between the targeted approach traditionally preferred by the IMF and the rights-based approach to social protection espoused "by the UN and its related agencies".[215] The IEO has also expressed concern over the Fund's future collaboration with the World Bank given the 2015 ILO-World Bank Universal Social Protection Initiative,[216] which seeks to support countries in designing and implementing universal and sustainable social protection systems.[217]

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[206] G.A. Res. 70/1 (Sept. 25, 2015).
[207] *Id.* at 15.
[208] *Id.* at 16-17.
[209] *Id.* at 19-20.
[210] *Id.* at 21.
[211] International Monetary Fund, THE ROLE OF THE IMF IN SUPPORTING THE IMPLEMENTATION OF THE POST-2015 DEVELOPMENT AGENDA 6 (2015), https://sustainabledevelopment.un.org/content/documents/10419The%20Role%20of%20the%20IMF%20in%20Supporting%20the%20Implementation%20of%20the%20Post%202015%20Devt%20Agenda%202015-Sept-28.pdf. [emphasis added]
[212] *Id.* at 10-11.
[213] *See id.*
[214] *Press Release. Oslo Conference Calls for Commitment to Recovery Focused on Jobs, No. 10/339*, INTERNATIONAL MONETARY FUND (Sept. 13, 2010), http://www.imf.org/en/News/Articles/2015/09/14/01/49/pr10339; *ILO and the International Monetary Fund*, INTERNATIONAL LABOUR ORGANIZATION, http://www.ilo.org/washington/areas/multilateral-initiatives/ilo-and-imf-collaboration/lang--en/index.htm (last visited Apr. 18, 2018).
[215] IEO, *Social Protection*, *supra* note 6, at 13.
[216] The relationship between the IMF, the World Bank and the ILO is discussed further in Part IV.
[217] IEO, *Social Protection*, *supra* note 6, at 29. A Joint Concept Note released by the ILO and World Bank articulates an approach to social protection that is "universal", "across the life cycle" and achieves "inclusive growth." In the Note, there is no reference to language historically used by the World Bank to describe social protection such as conditionality, targeting, risk management or graduation, which might signal a move away from a more traditional "safety net" approach. *Urgent: World Bank safety net needed*, DEVELOPMENT PATHWAYS,

Politics and populism

The pressures on the IMF to deepen its engagement with poverty alleviation and reducing economic inequality are made more salient by the current political climate. The rise of populism and anti-globalism in national politics is undoubtedly impacting the IMF's approach to social issues, particularly as increased economic inequality is often seen as a consequence of economic globalization.[218] The Fund's own research into the distributional impacts of financial globalization has acknowledged that an increase in inequality can occur following capital account liberalization, particularly where certain levels or thresholds of financial and institutional development have not yet been attained.[219] This acknowledgement, public opinion, and the desire to minimize risk to the IMF's reputation likely increase existing pressure on the Fund to take social issues into account. The relationship between globalization, technology and perceptions of inequality are also relevant. As a Fund staff member commented, with the advent of cellphones, too many people living in poverty now see the quality of life in other countries and are no longer satisfied with their own poor living conditions.[220]

Social Protection in the IMF's policies

The IMF does not yet have a clear definition of, nor a policy on, social protection. As mentioned above, the IMF typically uses the term "social protection" when referring to cash transfers or social insurance programs that raise the income of specifically identified groups burdened by a predefined set of social risks. The IMF also at times uses the term "social safeguards" to refer collectively to the instruments it uses to address social issues. According to an official IMF document, this term includes "minimum floors for social and other priority spending,[221] which are typically established using indicative targets".[222] It also includes

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http://www.developmentpathways.co.uk/resources/urgent-world-bank-safety-net-needed/ (last visited March 15, 2018).

[218] *See, e.g.*, Dani Rodrik, *Populism and the economics of globalization*, J. INT'L BUS. POL'Y (2018), https://drodrik.scholar.harvard.edu/files/dani-rodrik/files/populism_and_the_economics_of_globalization.pdf [hereinafter Dani Rodrik, *Populism and the economics of globalization*]; Matt Clinch, *IMF's Lagarde says 'I told you so' on populist backlash*, CNBC, Jan. 18, 2017, https://www.cnbc.com/2017/01/18/imfs-lagarde-says-i-told-you-so-on-populist-backlash.html.

[219] David Furceri & Prakash Loungani, *Capital Account Liberalization and Inequality* 15 (IMF, Working Paper, WP/15/243), https://www.imf.org/external/pubs/ft/wp/2015/wp15243.pdf. *See also* Dani Rodrik, *Populism and the economics of globalization*, *supra* note 218 (studying 224 episodes of capital account liberalization and concluding that it can lead to statistically significant and long-lasting declines in the labor share of income and corresponding increases in income inequality).

[220] Interview B.

[221] Social spending is "generally defined to include spending on health, education and social safety nets." International Monetary Fund, SOCIAL SAFEGUARDS AND PROGRAM DESIGN IN PRGT AND PSI-SUPPORTED PROGRAMS 6 (Apr. 21, 2017), https://www.imf.org/en/Publications/Policy-Papers/Issues/2017/06/01/pp042117social-safeguards-and-program-design-in-prgt-and-psi [hereinafter IMF, *Social Safeguards*].

[222] *Id.* An indicative target is a quantitative indicator used to measure a state's progress towards meeting the set objectives of an IMF program, but it is a softer target than others used by the IMF since—unlike "quantitative performance criteria" does not require a waiver from the Executive Board in order to proceed with payment of loan instalments if the target is not met. *Id.*

"specific reform measures[223] designed to protect vulnerable groups,[224] which are sometimes established as "prior actions" (meaning they must be agreed before the Executive Board approves financing) or "structural benchmarks" (non-quantifiable reform measures that are used to assess progress) under Fund-supported programs."[225] Importantly, these uses, even collectively, fall short of the emerging global consensus on the meaning of social protection, as described above.

The IMF's approach to social issues is narrower than the emerging global consensus on social protection. Given that the Fund's mandate has been broadly and flexibly interpreted, most recently through the tool of macro-criticality, the Fund's reluctance to embrace a broader understanding of social protection is not driven by the mandate restriction but rather appears to be a result of policy and institutional considerations.

The IEO's recent report on the IMF's engagement with social protection concluded that while "social protection is not an explicit part of the IMF's mandate [it] has received increasing attention from the Fund as an important contributor to macroeconomic stability."[226] As alluded to above, however, the IMF's engagement with social issues has faced resistance due to concerns about whether consideration of social issues properly falls within the scope of the Fund's mandate. Accordingly, a few preliminary points should be made about the extent to which the IMF's mandate does or should inhibit its engagement with social protection issues.

First, consideration by the Fund of the potentially adverse distributional or social effects of its work, and attempts to alleviate such effects, is certainly not a new development.[227] In fact, over the years the Fund has continuously searched for ways "to operationalize the growing external pressure and changing views on development with its own mandate and conviction that development equals economic growth."[228]

Second, while the mandate of the Fund has often been described as highly limited, it has in practice been interpreted—as outlined above—in a rather broad and flexible manner over time.[229] The concept of macro-criticality appears to be the most recent flexible interpretative tool deployed by the IMF, and is one which is made additionally malleable by the fact that it can be applied in a discretionary way to each country context. In other words, as indicated in an interview with IMF staff for this report, an issue such as gender equality may be considered macro-critical in one country but not in another.[230] The IMF appears to have

[223] Specific reform measures refer to "measures that would seek to improve the targeting, tracking, and monitoring of such spending and strengthen the social safety nets (*e.g.*, increase social transfers to the poor)." *Id.*
[224] Vulnerable groups "are defined in a country context and could include, for example, the poor, elderly, the youth and women." *Id.*
[225] *Id.*
[226] IEO, *Social Protection*, *supra* note 6, at 3.
[227] *See, e.g.*, *id.* at 6-7.
[228] Vetterlein, *Lacking Ownership*, *supra* note 167, at 14.
[229] In 2010 the International Monetary and Financial Committee of the IMF asked the Fund "to review its mandate to cover the full range of macroeconomic and financial sector policies that bear on global stability", suggesting an open-minded approach to "rethinking" the mandate to meet new challenges. International Monetary Fund, THE FUND'S MANDATE—AN OVERVIEW, STRATEGY, POLICY, AND REVIEW DEPARTMENT 1 (Jan. 22, 2010), https://www.imf.org/external/np/pp/eng/2010/012210a.pdf.
[230] Interview P; Interview Q (second interview).

determined that social protection measures may be *macro-critical* for: (i) mitigating the negative effects of the Fund's policies and advice[231] and (ii) reducing poverty more broadly.[232]

Moreover, unlike the articles of the World Bank, the IMF's Articles of Agreement do not contain a "political prohibition" provision[233] but merely require the Fund to "respect the domestic social and political policies of members."[234] It appears that the Fund does not proactively inquire as to the possible constitutional or other limitations that domestic law and policy might pose to its advice, but waits for governments to raise any objection.[235]

Further, the IEO has explicitly acknowledged that "the principles governing the Fund's role in the area of social protection are embodied in Article I(ii), which provides that among the purposes of the Fund are, inter alia, to "contribute … to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as primary objectives of economic policy."[236] Consequently, the IMF's decision about how and to what extent to engage with social protection is not driven by any limitations inherent in the Fund's mandate, but rather by policy and institutional considerations of whether it is practicable or desirable to do so and, if so, what the "scope, boundaries, and objectives of the IMF's role in this area"[237] should be.

The IEO in its 2017 report recommended that the Fund should "establish a clear strategic framework to guide its involvement in social protection among multiple competing priorities."[238] The IMF Managing Director indicated agreement with this recommendation,[239] and it was endorsed by the Executive Board. In keeping with the Management Implementation Plan subsequently approved by the Executive Board, a guidance note was expected to be available in early 2018.[240]

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[231] More generally the IMF has expressed concern about the negative social impact of inequality, and the risk to economic and social cohesion. *See* International Monetary Fund, IMF FISCAL MONITOR: TACKLING INEQUALITY (Oct. 2017), http://www.imf.org/en/publications/fm/issues/2017/10/05/fiscal-monitor-october-2017.

[232] Interview J.

[233] For an analysis of the extent to which the political prohibition clause of the World Bank is a constraint on the expansion of the Bank's scope of activities, see Hassane Cissé, *Should the Political Prohibition in Charters of International Financial Institutions be Revisited: the Case of the World Bank?, in* THE WORLD BANK LEGAL REVIEW: INTERNATIONAL FINANCIAL INSTITUTIONS AND GLOBAL LEGAL GOVERNANCE 59, 59-92 (Hassane Cissé, Daniel D. Bradlow & Benedict Kingsburgy eds., Oct. 2011).

[234] Articles of Agreement of the IMF, Art. 4, §3, 60 Stat. 1401, 2 U.N.T.S. 39. For a discussion of the IMF's "mission creep" see Robert C. Hockett, *From Macro to Micro to 'Mission-Creep': Defending the IMF's Emerging Concern with the Infrastructural Prerequisites to Global Financial Stability*, 41 COLUM. J. TRANSNAT'L LAW 153 (2002). *See generally* Daniel D. Bradlow, *International Law and Operations of the IFIs*, *in* INTERNATIONAL FINANCIAL INSTITUTIONS AND INTERNATIONAL LAW 16 (Daniel D. Bradlow & David B. Hunter eds., 2010) [hereinafter Bradlow, *International Law and Operations of the IFIs*].

[235] Interview Q. This IMF official mentioned that it is rare for a government to argue to the IMF that there are domestic legal or policy obstacles to implementing the IMF's advice, and that it is considerably more common for governments to assure the Fund that there are no such obstacles. However, there have been a number of subsequent constitutional challenges to aspects of IMF programs in countries such as Portugal, Latvia and Romania.

[236] Alisa Abrams, *The IMF's Role in Social Protection, supra* note 199, at 1.

[237] IEO, *Social Protection, supra* note 6, at 4.

[238] *Id.* at v.

[239] International Monetary Fund, STATEMENT BY THE MANAGING DIRECTOR ON THE INDEPENDENT EVALUATION O□□ICE'□ REPORT ON THE IMF AND SOCIAL PROTECTION (July 24, 2017), https://www.imf.org/en/Publications/Policy-Papers/Issues/2017/07/20/pp071917md-statement-ieo-report [hereinafter IMF, *Statement by the Managing Director*].

[240] Executive director's response to the IEO report.

Social Protection in IMF policy and at the operational level

The IMF does not undertake any *ex post* monitoring or evaluation of the social or distributional impacts of its policies. The question of whether the IMF's programs and policy advice are negatively impacting social protection has been the subject of ongoing contestation. While there is some indication that the Fund may be moving away from endorsing fiscal austerity at present, fiscal consolidation is nonetheless still prevalent in many of its programs.[241] The Fund similarly continues to focus on reducing public wage bills and labor market deregulation, and does not systematically conduct studies of the impact of its policy prescriptions on inequality.[242] The capping of wages, for example, can lead to a reduction in the quality of public services including education and health care.[243] In loan programs where fiscal stimulus is promoted by the Fund, it is often reversed after the first year.[244] In a recent report evaluating the effects of the IMF's agenda for tackling inequality, Oxfam concluded that no alternatives to rapid fiscal and monetary tightening, with a view towards minimizing the impacts on poverty and inequality, were fully explored by the Fund.[245] While the IMF often aims to lessen the impact of fiscal consolidation policies on the most vulnerable through mitigation measures, critics assert that such measures are limited, perpetuate regressive fiscal consolidation policies, and do not seriously and meaningfully address inequality.[246]

The Fund's certain influence on countries' spending policies has tangible impacts on both social protection programs and on poverty itself.

IMF advice on the reform of taxation policies is another area which may have a negative impact on social spending. The IMF has long supported the use of value-added tax (VAT) as a means of generating increased revenue to reduce budget deficits as part of fiscal consolidation efforts.[247] This is because in many developing countries a large sector of the economy is outside the formal labor market, and thus income tax may not generate a significant amount of revenue.

241 Oxfam, *Great Expectations*, *supra* note 1, at 21 (stating that "limited guidance is provided on how to operationalize these recommendations, and this focuses almost exclusively on improving the targeting of transfers and other social programmes" and noting that the great majority of the Article IV consultations reviewed recommend a tightening of fiscal policy or greater efforts to maintain medium-term fiscal stability).

242 *See id*. *See generally Children of Austerity: Impact of the Great Recession on Child Poverty in Rich Countries* (Bea Cantillon et al. eds. 2017) [hereinafter *Children of Austerity*].

243 A. Kentikelenis, *Structural Adjustment and Health: A Conceptual Framework and Evidence on Pathways*, 187 SOCIAL SCIENCE AND MEDICINE 187, 296-305 (2017).

244 Thomas Stubbs & Alexander Kentikelenis, *Targeted Social Safeguards*, *supra* note 171, at 135.

245 Oxfam, *Great Expectations*, *supra* note 1.

246 *See id*. (noting that mitigation measures in the context of fiscal consolidation "reinforce[] and [justify] policy decisions already taken, instead of using findings to consider a broader range of policies that are good for reducing poverty and inequality on their own."); *see also* International Monetary Fund, 2016 ARTICLE IV CONSULTATION—PRESS RELEASE; STAFF REPORT; AND STATEMENT BY THE EXECUTIVE DIRECTOR FOR EL SALVADOR 10 (July 2016), https://www.imf.org/en/Publications/CR/Issues/2016/12/31/El-Salvador-2016-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-44038 [hereinafter IMF, *2016 Article IV Consultation El Salvador*] (advising El Salvador in its 2016 Article IV consultations that raising the VAT rate would increase revenues available and recommended social support specifically to offset the tax rate's regressive effects); IMF, *Social Safeguards*, *supra* note 221 (emphasizing the need to protect vulnerable populations that might be adversely affected by reform measures)*;* Interview C2.

247 *See, e.g.*, Graham Harrison & Russell Krelove, *VAT Refunds: A Review of Country Experience* (IMF, Working Paper, WP/05/218, 2005), https://www.imf.org/en/Publications/WP/Issues/2016/12/31/VAT-Refunds-A-Review-of-Country-Experience-18646.

However, VAT is a highly regressive tax that can increase inequality.[248] According to critics, although there has been progress on the part of the Fund in providing advice on more progressive taxes, it still unduly prioritizes efficiency over progressivity in member states' tax systems.[249]

Positive engagement with social protection-related issues in IMF Loan Programs

> IMF engagement with social protection in lending programs amounts mainly to inclusion of social spending targets and structural bechmarks the negative social effects of IMF reforms.

The IMF's active engagement with social protection issues in its programs can at best be described as a limited safeguarding of social spending. There is no IMF policy requiring the establishment of conditions governing "social safeguards," other than social spending or other priority spending targets.[250] Indeed, conditions relating to social issues do not appear in IMF loan arrangements in any form that requires a Board waiver in the event of non-compliance. Instead, the IMF's concern for social issues is expressed mainly through the inclusion of "social spending floors" and structural benchmarks. Structural benchmarks are generally non-quantifiable[251] reform measures that refer to objectives aimed at improving the social protection system overall.[252]

The Handbooks of IMF Facilities for Low-Income Countries 2012-2017[253] have consistently (and nearly verbatim) required that under ECF-, SCF-, RCF-, and PSI-supported programs:

> [s]ocial and other priority spending should be safeguarded and, whenever appropriate, increased […]. This should be monitored through explicit program targets, typically an indicative floor on social and other priority spending, whenever possible. The definition of what constitutes social or other priority spending should be established by the member,[254] in accordance with the authorities' poverty reduction and growth strategy. In cases where tracking of such expenditures is not feasible, the program documentation should report on which measures are envisaged to develop an adequate tracking system.

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[248] *See, e.g.*, IMF, *2016 Article IV Consultation El Salvador*, *supra* note 246, at 10 (advising that raising the VAT rate would increase revenues available and recommended social support specifically to offset the tax rate's regressive effects).
[249] *See, e.g.*, Oxfam, *Great Expectations*, *supra* note 1.
[250] IMF, *Social Safeguards*, *supra* note 221, at 8-9.
[251] *IMF Conditionality*, *supra* note 118.
[252] *See id*.
[253] International Monetary Fund, HANDBOOK OF IMF FACILITIES FOR LOW-INCOME COUNTRIES (March 21, 2012), http://www.imf.org/external/np/pp/eng/2012/032112.pdf; International Monetary Fund, 2014 HANDBOOK OF IMF FACILITIES FOR LOW-INCOME COUNTRIES (Aug. 27, 2014), https://www.imf.org/external/np/pp/eng/2014/082714.pdf; International Monetary Fund, 2016 HANDBOOK OF IMF FACILITIES FOR LOW-INCOME COUNTRIES (Feb. 22, 2016), https://www.imf.org/en/Publications/Policy-Papers/Issues/2016/12/31/2016-Handbook-of-IMF-Facilities-for-Low-Income-Countries-PP5022; International Monetary Fund, 2017 HANDBOOK OF IMF FACILITIES FOR LOW-INCOME COUNTRIES (Nov. 9, 2017), http://www.imf.org/en/Publications/Policy-Papers/Issues/2017/12/01/pp110717-2017-handbook-of-imf-facilities-for-lics [hereinafter IMF, *2017 Handbook of IMF Facilities for Low-Income Countries*].
[254] Interview D; Interview E; Interview J; Interview Z.

> Staff should monitor progress in establishing these tracking systems, and the program may include relevant structural benchmarks if appropriate.[255] [internal reference added]

The Handbooks also provide that "[s]ocial and other priority spending should generally be safeguarded" in Fund-supported programs in LICs, and monitored through program targets.[256]

However, the IMF itself has acknowledged that:

- only about 15 percent of LIC programs with fiscal consolidation included such conditionality, mostly in the form of benchmarks on measures to strengthen social safety nets;
- while a quarter of programs included conditionality on energy subsidy reforms, only 17 percent of these included an explicit program condition to mitigate its impact on the poor; and
- measures to improve the safety net by increasing transfers, expanding coverage, or introducing new programs were rare.[257]

The frequency of conditions for General Resource Account (GRA)-supported programs (i.e. non-concessional funding) was higher. The IMF reported that:

> GRA-supported programs rely more often on structural conditionality to strengthen social safety net policies. One quarter of GRA-supported programs compared to one-in-ten PRGT-supported programs had conditionality[258] on social safety nets. Nearly half of GRA-supported programs with conditionality on energy subsidy reform were accompanied by conditionality on social safety nets in an effort to mitigate the impact of the removal of subsidies on the poor. A large majority of these social safety net measures (67 percent) focused on introducing new social assistance programs to protect the vulnerable from higher energy prices.[259]

In short, although the IMF may include social spending floors in its arrangements with countries, they are non-quantifiable and their inclusion is inconsistent and infrequent, especially in LIC programs with fiscal consolidation.

Structural Benchmarks

As discussed above, structural benchmarks are commonly applied to program loans in middle income countries, opposed to LICs, and can vary in content. For example, program requests for Burkina Faso and Haiti in 2010 included structural benchmarks on publishing the government's data on its expenditure on poverty reduction.[260] The 2015 Madagascar Rapid Credit Facility specified Cabinet approval of a National Social Protection Policy as a structural

[255] IMF, *2017 Handbook of IMF Facilities for Low-Income Countries*, *supra* note 253, at 71.
[256] *Id.* at 142. It should be noted that while "social spending targets" must be negotiated when a LIC borrows from the PRGT, under non-concessional loan programs the IMF and the borrowing country are not obligated to negotiate conditionality requirements, including spending targets, related to social protection.
[257] IMF, *Social Safeguards*, *supra* note 221, at 16.
[258] To the best of our understanding, the term "conditionality" here refers to the conditionality framework, which encompasses indicative targets and structural benchmarks; it does not represent a distinction between binding and non-binding conditions.
[259] IMF, *Social Safeguards*, *supra* note 221, at 16.
[260] *Id.* at 16.

benchmark.[261] However, such social protection-related benchmarks and, in rare instances "prior actions," are typically introduced in an effort to mitigate the negative impacts of IMF-recommended reforms (e.g., removal of subsidies,[262] fiscal consolidation, etc.). For example, a 2014 program request for Yemen included a subsidy reform which would increase fuel prices.[263] An additional element to conditionality in Yemen's program was to ensure that the savings from the reform were earmarked for a social protection measure, being to increase the coverage of a cash transfer program (Social Welfare Fund)[264] by 50 percent.[265]

A similar approach was taken in a 2012 program request for Bangladesh, where increased fiscal space resulting from fuel subsidy reform was to be used to protect categories of vulnerable poor from rising fuel and food prices.[266] In Ukraine, energy sector reform led to an increase in gas and heating prices by 40–56 percent. To offset the tariff increase for the most vulnerable 25–30 percent of the population, the Ukrainian authorities agreed to expand "the existing housing utility subsidy program that covers the utility bills above 10/15 percent of the income of enrolled households … to cover about 1 million households."[267] Moreover, to protect vulnerable households not covered by the existing scheme, the government approved a new social assistance scheme. Such approval was a *prior action*, meaning that its completion was required for the Ukraine to obtain IMF Board approval for the Stand-by Arrangement.[268] In Haiti, where the complete elimination of fuel subsidies was a condition of the country's IMF program, the World Bank designed a social tariff for public transportation to mitigate the negative social impacts.[269] Similarly, following a 2013 program request from Romania, the IMF program created sufficient fiscal space to allow for more spending on the Guaranteed Minimum Income in order to mitigate the effect of gas and energy price liberalization.[270]

These targeted mitigation measures, however, have been subject to substantial criticism. Consider the case of Malawi, as reported by Oxfam:

> Malawi is a landlocked, low-income country where 70 percent of the population live in poverty. In the past few years the country has experienced a severe food and

[261] International Monetary Fund, REPUBLIC OF MADAGASCAR STAFF-MONITORED PROGRAM AND REQUEST FOR DISBURSEMENT UNDER THE RAPID CREDIT FACILITY—PRESS RELEASE; STAFF REPORT; AND STATEMENT BY THE EXECUTIVE DIRECTOR FOR REPUBLIC OF MADAGASCAR 48 (Nov. 2015), https://www.imf.org/external/pubs/ft/scr/2015/cr15325.pdf; IMF, *Social Safeguards*, *supra* note 221, at 37.

[262] *See, e.g.*, International Monetary Fund, SUBSIDY REFORM IN THE MIDDLE EAST AND NORTH AFRICA: RECENT PROGRESS AND CHALLENGES AHEAD (2014), http://www.imf.org/external/pubs/ft/dp/2014/1403mcd.pdf (arguing that fuel and food subsidies are neither well-targeted nor cost-effective as a social protection tool and often benefit the better off rather than the poor; explores the challenges of replacing subsidies with more equitable social safety net instruments); *IMF and Reforming Energy Subsidies*, INTERNATIONAL MONETARY FUND, http://www.imf.org/external/np/fad/subsidies/index.htm#mes (last visited Apr. 18, 2018).

[263] IMF, *Social Safeguards*, *supra* note 221, at 37.

[264] *Social Welfare Fund Institutional Support Project*, THE WORLD BANK, http://projects.worldbank.org/P117608/social-welfare-fund-institutional-support-project?lang=en (last visited Apr. 18, 2018).

[265] IMF, *Social Safeguards*, *supra* note 221, at 37.

[266] *Id.* at 38.

[267] International Monetary Fund, UKRAINE REQUEST FOR A STAND-BY ARRANGEMENT—STAFF REPORT; SUPPLEMENT; STAFF STATEMENT; PRESS RELEASE; AND STATEMENT BY THE EXECUTIVE DIRECTOR FOR UKRAINE 74 (Apr. 2014), https://www.imf.org/external/pubs/ft/scr/2014/cr14106.pdf.

[268] *Id.*

[269] Although the World Bank designed the mitigation program in Haiti, the IMF had publicly acknowledged the potential for negative social impacts resulting from its reforms and the need to mitigate them: IMF, *Social Safeguards*, *supra* note 221, at 37.

[270] IMF, *Social Safeguards*, *supra* note 221, at 42.

> humanitarian crisis following a series of environmental shocks, compounded by a macro-economic crisis. Since 2012, Malawi has been borrowing from the IMF through the Extended Credit Facility (ECF) arrangement, which was renewed for a ninth time in June 2017. As a condition for the loan's renewal, and together with other donors, the Fund requested a reform of the country's Farm Input Subsidy Programme (FISP). The FISP was launched in 2005/06 with the purpose of achieving food security by increasing food production among small-scale farmers. It had positive effects on food production and household income, but it has been criticized for its poor targeting capacity, its exposure to political capture and its overall inefficiency. Between 2012/12 and 2016/17 its value was cut back from 3 percent to 0.8 percent of GDP and the number of beneficiaries was reduced from 1.5 million to 900,000. Further cuts are recommended by reducing the size of the subsidies and improving the programme's targeting. The Fund's simulation analysis finds that such measures will improve output and efficiency but will also increase inequality, harming the poorest farmers. By way of compensating for this negative impact, it recommends the introduction of a cash transfer programme for the rural poor and an increase in spending on agricultural research and development (R&D). This approach is problematic because targeted cash transfers are insufficient social protection measures in a country where the majority of the population are living below the poverty line. In Malawi, they can help attenuate the negative impact of the FISP reform, but will not be enough to mitigate the country's poverty and inequality. Further, while a reform of the FISP is necessary, it is irresponsible to initiate this before adequate safety nets exist to cushion the negative impacts on the poorest people. The temporal mismatch between the cutting of FISP subsidies and the expansion of cash transfers could imply destitution and hunger for thousands of people. The cash transfer programme is not a binding condition to obtain the loan, and there are no guarantees that it will be implemented in a timely fashion.[271]

Critics have also argued that the IMF's preference for targeted social protection programs lags behind development community consensus in the field.[272] They suggest that targeting is prone to failures that result in a weakened social protection system. These failures generally fall into three categories: (i) exclusion errors, (ii) administrative costs, and (iii) political costs. However, it is currently impossible to assess the effect of these problems in IMF-supported programs, because the IMF does not carry out any impact analysis of its social protection policy advice and the question has thus far received insufficient attention from outside scholars. In the absence of program-level data describing the outcomes and impact of IMF reforms in the social protection space, an assessment of the risks presented by the targeting approach to vulnerable groups presented must be based on the general available literature on targeting, which contains contradictory conclusions about its efficacy. An overview of the debate surrounding targeting programs is provided in Annex A.

[271] Oxfam, *Great Expectations*, *supra* note 1, at 20 ("countries are often confronted with conditions (in the case of loans) or policy advice (in the case of surveillance) that involve potentially conflicting targets: typically, cutting budgets or maintaining fiscal stability while preserving expenditure in critical areas.").

[272] Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *The IMF Has Not Lived Up to its Own Hype on Social Protection*, *supra* note 11.

Indicative Targets

According to an IMF policy paper, indicative targets covering social and other priority spending areas have been contained in 90 percent of LIC programs since 2009.[273] However, because of their breadth, indicative targets are difficult to monitor,[274] and the Fund provides little guidance to country authorities on how to meet them.[275] According to the IEO, in the case of Mozambique, IMF staff stopped monitoring the indicative target after 2013 on the basis that it had limited use in protecting critical social spending and no new indicator could readily be found.[276] The 2016 Article IV and sixth ECF review mission for Burkina Faso noted that poverty-spending targets were universally missed in 2014.[277] Similarly, in Tunisia, the indicative floor on social spending was missed on almost all test dates and a new targeted social transfer system was delayed.[278] Moreover, because domestic authorities determine which poverty reduction expenditures should fall in the "priority" bucket for protection from cuts,[279] lax oversight sometimes translated to countries using indicative targets to protect spending on infrastructure projects and other line items that are only tangentially related to poverty.[280]

The extent to which the IMF's inclusion of indicative targets actually has a positive impact in LICs is questionable. A 2011 study by the IMF's FAD found that IMF programs increase social spending—particularly in the areas of health and education—in the least

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[273] IMF, *Social Safeguards*, *supra* note 221, at 13. Of the 68 program request documents reviewed, only eight did not include such an IT. Of these, five cases explained that the social and other priority spending IT was excluded because of the need to first develop a better tracking system to monitor social spending; the other three did not offer any explanation. *Id*.

[274] Interview E; Interview C1.

[275] Oxfam, *Great Expectations*, *supra* note 1, at 21 ("limited guidance is provided on how to operationalize these recommendations, and this focuses almost exclusively on improving the targeting of transfers and other social programmes."). *See, e.g.*, Interview F (suggesting that social spending floors are often implemented as social spending ceilings in many countries).

[276] Jeni Klugman, Marcelo Selowsky, Jianping Zhou & Alisa Abrams, THE IMF AND SOCIAL PROTECTION: SEVEN LOW-INCOME COUNTRY CASES 7 (July 5, 2017), http://www.ieo-imf.org/ieo/files/completedevaluations/SP%20-%20BD6%20-%20Seven%20LIC%20Cases%20-%20Web.pdf [hereinafter Klugman, *Seven Low-Income Country Cases*].

[277] *Id*. at 12.

[278] Ling Hui Tan & Marcelo Selowsky, THE IMF AND SOCIAL PROTECTION: SEVEN EMERGING MARKET COUNTRY CASES 6 (July 5, 2017), http://www.ieo-imf.org/ieo/files/completedevaluations/SP%20-%20BD5%20-%20Seven%20Emerging%20Market%20Country%20Cases%20-%20Web.pdf [hereinafter Tan, *Seven Emerging Market Country Cases*].

[279] Interview D; Interview C1.

[280] IMF, *Social Safeguards*, *supra* note 221, at 14. *See, e.g.*, Isabel Ortiz, Jingqing Chai, Matthew Cummins & Gabriel Vergara, PRIORITIZING EXPENDITURE: A RECOVERY FOR ALL, A RAPID REVIEW OF PUBLIC EXPENDITURES IN 126 DEVELOPING COUNTRIES 17 (Oct. 2010), https://www.unicef.org/socialpolicy/files/Prioritizing_Expenditures_for_a_Recovery_for_All_October_11_final.pdf (showing that in Ghana the Ministry for Employment and Social Welfare accounted for less than 0.3% of the total poverty reducing expenditure and the Ministry of Women and Children's Affairs, as well as the Ministry of Water, Works and Housing comprised about 0.1% each). Ortiz, Chai and Cummins noted that "variety of spending categories—such as electricity, judiciary and, in some cases, defense related—were included in 'priority' social spending to be protected under country programmes," Isabel Ortiz, Jingqing Chai & Matthew Cummins, AUSTERITY MEASURES THREATEN CHILDREN AND POOR HOUSEHOLDS: RECENT EVIDENCE IN PUBLIC EXPENDITURES FROM 128 DEVELOPING COUNTRIES 12 (Sept. 2011), https://www.unicef.org/socialpolicy/files/Austerity_Measures_Threaten_Children.pdf. *See also* Andre Broome, *Rethinking Austerity? The IMF and Social Safeguards*, LONDON SCHOOL OF ECONOMICS EUROPP BLOG, http://blogs.lse.ac.uk/europpblog/2017/08/07/rethinking-austerity-the-imf-and-social-safeguards/ (last visited Apr. 5, 2018) (questioning how useful indicative targets are in safeguarding social spending. On the other hand, a former staff member of the Fund noted that indicative targets were a helpful transparency measure that enabled the Fund to monitor how countries were applying loan resources) [hereinafter Broome, *Rethinking Austerity?*]; Interview B.

developed countries.[281] More recently, the IMF Policy Paper on Social Safeguards and Program Design in PRGT and PSI-Supported Programs reported that more than two-thirds of indicative targets for social and other priority spending were met during 2010–2016.[282] However, while two-thirds implementation may look positive, that number must be understood in the context of an 86% overall implementation rate for structural conditions in low-income countries.[283] This means that social spending indicative targets are significantly less likely to be implemented than other conditions. Additionally, both studies have come under methodological and substantive criticism.[284] In contrast to the IMF's findings,[285] academics Thomas Stubbs and Alexander Kentikelenis found that in Sub-Saharan Africa, where most of the spending targets are in place, only about 50.8% (or 184 out of the 362 conditions) were implemented.[286] Even when implemented, critics have questioned whether indicative targets are effective at promoting high-quality social spending,[287] or whether they are out of line with global standards. Consider, for example, the case of Honduras, which the IMF lauded as being on track with its economic program and "laying a path" for inclusive growth and greater coverage of its social safety net.[288] In its 2016 surveillance mission to Honduras, the IMF recommended that the country maintain a social spending floor of 2% of GDP.[289] However, the SDG spending target for education alone is 4–6% of GDP, which demonstrates a significant discrepancy between the IMF's indicative targets and the international development community's conception of an adequate social spending floor.[290] Similar examples can be given as to the inadequacy of IMF targets in middle income countries such as Latvia[291] and Tunisia.[292]

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[281] Benedict Clements, Sanjeev Gupta & Masahiro Nozaki, WHAT HAPPENS TO SOCIAL SPENDING IN IMF-SUPPORTED PROGRAMS? 14 (Aug. 31, 2011), https://www.imf.org/external/pubs/ft/sdn/2011/sdn1115.pdf [hereinafter Benedict Clements, Sanjeev Gupta & Masahiro Nozaki, *What Happens to Social Spending in IMF-Supported Programs?*].
[282] IMF, *Social Safeguards, supra* note 221, at 2.
[283] IMF, *Creating Policy Space, supra* note 14, at 5.
[284] *See generally* Joshua Wojnilower, EXTERNAL PERSPECTIVES OF THE IMF AND SOCIAL PROTECTION (July 5, 2017), http://www.ieo-imf.org/ieo/files/completedevaluations/SP%20-%20BD2%20-%20External%20Perspectives%20of%20the%20IMF%20and%20Social%20Protection%20-%20Web.pdf.
[285] For one view on how the inconsistency might be explained, see Saliha Metinsoy, *Do IMF Programmes Increase Social Spending?*, OXPOL (May 17, 2016), https://blog.politics.ox.ac.uk/imf-programmes-increase-social-spending/#_ftnref1.
[286] Thomas Stubbs & Alexander Kentikelenis, *Targeted Social Safeguards, supra* note 171, at 136-7. The authors conclude that the "findings suggest that the IMF assigns less importance to priority spending floors than to budget balance ceilings. Indeed, the latter typically appear as binding conditions -- they directly determine scheduled disbursements of loans — whereas priority spending floors are non-binding conditions that serve as markers for broader progress assessment and do not automatically suspend the loan." *Id.*
[287] Broome, *Rethinking Austerity?, supra* note 280.
[288] International Monetary Fund, *Press Release, IMF Staff Completes 2016 Article IV and Third Review Mission to Honduras, No. 16/280* (June 13, 2016), http://www.imf.org/en/News/Articles/2015/09/14/01/49/pr16280.
[289] Oxfam, *Great Expectations, supra* note 1, at 21.
[290] *Id.*
[291] After the Constitutional Court in Latvia ruled against pension cuts which had been imposed in the June 2009 supplementary budget, IMF staff nonetheless again emphasized the need for some pension cuts during the second review in January 2010. A strategy paper offering a number of possible approaches to reforming the pension system and improve the system's sustainability was prepared. However, during the review at the end of 2011, IMF staff highlighted the failure to implement pension reform as "the biggest shortcoming of the government's crisis policy" and worried that some "reform fatigue" seemed to have set in (IMF, 2012b). The IMF stressed that no substantive action was taken to reform the pension system due to "political reasons" (IMF, 2012b). Tan, *Seven Emerging Market Country Cases, supra* note 278, at 25.
[292] In Tunisia, the indicative floor on social spending was missed on almost all test dates and the new targeted social transfer system was delayed. IMF staff underestimated the amount of time needed to achieve a minimum political consensus regarding cash transfers and to improve targeting. IMF staff underestimated the amount of time needed to achieve a minimum political consensus regarding cash transfers and to improve targeting.

It is important to note that structural benchmarks and indicative targets do not require Executive Board waivers if they are not met, but are assessed by IMF management in the context of overall program performance.[293] Hence they are not formally binding, and successful implementation depends largely on the country's desire to stay in the IMF's good graces and to ensure that the program proceeds smoothly.[294] Some social protection advocates have argued that binding conditionality, among other changes, may be necessary in order for social spending to be properly be safeguarded;[295] others are of the view that targets can work as long as there is a genuine commitment on the part of the Fund to enforce compliance,[296] and that the Fund should assist countries to meet indicative targets.[297] The IMF, however, currently lacks the expertise to give more detailed guidance on the design of social protection measures in the form of conditionality[298] and to date has relied extensively on the World Bank to provide such expertise.

Addressing social protection-related issues in IMF Surveillance

Over the past decade, the IMF has increasingly viewed social protection issues as macro-relevant and thus suitable for inclusion in Article IV surveillance reports.[299] The IEO found that 60 percent of all Article IV reports from 2006, 2008, 2010, 2013, and 2015 contained social protection advice.[300] Furthermore, an official IMF guidance document advises staff to

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Program measures involving pension cuts were especially contentious and reversed by the Constitutional Court in some instances because they were seen to violate the acquired rights of pensioners (e.g., in Romania and Latvia). In Latvia, staff considered the failure to implement pension reform the biggest shortcoming of the 2008 SBA. *Id.* at 6.

293 IMF, *Conditionality*, *supra* note 118.

294 Interview D; Interview C1.

295 Oxfam, *Great Expectations*, *supra* note 1, at 6.

296 Interview F.

297 Interview F (suggesting that if spending floors are included by the IMF, they should be included in a way with a view to empower countries to implement these reforms and the IMF should ensure that different aspects of its work don't undermine each other). *See generally* Oxfam, *Great Expectations*, *supra* note 1.

298 Interview E.

299 IEO, *Social Protection*, *supra* note 6, at 14. Issues that "may affect a country's domestic or balance of payments stability" are deemed "macro-relevant," which may be addressed in Article IV surveillance. IMF, *Annual Report 2016*, *supra* note 64, at 4. Generally, if an issue is "potentially macro-critical" and falls within an area of IMF expertise, staff are instructed to provide analysis and policy advice relying on in-house resources. IMF, *Guidance Note*, *supra* note 64, at 36. When the IMF lacks expertise on such an issue, staff are instructed to provide analysis and rely on external resources. *Id.* For example, an IMF staff member interviewed noted that the IMF advised on a country-led program in Ethiopia to address inequality. Interview Z. As the IMF did not have expertise in this area, IMF staff only provided advice on financial and tax policy to address inequality. Interview Z. For those issues that are not macro-critical, but within the IMF's expertise, official guidance instructs staff to provide analysis and policy advice relying on in-house resources only on request, and to leave those issues outside the IMF's expertise to others. IMF, *Guidance Note*, *supra* note 64, at 36.

300 IEO, *Social Protection*, *supra* note 6, at 14. For examples, consult recent reports from Ecuador, El Salvador, and Vietnam. In Ecuador's 2015 Article IV Staff Report, specific policies such as the fuel subsidy program were mentioned. The Staff recommended overhauling the program to reduce its costs while also "better targeting subsidies to the poor." International Monetary Fund, 2015 ARTICLE IV CONSULTATION—PRESS RELEASE; STAFF REPORT; AND STATEMENT BY THE EXECUTIVE DIRECTOR FOR ECUADOR 12, 36 (Sept. 10 2015), http://www.imf.org/en/Publications/CR/Issues/2016/12/31/Ecuador-2015-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-43351 [hereinafter IMF, *2015 Article IV Consultation Ecuador*]. The Fund also recommended mitigating the expected shortfall in the pension system through a raising of the retirement age and linking pension benefits to contributions. *Id.* at 12. In El Salvador, the Surveillance Reports that are publicly available since 2013 (2013, 2014, 2016) focus on the high cost of social spending in El

provide analysis to country authorities on social safeguards as part of surveillance when they are macro-relevant, *i.e.*, "have the potential to affect domestic or balance of payments stability."[301] In doing so, staff are to solicit input from development partners "where possible."[302]

As discussed *supra*, the IMF has not yet provided specific guidance pertaining to when and under what circumstances social protection issues should be considered macro-critical or macro-relevant,[303] although such guidance is reportedly forthcoming in response to the IEO 2017 report. While the IMF *Guidance Note for Surveillance under Article IV Consultation* provides staff with guidance as to the issues to be considered in surveillance missions, it does not mention "social protection" or "social safeguards."[304] It is illustrative, however, that when the Note mentions social security contributions or safety nets, it is often in the context of their potential negative impact or as an impediment to economic growth and stability.[305]

IMF engagement with social protection-related issues:

- Is *ad hoc*, with staff having broad discretion in deciding whether or not to address social issues.
- Tends to be correlated with the economic condition of the member country, with social issues receiving the most attention in IMF programs in LICs, some attention in MICs, and even less in HICs.
- Is dependent on the level of staff interest in the area, as well as on relationships with World Bank staff.
- Is dependent on staff expertise.

Overall, the IMF's engagement with social protection in its surveillance activities appears to be *ad hoc* and inconsistent. The extent to which the IMF notes or discusses social protection issues with government authorities seems to be a function of (i) the country's economic condition and level of development, (ii) the interest of IMF staff in social protection and the relationship of IMF staff with other international organizations working on social protection, and (iii) the degree to which IMF staff have expertise in social protection issues. Even in those cases in which the IMF engages more proactively in providing social protection recommendations, it is evident that staff members tend to view the details and design of social protection policy recommendations as being primarily within the purview of other international organizations, particularly the World Bank, that have more expertise and greater resources dedicated to social protection issues.[306]

Salvador relative to ongoing discussions about the need for fiscal consolidation. International Monetary Fund, 2013 STAFF REPORT FOR THE ARTICLE IV CONSULTATION 11 (Apr. 29 2013), http://www.imf.org/en/Publications/CR/Issues/2016/12/31/El-Salvador-Staff-Report-for-the-2013-Article-IV-Consultation-40564. In Vietnam not only was social protection discussed in Surveillance Reports, but according to the interview with a former official with the IMF for this report, the IMF encouraged Vietnam to improve the public pension system because of rapid aging, but to do it before a crisis hits. Interview AA.

301 IMF, *Social Safeguards*, *supra* note 221, at 4.

302 *Id.*

303 *See generally* IEO, *Social Protection*, *supra* note 6.

304 IMF, *Guidance Note*, *supra* note 64.

305 For example, the Note mentions social safety nets as a potential impediment to the efficient allocation of resources. IMF, *Guidance Note*, *supra* note 64, at 38. Similarly, the Note cites high social security contributions or a high minimum wage as a structural cause of unemployment. *Id.* at 39. Poorly targeted, inefficiently managed, and underfunded social safety nets are referenced as sources of disincentives for employment and public-sector liabilities. *Id.*

306 *See also* IEO, *Social Protection*, *supra* note 6, at 4, 8 (IMF staff guidelines instruct staff to rely on other development partners' expertise in social protection, particularly that of the World Bank); Interview E.

The economic condition of countries as a factor affecting IMF engagement with social protection

While in all countries studied, there seems to be an increased emphasis on social spending in published Article IV reports in recent years,[307] the IMF tends to place the greatest emphasis on addressing social protection in LICs and particularly in countries in Sub-Saharan Africa.[308] IMF and World Bank staff interviewed emphasized that the poorer the country and the weaker the existing social protection system, the more conscious the IMF is of the potential detrimental effects of fiscal consolidation on vulnerable groups.[309] Indeed, IMF staff noted that IMF loans to LICs always include social spending indicative targets,[310] and official IMF guidance has instructed staff working on surveillance in LICs that "[m]acro-critical social issues such as poverty reduction … should receive particular attention."[311]

Hence, IMF staff are more likely to view social protection as macro-critical and suitable for inclusion in both loan programs and surveillance recommendations in those countries that have the highest rates of poverty and the least developed social protection systems. For example, the 2017 surveillance report for Mauritania states that the IMF recommended that country authorities prioritize the enhancement of social safety nets, expand social spending on education and health, and invest in "social priorities."[312] Similarly, the IMF recommended in its 2015 surveillance report on Ethiopia that increased spending on social protection would enhance the positive effects of its other macro-economically oriented policy recommendations.[313]

Surveillance for middle-income countries ("MICs") reveals a less proactive engagement with issues of social protection, although the IMF seems to have been paying increasing attention to social protection in MICs in recent years. When the Fund addresses social protection in MICs, it tends to emphasize reforming existing programs to enhance targeting, coverage of vulnerable populations, and efficiency, especially with regard to pension systems and the wage bill, while also recommending social spending as a mitigation measure

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307 Article IV Reports for Vietnam (2012, 2014, 2016, and 2017), El Salvador (2013, 2014, 2016), Honduras (2016), Ecuador (2015), and Ethiopia (2016, 2015, 2014, 2013, 2012).

308 International Monetary Fund, REGIONAL ECONOMIC OUTLOOK: FISCAL ADJUSTMENT AND ECONOMIC DIVERSIFICATION 16 (2017), https://www.imf.org/en/Publications/REO/SSA/Issues/2017/10/19/sreo1017 (emphasizing the importance of social spending in Sub-Saharan African countries and stating, *inter alia*, that deleterious distributional consequences resulting from fiscal adjustment may have "to be addressed via social protection schemes"); Interview V. As discussed *supra*, the IMF began to focus on developing countries in the 1970s when the institution made poverty reduction a greater focus in its lending operations, and in the late 1990s with the establishment of the Poverty Reduction and Growth Facility (PRGF). *See* Schlemmer-Schulte, *International Monetary Fund*, *supra* note 169.

309 Interview A; Interview H.

310 Interview D (noting that all LICs have had social spending indicative targets since 2009).

311 IMF, *Guidance Note*, *supra* note 64, 9-10; Interview P.

312 *See* International Monetary Fund, 2017 ARTICLE IV CONSULTATION-PRESS RELEASE; STAFF REPORT; AND STATEMENT BY THE EXECUTIVE DIRECTOR FOR ISLAMIC REPUBLIC OF MAURITANIA 18, 23 (July 13, 2017), https://www.imf.org/en/Publications/CR/Issues/2017/10/16/Islamic-Republic-of-Mauritania-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-45327.

313 *See* International Monetary Fund, 2015 ARTICLE IV CONSULTATION-PRESS RELEASE; STAFF REPORT; AND STATEMENT BY THE EXECUTIVE DIRECTOR FOR THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA 18 (Sept. 4, 2015), https://www.imf.org/en/Publications/CR/Issues/2016/12/31/The-Federal-Democratic-Republic-of-Ethiopia-2015-Article-IV-Consultation-Press-Release-Staff-43372.

to fiscal consolidation.[314] Hence, in MICs, social protection seems to be a secondary priority or a mitigation measure.

Moreover, the IMF views social spending, perhaps unsurprisingly, from the perspective of economic efficiency. Although publicly available Article IV reports for Vietnam from the period 2012 through 2017 evince a growing concern for protecting and reforming social spending, particularly pensions, health, and education, the Fund seems most concerned with making social spending more cost-efficient rather than building up the existing systems.[315] However, the Fund sometimes provides advice to lower middle-income countries to increase social spending.[316] For example, in the process of review of the Stand-By Arrangement, the IMF encouraged Georgia to increase spending on education in order to raise educational quality.[317] Similar recommendations have been made in Article IV reports for Latvia and Romania.[318]

Interestingly, although the IMF does not tend to proactively addresses social protection in high-income countries ("HICs"), this may occur when the country is interested in or raises social protection.[319] For example, as part of Iceland's 2008 Stand-By Agreement, country authorities sought to design a fiscal consolidation consistent with their goal of maintaining key elements of the welfare state.[320] In particular, the Icelandic authorities designed the consolidation to implement expenditure cuts that did not compromise welfare benefits and raised revenue by

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[314] *See, e.g.*, IMF, *2016 Article IV Consultation El Salvador*, *supra* note 246, at 10 (advising that raising the VAT rate would increase revenues available and recommended social support specifically to offset the tax rate's regressive effects).

[315] *See* International Monetary Fund, VIETNAM: STAFF REPORT FOR THE 2012 ARTICLE IV CONSULTATION (July 6, 2012), http://www.imf.org/en/Publications/CR/Issues/2016/12/31/Vietnam-Staff-Report-for-the-2012-Article-IV-Consultation-26046; International Monetary Fund, VIETNAM : STAFF REPORT FOR THE 2014 ARTICLE IV CONSULTATION (Oct. 16, 2014), http://www.imf.org/en/Publications/CR/Issues/2016/12/31/Vietnam-Staff-Report-for-the-2014-Article-IV-Consultation-42391; International Monetary Fund, 2016 ARTICLE IV CONSULTATION- PRESS RELEASE; STAFF REPORT; AND STATEMENT BY THE EXECUTIVE DIRECTOR FOR VIETNAM 3 (June 17, 2016), http://www.imf.org/en/Publications/CR/Issues/2016/12/31/Vietnam-2016-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-44102 (for example, noting with approval that government authorities agreed to reduce deficit and arrest the rise in public debt, in part, by "increasing participation by non-state actors in education and healthcare". The IMF also noted, without reproach, that "[t]he authorities hope to restrain social spending by increasing fees for public healthcare and education to incentivize greater use of private services"); International Monetary Fund, 2017 ARTICLE IV CONSULTATION- PRESS RELEASE; STAFF REPORT; AND STATEMENT BY THE EXECUTIVE DIRECTOR FOR VIETNAM 9 (May 23, 2017), http://www.imf.org/en/Publications/CR/Issues/2017/07/05/Vietnam-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-45045 (noting that "growth-friendly fiscal consolidation is under way", the IMF approvingly notes that "[p]rivate sector entry into education and health care is being liberalized and administered prices are gradually rising. Public social and capital expenditures are being cut, central control over provincial spending is being tightened, and measures are being taken to better coordinate infrastructure spending, which has been fragmented."); Interview U. Interestingly, Vietnam graduated from the World Bank's IDA program in 2017, making it a MIC only as of 2017, the year in which IMF emphasis on social protection in its Article IV reports is most pronounced. IDA, *Borrowing Countries*, http://ida.worldbank.org/about/borrowing-countries (last visited Apr. 5, 2018).

[316] International Monetary Fund, GEORGIA: FIRST REVIEW UNDER THE STAND-BY ARRANGEMENT AND REQUEST FOR MODIFICATION OF A PERFORMANCE CRITERION—STAFF REPORT; AND PRESS RELEASE 8 (Dec. 5, 2014), https://www.imf.org/en/Publications/CR/Issues/2016/12/31/Georgia-First-Review-Under-the-Stand-by-Arrangement-and-Request-for-Modification-of-a-42606 [hereinafter IMF, *Georgia: First Review*].

[317] *Id.*

[318] Tan, *Seven Emerging Market Country Cases*, *supra* note 278, at 5-6.

[319] Interview P.

[320] International Monetary Fund, ICELAND: EX POST EVALUATION OF EXCEPTIONAL ACCESS UNDER THE 2008 STAND-BY ARRANGEMENT 17-18 (Apr. 2012), https://www.imf.org/external/pubs/ft/scr/2012/cr1291.pdf.

placing a greater tax burden on higher income groups.[321] However, in its 2017 Article IV surveillance of Iceland, the IMF Directors recommended "strict expenditure control to deliver a tighter-than-budgeted fiscal stance in 2017" noting that "[f]iscal policy would also need to stand ready to tighten further if overheating risks materialized" and that "should fiscal space emerge under the Organic Budget Law, it could be used to support additional spending on infrastructure, healthcare, and education, guided by a comprehensive review of expenditures."[322] Similarly to the case of MICs, then, it seems that when the IMF directly addresses social protection in HICs, it does so generally to ensure that such programs are not costly or inefficient and, otherwise, do not compromise fiscal policy. Interestingly, a number of HICs were included in the IMF's recent inequality pilot studies, including Israel[323] and the Republic of Korea.[324] An increase in spending on education was recommended in Korea, albeit that the advice was based on economic rather than social considerations, with the IMF noting that the Korean economy needed a fiscal stimulus due to its low public spending and low public debt.[325]

IMF staff interest and relationships with other organizations as factors affecting IMF engagement with social issues

The flexible nature of the concept of macro-criticality,[326] as well as the lack of specific, high-level guidance as to if, when, and how staff members should address social protection in their country-level operations,[327] translates into broad discretion for the staff to determine whether and how social protection-related issues are operationalized. Many staff members from both the IMF and the World Bank have emphasized that whether IMF staff consider social protection as a macro-critical issue and proactively address it in country-level operations depends in large measure on the personal interests of individual IMF and governmental staff and the context of the country.[328] Staff also emphasized the power and leverage of IMF mission chiefs in setting the agenda for how their teams would address country-level issues, including social protection.[329] Conversely, staff disinterest and lack of buy-in can prevent country-level engagement in social protection. For example, one reason cited for the apparent lack of success of the IMF-ILO Social Protection Floor pilot studies conducted in Vietnam and El Salvador in

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[321] *Id*. at 18.
[322] International Monetary Fund, 2017 ARTICLE IV CONSULTATION—PRESS RELEASE, STAFF REPORT, AND STATEMENT BY THE EXECUTIVE DIRECTOR FOR ICELAND 19 (May 30, 2017), https://www.imf.org/en/Publications/CR/Issues/2017/06/22/Iceland-2017-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-44998.
[323] International Monetary Fund, ISRAEL: SELECTED ISSUES (Sept. 2015), https://www.imf.org/external/pubs/ft/scr/2015/cr15262.pdf.
[324] International Monetary Fund, REPUBLIC OF KOREA: STAFF REPORT FOR THE 2015 ARTICLE IV CONSULTATION (May 22, 2015), https://www.imf.org/en/Publications/CR/Issues/2016/12/31/Republic-of-Korea-Staff-Report-for-the-2015-Article-IV-Consultation-42952.
[325] *Id*. at 11, 27.
[326] One staff member noted that virtually anything can be macro-critical in a country. Interview U; IEO, *Social Protection, supra* note 6, at 6-7.
[327] *See* IEO, *Social Protection*, *supra* note 6, at 45 (recommending that the IMF "[e]stablish a clear strategic framework setting the scope, objectives, and boundaries of the IMF's involvement in social protection").
[328] Interview U. *See also* Teresa Reinold, *The Path of Least Resistance: Mainstreaming "Social Issues" in the International Monetary Fund*, 31 GLOBAL SOCIETY 392, 401 (2017) (stating that within the context of PSIAs, interviews conducted with IMF staff "suggest that the uptake of PSIAs depends very much on the individual preferences, motivations and skill sets of mission chiefs and resident representatives more than it reflects established practice.").
[329] Interview A.

2011 was a lack of buy-in from IMF staff as to the implementation of a social protection floor in the country.[330]

The relationships of individual IMF staff with staff at other international organizations working on social protection, especially with World Bank staff, is another important factor driving IMF engagement in social protection issues at country level. For example, IMF staff may reach out to World Bank staff if they have good relations for their input on social protection-relevant recommendations.[331] Similarly, World Bank staff who have good relations with their IMF counterparts might reach out and request the inclusion of certain social protection-related language in IMF documents.[332] Although IMF guidance encourages staff to collaborate with the World Bank when dealing with matters related to social protection,[333] there are no specific guidelines for when and how IMF staff should engage in social protection and no established procedure for when they should seek the World Bank's assistance.[334]

The idea that staff interest and staff relationship with counterparts at other organization influences the extent of the Fund's engagement in social issues at the country level seems to run contrary to the conclusion in the IMF's triennial surveillance report that "what influences … [country officials] are dispassionate and detailed expositions of successful and unsuccessful policy reforms in broadly comparable countries."[335] This, however, may be explained by the fact the IMF staff (and arguably the IMF as an institution) do not have the requisite expertise necessary for meaningful engagement with social protection issues.

Varying levels of expertise of IMF staff on social issues as a factor affecting IMF engagement with social protection issues

Interviews with IMF staff have confirmed that the extent of IMF staff expertise on social issues heavily influences the level of IMF engagement with social protection at the country level.[336] IMF staff's expertise is particularly sparse on issues beyond "core macroeconomic" concerns.[337] Additionally, there is little guidance from the IMF on how social protection aims in loan programs can be achieved in countries with limited spending capacity.[338] In some instances, Article IV reports appear to rely on IMF Working Papers. For example, in Bolivia in 2015 a working paper investigated the factors driving Bolivia's success in reducing inequality and poverty and concluded that "it will be essential that labor and social policies are well designed and targeted to preserve the poverty and inequality reduction of the

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[330] Jianping Zhou, *IMF Collaboration, supra* note 184, at 15; Interview U.
[331] Interview V.
[332] Interview V.
[333] Jianping Zhou, *IMF Collaboration, supra* note 184, at 31-32.
[334] *Id.* at 28 (noting that "Operational guidance pertaining to collaboration on social protection alone do not exist, but references can be found in various guidance notes, especially for work related to LICs and public expenditure …"); Interview H.
[335] International Monetary Fund, TRIENNIAL SURVEILLANCE REVIEW, EXTERNAL STUDY—STRUCTURAL POLICIES IN FUND SURVEILLANCE 14 (2014), https://www.imf.org/en/Publications/Policy-Papers/Issues/2016/12/31/2014-Triennial-Surveillance-Review-External-Study-Structural-Policies-in-Fund-Surveillance-PP4904.
[336] Interview B (generally noting inadequate expertise of IMF in social protection issues); Interview V.
[337] IEO, *Social Protection, supra* note 6, at 20.
[338] Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *IMF Conditionality and Development Policy Space, supra* note 21.

last 15 years."[339] This analysis and recommendations were directly incorporated into the Article IV surveillance consultations in 2015.[340] However, working papers typically only "describe research in progress by the author(s) and are published to elicit comments and to encourage debate,"[341] with a specific disclaimer that "[t]he views expressed in IMF Working Papers are those of the author(s) and do not necessarily represent the views of the IMF, its Executive Board, or IMF management."[342] It is thus questionable whether it is good practice for Working Papers to guide the IMF's official advice, particularly when it is not evident whether comments and debate actually occurred and, if so, whether they contributed to shaping the IMF's advice.

Even when IMF staff have official IMF research documents, like Selected Issues Papers prepared by the IMF staff team as background documentation for the periodic consultation, they provide only a minimum amount of expertise. For example, in Senegal, the 2008 Selected Issues Paper focused on policies to protect the poor from rising energy and food prices.[343] The Paper included extensive discussion based on the findings of a FAD PSIA of the cost-effectiveness of existing poverty reduction policies in Senegal as well as recommendations for reform.[344] This paper informed the IMF's 2008 Article IV surveillance mission, in which IMF staff recommended that measures to shield vulnerable groups from food and fuel price increases be better targeted and that a social safety net be introduced for the longer term.[345] However, once the authorities phased out subsidies, consistent with the IMF's advice, they requested Technical Assistance from the World Bank rather than from the IMF to analyze the operational feasibility of introducing a Conditional Cash Transfer Program.[346] While Senegal's reliance on the Bank rather than the Fund to provide assistance on the Cash Transfer Program suggests a lack of relevant expertise within the IMF, it may on the other hand provide an example of potential future collaboration between the two institutions on social protection issues.

Further, even in relation to some of its Inequality Pilot countries, the IMF neglected to carry out distributional analysis before recommending cuts to public spending.[347] Moreover, even when distributional analyses were carried out, there has been criticism of the models used

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[339] Jose P Mauricio Vargas & Santiago Garriga, EXPLAINING INEQUALITY AND POVERTY REDUCTION IN BOLIVIA 2 (Dec. 18, 2015), https://www.imf.org/en/Publications/WP/Issues/2016/12/31/Explaining-Inequality-and-Poverty-Reduction-in-Bolivia-43471 [hereinafter Vargas & Garriga, *Explaining Inequality and Poverty Reduction in Bolivia*].

[340] *See* International Monetary Fund, BOLIVIA: 2015 ARTICLE IV CONSULTATION—PRESS RELEASE; STAFF REPORT; AND STATEMENT BY THE EXECUTIVE DIRECTOR FOR BOLIVIA 17-18, 21 (Nov. 5, 2015), https://www.imf.org/external/pubs/ft/scr/2015/cr15334.pdf.

[341] Vargas & Garriga, *Explaining Inequality and Poverty Reduction in Bolivia*, *supra* note 339, at 1.

[342] *Id.*

[343] International Monetary Fund, SENEGAL: SELECTED ISSUES 20-38 (July 2008), https://www.imf.org/external/pubs/ft/scr/2008/cr08221.pdf.

[344] *Id.*

[345] International Monetary Fund, SENEGAL: STAFF REPORT FOR THE 2008 ARTICLE IV CONSULTATION, FIRST REVIEW UNDER THE POLICY SUPPORT INSTRUMENT, AND REQUEST FOR WAIVER OF ASSESSMENT CRITERION AND MODIFICATION OF ASSESSMENT CRITERIA—STAFF REPORT; STAFF SUPPLEMENT; STAFF STATEMENT; PUBLIC INFORMATION NOTICE AND PRESS RELEASE ON THE EXECUTIVE BOARD DISCUSSION; AND STATEMENT BY THE EXECUTIVE DIRECTOR FOR SENEGAL (June 2008), https://www.imf.org/external/pubs/ft/scr/2008/cr08209.pdf.

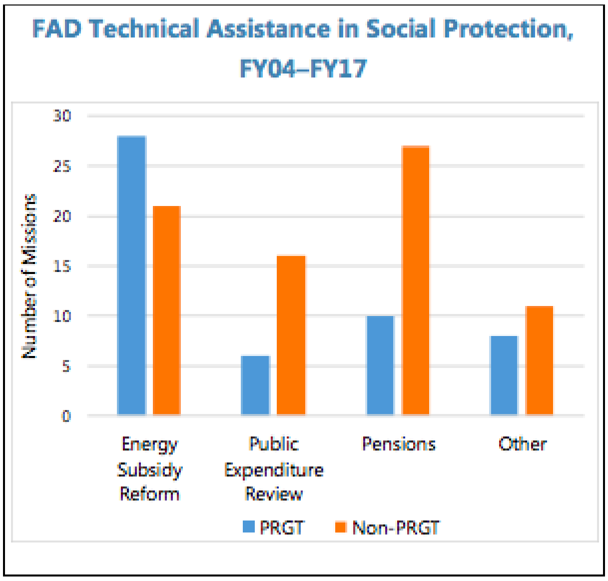
[346] *Id.* at 3.

[347] Oxfam, *Great Expectations*, *supra* note 1, at 6 ("In six countries, the recommendations focus on reducing the public wage bill with no analysis of the distributional and gender impact of such a measure, which can be considerable given the large number of women employed in the public sector."). These countries were identified as Republic of the Congo, Malawi, Myanmar, Honduras, Mauritania and Kyrgyz Republic. *Id.* at 25.

by the Fund on the basis for being overly simplified, and failing to account for the delay in time from the moment when cuts in subsidies would occur to the moment when the safety net would be in place.[348]

Social Protection issues in IMF Technical Assistance and Capacity Building

Although technical advice and capacity building are broadly described on the IMF's website, little information is publicly available about their precise content and scope, particularly with regard to social protection. The IMF's FAD reported that since 2004, it "has provided extensive technical assistance to member countries to help ensure the sustainability of social protection spending and to strengthen social safety nets."[349] FAD notes that technical assistance missions have reached all regions, including Africa (30), Europe (28), Western Hemisphere (26), Middle East and Central Asia (19), and Asia and the Pacific region (9).[350] The categories of FAD technical assistance in social protection provided in member countries are outlined in the table below.



FAD also noted that it has expanded its capacity building efforts through conferences, workshops, and online courses, many of which have focused on issues related to social protection.[351] For example, in 2017 FAD and the Asian Development Bank co-hosted the Tokyo Fiscal Forum, which focused on "Fiscal Policy for Long-Term Growth and Sustainability in Aging Societies."[352] In 2016, FAD hosted a regional capacity-building seminar in Sri Lanka on "Enhancing Social Spending in Support of Inclusive Growth in

[348] *Id.* at 16 (referring to the problems with the Malawi analyses. Furthermore, Oxfam has stated the model used in Ethiopia was oversimplified with it failing to recognize that although manufacturing would increase, these benefits would not accrue to the agricultural sector, rural-urban mobility is limited and the demand for agricultural inputs will decline. Therefore, inequality would in fact increase.).
[349] IMF, *Social Safeguards, supra* note 221, at 32.
[350] *Id.*
[351] *Id.*
[352] *Id.*; *Tokyo Fiscal Forum 2017*, ASIAN DEVELOPMENT BANK, https://www.adb.org/news/events/tokyo-fiscal-forum-2017 (last visited Apr. 5, 2018).

Asia."[353] In 2013, FAD launched an annual workshop on "Reforming Fuel Subsidies" and, in 2016, introduced a course on "Energy Subsidy Reform" in Central and Eastern Europe.[354] Additionally, FAD reportedly developed user-friendly templates and tools to support IMF country teams in their policy dialogue with members, including tools for analyzing the distributional analysis of subsidy reforms, the fiscal sustainability of public pension systems, and long-term projections of public pension and health spending.[355] Within the past five years, FAD has also published several books on social issues, including public health care reform, energy subsidy reform, pensions, and inequality and fiscal policy.[356]

In addition to the work by FAD, the IMF Institute for Capacity Development offers training programs to government authorities (e.g., finance ministers, heads of central banks). Although the publicly available materials sometimes mention that social issues form part of the curricula, it is unclear how much attention is paid to these issues.[357] Notably, none of the available syllabi specifically mention "social protection" or "social safeguards." It is also questionable whether FAD should be advising states on social protection issues given that the IMF has not even provided sufficient training for its own staff beyond core macroeconomic issues.

How influential in practice is the IMF's engagement on social protection?

High-level IMF policy requires country programs to be country-led, meaning that countries are meant to determine their priority spending areas and the IMF is charged with calculating the fiscal space necessary to implement such programs.[358] Thus, for the most part, when the IMF proactively includes social spending indicative targets in its loan agreements, country authorities have broad discretion to determine what constitutes "social spending."[359]

However, one development economist noted that, as compared with other international organizations, the IMF has a broader interaction with country officials and therefore a greater

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[353] IMF, *Social Safeguards*, *supra* note 221, at 32; *Enhancing Social Spending in Support of Inclusive Growth in Asia*, INTERNATIONAL MONETARY FUND, https://www.imf.org/external/np/seminars/eng/2016/srilanka/index.htm (last visited Apr. 5, 2018).
[354] IMF, *Social Safeguards*, *supra* note 221, at 32.
[355] *Id.* FAD provides energy subsidy reform toolkits and other resources on its energy subsidy reform website. *See IMF and Reforming Subsidies*, INTERNATIONAL MONETARY FUND, http://www.imf.org/external/np/fad/subsidies/index.htm#me (last visited Apr. 5, 2018).
[356] IMF, *Social Safeguards*, *supra* note 221, at 32.
[357] For example, the Institute offers a Fiscal Sustainability course. The syllabus for this course states that participants will learn how to address "long-term fiscal challenges… [which] may impact debt sustainability'" such as "healthcare, education and pensions." *Fiscal Sustainability*, IMF INSTITUTE FOR CAPACITY DEVELOPMENT, http://imf.smartcatalogiq.com/current/Catalog/Topics/Fiscal-Policy/Fiscal-Sustainability (last visited Apr. 5, 2018). It is unclear, however, whether this course includes an exploration of how social investment could increase fiscal sustainability in the long run, or whether the course discusses social spending or other social protection issues. *See id*. Similarly, another course on Inclusive Growth "discusses concepts of inclusive growth and some analytical and operations tools to evaluate, measure and monitor the impact of macroeconomic policies on growth, poverty and inequality, as well as on job creation." *Inclusive Growth*, IMF INSTITUTE FOR CAPACITY DEVELOPMENT, http://imf.smartcatalogiq.com/en/current/Catalog/Topics/Special-Topics/Inclusive-Growth (last visited Apr. 5, 2018). However, there is insufficient publicly available information to determine whether and to what extent the course touches on social protection issues.
[358] See IMF, *Guidance Note*, supra note 64; Independent Evaluation Office IMF, THE ROLE OF THE IMF AS TRUSTED ADVISOR (2013), http://www.ieo-imf.org/ieo/files/completedevaluations/RITA_-_Main_Report.pdf [hereinafter IEO, *The Role of the IMF as Trusted Advisor*].
[359] Interview D; Interview E; Interview J; Interview Z.

potential influence on policies affecting social protection.[360] One former staff member noted that there has been an increase in recent years in IMF staff interactions with country authorities.[361] Another IMF staff member reaffirmed the IMF's influential role with state authorities, emphasizing the influence of Mission Chiefs in setting the agenda for the country mission.[362]

There is some evidence that the IMF's influence on social protection in countries is limited by the countries' social, political, and cultural history surrounding social protection.[363] In most such cases, countries tended to resist the IMF's advice to reduce spending on social programs. For example, Latin American and formerly communist countries with a strong history of prioritizing social protection programs and social spending more broadly tend to be less amenable to IMF influence in that sector.[364] In El Salvador, political opposition to the pension reforms and fiscal consolidation recommended by the IMF led to the suspension of the country's most recent IMF loan agreement, and pension reform has remained a priority for El Salvador.[365] Similarly, in Georgia, a former Soviet country, the IMF has clashed with country authorities who have resisted calls for fiscal consolidation and instead continued to seek increased social expenditures in the context of a Stand-By Agreement.[366] In Ethiopia, a strong government has apparently resisted much of the IMF's advice and avoided loan programs, even while working with a coordinated group of other donors and funders, including the World Bank.[367] In Mongolia, the IMF program conditionality that called for a shift from universal benefits to the Child Money entitlement to more targeted social transfers did not have lasting effects due to prevailing cultural norms and preferences.[368] A further relevant factor is how desperate a country is for an IMF loan, or for loans from third party lenders who require the IMF's seal of approval. Hence LICs are likely to be more susceptible to IMF influence than other countries.

The IMF staff has noted that states sometimes resist its recommendation to increase social spending. For example, in Mauritania, despite meeting the priority social spending target in 2013,[369] an IMF staff member noted that the government is resisting further social spending

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360 Interview F.
361 Interview E.
362 Interview A.
363 Conversely, interviews with some IMF staff suggested that there is generally a lack of tension between the IMF and country authorities on social protection issues. Interview C1; Interview D.
364 Interview AB.
365 Interview X.
366 Describing Georgia's two-year Fund-supported program which expired in April 2014, an IMF official document pointed out that it proved increasingly difficult to reconcile overall fiscal objectives with the government's policies of increasing social spending, especially after the economy slowed and revenues fell short in 2013. International Monetary Fund, REQUEST FOR A STAND-BY ARRANGEMENT; PRESS RELEASE; AND STATEMENT BY THE EXECUTIVE DIRECTOR FOR GEORGIA 1 (Aug. 2014), https://www.imf.org/external/pubs/ft/scr/2014/cr14250.pdf. In July 2014, requesting a Stand-By Arrangement, the government wrote in its letter of intent that they would keep social benefits constant in nominal or real terms. *Id.* at 54. The Stand-By Arrangement became effective in June 2014, and in December 2014, the government informed IMF that it submitted to Parliament a 2015 budget reflecting again its priorities to promote social protection, health care, and education. The government planned to raise the pension for all old-age pensioners and to move all beneficiaries, including the socially vulnerable, from private insurance programs to the universal health care system. IMF, GEORGIA: *First Review*, *supra* note 316, at 36.
367 Interview AC.
368 Klugman, *Seven Low-Income Country Cases*, *supra* note 276, at 41.
369 *See* International Monetary Fund, MAURITANIA: LETTER OF INTENT, MEMORANDUM OF ECONOMIC AND FINANCIAL POLICIES, AND TECHNICAL MEMORANDUM OF UNDERSTANDING (May 30, 2013), https://www.imf.org/external/np/loi/2013/mrt/053013.pdf.

targets because of the country's cultural resistance to "handouts," i.e., providing monetary benefits without conditions.[370] In other instances, however, when looked at closely it appears that resistance to social spending increase is tied to the country's fear of not being able to meet the IMF's recommended fiscal targets.[371] In other words, consistent with what has been reported in academic literature and through interviews, states treat the IMF's fiscal targets as something they *must* comply with, and any compliance with social spending targets must not, first and foremost, undermine the fiscal envelope.

Confirming the influence of the IMF over state policies and priorities, a 2013 IEO evaluation on IMF engagement with member countries more generally found that while most country authorities—especially in LICs—sought IMF advice on their own initiative, many country authorities expressed the view that the IMF failed to listen to country perspectives and that the style of discussions seemed predetermined rather than open to country-level input.[372]

Part IV: Inter-Institutional Dynamics in the Field of Social Protection

Overview

The analysis in Part III above demonstrated that to date, the IMF's purported renewed attention to social issues has been out of step with the emerging global consensus on the understanding of social protection. Moreover, the ambitious rhetoric about the importance of social protection, poverty reduction and inequality, often expressed in speeches, blogposts, and research papers, has not been translated into meaningful policy and operational change. Instead, the IMF's engagement with social protection-related issues has largely been limited to safeguarding social spending and otherwise manifests in ad hoc and inconsistent attention paid to social issues. The question thus arises whether the IMF can (and should) take a prominent role in the field of social protection. Recently, fifty-three economists sent a letter to the IMF Board of Directors arguing that

> [t]he IMF does not have expertise on social protection. Advice to countries on social security reforms should be left to the ILO, the UN agency with the mandate for social protection and labor. Other UN organizations can support to extend of coverage, in the context of SDG 1.3.[373]

This Report, however, takes the position that even without purposefully focusing on social protection, the IMF's advice, including its prioritization of fiscal targets, can have a significant (and often negative) impact on the country's social protection systems and on citizens' access to social services. In other words, it is simply not feasible for the IMF to remain

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[370] Interview AD.

[371] For example, in Latvia, whereas IMF recommended pension cuts but at the same time urged the state to increase social protection. Some country officials interviewed by IEO were surprised to see the IMF taking such an active interest in social protection but felt that the additional spending placed an unwelcome constraint on their ability to meet what were already ambitious fiscal targets. Tan, *Seven Emerging Market Country Cases*, *supra* note 278, at 23.

[372] IEO, *The Role of the IMF as Trusted Advisor*, *supra* note 358, at 22-3.

[373] *53 Economists write to IMF Directors on approach to Social Protection*, INTERNATIONAL DEVELOPMENT ECONOMICS ASSOCIATES (Dec. 20, 2017), http://www.networkideas.org/news-analysis/2017/12/53-economists-write-to-imf-directors-on-approach-to-social-protection/ (last visited Apr. 18, 2018).

on the sidelines; nor is it advisable for other actors to shy away from engaging with the IMF given its influence at the country level. The task envisioned by SDG Goal 1 to eliminate poverty by implementing "nationally appropriate social protection systems and measures for all, including floors, and by 2030 [to] achieve substantial coverage of the poor and the vulnerable" requires a sound understanding of macro and micro-economic issues, as well as the social and political contexts of countries. It also requires in-depth understanding of, and sensitivity, to the vulnerabilities of a given country and its population. At a minimum, the IMF should routinely evaluate the impact of its advice on social protection and seek to alleviate any negative effects. Other actors could similarly be well served by understanding social protection within the broader context of macroeconomic stability. In other words, this Report suggests that significant attention should be given to exploring venues for creating and enhancing inter-institutional cooperation.[374] Such cooperation could entail sharing of data, information and research, as well as more active collaboration and/or coordination on specific issues or countries, regular and meaningful consultations, and informal processes of dialogue with key actors and organizations in the field.

Indeed, multitude of international players currently occupy the global social protection field, including the World Bank, ILO, UNICEF, UNDESA, UNCTAD, UNDP, the World Food Program, and regional development banks, as well as other intergovernmental organizations and civil society. These actors form part of a dense "regime complex" of interests, approaches, norms and regulations.[375] The overlap and intersection of agendas and mandates can give rise to explicit conflict of approaches, as exemplified in the universalist vs. targeted approach to social protection, discussed above. There are also more subtle but inevitable competitive pressures, with different actors seeking to exert influence over both global and local social protection policy agendas. The following sections map out the current state of cooperation between the IMF and a few of the main actors in the social protection field, namely the World Bank, the ILO and the UNICEF. They are followed by a discussion of the various existing barriers to collaboration and conclude with some suggestions for the way forward.

Mapping international Organizations in the international social protection field

This report focuses on three organizations that feature prominently in the discussions on social protection both at the global policy and country levels: The World Bank, the ILO, and UNICEF.

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374 The terms "coordination" and "cooperation" already occupy a prominent but ambiguous place in contemporary discourse surrounding international law and global regulation. The duty of states to cooperate among themselves and with competent institutions to solve global problems recurs as a central theme in the founding documents of international organizations. U.N. Charter, arts. 1, ¶ 3, 56. Likewise, cooperation and coordination become the mantra surrounding highly technical or densely regulated subject areas, such as humanitarian response, environmental protection, and counter-terrorism. *See* G.A. Res. 46/182, annex, Strengthening of the Coordination of Emergency Humanitarian Assistance of the United Nations (Dec. 19, 1991); U.N. Framework Convention on Climate Change, May 9, 1982, 1771 U.N.T.S. 107; S.C. Res. 1373, ¶ 3 (Sept. 28, 2001). However, the terms of cooperation and coordination remain deeply under-theorized, both in terms of their normative content, and in terms of the empirical question of how cooperation actually takes place. The IEO favors the term "collaboration", which appears to include all forms of inter-institutional interaction, whereas "cooperation" to refer to a more formal arrangement. *See* IEO, *Social Protection*, *supra* note 6.

375 A regime complex has been broadly defined as an "array of partially overlapping and non-hierarchical institutions governing a particular issue area". For one of the earliest analysis, see Kal Raustiala & David G. Victor, *The Regime Complex for Plant Genetic Resources*, 58 INT'L ORG. 277 (2004) [hereinafter Kal Raustiala & David G. Victor, *The Regime Complex for Plant Genetic Resources*].

The World Bank

The World Bank provides finance for capital programs to reduce poverty and support long-term economic development. It also provides policy advice, research and analysis, and technical assistance to developing countries. The Bank seeks to achieve two goals by 2030: to end extreme poverty by decreasing the proportion of those living on less than $1.90 a day to under 3%, and to promote shared prosperity by fostering the income growth of the bottom 40% for every country. The Bank is a powerful and influential actor in the field of international development whose functions broadened over time, sometimes raising concerns of mission creep, loss of expertise, politicization of the Bank's work and inefficiencies.[376]

The World Bank has explicitly worked on social protection since the 1990s.[377] Social protection is now a core competence of the Bank, and universal access to social protection a central pillar of its two goals. The Bank's focus on social protection is reflected in its 10-year Social Protection and Labor Strategy (2012–22)[378] and its declared commitment to the Sustainable Development Goals.[379] A significant number of staff work in field offices, bolstering the Bank's presence in local contexts.

In 2015, the Bank in partnership with the ILO defined social protection as:

"[An] integrated set of policies designed to ensure income security and support to all people across the life cycle—paying particular attention to the poor and the vulnerable. Anyone who needs social protection should be able to access it. Universal social protection includes: adequate cash transfers for all who need them, especially children; benefits and support for people of working age in case of maternity, disability, work injury or for those without jobs; and pensions for all older persons. This protection can be provided through social insurance, tax-funded social benefits, social assistance services, public works programs and other schemes guaranteeing basic income security."[380]

Broadly, the Bank's work in social protection occurs in two ways: through financial and technical assistance, and by generating data and best practices. The Bank provides financial and technical assistance to countries in designing and implementing social protection systems and policies. As of September 2017, the Bank's annual lending for social protection programs totaled $13.5 billion, with $8.4 billion applied to the world's 75 poorest countries.[381] This included social assistance (e.g. cash transfers, disability benefits and pension coverage), social

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[376] *See, e.g.*, Bradlow, *International Law and Operations of the IFIs*, *supra* note 234; Jessica Einhorn, *The World Bank's Mission Creep*, 80 FOREIGN AFFAIRS 22 (2001); John W. Head, *Law and Policy in International Financial Institutions: The Changing Role of Law in the IMF and the Multilateral Development Banks*, 17 KAN. J.L. & PUB. POL. 194, 205 (2008).
[377] Jianping Zhou, *IMF Collaboration*, *supra* note 184, at 3.
[378] The World Bank, *The World Bank 2012-2022 Social Protection and Labor Strategy*, *supra* note 42.
[379] The World Bank notes that: "The SDGs, which were formulated with strong participation from the World Bank Group, are fully consistent with the World Bank Group's own twin goals to end poverty and build shared prosperity in a sustainable manner." It has a dedicated Vice Presidency tasked with support of the 2030 Development Agenda. *See SDGs and the 2030 Development Agenda*, THE WORLD BANK, http://www.worldbank.org/en/programs/sdgs-2030-agenda#1 (last visited Apr. 6, 2018).
[380] International Labour Organization & World Bank Group, *A Shared Mission for Universal Social Protection: Concept Note*, http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/genericdocument/wcms_378996.pdf (last visited Apr. 6, 2018).
[381] *Social Protection Overview*, THE WORLD BANK, http://www.worldbank.org/en/topic/socialprotection/overview#1 (last visited Apr. 6, 2018).

insurance (e.g. public works, social assistance programs) and job and skills creation programs.[382]

The Bank describes its financial and technical work on social protection as comprising an "architecture" and "engineering" role.[383] The "architecture" function includes diagnostic analysis of the needs and effectiveness of existing programs, formulating a strategy to achieve goals, identifying policy options, and articulating the structure of programs to ensure policy consistency within the social protection and labor program.[384] The "engineering" function includes devising policy and implementation measures (e.g. instituting subprograms to enhance administration), financing programs, and provision of technical assistance to support pilots and scale-up.[385]

The second aspect of the Bank's work on social protection is in generating data and disseminating best practices.[386] In 2012 the Bank launched the Atlas of Social Protection with Indicators on Resilience and Equity (ASPIRE), being the first global compilation of data from household surveys documenting social protection coverage and impacts in various countries.[387]

The Bank has recently formally committed itself to the goal of ensuring universal access to social protection, but it is unclear to what degree this commitment has been realized in practice given the limited change to the Bank's operational approach.

International Labor Organization

The initial mandate of the ILO as set out in its 1919 founding Constitution was: "to improve unjust labor conditions, based on the recognition that social justice is essential to universal and lasting peace." This broad mandate was redefined following the 1944 Philadelphia Agreement, which amended the Constitution to specifically incorporate social protection. Since this time, social protection has been a key function of the ILO's work.

During the 1990s the ILO developed its Decent Work Agenda, a key guiding policy that contains four strategic objectives: promote people's rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue on work-related issues. The ILO achieves its objectives through the adoption of labor standards, policies and recommendations, the provision of technical assistance and labor market and policy research.

The ILO regards social protection as a human right, based on the UDHR and the ICESCR. This understanding accords with the ILO's view that decent work enhances an individual's purpose, dignity and humanity. In September 2016, ILO Director-General Guy Ryder delivered a speech describing the nexus between social protection and labor as follows:

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382 *See, e.g.* The World Bank, *The World Bank 2012-2022 Social Protection and Labor Strategy*, *supra* note 42, at 30 (outlining different SPL aims for various institutional contexts).
383 *Id.* at 48.
384 *Id.*
385 *Id.*
386 *See, e.g.*, SPS at xvii.
387 *ASPIRE: The Atlas of Social Protection Indicators of Resilience and Equity*, THE WORLD BANK, http://datatopics.worldbank.org/aspire/ (last visited Apr. 6, 2018); *see also Social Protection (Strategy)*, THE WORLD BANK, http://www.worldbank.org/en/topic/socialprotection/overview#2 (last visited Apr. 6, 2018).

Social security is an investment in people that empowers them to adjust to changes in the economy and in the labour market, and social security systems act as automatic social and economic stabilizers, help stimulate aggregate demand in times of crisis and beyond, and help support a transition to a more sustainable economy … policies aimed at sustainable long-term growth associated with social inclusion helps overcome extreme poverty and reduces social inequalities and differences within and among regions.[388]

The ILO takes the view that realization of decent work requires reform of related economic and social policies that affect workers throughout a lifecycle. Consequently, its social protection work extends beyond strictly workplace matters to include education standards (as a pre-cursor to decent work), affordable workers' housing,[389] nutritional meals at work and old age pensions (to allow the cessation of work).

In 2012, the ILO promulgated the *Social Protection Floors Recommendation No. 202, 2012* (the 2012 Recommendation)[390] which was adopted by 185 Member States. The Recommendation supports the application of basic social security guarantees to as many people as possible, to be progressively realized within each national context. The 2012 Recommendation contained two goals: (1) establishing national social protection floors as part of a larger, comprehensive social protection system and (2) progressively raising the levels of protection according to the *Social Security (Minimum Standards) Convention (No. 102)* and other ILO standards. Specifically, the ILO supports a horizontal movement towards universal coverage in line with the *Social Protection Floor Recommendation 2012* followed by a vertical movement to raise the levels of social protection in line with Convention No. 102. The language of Resolution 202 included a hortatory call to member states to establish social protection floors "as quickly as possible." It also defined certain material rights, such as health care and basic income security, and recipient groups, including children, the elderly, the sick, pregnant women, and unemployed persons.[391]

In 2016, the ILO launched its ambitious Global Flagship Program in response to the 2030 Agenda for Sustainable Development. The ILO is working with 21 countries to implement tailor-made and functional social protection floors, and will also provide cross-country policy advice and developing methodologies and tools. The ILO is calling for additional funding to support its design and reform of social protection schemes, described as follows:

Technical advisory services and capacity building are provided alongside the organization and facilitation of social dialogue to design or reform individual social protection schemes in line with ILO standards, including policy options, costing and financing, institutional set-up, and legal studies. Macroeconomic and fiscal assessments of social protection reforms are incorporated into national budgets. In

[388] Guy Ryder, *Dir. Gen., Universal social protection is achievable and critical to implementing the new UN development agenda,* INTERNATIONAL LABOUR ORGANIZATION (Sept. 6, 2016), http://www.ilo.org/global/about-the-ilo/how-the-ilo-works/ilo-director-general/WCMS_519736/lang--en/index.htm.
[389] *See, e.g.,* International Labour Organization, General Conference Resolution 115, Workers' Housing Recommendation (1961), http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R115.
[390] International Labour Organization, General Conference Resolution 202, Social Protection Floors Recommendation (June 14, 2012), http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:3065524.
[391] *Id.*

addition, linkages are developed with other policies and support is provided for the ratification and application of ILO Conventions and Recommendations[.]

The ILO has a large and dedicated Social Protection Department whose mandate is data collection and analysis, policy advice, coordination with other IOs, and building on ILO expertise in the "design and reform of sustainable social security systems in the light of the challenges of changing demographic and economic conditions." Recent work of the ILO has focused on generating policies to support the calculation of fiscal space for social protection.

However, despite its firm and vocal support for universal social protection, it has been said that the ILO "has very little influence in, and is largely peripheral to, contemporary global economic governance."[392] Compared to the IFIs and other donors as lending and financing institutions, the ILO's primary role is the generation and development of labor standards, and it is somewhat reliant on other institutions and governments to accept its standards and implement them.[393] Hence the ILO has strong incentives to collaborate with other bodies, in particular with the World Bank which often funds the ILO's country-level work directly (e.g. through a Trust Fund) or indirectly (e.g. when governments allocate Bank funds to labor reform assisted by the ILO).[394] The ILO also works closely with UNICEF, which shares many of its premises and approaches to social reform.

UNICEF

UNICEF's current mandate is the realization of children's rights, in accordance with the protections in the Convention on the Rights of the Child. UNICEF recognizes social protection as a human right, stemming from various international law agreements including Articles 26 and 27 of the Convention on the Rights of the Child.

UNICEF supports the progressive realization of universal social protection coverage to improve the lives of children. It defines social protection as a "set of public and private policies and programs aimed at preventing, reducing and eliminating economic and social vulnerabilities to poverty and deprivation."[395] UNICEF advocates for "child sensitive social protection policies" that enable children to enjoy the full spectrum of their capabilities. This includes identifying and redressing the social barriers to child access to services and addressing child-specific vulnerabilities. UNICEF notes that social protection does not have to explicitly target children in order to benefit them.[396] Accordingly, it advocates for comprehensive social

[392] Steve Hughes & Nigel Haworth, *The International Labour Organization (ILO): Coming in from the Cold* xvi (2011).
[393] Interview AC; Interview S.
[394] International Labor Organization, DEVELOPMENT FOR COOPERATION MANUAL (public version) (2015), http://www.ilo.org/wcmsp5/groups/public/---dgreports/---exrel/documents/publication/wcms_452076.pdf.
[395] UNICEF, INTEGRATED SOCIAL PROTECTION SYSTEMS: ENHANCING EQUITY FOR CHILDREN (PRESENTATION) (Feb. 2012), https://www.unicef.org/socialpolicy/files/Presentation_Jennifer_Yablonski_UNICEF__20_Feb_2012.pdf; UNICEF, INTEGRATED SOCIAL PROTECTION SYSTEMS: ENHANCING EQUITY FOR CHILDREN (Feb. 2012), https://www.unicef.org/socialprotection/framework/files/Social_Protection_Strategic_Framework_7Mar12_low_res.pdf [hereinafter UNICEF, *Social Protection Strategic Framework*].
[396] UNICEF, *UNICEF Social Inclusion, Policy and Budgeting*, https://www.unicef.org/socialpolicy/index_socialprotection.html (last visited Apr. 8, 2018) [hereinafter UNICEF, *Social Inclusion, Policy and Budgeting*].

protection schemes across the life-cycle, often in collaboration with other international organisations, such as the ILO.

UNICEF endorses the "progressive" realization of social protection in recognition of the reality that countries often do not have the capacity or funds to immediately implement universal coverage. It also acknowledges the importance of shorter-term measures to address transient and temporary shocks.[397] Nevertheless, UNICEF argues that these short-term measures should always be a basis for building capacity and policy dialogues for longer-term programs and systems.

Accordingly, UNICEF is cautious about the use of targeted poverty alleviation measures. For example, it sees targeted cash transfer programs as problematic in countries where most people work in the informal sector, meaning that direct means testing is impossible and can create a costly administrative burden.[398] In many cases UNICEF endorses a mix of categorical targeting (e.g. households with orphans in Ghana and Nigeria or persons with severe disabilities in Cape Verde and Ghana), community based targeting, and proxy means testing. UNICEF'S Ghana LEAP social cash transfer project is an example of a successful model of targeting that is gradually being expanded with the ultimate goal of universal coverage.[399]

UNICEF has become an influential actor in social protection worldwide. It deploys its expertise in a number of ways to assist in the implementation of and advocacy for effective social protection policies: technical support, capacity building, and research and advocacy. In the 2000s UNICEF expanded its pool of economists to assist governments with budget analysis, including finding fiscal space for social protection.[400] UNICEF has provided technical assistance to 66 countries to support the design and implementation of social transfer programs.[401] UNICEF's recent social protection work has focused on South-South collaboration, inclusive growth (e.g. working with governments to limit exclusion errors in targeting programs) and reducing social barriers to accessing services.[402]

UNICEF also works with governments to improve their national technical capacities. In Malawi, UNICEF worked to improve registration system inefficiencies to allow age-based transfers rather than community-based transfers. UNICEF actively critiques and offers alternatives to the economic analyses produced by the international financial institutions. UNICEF first drew attention to the way adjustment policies affect the poor and to the specific

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397 *See* UNICEF, *Social Protection Strategic Framework*, *supra* note 395.

398 UNICEF, CHILD POVERTY: A ROLE FOR CASH TRANSFERS IN WEST AND CENTRAL AFRICA 4 (Feb. 2009), https://www.unicef.org/wcaro/wcaro_24_UNICEF_ODIbriefing_paper_CASH_LOW.pdf.

399 *See* Sudhanshu Handa et al., LIVELIHOOD EMPOWERMENT AGAINST POVERTY PROGRAM: IMPACT EVALUATION (Oct. 2013), https://www.unicef.org/ghana/gh_resources_LEAP_Quant_impact_evaluation_FINAL_OCT_2013.pdf (providing a summary of the quantitative analysis of how parties performed. LEAP is now being expanded to LEAP 1000 by UNICEF, so as to include even more people in extreme poverty within the program).

400 UNICEF, *Social Inclusion, Policy and Budgeting*, *supra* note 396.

401 UNICEF, POLICY ADVOCACY AND PARTNERSHIPS FOR CHILDREN'S RIGHTS: THEMATIC REPORT 2013 4 (2013), https://www.unicef.org/publicpartnerships/files/Policy_Advocacy_for_Childrens_Rights_2013_Thematic_Report.pdf. For specific examples of assistance that UNICEF provides see *id.* at 20.

402 UNICEF, *Social Protection Strategic Framework*, *supra* note 395. An example of a successful targeting program implemented by UNICEF is LEAP in Ghana – using a combination of categorical and means testing targeting: https://www.unicef.org/ghana/gh_resources_LEAP_briefing_paper.pdf.

measures that can be taken to cushion short-term costs.[403] It vocally opposed IMF-imposed or proposed austerity measures during the global financial crisis, advocating for counter-cyclical social spending programs to minimize the harm to children.

Inter-institutional collaboration on social protection

Multi-agency cooperation

Following the global financial crisis, in 2009 the ILO's Social Protection Floor Initiative was adopted by the UN System Chief Executives Board as one of nine responsive measures. It has been suggested that this was somewhat a matter of good timing and luck for ILO influence, as the ILO held the Rotating Chair of the High-Level Committee on Programmes of the UN's Chief Executives Board at this time.[404] The Social Protection Floor Initiative was co-led by the ILO and the WHO, but involved a group of other cooperating agencies including the IMF, UNDP, UNHCR, UNICEF and the World Bank. This initiative defined a social protection floor as having two elements: access to essential services such as health care and the second a basic set of social transfers in cash and in kind paid to the poor or vulnerable persons to provide a minimum level of income security. One dimension of this initiative involved the ILO cooperating with the IMF on the fiscal space pilot studies described in further detail below.

In 2012, the Social Protection Inter-agency Cooperation Board (SPIAC-B) was established in response to a request from the G-20 Development Working Group. The Board is co-chaired by the ILO and World Bank and includes several agencies, funds and programmes of the United Nations (e.g. UNDP, UNICEF, UN-Women, WHO), international financial institutions, bilateral development agencies and civil society (as observers). Its focus is knowledge and tool-sharing amongst partners to improve social protection outcomes. According to the 2017 IEO Collaboration Paper, the IMF has participated very little, attending only three meetings since the Board's inception.[405] However, in the Implementation Plan in Response to the Board-Endorsed Recommendations for the IEO Evaluation Report—"The IMF and Social Protection," the IMF noted that "IMF senior-level staff will … attend the ILO- and World Bank-led Social Protection Interagency Cooperation Board (SPIAC–B) meetings when the issues under discussion are particularly relevant to the Fund's work."[406]

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[403] See Richard Jolly, *Adjustment with a Human Face*, *in* MILESTONES AND TURNINGPOINTS IN DEVELOPMENT THINKING 172 (Richard Jolly ed. 2012) [hereinafter Jolly, *Adjustment with a Human Face*]; UNICEF, THE STATE OF THE WORLD'S CHILDREN (James P. Grant ed., 1987), https://www.unicef.org/about/history/files/sowc_1987.pdf [hereinafter UNICEF, *The State of the World's Children*].

[404] Bob Deacon, *The Social Protection Floor and Global Social Governance: Towards Policy Synergy and Cooperation between International Organizations*, 66 INT'L SOC. SECURITY REV. 45, 47-8 (2013).

[405] Jianping Zhou, *IMF Collaboration*, *supra* note 184, at 9.

[406] IMF, *Implementation Plan*, *supra* note 50, at 6.

IMF-World Bank

General

The IMF and the World Bank have a long relationship of cooperation, stemming from their founding in 1944 as twin Bretton-Woods institutions with complementary functions.[407] David Driscoll describes the "bedrock of cooperation" between the Bank and Fund as the "regular and frequent interaction of economists and loan officers who work on the same country."[408] Both institutions are driven by an economic focus but have different goals and priorities. Expertise is shared, with the Bank staff bringing "a longer-term view of … development and a profound knowledge of the structural requirements and economic potential of a country" and IMF staff contributing perspectives on the "day-to-day capability of a country to sustain its flow of payments to creditors and to attract from them investment finance, as well as on how the country is integrated within the world economy." [409]

According to publicly available documents, and confirmed by the interviews conducted for this report, cooperation appears to occur at all levels. At the executive level, the Boards of Governors of the IMF and the World Bank engage at Annual Meetings. The Managing Director of the Fund and Bank President meet regularly to consult on major issues, issue joint statements, write joint articles, and sometimes undertake country visits. At an institutional level, the IMF's Strategy, Policy, and Review Department (SPR) are responsible for collaboration with the World Bank,[410] including monitoring the implementation of the Joint Monitoring Action Plan (JMAP).[411] Under the JMAP, country teams of the institutions come together to discuss work programs and division of labor.[412] The IMF's FAD collaborates with the Bank on public expenditure policy issues, including social sector and poverty-related issues.[413] At the country level, IMF Area Department staff and IMF resident representatives work with World Bank country teams in the field and at headquarters.[414] Unlike the Bank, the Fund has very few staff based in the field; the Bank's regional and local expertise is therefore an important resource for the IMF. The IMF in its country work generally has a team that works from Washington D.C., and occasionally has a country representative in capital.[415] Comparatively the World Bank's missions may often have dozens of staff in the country. The IMF and World Bank sometimes engage in joint or parallel country missions. In addition, IMF and World Bank staff often engage in daily informal meetings and joint seminars.

However, throughout their histories the Bank and Fund have also experienced competitive pressures, giving rise to debates about the proper mandates of each and how to resolve differences of opinion. In response, a set of Bank-Fund guidelines were adopted in 1966, followed by the 1989 Concordat on Bank-Fund cooperation.[416] The Concordat describes

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407 Driscoll, *The IMF and the World Bank How Do They Differ?*, *supra* note 54.
408 *Id.* at 13.
409 *Id.*
410 IEO, *Social Protection*, *supra* note 6, at 8.
411 Jianping Zhou, *IMF Collaboration*, *supra* note 184, at 24.
412 IMF, *The IMF and the World Bank*, *supra* note 60.
413 Jianping Zhou, *IMF Collaboration*, *supra* note 184, at 24.
414 *Id.*
415 Interview AA.
416 Timothy Geithner, REPORT TO CONGRESS ON IMF AND WORLD BANK COLLABORATION AND IMF ACCOUNTABILITY 2 (July 2009), https://www.treasury.gov/resource-center/international/int-monetary-

a history of successful cooperation, but notes an increased contiguity of activities, occasional significant divergences in opinion, and the importance of strengthened collaboration.[417] It sets out the institutional purposes and division of labor between the Bank and the Fund, with the Fund to focus on aggregate aspects of macroeconomic policies and their related instruments,[418] and the Bank to focus inter alia on "development strategies," "structural adjustment programs," "efficient allocation of resources," and "priorities in government expenditures."[419]

The Concordat urges the sharing of knowledge and resources, including exchanging analyses from different perspectives and states that in the event of persistent differing views, the institution with secondary responsibility should yield to the judgment of the other.[420] Additional guidelines on procedures to enhance collaboration have appeared in the form of Staff Guidance Notes, Public Information Notices, and IMF Policy Papers.[421]

In 2007 an external review of Fund-Bank collaboration was prompted by US concerns about the duplication of functions and provision of inconsistent advice to governments.[422] The resulting report stressed again the need for closer collaboration to enhance the efficiency of both institutions and ensure the needs of member states were adequately met.[423] This recommendation for enhanced cooperation reflects numerous past calls by the IEO to further strengthen the Fund's collaboration with the Bank.[424] In response, the Bank and Fund adopted a Joint Management Action Plan (JMAP) to improve coordination on country issues, enhance communications between staff on thematic issues and improve incentives and staff support for collaboration,[425] and the implementation of this Action Plan was reviewed and received a somewhat mixed evaluation in 2010.[426]

Social protection

Currently, the World Bank is the IMF's most important institutional partner on social protection issues.[427] However, there are no operational guidelines pertaining specifically to

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fund/Documents/(2009-07-22)%20Bank%20Fund%20collaboration%20report%20FINAL.pdf [hereinafter Geithner, *Report to Congress*]; Jianping Zhou, *IMF Collaboration, supra* note 184, at 28.

417 The IMF-World Bank Concordant, SM/89/54, Rev. 1 (Mar. 1, 1989), http://www.imf.org/external/SelectedDecisions/Description.aspx?decision=SM/89/54.

418 *Id.* at ¶ 9 (related instruments include "public sector spending and revenues, aggregate wage and price policies, money and credit, interest rates and the exchange rate").

419 *Id.* at ¶ 10.

420 *Id.* at ¶ 12.

421 Jianping Zhou, *IMF Collaboration, supra* note 184, at 28-32.

422 Geithner, *Report to Congress*, *supra* note 416, at 1.

423 *Id.* at 4.

424 Jianping Zhou, *IMF Collaboration, supra* note 184, at 2, 25. *See generally, id.* at 26-27.

425 *See* STAFF OF THE INTERNATIONAL MONETARY FUND AND THE WORLD BANK, ENHANCING COLLABORATION: JOIN MANAGEMENT ACTION PLAN (FOLLOW-UP TO THE REPORT OF THE EXTERNAL REVIEW COMMITTEE ON IMF-WORLD BANK COLLABORATION) (Mark Allen & Danny Leipziger eds. Sept. 20, 2007), http://www.imf.org/external/np/pp/2007/eng/092007.pdf.

426 *See* STAFF OF THE INTERNATIONAL MONETARY FUND AND THE WORLD BANK, IMPLEMENTATION OF THE JOINT MANAGEMENT ACTION PLAN ON BANK-FUND COLLABORATION (Otaviano Canuto & Reza Moghadam eds. Mar. 3, 2010), https://www.imf.org/external/np/pp/eng/2010/030310.pdf.

427 *See* Jianping Zhou, *IMF Collaboration, supra* note 184, at 1 (noting that in an IMF staff survey, 80 percent of respondents reported interactions with World Bank staff on social protection issues, whereas a large majority of respondents reported little to no contact with UN agencies and the OECD); Klugman, *Seven Low-Income Country Cases*, *supra* note 276, at 4.

Bank-Fund collaboration on social protection.[428] General collaboration guidance is referenced in various different policies, especially regarding low-income countries and public expenditure.[429]

The Collaboration Paper, prepared as a background paper to the IEO Report, asserts that social protection falls under the Bank's rather than the Fund's responsibilities.[430] According to the IEO background study of a number of countries, the IMF staff almost always defer to the World Bank on issues related to the design and implementation of social protection programs, including social safety nets, pension and energy subsidy reforms.[431] Three examples of the division of labor between the Fund and Bank on social protection are discussed: pension reform, joint staff advisory notes (JSANs), and PSIAs. In pension reform, IMF surveillance considers the implications of pension reform on macroeconomic development whereas the Bank gives detailed advice on pension systems.[432] In JSANs, Bank staff provide an assessment identifying the "strengths and weaknesses of a country's Poverty Reduction Strategy, and priority areas for strengthening."[433]

PSIAs, as discussed earlier, are assessments of the distributional and social impacts of policy reforms, especially on the poor and vulnerable. As discussed above, at one time the Fund had a PSIA unit but it was later disbanded due to concerns over resourcing and such impact assessment was apparently "mainstreamed" into the work of the Fiscal Affairs Division, making it difficult to detect how much is done.[434]

One IMF staff member stated that in current times, the IMF Executive might have made a different decision as to whether it is appropriate for the Fund to conduct PSIAs within its mandate.[435] This member suggested that there may be a renewed interest within the Fund at present to conduct distributional analysis, but that resources and expertise were lacking,[436] and suggested that the Fund would need to outsource such work or collaborate with partner institutions like the Bank.[437]

The Collaboration Paper asserts that collaboration between the Bank and Fund has been successful at the country level,[438] and states that the IMF expressed appreciation for the Bank's input and assistance, and that Bank staff found the Fund's mobilization of support for and ability to maintain momentum of social protection reforms useful.[439] The majority of staff interviewed for the IEO study from both institutions reportedly rated collaboration on social protection at the country level as moderately to highly effective.[440] In particular, World Bank

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[428] IEO, *Social Protection*, *supra* note 6, at 8, 34, 45.
[429] Jianping Zhou, *IMF Collaboration*, *supra* note 184, at 28, 31-2.
[430] *Id*. at 21.
[431] *Id*. at 5.
[432] *Id*. at 5-6.
[433] *Id*. at 5.
[434] According to one of the background papers to the IEO study, a consequence of the "mainstreaming" has been that PSIA missions and related work "are no longer classified as such in FAD's recordkeeping, making it harder to identify the amount of PSIA work carried out by IMF staff. Jianping Zhou, *IMF Collaboration*, *supra* note 184, at 7.
[435] Interview A.
[436] Interview A.
[437] Interview A.
[438] Jianping Zhou, *IMF Collaboration*, *supra* note 184, at 5.
[439] *Id*.
[440] *Id*. *See*, *e.g.*, Interview AE.

staff praised the IMF's involvement in bringing greater visibility to social protection issues.[441] A World Bank official also noted that working together gives both institutions greater influence to exert pressure than when they offer advice alone. This individual suggested that whereas the IMF may be perceived as "the bad guy" and overly forceful in its guidance, the presence of the World Bank may encourage governments to be more open to dialogue.[442]

The IEO report raised the question whether the World Bank's 2015 endorsement of the ILO's universal, rights-based approach to social protection might change the working relationship between the IMF and World Bank.[443] In theory, the Bank's endorsement of a rights-based approach could have implications for the Bank's selection of poverty reduction instruments and sequencing, for example in the use of targeting with the intention to extend coverage over time, in line with the ILO approach.[444] However, IMF staff have noted that as yet there has not been any change evident in the Bank's approach,[445] and this view was echoed by a number of World Bank staff interviewed for the current report.

In April 2017, an IMF's Social Safeguards paper recommended increased efforts to strengthen social safety nets for PRGT-supported programs including through enhanced collaboration with the Bank and other development partners.[446] The paper highlighted that collaboration with the Bank and other development partners was needed to "draw on their expertise" and that discussions should take place at an early stage "ideally during surveillance discussions" which should include "stocktaking of existing social policy instruments, an assessment of how to implement measures in a fiscally sustainable way, and an analysis of the distributional impact of macroeconomic policies."[447] In its response to the Social Safeguards paper, the IMF Executive Board accepted that a more comprehensive assessment of the effectiveness of social safeguards would require further analysis, including from outside the Fund.[448] This response appears to signal Executive-level support for greater IO collaboration on social protection. The Directors "stressed the importance of pro-active outreach and clear communications on the work of the Fund in this area and on collaboration with other development partners and stakeholders."[449] The IMF is currently working on a guidance note for staff implementation of the recommendations of the Social Safeguards paper, due to be completed in the first half of 2018.[450]

World Bank staff expressed mixed responses to the IEO recommendations and the Fund's apparent movement into the field of social protection. While some saw positive aspects such as the Bank being able to leverage the Fund's access to government officials, others were concerned about how the Fund would take action in this field and whether there was a risk of "stepping on the Bank's toes" or taking over some of the current work of Bank staff.[451] One

[441] Klugman, *Seven Low-Income Country Cases*, *supra* note 276, at 5.
[442] Interview R.
[443] *See* Joint Statement by World Bank Group President Jim Yong Kim and ILO Dir. General Guy Ryder, WB-ILO Joint Statement (June 30, 2015), http://www.worldbank.org/en/news/press-release/2015/06/30/joint-statement-world-bank-group-president-ilo-director-general-guy-ryder.
[444] *See* IEO, *Social Protection*, *supra* note 6, at 29.
[445] *Id.*
[446] IMF, *Social Safeguards*, *supra* note 221.
[447] *Id.* at 3.
[448] *Id.*
[449] *Id.* More broadly, the IEO Collaboration Paper suggested that inadequate operational guidance could hinder effective collaboration by the IMF with others. Jianping Zhou, *IMF Collaboration*, *supra* note 184, at 2.
[450] IMF, *Implementation Plan*, *supra* note 50.
[451] Interview V.

Bank staff member welcomed the IMF's interest in social protection, with the caveat that the Fund's involvement should not be too in-depth. [452] This interviewee suggested that the Fund's optimal role would be to educate itself to recognize and articulate the benefits of social protection, without going into detail as they do not have the capacity or expertise.[453] The interviewee noted that in their experience, the Bank was usually the party that initiated contact with the Fund rather than vice-versa.[454] The interviewee's view was that IMF staff should reach out to the Bank and rely on Bank staff to design social protection systems.[455] Further, it was noted that there was a danger with the IMF accidentally providing advice on specifics without knowing the full implications.[456] In this sense, the Bank staff member said that they understood the ILO's fears of greater Fund involvement in social protection, especially because the Fund had so much power in LICs where it often *de facto* controls the flow of funding.[457] Other World Bank staff interviewed stated that there were times when IMF staff recognized the need to reach out to the World Bank for advice and expertise, and that this was increasingly happening in Africa in particular.[458]

IMF-ILO

While guidelines for IMF-ILO collaboration on labor market and social protection issues have been in place since 1996,[459] cooperation between the Fund and ILO has a chequered history. This seems to be attributable to a strong divergence on core normative questions, with the ILO adopting a rights-based approach to social protection, advocating for universal coverage and access to social protection, while the Fund, driven by fiscal imperatives and by paramount concern about fiscal stability, advocates for social benefits to be targeted to the poorest.

A 1996 IMF staff memo issued by the Managing Director specified ways in which Fund staff should facilitate country-level collaboration with the ILO on labor market and social protection issues, including by informally seeking the ILO's views on the design of cost-effective social protection instruments, providing views on the country's macroeconomic policies and targets, participating in joint case-studies and meetings with worker and employer groups.[460] However, despite this early encouragement, the Collaboration Paper describes cooperation between the IMF and ILO in practice as largely dormant until 2010, apparently because the Fund guidelines on IMF-ILO collaboration did not provide any guidance as to how differences in views would be resolved. Nevertheless in Oslo in 2010, the ILO and Fund announced the Social Protection Floor Initiative, and worked together to conduct studies into expanding fiscal space in Mozambique, El Salvador and Vietnam. Divergent views have been expressed as to the success of the IMF-ILO cooperation on these pilot studies. A combined report from the ILO and IMF presented a largely positive view, describing a clear division of

[452] *Id.*
[453] *Id.*
[454] *Id.*
[455] *Id.*
[456] Interview V.
[457] *Id.*
[458] Interview N; Interview O.
[459] Jianping Zhou, *IMF Collaboration, supra* note 184, at 10.
[460] *Id.* at 10-1.

labor where UN agencies led the costing and design of social protection programs while the IMF calculated and found the fiscal space.[461]

In contrast, assessment of the pilot studies conducted as background for the IEO Report revealed a general level of skepticism amongst staff from both institutions as to the benefits of cooperation. According to the background paper, the pilots in El Salvador and Vietnam were deemed unsuccessful, due in part to a lack of shared goals, clear objectives, modalities, and output for collaboration as well as limited country authority buy-in.[462] In El Salvador, the country team for the IMF felt that there was a lack of information about the "objectives, modalities, and expected output of the collaboration."[463] Additionally, the IMF staff was concerned that the ILO's social protection floor recommendations were unfeasible and potentially inconsistent with the approach of the Bank and the International Development Bank.[464] Similarly, in Vietnam, the IMF staff reported that "they were not aware of any operational guidelines or terms of reference for the collaboration."[465] Further, some IMF staff "were not entirely convinced that the related work since the Oslo conference was central to the IMF's mandate and department work programs."[466] According to IMF staff interviewed by the IEO, the cooperation was also difficult because "IMF and ILO staff did not speak the same language."[467] However, while formal collaboration between the ILO and IMF in the Vietnam pilot may not have been successful, more general and informal cooperation between the IMF resident representatives and other UN agencies through monthly meetings, mutual briefings and other forms of interaction seems to work reasonably well in Vietnam.[468] This may suggest that organic and ongoing interaction at the country level could be more likely to lead to effective cooperation than formal collaboration mandated from above, although whether that would work for specific social protection remains to be seen.

The IEO Collaboration Paper viewed the Mozambique pilot as the most successful of the three collaborations.[469] It pointed to factors such as constructive buy-in from the national authorities, the World Bank, and UNICEF, the presence of local IMF and Fund staff in Maputo who had an existing positive working relationship, shared goals, a clear division of outputs and clear collaboration modalities.[470] However, while the outcome was a package of programs consistent with a social protection floor costing less than 1% of GDP, IMF economists apparently did not consider the pilot a best practice example of how to implement social protection.[471] Further, it seems there was little follow up after the pilot ended, and after Mozambique's 2016 debt crisis, social protection was deprioritized by the IMF.[472]

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461 International Monetary Fund & International Labor Organization, TOWARDS EFFECTIVE AND FISCALLY SUSTAINABLE SOCIAL PROTECTION FLOORS 7 (2012), http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---soc_sec/documents/publication/wcms_secsoc_30810.pdf. The Report concluded that the collaboration "has been crucial in demonstrating that even in low- and lower-middle-income countries such as Mozambique, El Salvador and Viet Nam, basic social protection floor measures are affordable and can be implemented gradually and over time without worsening the outlook for debt and fiscal sustainability." *Id.* at 1.
462 Jianping Zhou, *IMF Collaboration*, *supra* note 184, at 11-15.
463 *Id.* at 14.
464 *Id.*
465 *Id.* at 15.
466 *Id.*
467 Jianping Zhou, *IMF Collaboration*, *supra* note 184, at 11-15.
468 Interview U.
469 Jianping Zhou, *IMF Collaboration*, *supra* note 184, at 11.
470 *Id.* at 12.
471 *Id.* at 12-3.
472 *Id.* at 13.

IMF-UNICEF

UNICEF has adopted a rights-based approach to social protection and has been a vocal critic of the negative implications of IMF policies on children.[473] A prominent scholar in the field noted that "of the several IOs and INGO contributors to the campaign for social protection floors, UNICEF has taken the most vociferous approach in stressing this point to the IMF."[474]

In 2008, UNICEF collaborated with the IMF on pilot studies to find fiscal space, as part of the larger above-described project also involving the ILO.[475] In contrast to the staff reaction to the IMF-ILO collaboration, the staff of both the IMF and UNICEF viewed *their* collaboration as potentially beneficial:

> *IMF staff persuaded Management that collaboration with UNICEF would not only provide reputational gains for the Fund but also expertise on social protection schemes that could be used to inform the design of IMF- supported programs; UNICEF staff hoped to get the IMF to "look at things from the children's point of view" and convince the Fund to advise governments to avoid cuts in social services or social expenditure, and increase public spending to mitigate the impact of the crises and austerity on children.*[476]

A number of joint interests were identified in the context of this collaboration, including expanding fiscal space in LICs, monitoring the social impact of policy options, and strengthening social protection services.[477] Eleven countries were selected for the pilot on the basis that they had active IMF-supported programs in place and a UNICEF country team with local capacity in macroeconomics.[478] The IMF's key contribution to strengthening social protection in LICs has been described as being an advocate to persuade the governments of the importance of social safety nets.[479] The Fund could provide a direct line to government officials including the Minister for Finance, and offer greater influence over decision-makers than the other IOs.[480] For example, in Mozambique, UNICEF led a simulation of the impact of policy options on the poverty gap, and the IMF led an assessment of available fiscal space. The collaboration with the IMF stepped up advocacy efforts to increase state budget allocations for social protection, with the Fund facilitating dialogue between the Ministry of Women and Social action and the Minister of Finance.[481] Burkina Faso is another country where collaboration between UNICEF and the IMF was seen as a success. According to internal memos by and interviews with IMF and UNICEF staff, "the partnership was instrumental in

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473 *See generally* Jolly, *Adjustment with a Human Face*, *supra* note 403; UNICEF, *The State of the World's Children, supra* note 403.
474 Bob Deacon, *Global Social Policy in the Making: The Foundations of the Social Protection Floor* 177 (2013).
475 Jianping Zhou, *IMF Collaboration*, *supra* note 184, at 17.
476 *Id.*
477 *Id.*
478 *Id.*
479 Klugman, *Seven Low-Income Country Cases*, *supra* note 276, at 5.
480 Staff interviewed from the World Bank, UNICEF and ILO said that recommendations from the IMF tended to carry more weight with powerful decision-makers within the government. *Id.*
481 International Labour Organization, World Food Programme & UNICEF, CAPITALISING ON UN EXPERIENCE: THE DEVELOPMENT OF A SOCIAL PROTECTION FLOOR IN MOZAMBIQUE (2015), http://www.unicef.org.mz/wp-content/uploads/2015/08/Captalization-UN-experience_EN_Social-media.pdf.

integrating social protection directly into the IMF's agenda, creating a direct line to the Minister of Finance and enabling advocacy for a larger deficit ceiling for increased poverty spending which was formally expanded from 5.7 percent to 6.5 percent in 2010–11."[482] Additional examples of productive collaboration between UNICEF and the IMF, leading to the incorporation of social and social protection-related issues into the IMF's agenda have apparently also taken place in Tajikistan, Mauritania, Moldova, Togo, Zambia, the Republic of Congo, and Malawi.[483]

However, collaboration between the two organizations ceased in 2011 after conflict arose following a public report written by UNICEF staff, which criticized austerity measures recommended by the IMF during the financial crisis.[484] Despite the fact that the report was stated not to represent the official view of UNICEF, and the authors had apparently been instructed by UNICEF not to publish the report in order to avoid causing tension with the IMF, Fund staff apparently viewed the criticism as a betrayal of trust.[485]

While UNICEF continues to be a robust critic of the social impact of IMF policies,[486] the organization nonetheless also endeavors to collaborate productively with the IMF at the country level, with a view to helping the IMF to understand the on-the-ground realities, to try to identify priority areas where spending should be safeguarded in the context of budget cuts, as well as to influence the Fund's thinking on social protection issues more generally.[487] More generally, UNICEF has noted a growing demand for closer collaboration with the IMF. An example given was of a recent meeting of a social policy network for UNICEF Eastern and Southern Africa staff in which representatives from the IMF in South Africa and Uganda contributed insights on how the two organizations could better work together.[488]

Barriers to Collaboration

SDG 1—eliminating poverty—and its corresponding target of implementing social protection systems for all and ensuring substantial social protection coverage of the poor and vulnerable is an example of a collective action problem that requires coordination and cooperation of multiple actors with differing interests and agendas. The multi-state Social Protection Floor Initiative described above was as a result of multitude of actors coalescing around a common position with respect to the social protection floors. Importantly, the IMF was not part of that initiative, which may explain why the IMF did not actively participate in SPIAC-B: since it never formally subscribed to the Social Protection Floor Initiative, the IMF could not easily "coordinate" its actions with those of other actors. The failure to reach the meeting of the minds with the other organizations seems to be in large part due to underlying ideological differences.[489] However, other factors, including the structure and culture of the institution, help to explain their difficulties in collaborating.

[482] Klugman, *Seven Low-Income Country Cases*, *supra* note 276, at 10.
[483] Interview AG.
[484] Jianping Zhou, *IMF Collaboration*, *supra* note 184.
[485] *Id.* at 18.
[486] *See, e.g.*, *Children of Austerity*, *supra* note 242, in particular the chapter on Greece.
[487] Interview AG.
[488] Interview AG.
[489] The ideological and disciplinary differences between different international organizations can at times be obscured by the fact that the same language may be employed, but to mean quite different things. The classic example is that there is no uniform definition of poverty, so that the World Bank uses low income measures while UNICEF adopts a child-centered deprivation approach. *See, e.g.*, Alberto Minujin et al., CHILDREN LIVING

Ideological and Normative Differences

As described above, the stated core concern of the IMF is maintaining global macroeconomic stability. Although the IMF no longer suggests that its mandate prevents it from considering a range of social issues, including social protection, in its work, it consistently prioritizes fiscal targets, and while the IMF increasingly pays attention to social spending, it does so only to the extent that such spending does not jeopardize the IMF's recommended "fiscal envelope." The alleviation of poverty is a related but often a secondary consideration, and the realization of human rights is not viewed as relevant to the mandate or work of the Fund.[490] This contrasts with the approach by organizations the ILO and UNICEF, which see the realization of human rights as a primary goal of development and a cornerstone of sustainable poverty alleviation.

The IEO report summarizes how different views as to the relative priority of social protection and fiscal sustainability created ongoing tension between UNICEF and the IMF:

> *UNICEF staff generally held onto their view that public expenditures on social protection should be seen as investments, and that policies to restore medium-term macroeconomic sustainability had to be balanced against those to protect and support children and households in the immediate term. IMF staff generally held onto their view that fiscal deficits had to be managed to ensure fiscal sustainability.*[491]

In a similar vein, a World Bank staff member interviewed for this report suggested that the ILO might at times be seen as excessively rigid in its approach to social protection in a way that could constrain its ability to collaborate or to engage constructively with the international financial institutions.[492] Rigid adherence to respective positions left IMF staff feeling sidelined

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IN POVERTY: A REVIEW OF CHILD POVERTY DEFINITIONS, MEASUREMENTS, AND POLICIES (2005), https://www.unicef.org/policyanalysis/files/child_poverty_final_draft_4_05.pdf. Similarly, important differences may underlie the aims of various international organizations even while they recommend that a country adopt certain measures. For example, both the IMF and the ILO have recommended the use of social transfers. However, while the Fund's aim is to mitigate the adverse effects of its program measures on the most vulnerable in the short-term, and its recommendations are constrained the ultimate aim of fiscal sustainability, UNICEF recommends cash transfers as "but one component of more complex and globally recognized social protection systems". UNICEF Evaluation Office, *2015 Global: Cash Transfer as a Social Protection Intervention: Evidence from UNICEF Evaluations 2010-2014*, https://www.unicef.org/evaldatabase/index_82652.html (last visited Apr. 9, 2018).

490 *See* Letter written to the UN Independent Expert on the Effects of Foreign Debt from the IMF Special Representative to the UN of July 27 2017 on the relevance (or otherwise) of human rights to the Fund's work: http://www.ohchr.org/Documents/Issues/IEDebt/impactassessments/IMF.pdf.
For criticism of the non-engagement of the IMF and other international financial institutions with human rights, see http://www.ohchr.org/Documents/Issues/IEDebt/impactassessments/IMF.pdf Alfred-Maurice de Zayas (Independent Expert on the Promotion of a Democratic and Equitable International Order), *Report of the Independent Expert on the promotion of a democratic and equitable international order*, U.N. Doc. A/72/187 (July 21, 2017), https://undocs.org/A/72/187; United Nations Human Rights Office of the High Commissioner, *Guiding Principles for human rights impact assessments for economic reform policies*, http://www.ohchr.org/EN/Issues/Development/IEDebt/Pages/DebtAndimpactassessments.aspx (last visited Apr. 9, 2018). For a recent report on the human rights obligations of the International Financial Corporation, see Ellen C. Campbell, Elizabeth Dominic, Snezhana Stadnik & Yuanzhou (Jo) Wu, PREVENTING VIOLATIONS: THE PROMISE OF DUE DILIGENCE FOR THE IFC (2017), https://www.iilj.org/publications/preventing-violations-promise-due-diligence-international-financial-corporation/.

491 Jianping Zhou, *IMF Collaboration*, *supra* note 184, at 18.

492 Interview X.

in the context of the inter-agency board SPIAC-B, since its position—unlike those of the other participants—often reflected concerns about how proposed social protection measures were to be funded.[493] In their turn, a staff member of the ILO noted that if the IMF adopts a strategy on social protection "that puts fiscal concerns as the driving force" it would create a tension with existing legal norms on socil protection.[494] Explaining the difficulty in reconciling ideological positions, another World Bank staff member noted that a rights-based approach was "not within the culture of the World Bank and even less within the culture of the IMF."[495]

Institutional and Cultural Differences

Cultural similarity is deemed necessary for effective collaboration.[496] In contrast, cultural dissimilarity can lead to hostility, apprehensiveness, and failed collaboration.[497] The IMF has been described as a "tightly structured, hierarchic, and homogeneous meritocracy,"[498] with the organizational culture reflecting elements of insularity, silo-ing, non-transparency, and resistance to change.[499] Reviewing the literature on the interaction between the World Bank and the IMF, Momani and Hiben contrast the IMF's "comparatively disciplinarian, formal, hierarchical" organization with "an informal … and decentralized World Bank."[500] IMF historian James Boughton noted that "[the Fund] is a tidy disciplinarian (both toward itself and others), physically small, nearly devoid of humor, and more interested in gaining respect than in being loved. The other [the Bank], of course, is a culture apart."[501] In contrast to the smaller more homogenous IMF, the large, decentralized, and heterogeneous nature of the World Bank may allow it to exhibit greater flexibility in decision and may explain why, despite their different mandates, the World Bank has been more successful than the IMF in finding common ground with organizations like the ILO and UNICEF:

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493 Interview L. Similarly, a study prepared for the IMF reported a "degree of mistrust and lack of understanding of the IMF" on the part of many civil society groups. Leo Van Houtven, GOVERNANCE OF THE IMF: DECISION MAKING, INSTITUTIONAL OVERSIGHT, TRANSPARENCY, AND ACCOUNTABILITY 58 (2002), https://www.imf.org/external/pubs/ft/pam/pam53/pam53.pdf [hereinafter Leo Van Houtven, *Governance of the IMF*].

494 Interview K. Interestingly, it appears that within the IMF itself, some staff consider engagement with social protection to be in tension with the IMF's core tasks and purpose. Alex Nunn and Paul White, *The IMF and a New Global Politics of Inequality?*, 78 J. OF AUSTL. POL. ECON. 186, 193 (2016), http://media.wix.com/ugd/b629ee_85abef2b91624fa881f13cbed887c7ab.pdf [hereinafter Alex Nunn and Paul White, *The IMF and a New Global Politics of Inequality?*].

495 Interview AD.

496 Bessma Momani and Mark Hiben, *Cooperation or Clashes on 19th Street? Theorizing and Assessing IMF and World Bank Collaboration*, 6 J. OF INT'L ORG. STUDIES 27, 33 (2015), http://journal-iostudies.org/sites/journal-iostudies.org/files/JIOSfall15.pdf#page=30 [hereinafter Bessma Momani and Mark Hiben, *Cooperation or Clashes on 19th Street?*].

497 *Id.*

498 Leo Van Houtven, *Governance of the IMF, supra* note 493, at 18. IMF staff are primarily PhD economists recruited from Anglo-American universities, who share similar views of economic issues and provide largely cohesive advice. Manuela Moschella, *International Finance*, *in* the OXFORD HANDBOOK OF INTERNATIONAL ORGANIZATIONS 11 (Jacob Katz Kogan et al. eds. 2016). *See also* Bessma Momani, *Recruiting and Diversifying IMF Technocrats*, 19 GLOB. SOC'Y 167 (2005).

499 Bessma Momani and Mark Hiben, *Cooperation or Clashes on 19th Street?*, *supra* note 496.

500 *Id.* at 36.

501 James M. Boughton, SILENT REVOLUTION: THE INTERNATIONAL MONETARY FUND 1979–1989 996 (2001), http://www.imf.org/external/pubs/ft/history/2001/front.pdf.

> the [IMF's] smaller and homogenous staff of economists focused on crisis management and surveillance consistently equates "IMFness" with the values of efficiency, objectivity, and data driven technocratic decision making. A broadly homogenous identity rooted in technocratic rationality contrasts with dynamics in the World Bank where a larger and more diverse staff is more open to process and multiple views. [502]

The IMF's rigidity has been shown to undermine its ability to engage in high quality collaboration even with the World Bank—an organization arguably more culturally similar to the IMF than the ILO or UNICEF. Thus, for example, in one of Momani and Hiben's interviews, a Bank staff articulated the notion that IMF is sometimes too focused on rules rather than thinking "outside the box" to find the best solution.[503] The rigidity of the IMF is also reflected in procedures for information sharing and general reluctance to disclose its methodologies and models. And IMF staff member recounted to Momani and Hiben:

> For instance, a counterpart at the World Bank asked if I could share our technical assistance report. I contacted the mission chief. He told me that once the country authorities get the report, they have sixty days to say "no" to sharing. Up until then, you have to wait. Sometimes I think the World Bank thinks, "Why can't you just share it with us?"[504]

The IMF's lack of openness also frustrates external actors, including civil society actors and academic scholars, who are unable to examine the Fund's methodologies and findings. With respect to social protection issues specifically, it is unclear, for example, how determinations relevant to social protection and other spending priorities are made since negotiations between the IMF and government authorities are generally closed with few outside participants, and not all relevant data and calculations are publicly available.[505] Some recent exchanges suggest perhaps a greater willingness to engage publicly with critics of the Fund's methodology and data[506] and there have been moves towards greater openness;[507] still, the Fund continues to face criticism for lack of adequate transparency including most recently from the IEO in its 2016 report on the crises in Greece, Ireland, and Portugal.[508]

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502 Bessma Momani and Mark Hiben, *Cooperation or Clashes on 19th Street?*, *supra* note 496, at 36.
503 Bessma Momani and Mark Hiben, *Cooperation or Clashes on 19th Street?*, *supra* note 496, at 36.
504 *Id.* at 37.
505 See however, for a recent study containing some of the IMF data relevant to social protection, Benedict Clements, Sanjeev Gupta & Masahiro Nozaki, *What Happens to Social Spending in IMF-Supported Programs?*, *supra* note 281.
506 See the recent exchange between Sanjeev Gupta of the IMF's FAD, and academic critics: Thomas Stubbs et al., *The impact of IMF conditionality on government health expenditure: A cross-national analysis of 16 West African nations*, 174 SOCIAL SCIENCE & MEDICINE 220-227 (2017), and in response Sanjeev Gupta, *Can a causal link be drawn? A commentary on "the impact of IMF conditionality on government health expenditure: A cross-national analysis of 16 West African nations"*, 181 SOCIAL SCIENCE & MEDICINE 199-201 (2017) and T Stubbs et al. in rejoinder 181 SOCIAL SCIENCE & MEDICINE 202-204 (2017). Gupta refers in his response to his earlier publication, which contained and discussed some of the Fund's data: Ernesto Crevelli and Sanjeev Gupta, *Does conditionality in IMF-supported programs promote revenue reform?*, 23 INTERNATIONAL TAX AND PUBLIC FINANCE 550–579 (2016). Other examples include the publication of working papers and staff notes on gender and economics including descriptions of datasets and the econometric methodologies employed. *E.g.* http://www.imf.org/external/themes/gender/index.htm#research.
507 *See* International Monetary Fund, 2013 REVIEW OF THE FUND'S TRANSPARENCY POLICY (May 2013), http://www.imf.org/external/np/pp/eng/2013/051413.pdf, and the *2017 Factsheet on Transparency at the IMF* (March 8, 2018), http://www.imf.org/en/About/Factsheets/Sheets/2016/07/27/15/35/Transparency-at-the-IMF.
508 IEO, *The IMF and the Crises in Greece, Ireland, and Portugal*, *supra* note 198.

Lack of openness coupled with the IMF's rigidity, inflexibility, and unwillingness to accept alternative views make it very difficult for other actors to engage in high quality collaboration with the IMF. For the IMF, these elements also pose barriers to meaningful internal self-reflection and reform. Because the IMF currently lacks the requisite expertise to engage with issues of social protection, any institutional re-orientation towards concerns of inequality and social protection will require collaboration with and reliance on organizations with relevant expertise. High quality collaboration, however, will require cultural change within the institution so as to minimize barriers posed by cultural and institutional dissimilarities.[509]

Institutional Identity

In a dense regime complex that sees a number of different organizations seeking to exercise their influence, institutional "turf wars"— that is, competition for influence—are not uncommon.[510] Despite the many critiques levelled at the IMF, it continues to occupy a strong position of authority, legitimacy, and independence in the eyes of many, if not most, member country governments, and more broadly in the international community. The distinctive role and mandate of the Fund ensures a continuing relevance, given the ongoing and evolving risks to international macroeconomic stability.[511] As discussed above, the IMF's annual surveillance function is a powerful, regular, and fairly unique channel for the transmission of its technical expertise. Additional credibility flows from the quantitative nature of the Fund's analyses, which are perceived by many as having an objective economic logic, and which may be difficult for others to contest, particularly when surveillance is not publicly conducted.[512] The knowledge capital of the Fund can be very important to domestic governments, especially when a country does not have the capacity to perform equivalent analysis. Some have argued that the Fund's provision of technical assistance to states can be seen as an attempt to reduce this power asymmetry, but at the same time persuades member states of the soundness and legitimacy of Fund advice.[513]

In addition, the nature of the IMF's work also requires independence from national governments to prevent political influence.[514] The technicality of the Fund's operations, and its confidential and non-transparent approach, insulates its activities from accessibility and examination further protecting it (at least in theory) from unwelcome external influence. This gives the appearance that the Fund's advice is non-partisan, which in turn makes it attractive to governments and, in particular finance ministers, including as a way of leveraging domestic

509 *See also* a recent study whose authors argued that ideational and institutional barriers to the re-orientation of the institution towards newer concerns such as inequality mean that any change in emphasis of the Fund's policy advice is likely to be slow. Alex Nunn and Paul White, *The IMF and a New Global Politics of Inequality?*, *supra* note 494, at 214.

510 There is an extensive literature on regime complexity, beginning with the article that apparently coined the phrase: Kal Raustiala & David G. Victor, *The Regime Complex for Plant Genetic Resources*, *supra* note 375. For an edited collection on the subject, see the introduction by K. Alter and S. Meunier, *The Politics of International Regime Complexity*, 7 PERSPECTIVES ON POLITICS 13 (2009).

511 The utility of the Fund has waxed and waned over time in response to levels of global financial stability, such as low lending rates in the 2000s. Like any other institution, the Fund seeks to maintain relevance and power which could be another driver of a reticence to invite other actors into its "turf".

512 Michael N. Barnett and Martha Finnemore, RULES FOR THE WORLD : INTERNATIONAL ORGANIZATIONS IN GLOBAL POLITICS 48 (Cornell University Press, 2004)

513 *Id.* at 63.

514 Articles of Agreement of the IMF, Art. 12, § 4(c) 60 Stat. 1401, 2 U.N.T.S. 39 (staff "shall owe their duty entirely to the Fund and to no national authority").

politics. At the same time, the IMF's high level of access to senior government officials and generally constructive working relationships with finance ministries and central banks present significant opportunities for the organization to exert influence over domestic policy. As one Fund member interviewed stated, governments on the whole respect and appreciate the work of IMF and are generally happy to engage in ongoing dialogue.[515] The credibility of its advice and its relations with governments affects the level of traction of its surveillance advice and the likelihood of implementation by national authorities.[516] Thus there may be mutually beneficial power dynamics at play. This context may push against any openness to collaborate closely with other organizations, particularly if the interests of and advice provided by the organizations do not align with those of the IMF.[517]

At the same time, the IMF's stated desire to engage with social protection more actively may be perceived as overlapping with and perhaps edging out other organizations working in this field and/or alternative approaches to social protection, particularly given the high degree of influence the IMF already enjoys vis-à-vis state authorities. Thus, for example, one World Bank staff member noted that when the IMF announced that it would work on establishing a social protection policy, some of the World Bank colleagues reacted with trepidation, worrying that the "IMF [might] begin doing [their] job."[518] An ILO staff member, who worried that given the IMF's already heightened leverage over state governments,[519] if the IMF were to position itself as an authority or expert on social protection, the ILO would be side-lined and its ability to promote universal social protection would be jeopardized. That staff member also expressed concern that IMF economic orthodoxy may crowd out alternative views about the nature, design and sustainability of social protection systems.[520]

Conclusion: The Way Forward

As outlined in the beginning of this report, even without a formal policy or even a concerted focus on social protection, the IMF's work can have a negative impact on social protection issues because (1) IMF policies often reduce the fiscal space available to governments for social protection, (2) IMF policies often reduce the policy space available to countries to fight poverty, (3) the IMF's preference for targeting can harm rather than benefit vulnerable populations (at the very least, there is ambivalence in empirical assessments as to the benefits of targeted vs. universalist approaches), and (4) the IMF's normative assumptions are often flawed so as to produce harmful outcomes. At the same time, the IMF staff lack the necessary expertise not only to address but even to identify and analyze issues beyond the traditional remit of macroeconomics because "they do not know how to pursue them within

[515] Interview C 1.
[516] Mark Kruger, Robert Lavigne & Julie McKay, *The Role of the IMF, supra* note 136, at page 27.
[517] By comparison, UNICEF and the ILO are in quite a different position given their role as standard-setting, advocacy and implementation organizations, which have more to gain from cooperation with other actors.
[518] Interview V.
[519] In its role as an international financial and lending institution, the Fund has a powerful supply role that is bolstered by its position as a financial gatekeeper which is looked at by other lending institutions as a stamp of approval. As described in Alex Nunn and Paul White, *The IMF and a New Global Politics of Inequality?*, *supra* note 494, at 190, this gives the IMF 'material leverage' over domestic government policy. Or, as described by a World Bank staff member interviewed for this report, the IMF controls the tap which can turn on or off the supply of finance. Interview V.
[520] Interview K.

their intellectual framework."[521] With staff who are primarily macro-economists and based in predominantly in Washington D.C. headquarters, and only a small minority in the field,[522] the IMF lacks not only the necessary local knowledge,[523] but also risks being myopic in its policy advice. Indeed, some have argued that the macroeconomic background of IMF staff informs their perception of situations including "[what] policy measures that seem obvious to them,"[524] and may not only inhibit staff from addressing social protection issues on grounds of lack of competence, but could also explain failures to even identify relevant social issues or discount their importance.[525] A social protection expert at the World Bank interviewed for this report stated that one of their main aims is to enable the IMF to identify when social protection is a relevant consideration in their work.[526]

Indeed, as the analysis above demonstrates, at the policy level, in its programmatic, surveillance and technical assistance activities, the Fund's engagement with social protection appears to be superficial at best. Indicative targets for social spending are rarely monitored, often not complied with, and their overall impact on poverty reduction, inequality, or inclusion is unclear. Article IV surveillance reports occasionally mention social protection, but typically do not engage with social protection issues in depth. Although the Fund provides general information about its technical assistance functions and capacity building strategies (including by devoting an extensive website http://www.imf.org/external/np/ins/english/capacity_strategy.htm), available information is insufficient to make a determination regarding its content, scope, or impact on national social protection policies because the precise content of advice or training curricula are not publicly available. At the country level,[527] IMF staff engagement with social protection appears to be *ad hoc* and context-specific, both in terms of the economic, political, and cultural circumstances of the member country as well as the personal interests and relationships of IMF personnel assigned to the country.[528]

This limited and chaotic approach to social protection is not only insufficient, but may be counterproductive to the aim of ensuring social protection for all. Even the minimum possible recognition of the importance of social protection requires an understanding of the impact of IMF's policies on the social wellbeing of communities. However, as highlighted in this report the IMF does not currently gather and analyze data on the actual impacts of its policy advice. Earlier efforts to undertake *ex ante* PSIAs were not systematized[529] and even those

[521] Finemore. These critiques and IMF's responses are summarized in more detail in Annex A.

[522] IMF, Staff of International Civil Servants, https://www.imf.org/external/about/staff.htm

[523] For example, the IMF has one country representative in Vietnam supported by a team that works from Washington D.C. whereas the Bank currently has 120 staff in the country. Interview AA; https://uncareer.net/vacancy/team-assistant-viet-nam.

[524] Michael N. Barnett and Martha Finnemore, RULES FOR THE WORLD, *supra* 512, at 67

[525] Indeed an excessive focus on macroeconomic development at the expense of other considerations such as financial regulation was listed by the IEO as a weakness in Fund surveillance prior to the global economic crisis: Independent Evaluation Office of the IMF, IMF PERFORMANCE IN THE RUN-UP TO THE FINANCIAL AND ECONOMIC CRISIS. IMF SURVEILLANCE IN 2004-07 7 (2011), http://www.ieo-imf.org/ieo/files/completedevaluations/Crisis-%20Main%20Report%20(without%20Moises%20Signature).pdf

[526] Interview O.

[527] Conclusions regarding social protection in the IMF's country-level operations are drawn primarily from desk research, supplemented by interviews conducted for this report.

[528] IEO, *Social Protection, supra* note 6, at 32.

[529] It is unclear (including from the IEO study background paper which states that PSIA has been 'mainstreamed' within the work of the Fund, and that it is now difficult to identify the amount of PSIA work carried out by IMF staff) whether or to what extent these have been carried out by the Fund since 2007. Jianping

analyses were criticized on various grounds, including the fact that the IMF did not make them public and they were undertaken without sufficient consultation of country level stakeholders.[530] There has more recently been a move towards conducting *ex ante* analysis, as seen in the IMF's inequality pilots, using models and "selected issues" papers in combination with Article IV surveillance.[531]

With a number of major global developments in recent years including a rise in populist political movements, increasing international attention has begun to be paid to issues of poverty and inequality, including growing support for universal social protection. This momentum has highlighted the differences between the priorities of the IMF and those of other development partners. The adoption of the Sustainable Development Goals (SDGs) has also helped to promote more active governmental consideration of social protection. A staff member of UNICEF stated that there has been increased government uptake of their technical assistance offerings to support the design of social protection systems.[532] While the IMF has not as yet engaged with this aspect of the SDGs,[533] the political and social mobilization around the SDGs might enhance pressure on the Fund to engage with other organizations which are more closely focused on these issues.[534] A number of actors have identified the current climate as an opportunity to influence the IMF's approach to social protection. UNICEF is actively seeking to engage with the Fund to support its own program objectives, given the Fund's influence and access to senior government officials.[535] UNICEF's approach includes developing close in-country working relationships with Fund staff through regular meetings, technical exchanges, and joint advocacy to governments.[536] The ILO, as yet, has not adopted this approach, although some communication at the executive level appears to be taking place between the ILO and the Fund since the IEO report was published, given that social protection forms a major component of the ILO's work, and that the adoption of an official policy by the IMF in this field is likely to have significant implications for that.[537] In a speech given at the 2015 annual meeting of World Bank and IMF, Christine Lagarde called for a "new multilateralism" which amongst other things could reinvigorate the Fund's relationship with other international institutions[538] and the Managing Director and the Executive Board of the Fund supported all the

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Zhou, *IMF Collaboration, supra* note 184, at 7. This document also states that "According to staff interviewed for this evaluation, FAD continues to field some 13 PSIA-related TA missions per year".

530 *See, e.g.*, EURODAD, SUBMISSION TO THE WORLD BANK / IMF 2005 PSIA REVIEW AS PART OF OVERALL PRS REVIEW, http://siteresources.worldbank.org/INTPRS1/Resources/PRSP-Review/EURODAD_psia_comments.pdf. *See also* the project launched by the organization New Rules for Global Finance, on the development of adequate PSIA tools: New Rules for Global Finance, *Poverty and Social Impact Assessment (PSIA)*, http://www.new-rules.org/what-we-do/poverty-and-social-impact-assessment-psia (last visited Apr. 18, 2018).

531 For a summary of some of the IMF's work under the Inequality pilots, see IMF, *Fostering Inclusive Growth, supra* note 65.

532 Interview AG.

533 See International Monetary Fund, UPDATE ON IMF DELIVERABLES UNDER THE 2030 DEVELOPMENT AGENDA (2017), https://sustainabledevelopment.un.org/content/documents/15624IMF.pdf, and Stefania Fabrizio, Roland Kpodar, and Chris Lane, *IMF Support for the United Nations' sustainable development goals*, IMF BLOG INSIGHTS AND ANALYSIS ON ECONOMICS & FINANCE (July 17, 2017), https://blogs.imf.org/2017/07/19/imf-support-for-the-united-nations-sustainable-development-goals/.

534 Isabel Ortiz, *Social Protection for all to Change People's Lives by 2030* (Sept. 21, 2015), http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_405766/lang--en/index.htm.

535 Interview AG.

536 Interview AG.

537 Interview K.

538 Christine Lagarde, *A New Multilateralism for the 21st Century: the Richard Dimbleby Lecture* (Feb. 3, 2014), https://www.imf.org/en/News/Articles/2015/09/28/04/53/sp020314.

recommendations made by the 2017 IEO Social Protection Report for greater collaboration by the Fund with other relevant international organizations.[539]

Social protection is a collective action problem and necessitates the involvement of different actors. At the same time, inter-institutional collaboration and coordination in this context can face barriers, as outlined above. It is recommended that the IMF engage in an in-depth study of factors and conditions that can facilitate its participation in high quality collaboration with relevant actors in this field. The IMF should explore ways in which it can most usefully interact with other actors. At a minimum, any high-quality relationship will require the IMF:

1. To bring its understanding of social protection in line with the emerging global consensus, including by formally endorsing social protection floors.
2. To create strong internal policies for social protection engagement, seeking input from a diverse range of stakeholders.
3. To routinely evaluate, both *ex ante* and *ex post*, the impact of its advice on social protection and seek to alleviate any negative effects. Provide the necessary data for outside experts to verify and replicate IMF's assessments.
4. To be more open, transparent and collaborative in conducting surveillance, for example, with opportunities for different stakeholders to engage and put forward their analysis and priorities.[540]
5. To be more open to public national and international dialogue around its advice, policies, and underlying economic models in the context of lending programs, bringing in all relevant players—including other IOs, unions, academics and the media. A better-informed and constructive dialogue will likely to lead to better outcomes, including for social protection.[541]
6. To undertake the process of cultural shift within the institution, including by diversifying its hiring practices to include staff with expertise in micro-economics, law and social sciences, and encouraging and facilitating relationship-building with counterparts in other international organizations working on issues of social protection.
7. To resist the imposition of a strict "top down" collaboration policy, which may not have the necessary buy-in from staff at different levels, and instead consider implementing a broad collaboration framework with tools that staff at various levels could use to build meaningful relationships with their counterparts.[542]
8. To encourage staff at various levels of the IMF to engage in meaningful dialogue with academics and policy makers holding views or proposing approaches to social protection that may diverge from those traditionally held by the IMF. This includes negotiating with governments to facilitate access to economic and social data so as to allow experts from outside of the IMF to replicate economic modeling used to calculate distributional impact and otherwise inform IMF's advice.
9. To that end, the IMF should undertake an in-depth multi-stakeholder consultation for purposes of identifying which mechanisms and arrangements might be more conducive to useful inter-institutional learning and knowledge sharing.

[539] IMF, *Statement by the Managing Director, supra* note 239; International Monetary Fund, THE ACTING CHAIR'S SUMMING UP (2017), http://www.ieo-imf.org/ieo/files/completedevaluations/SP%20-%20Acting%20Chair%20Summing%20Up.pdf.
[540] Oxfam, *Great Expectations, supra* note 1, at 30.
[541] Interview K.
[542] Interview U.

To be clear, achieving high quality collaboration for a collective action problem is very challenging.[543] However, it is equally clear that siloed, uncoordinated, and inconsistent approaches to social protection risk uninformed and counterproductive decision-making, institutional inefficiencies and harmful outcomes for Member States and their populations.

[543] Jeffrey L. Dunoff, *Mapping a Hidden World of International Regulatory Cooperation*, 78 LAW AND CONTEMPORARY PROBLEMS 267, 299 (2015).

Annex A:
Surveying the Literature: criticisms of the IMF's impact in the field of social protection and IMF responses

Four criticisms that have regularly been made by academics, NGOs, and others in the field, of the IMF's impact in the area of social protection were mentioned at the outset of the report. These are that (1) IMF policies reduce the fiscal space available to governments for social protection, (2) IMF policies reduce the policy space available to countries to fight poverty, (3) the IMF's preference for targeting harms rather than benefits vulnerable populations, and (4) the IMF's (neoliberal) normative assumptions are flawed. Below, these criticisms are surveyed in further detail, along with some of the responses of the Fund and others.

(1) Does IMF policy reduce the fiscal space that would be available to countries to pursue social protection?

As explained above, fiscal space refers to the availability of resources that a government can allocate without threatening the sustainability of its financial position.[544] Countries require fiscal space for social welfare expenditures, but critics point out that IMF-mandated budget cuts have limited the resources available for budget line items like education, healthcare, and anti-poverty programs.[545] The IMF has responded that it now integrates social spending floors into its low-income country programs that protect vulnerable populations from budget cuts, but as indicated above, these spending floors often go unmet by countries struggling to meet overall budget targets.[546] For example, Guinea began receiving financial support from the IMF in 2012 and failed to meet social spending targets while successfully implementing cuts to public expenditure.[547] Debates about the fiscal space available for social spending are necessarily normative as different actors assign values to different budget priorities. When the IMF assigns a high value to minimizing debt or closing fiscal deficits, the ILO, UNICEF and other human-rights based organizations argue that this unnecessarily deprives countries of resources that could be spent on social protection.[548]

(2) Reducing the Policy space available to countries to pursue social protection

A related but distinct criticism is that the IMF's structural adjustment conditions reduce the policy space that countries need to fight poverty.[549] Whereas broad macroeconomic conditions directly implicate fiscal space by requiring countries to balance their budgets or reduce public debt, specific structural adjustment conditions require countries to make use of certain policy instruments and abandon others. This practice is alleged to limit the set of government options for dealing with poverty. For example, structural adjustment conditions

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[544] Heller, *Understanding fiscal space*, *supra* note 12, at 3.

[545] Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *The IMF Has Not Lived Up to its Own Hype on Social Protection*, *supra* note 11.

[546] Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *IMF Conditionality and Development Policy Space*, *supra* note 21, at 24 (showing that half of social spending floor conditions go unmet in Sub-Saharan Africa). But *see* IMF, *Social Safeguards*, *supra* note 221, at 2 (showing that worldwide, over two thirds of social spending floor conditions are met).

[547] Guinea, LETTER OF INTENT, MEMORANDUM OF ECONOMIC AND FINANCIAL POLICIES, AND TECHNICAL MEMORANDUM OF UNDERSTANDING, INTERNATIONAL MONETARY FUND 5 (Feb. 1, 2014), http://www.imf.org/External/NP/LOI/2014/GIN/020114.pdf.

[548] Isabel Ortiz, *Identifying fiscal space*, *supra* note 13, at 1.

[549] Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *Did the IMF actually ease up on structural adjustments?*, *supra* note 19.

mandating that governments reduce their wage bills may create a positive fiscal balance, but they also may constrain the reach of health and education ministries.[550] Likewise, conditions requiring pension reforms (e.g. to raise the retirement age or reduce payouts) may trade greater fiscal space for increased poverty. The average IMF loan program contains 12.1 structural conditions, representing a steady increase following a dip in the wake of the 2008 financial crisis.[551]

The IMF has responded to these charges by pointing to the presence of social spending floors—non-binding "indicative targets" for social and other priority spending—in its PRGT programs, which are designed to ensure that low-income countries do not cut social spending in order to meet overall fiscal targets.[552] The IMF has reported that since 2009, 90% of low-income country programs have included an indicative target covering social and other priority spending, and two thirds of such targets were met.[553] The Fund connects this policy shift to the protection of healthcare and education spending in low-income countries, and points to its own research finding that healthcare and education spending rose faster in low-income countries with IMF programs than in those without them.[554]

However, as discussed in Part 3 of the Report, above, this response is problematic on several fronts. The IMF's indicative targets for social spending are non-binding, and successful implementation depends largely on the country's desire to stay in the IMF's good graces.[555] While two-thirds implementation may look positive, that number must be understood in the context of an 86% overall implementation rate for structural conditions in low-income countries,[556] meaning that social spending indicative targets are significantly less likely to be implemented than other conditions. Further, even when implemented, indicative targets may be ineffective at promoting high-quality social spending.[557] A significant feature of these indicative targets is that they are country-led—domestic authorities determine which expenditures should fall in the "priority" bucket for protection from cuts.[558] While expenditures must be related to poverty reduction, oversight is lax and countries have used indicative targets to protect spending on infrastructure projects and other line items that are only tangentially related to poverty.[559]

Lastly and importantly, significant doubts have been raised regarding the IMF's data on healthcare and education spending in its program countries. Thomas Stubbs and Alexander Kentikelenis (2017) argue that the IMF's finding was methodologically flawed, and that IMF program participation was in fact associated with declining healthcare spending and flat education spending.[560] While assessing the methodological strength of these competing claims is beyond the scope of this report, Stubbs and Kentikelenis's 2017 finding dovetails with their earlier finding that countries which fail to implement social spending floors nonetheless

[550] Marphatia, *The Adverse Effects of International Monetary Fund Programs*, *supra* note 20, at 165.
[551] Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *IMF Conditionality and Development Policy Space*, *supra* note 21, at 14.
[552] IMF, *Social Safeguards*, *supra* note 221, at 6.
[553] *Id.* at 13.
[554] Benedict Clements, Sanjeev Gupta & Masahiro Nozaki, *What Happens to Social Spending in IMF-Supported Programs?*, *supra* note 281.
[555] Interviews C1 and D.
[556] IMF, *Creating Policy Space*, *supra* note 14, at 5.
[557] Broome, *Rethinking Austerity?*, *supra* note 280.
[558] Interviews C1 and D.
[559] IMF, *Social Safeguards*, *supra* note 221, at 14.
[560] Thomas Stubbs & Alexander Kentikelenis, *Targeted Social Safeguards*, *supra* note 171, at 4.

successfully implement overall budget-balance conditions.[561] This lends credence to the idea that in some cases, countries sacrifice social spending to achieve fiscal consolidation. Indeed, countries that did miss indicative targets cited the need to cut spending as an explanation for non-implementation.[562] Nevertheless, while it is plausible that IMF programs limit fiscal space for social spending in certain country programs, almost half of PRGT programs involve fiscal expansion rather than consolidation,[563] and 10 countries are responsible for 65% of non-implemented indicative targets,[564] which contextualizes the scale of the problem. Some might argue that a certain amount of non-implementation may be the cost of a country-led process, since if the IMF were to bind countries to certain kinds of social spending, it would erode country autonomy, another value to be balanced alongside social protection.[565]

The power of the IMF to influence the options chosen by states is considerably greater than that of organizations which do not wield the kind of financial power and authority that the Fund does. Whether the IMF's structural conditions reduce the policy space available to states for effective social protection depends on whether these conditions eliminate or make more difficult strategies that may be effective at poverty reduction.

(3) The IMF preference for targeting harms vulnerable populations

As noted in part 3 of this report, critics have argued that the IMF's preference for targeted social protection programs lags behind the development community consensus in the field,[566] and have argued that universal approaches to social protection are more effective in addressing poverty.

It is important to note that targeting and universal approaches are not in fact binary poles but rather exist on a spectrum, and that absolutist claims are best avoided. Truly universal social protection programs—those that provide resources to every member of society—are rare. Almost all programs make use of targeting in some form.[567] Pensions target the elderly, education spending targets children, and public works programs target people willing to work for the wage on offer. Even "universal" food subsidies incorporate a degree of self-targeting, by subsidizing basic-quality foods that the middle classes prefer not to consume.[568] In practice, much of the debate is not about whether to target, but about relative amounts of targeting, about time-frames, and about the goals of a program. For example, a "universal" pension is one that targets all citizens above the retirement age, while a "targeted" pension is one that introduces an additional element of targeting by means-testing the availability of pension payouts.

[561] Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *IMF Conditionality and Development Policy Space*, *supra* note 21, at 21.
[562] IMF, *Social Safeguards*, *supra* note 221, at 14.
[563] *Id.* at 8.
[564] *Id.* at 14.
[565] Broome, *Rethinking Austerity?*, *supra* note 280.
[566] Alexander Kentikelenis, Thomas Stubbs & Lawrence King, *The IMF Has Not Lived Up to its Own Hype on Social Protection*, *supra* note 11.
[567] *See* Michael Forster and Peter Whiteford, HOW MUCH REDISTRIBUTION DO WELFARE STATES ACHIEVE? THE ROLE OF CASH TRANSFERS AND HOUSEHOLD TAXES, CENTER FOR ECONOMIC STUDIES 35 (2009), https://www.cesifo-group.de/DocDL/dicereport309-rr1.pdf.
[568] *See* David Coady et al., TARGETING OF TRANSFERS IN DEVELOPING COUNTRIES: REVIEW OF LESSONS AND EXPERIENCE, THE WORLD BANK 76 (2004), http://siteresources.worldbank.org/SAFETYNETSANDTRANSFERS/Resources/281945-1138140795625/Targeting_En.pdf) [hereinafter Coady, TARGETING OF TRANSFERS IN DEVELOPING COUNTRIES].

Conversely, some targeting approaches share the functional principles of universal approaches. For example, unconditional cash transfers that use geographical targeting essentially mean that everyone in a specific, often very large, area receives the same benefits.

Exclusion errors occur when a targeted program does not deliver benefits to everyone who is entitled to them. This can result from a failure to positively identify all households or individuals that belong to the predetermined target group, either because the targeting mechanism under-performed or because targeted recipients did not sign up for the program.[569] States with low administrative capacity that are unable to perform sufficient outreach to low-visibility populations are most likely to commit exclusion errors.[570] Alternatively, exclusion errors can result from a too-narrow definition of the target group in the first instance.[571] For example, in 2008, Moldova reformed its social safety net to target a small percentage of its poorest citizens, leaving out most of the 26.4% of its population that live below the poverty line.[572] The opposite argument has also been made, namely that exclusion error costs need to be weighed against the costs of correcting them. Thus expanding the recipient pool, potentially up to universal coverage, could result in increasing inclusion errors or "leakage" by providing benefits to recipients who are not considered to need them.[573] It is also possible that narrowly defining eligibility enables higher average transfer values,[574] and that the trade-off between broad coverage and generous benefits means that minimizing exclusion errors does not in itself reduce poverty. Nevertheless, the argument for avoiding inclusion errors is significantly weaker in countries where large percentages of the population live below the poverty line.[575]

Critics of targeting also point to the risk of high administrative costs, because means-testing requires technical and administrative resources to identify eligible households and individuals.[576] There is evidence that on average, poorer states are less effective at targeting—the median targeted program in sub-Saharan Africa transfers 8% less than would a universal allocation.[577] At the same time, a number of program-level studies conducted by the World Bank have suggested that means-testing may be cost-effective even when performed by middle and low-income countries. For example, a World Bank survey of means-tested cash grant programs in Eastern Europe and Central Asia found that the programs had low administrative costs and that the marginal costs of means-testing "unambiguously" added more value than they subtracted.[578] Another World Bank survey of pension programs in sub-Saharan Africa found that the high cost of universal programs were just as expensive to administer as targeted

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569 *Id.* at 55.
570 *Id.*
571 Isabel Ortiz et al., THE DECADE OF ADJUSTMENT: A REVIEW OF AUSTERITY TRENDS 2010-2020 IN 187 COUNTRIES, INTERNATIONAL LABOUR ORGANIZATION 32 (2015), http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---soc_sec/documents/publication/wcms_431730.pdf [hereinafter Ortiz, THE DECADE OF ADJUSTMENT].
572 *Id.* at 33.
573 Rachel Slater, *Cash Transfers, Social Protection, and Poverty Reduction*, 20 INTERNATIONAL JOURNAL OF SOCIAL WELFARE 250, 255 (2011).
574 Ortiz, THE DECADE OF ADJUSTMENT, *supra* note 28, at 32.
575 Thus Moldova's targeting reform increased the benefit provided to households that did qualify: Ortiz, THE DECADE OF ADJUSTMENT *supra* note 28, at 31.
576 Mkandawire, TARGETING AND UNIVERSALISM IN POVERTY REDUCTION, *supra* note 27.
577 *Id.*
578 Emil Tesliuc et al., INCOME SUPPORT FOR THE POOREST: A REVIEW OF EXPERIENCE IN EASTERN EUROPE AND CENTRAL ASIA, WORLD BANK 179 (2014), http://documents.worldbank.org/curated/en/527851468029956890/pdf/890680PUB0Inco00Box385269B00PUBLIC0.pdf.

programs.[579] It has been argued that as technology improves, the cost of means testing may reduce further.[580]

Another critique of targeting is the political costs associated with it, embodied in Amartya Sen's famous dictum that "benefits meant exclusively for the poor often end up being poor benefits."[581] On this view, universal programs are more effective at reducing poverty because middle class voters stand to benefit from them and therefore vote to increase their budgets.[582] When programs become targeted, middle class voters object to their tax dollars being used to fund the "undeserving" poor and withdraw electoral support, resulting in smaller budgets and lower-quality programs. A seminal 1998 study by Walter Korpi and Joakim Palme appeared to vindicate this hypothesis by showing that among wealthy countries, those with more universal social protection systems distributed more to the poor.[583] Later studies examining a larger range of countries using more recent data however reached the opposite conclusion.[584] Two studies that tested the Korpi and Palme hypothesis in this manner both concluded that targeting tends to be associated with higher levels of redistributive impact.[585] Meanwhile, a joint World Bank-International Food Policy Research Institute study that surveyed 144 targeted social protection programs from around the world found that the median program transferred 25% more to low-income quintiles than a universal allocation.[586] However, this study also found that 25% of these programs were regressive (although the share drops to 16% if food subsidies are excluded).[587] The political costs argument rests on the benefits of large social protection budgets but does not necessarily weigh the costs of budgetary outlay against fiscal sustainability,[588] while the IMF has criticized universal pension programs that use a large percentage of GDP as risking long-term insolvency.[589]

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579 Melis U. Guven and Phillippe G. Leite, BENEFITS AND COSTS OF SOCIAL PENSION IN SUB-SAHARAN AFRICA, THE WORLD BANK GROUP 31 (2016), http://documents.worldbank.org/curated/en/325281469593828257/pdf/107234-WP-add-series-PUBLIC.pdf.

580 Mark Dorfman, PENSION PATTERNS IN SUB-SAHARAN AFRICA, WORLD BANK 51-52 (July 2015), http://documents.worldbank.org/curated/en/743801468190183781/pdf/98131-NWP-1503-PUBLIC-Box385180B-Pension-Matters-Africa.pdf.

581 Mkandawire, TARGETING AND UNIVERSALISM IN POVERTY REDUCTION, *supra* note 27, at 7.

582 Stephen Kidd, *The Political Economy of "Targeting" of Social Security Schemes*, 19 DEVELOPMENT PATHWAYS 1 (2015), http://www.developmentpathways.co.uk/resources/wp-content/uploads/2015/10/Political-Economy-of-Targeting-PP19-4.pdf.

583 Walter Korpi and Joakim Palme, *The Paradox of Redistribution and Strategies of Equality: Welfare State Institutions, Inequality, and Poverty in the Western Countries*, 63 AMERICAN SOCIOLOGICAL REVIEW 661 (1998).

584 *See* Dimitri Gugushvili and Donald Hirsch, *Means-Testing or Universalism: What Strategies Best Address Poverty?*, LOUGHBOROUGH UNIVERSITY CENTRE FOR RESEARCH IN SOCIAL POLICY 8 (2014), http://www.lboro.ac.uk/media/wwwlboroacuk/content/crsp/downloads/reports/Means%20testing%20or%20Universalism_Final%20Report.pdf.

585 *See* Ive Marx et al., THE PARADOX OF REDISTRIBUTION REVISITED: AND THAT IT MAY REST IN PEACE?, INSTITUTE FOR THE STUDY OF LABOR 34 (2013), http://ftp.iza.org/dp7414.pdf; *see also* Lane Kenworthy, *Progress for the Poor*, OXFORD UNIV. PRESS (2011).

586 Coady, TARGETING OF TRANSFERS IN DEVELOPING COUNTRIES, *supra* note 568, at 84.

587 *Id.* at 42.

588 See e.g. Stephen Kidd, *Citizenship or Charity: The Two Paradigms of Social Protection*, 25 DEVELOPMENT PATHWAYS 1, 8 (2017), http://www.developmentpathways.co.uk/resources/wp-content/uploads/2017/11/FRIDAY-Citizenship-or-Charity-PP251.pdf ("If countries want a … Rolls-Royce social protection system...they need to be willing to invest. If countries are only willing to pay for a second-hand Lada social protection system, then they should not complain…") [hereinafter Kidd, *Citizenship or Charity*].

589 *Compare* Stephen Kidd (@JustKIDDing_DP), TWITTER (Oct. 19, 2017, 10:10 AM), https://twitter.com/JustKIDDing_DP/status/921061084110491649 ("Yes, don't underestimate the role of the universal pension in Mauritius and the overall investment of 3% of GDP in social protection") *with* Mauricio Soto et al., PENSION REFORMS IN MAURITIUS: FAIR AND FAST – BALANCING SOCIAL PROTECTION AND FISCAL

Given the equivocal nature of the empirical literature and the IMF's commitment to a country-led approach to social and priority spending, it is curious that the IMF takes such a strong stance on targeting. While the IMF may endorse the studies that support this stance, it remains in tension with the Fund's goal of allowing domestic authorities to define expenditures.[590] Following the publication of the IMF's 2017 Social Safeguards report, executive directors called for country authorities to "retain flexibility in setting spending targets, to better reflect national priorities."[591]

(4) The IMF's normative assumptions about social protection are flawed and unappealing

Apart from the various empirical questions about outcomes, a further critique of the IMF's approach to social protection is that it reflects flawed and unattractive beliefs about the nature of justice, citizenship, and dignity. Seen from this perspective, the choice between universalism and targeting can be seen as a choice between different normative paradigms. Three prominent paradigms are (i) empowerment vs. stigmatization, (ii) citizenship vs. charity, and (iii) equality vs. need.

LSE development economist Thandika Mkandawire has argued that universal coverage is premised on empowerment of the poor while the choice to target gives rise to stigmatization.[592] On this view, targeting damages the self-respect of program recipients by separating them out from the rest of society. This is both because of the nature of targeting in itself, but also on account of the procedures which force poor people to prove their deservingness through applications, queueing, and other invasive mechanisms that put them at the mercy of a state bureaucracy.[593] Conversely, universal coverage affirms that all individuals are held by the state in equal regard, and receive benefits as a matter of course rather than as a "special benefaction" that emphasizes their separateness.[594] Universality thus encourages self-respect and political engagement by the poor, boosting their "voice" in relation to state power.

Development Pathways social protection specialist Stephen Kidd offers the paradigm of citizenship vs. charity. A citizenship framework emanates from the idea that social protection is a human right, whereas a charity framework conceptualizes social protection as a handout to the poor. When social protection is a function of citizenship rather than a means-test, it encourages citizens to accept the advantages of taxation and redistribution since they are the beneficiaries. The result is greater investment in full life-cycle social protection and recognition of redistribution as a public good.[595] The charity paradigm, which Kidd explicitly

SUSTAINABILITY, INTERNATIONAL MONETARY FUND 9 (2015), http://www.imf.org/en/Publications/WP/Issues/2016/12/31/Pension-Reforms-in-Mauritius-Fair-and-Fast-Balancing-Social-Protection-and-Fiscal-43012 ("...the current Basic Retirement Pension spending of 3.6 percent of GDP is projected to increase rapidly over the coming decades...This rapid increase could threaten the overall long-term sustainability of public finances [and] would not be financeable with the current tax system").

590 Broom, *Rethinking Austerity?*, *supra* note 280.

591 *IMF Executive Board Reviews Social Safeguards in Low-income Countries*, INTERNATIONAL MONETARY FUND (June 6, 2017), https://www.imf.org/en/News/Articles/2017/06/06/pr17209-imf-executive-board-reviews-social-safeguards-in-low-income-countries

592 Mkandawire, TARGETING AND UNIVERSALISM IN POVERTY REDUCTION, *supra* note 27, at 14.

593 *Id.*

594 *Id.*

595 Kidd, *Citizenship or Charity*, *supra* note 588, at 1.

links to the IMF, is grounded in 19th century notions about a division between the "deserving" and "undeserving" poor. The deserving poor were those who could not work, whereas the undeserving poor could work and so were poor because of their own laziness. Benefits for the poor were thus made conditional on work, so that they would not be seen as handouts to the lazy.[596] Kidd argues that poverty targeting, and especially conditional cash grant programs like Brazil's *Bolsa Familia*, are effectively modern extensions of the "workhouses" of *Oliver Twist*, forcing the poor to grovel and "damaging the lives of hundreds of millions of people."[597] He is unconvinced by the IMF's concerns with fiscal constraint, long-term macroeconomic stability, redistributive equity, or the ability of conditional cash transfer programs to incentivize pro-social activities like child school enrollment and medical care.[598]

An intermediate paradigm is offered by Institute of Development Studies economist Stephen Devereux, who presents an argument of equality vs. need. Equality means that humans are equal in dignity and rights, and so there is no ethical justification for leaving behind someone in need.[599] Social protection policy should therefore be universal, in order to eliminate the possibility of failing to reach those who need help. Under this view, budget constraints are actually political choices about how seriously to take the equality principle.[600] On the other hand, the "need" principle recognizes that humans have different levels of material need, and it violates redistributive justice to give much to those who need little and little to those who need much, as will inevitably happen under a universal transfer scheme.[601] Because the core propositions of both equality and need are generally felt to be true, Devereux offers a thought-provoking way to adjudicate between them: essential services like healthcare and education should be distributed universally without regard for the ability to pay, in affirmation of the equality principle, while social assistance programs like cash transfers should be targeted to those who need them.[602]

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596 *Id.* at 2.
597 *Id.* at 9.
598 *See* Ariel Fiszbein and Norbert Schady, CONDITIONAL CASH TRANSFERS, WORLD BANK (2009), http://siteresources.worldbank.org/INTCCT/Resources/5757608-1234228266004/PRR-CCT_web_noembargo.pdf
599 Devereux, *Is Targeting Ethical?, supra* note 23, at 176.
600 *Id.*
601 *Id.* at 178.
602 *Id.*