

IS CONDITIONALITY  
FOR LOANS FROM  
INTERNATIONAL FINANCIAL  
INSTITUTIONS A LEGITIMATE  
WAY TO INFLUENCE  
NATIONAL POLICIES?

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## INTRODUCTION

**T**he globalization of the international financial system continues rapidly. In the second part of the twentieth century, a new era started in the development of intergovernmental fiscal organizations with the foundation of the International Monetary Fund (hereinafter IMF) and the World Bank (hereinafter WB). Today, these international financial institutions (hereinafter IFI) play an indispensable role in the new globalized financial order. Day by day, the growing influence of the IFI has increased the number of disputes on this issue. One of the controversial issues is the conditionality policies of the IFI, and their relationship with democracy. Although it is alleged that conditionality is beneficial for the improvement of democracy, it seems that it is inimical to development of democracy. This essay will investigate whether these conditionality policies are legitimate ways to affect national policies.

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## BRETTON WOODS INSTITUTIONS' CONDITIONALITY POLICIES

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IMF, which is one of the main intergovernmental economic organizations, was founded in Bretton Woods in December 1944 to conduct an exchange rates system, and thereby reinforce a more stabilized world order.<sup>[1]</sup> In the 1970s, the exchange rates system was abandoned.<sup>[2]</sup> Nowadays, the modern role of the IMF is to provide long-term loans for developing countries which have balance of payments problems.<sup>[3]</sup>

The fundamental instruments of the IMF and WB to affect national policies are conditionality, which means the debtor country has to meet certain provisions and criteria.<sup>[4]</sup> In other words, the IMF and WB provide assistance to the debtor countries as long as their policies are implemented.<sup>[5]</sup> On the other hand, conditionality provides protection to the IFI that the credit is being utilized for the agreed intention and the debtor will be able to acquit its debt.<sup>[6]</sup> From the Fund's perspective, if creditor countries adhere to its program, they will repay IMF loans.<sup>[7]</sup> Yet, after Argentina, Russia and Asia financial crises in the 1990's, the IMF was charged with compelling useless policies,<sup>[8]</sup> and the assertion that conditionality serves to secure repayment is rebutted after fiascos of IMF policies.<sup>[9]</sup> It is also noteworthy that the World Bank stipulates fewer conditions than the IMF.<sup>[10]</sup>

The essential aims of the IMF are regulated in Article 1 of the Articles of

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- [1] Daniel Kalderimis, 'IMF Conditionality as Investment Regulation: A Theoretical Analysis' (Social & Legal Studies 2004) <<http://sls.sagepub.com/content/13/1/103>> accessed 28 February 2011.
- [2] Daniel Kalderimis (n1)
- [3] Daniel Kalderimis (n1)
- [4] International Monetary Fund, 'IMF Conditionality' (September 27, 2010) <<http://www.imf.org/external/np/exr/facts/conditio.htm>> accessed 07 March 2011
- [5] Masood Ahmed, Timothy Lane and Marianne Schulze-Ghattas, 'Refocusing IMF Conditionality' (Finance & Development 38 no4 D 2001) <<http://www.imf.org/external/pubs/ft/fandd/2001/12/ahmed.htm>> accessed 01 March 2011
- [6] *ibid*
- [7] Joseph J. Norton and Mads Andenas, International Monetary and Financial Law Upon Entering The New Millennium a Tribute to Sir Joseph And Ruth Gold (Sir Joseph Gold Memorial Series, British Institute of International and Comparative Law, London 2002) page 330
- [8] Daniel Kalderimis (n1) (Stiglitz,2002; Mussa,2002; Sachs,1997; Killick,1997; Rodrik, 1990 at bibliography)
- [9] Ariel Buira, An Analysis Of IMF Conditionality (Oxford University, Department Of Economics Discussion, 104-2002) <<http://www.economics.ox.ac.uk/Research/Wp/Pdf/Paper104.Pdf>> Accessed 11 March 2011
- [10] Axel Dreher, 'A public choice perspective of IMF and World Bank lending and Conditionality' (2003) <<http://www.axel-dreher.de/publicchoice.pdf>> accessed 03 March 2011

Agreement of IMF (1945).<sup>[11]</sup> However, the ideal function of IMF is a polemical topic. These main divergences are focused on the concept of 'adequate safeguards' in Article I(v) and Article V(3)(a).<sup>[12]</sup> This concept grants IMF the right to demand conditions for the utilization of the IMF credit.<sup>[13]</sup> Indeed, the conditions established by IMF ensure that the debtor members implement necessary measures to solve their balance of payments problem that will enable the credit to be repaid.<sup>[14]</sup> Still, since the 1980s, IMF has been subjected to criticism for extreme interfering in the economic sovereignty of the countries.<sup>[15]</sup> Additionally, it has been stated that politically powerless countries have to accept more severe conditions.<sup>[16]</sup>

Another general argument has been that the authority of IMF to designate the scope of the conditions is too broad.<sup>[17]</sup> Moreover, it is suggested that the conditionality has never been embodied overtly by the Articles of the Fund.<sup>[18]</sup> Despite the fact that conditionality is not regulated by Articles of Agreement, it has become a significant institutional policy and was rendered formal in 1968<sup>[19]</sup> and then applied in 1979.<sup>[20]</sup> This situation has enabled IMF to modify conditionality with the changes of the world economy.<sup>[21]</sup> Finally, some writers alleged that the policies of IMF and World Bank are directed by their chief members, especially by the USA government.<sup>[22]</sup> Stiglitz argues that Fund's loan policy was manipulated by the United States' domination.<sup>[23]</sup>

[11] International Monetary Fund, 'Articles of Agreement of the IMF(1945)' <<http://www.imf.org/external/pubs/ft/aa/aa01.htm>> accessed 08 March 2011

[12] Daniel Kalderimis (n1)

[13] Daniel Kalderimis (n1)

[14] International Monetary Fund, 'Conditionality in Fund-Supported Programs' (20 February 2001) <<http://www.imf.org/external/np/pdr/cond/2001/eng/overview/index.htm>> accessed 04 March 2011

[15] Daniel Kalderimis (n1) (Taylor,1987; Gerster,1982; Williamson,1983)

[16] Axel Dreher, 'IMF conditionality: Theory and Evidence' (2009) <<http://econpapers.repec.org/paper/kofwpskof/08-188.htm>> accessed 07 March 2011

[17] Jean Pierre Allegret and Philippe Dulbecco, 'The Institutional Failures Of International Monetary Fund Conditionality' (Rev Int Org (2007) 2:309–327) <<http://www.springerlink.com/content/3m1517h21323ru92/>> accessed 11 March 2011

[18] Deepak Nayyar, *Governing Globalization Issues and Institutions* (Oxford University Press, 2002) page 220  
Ariel Buira (n9)

[19] Jacqueline Best, *Legitimacy Dilemmas: The IMF's Pursuit Of Country Ownership* (Third World Quarterly, Vol. 28, No. 3, 2007, Pp 469 – 488) <<http://www.jstor.org/pss/20454941>> accessed 12 March 2011

[20] Jacqueline Best (n19)

[21] Daniel Kalderimis (n1) .(Gold,1984: 439; Lowenfeld,2002: 545 at bibliography)

[22] Axel Dreher (n10) (Goldstein,2000: 67; Frey,1997: 121; Vaubel,1991: 210 at bibliography)

[23] Silvia Marchesi and Laura Sabani, *IMF Concern For Reputation And Conditional Lending Failure: Theory And Empirics* (Journal Of Development Economics 84 (2007) 640–666) <[http://www.sciencedirect.com/science?\\_ob=ArticleURL&\\_udi=B6VBV-4MVN14X-1&\\_user=10&\\_coverDate=11%2F30%2F2007&\\_rdoc=1&\\_fmt=high&\\_orig=gateway&\\_origin=gateway&\\_sort=d&\\_docanchor=&view=c&\\_searchStrId=1675155116&\\_](http://www.sciencedirect.com/science?_ob=ArticleURL&_udi=B6VBV-4MVN14X-1&_user=10&_coverDate=11%2F30%2F2007&_rdoc=1&_fmt=high&_orig=gateway&_origin=gateway&_sort=d&_docanchor=&view=c&_searchStrId=1675155116&_)

Decisions of IMF's executive board have determined the scope of conditionality.<sup>[24]</sup> Indeed, the letter of intent indicates only the submission of the country to IMF.<sup>[25]</sup> Generally, these conditions are negotiated between IMF and countries' finance ministry and central banks.<sup>[26]</sup> The conclusion of the negotiation is being the claim of IMF, so it cannot be defined as an international convention. This means IMF does not intend to constitute legal relationships.<sup>[27]</sup> An international agreement includes three leading mechanisms; capability, consensus ad idem, and intention to establish legal relationship.<sup>[28]</sup> Also, according to Gold (1996), Fund's conditionality does not impose any obligation, because violation of a reform agenda does not have any legal sanction.<sup>[29]</sup>

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## LEGAL ASPECT OF CONDITIONALITY

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The jurisdictional challenges of IMF and World Bank have mostly been evaluated by public policy experts and economists.<sup>[30]</sup> These experts' point of views commonly concentrates on the success of the Fund's operations.<sup>[31]</sup> However, the legitimacy of conditionality is a controversial issue, because of the unequal applications between poor and rich borrowers and its incompatibility with democracy.<sup>[32]</sup> According to Dreher (2003), elections have caused interruption of the fund's program.<sup>[33]</sup> Indeed, democracy and conditionality have a strong interaction.<sup>[34]</sup> The United States jurisprudence emphasises that the conditionality is not a compulsion, so the state can choose to receive the loan and abide by the conditions or not receive the loan.<sup>[35]</sup> On the other hand, Epstein hypothesises that if the bargaining capacities are not balanced, there is often coercion.<sup>[36]</sup> According to Holder (1999) and Gianviti (1999), the competence of IMF must

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rerunOrigin=scholar.google&\_acct=C000050221&\_version=1&\_urlVersion=0&\_userid=10&md5=a4834de3041229d07542be6ba34bb99e&searchtype=a > accessed 11 March 2011 citing Stiglitz, J., 2002. *Globalization and its Discontent*. W.W. Norton, New York.

[24] Asif Quereshi and Andreas Ziegler, *International Economic Law* (2nd Edition Thomson-Sweet Maxwell, London 2007) Page 208

[25] Asif Quereshi and Andreas Ziegler (n24) page 233

[26] Andreas F. Lowenfeld *International Economic Law* (2nd Edition Oxford University Press, UK 2008) Page 646

[27] Asif Quereshi And Andreas Ziegler (n24) Page 232

[28] Asif Quereshi And Andreas Ziegler (n24) Page 235

[29] Daniel Kalderimis (n1)

[30] Daniel Kalderimis (n1)

[31] Daniel Kalderimis (n1)

[32] Daniel Kalderimis (n1)

[33] Jean Pierre Allegret and Philippe Dulbecco (n17)

[34] Jean Pierre Allegret and Philippe Dulbecco (n17)

[35] Daniel Kalderimis (n1)

[36] Richard Epstein *Bargaining with the State* ( Princeton University Press, Princeton 1993) page 39-41

have limitations.<sup>[37]</sup> For instance, “adequate safeguards” concept should not be exploited for externally sourced reforms;<sup>[38]</sup> otherwise, this interpretation would be destructive for the countries.<sup>[39]</sup> Similar institutions, such as the United Nations and the World Trade Organization are more democratic, so they have been rarely subjected to charges of extreme jurisdiction.<sup>[40]</sup>

Criticisms about legitimacy of the conditionality mostly have pointed to a country’s economic sovereignty.<sup>[41]</sup> Dionne asserts that the IFI perform its objectives against national sovereignty by compelling its reforms on borrower countries.<sup>[42]</sup> The United Nations Charter of Economic Rights and Duties of States (1974) maintains that “Every State has the sovereign and inalienable right to choose its economic system as well as its political, social and cultural systems in accordance with the will of its people, without outside interference, coercion or threat in any form whatsoever.”<sup>[43]</sup> However, the conditionality inhibits ownership of the country, because if the country does not submit, the reforms may be nominal.<sup>[44]</sup> Conversely, if the country does submit, then the political authority will be transferred to the Fund.<sup>[45]</sup> This situation cannot be appropriate for democracy.<sup>[46]</sup> Neoliberal theorists allege that developed economic circumstances will provide more democracy.<sup>[47]</sup> Nevertheless, democratic implementations indicate that conditionality causes limitations on civil liberties to reduce public disturbance which is the result of structural adjustment.<sup>[48]</sup> For instance, the IMF program in Latin American countries from 1998 to 2003 demonstrates that the required structural reforms have a destructive influence on democratic development.<sup>[49]</sup>

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[37] Daniel Kalderimis (n1)

[38] Daniel Kalderimis (n1)

[39] Michael Mussa, ‘Reflections on the Function and Facilities for IMF Lending (Institute for International Economic, 2006) <[http://books.google.co.uk/books?hl=en&lr=&id=O\\_PRC56ZvPwC&oi=fnd&pg=PA413&dq=%E2%80%9Cadequate+safeguards%E2%80%9D+IMF+exploit+external+sourced+reforms&ots=6Z2cYz16kE&sig=IjInguRHPQJSzoKowYp9peCajwM#v=onepage&q&f=false](http://books.google.co.uk/books?hl=en&lr=&id=O_PRC56ZvPwC&oi=fnd&pg=PA413&dq=%E2%80%9Cadequate+safeguards%E2%80%9D+IMF+exploit+external+sourced+reforms&ots=6Z2cYz16kE&sig=IjInguRHPQJSzoKowYp9peCajwM#v=onepage&q&f=false)> accessed 12 March 2011

[40] Daniel Kalderimis (n1)

[41] Jean Pierre Allegret and Philippe Dulbecco (n17)

[42] E.J. Dionne, Jr., The IMF & its critics (Commonweal, Jan 16, 1998) <[http://findarticles.com/p/articles/mi\\_m1252/is\\_n1\\_125/ai\\_20417278/](http://findarticles.com/p/articles/mi_m1252/is_n1_125/ai_20417278/)> accessed 27 February 2011 > accessed 11 March 2011

[43] Daniel Kalderimis (n1)

[44] Daniel Kalderimis (n1)

[45] Daniel Kalderimis (n1)

[46] Chelsea Brown, Democracy’s Friend or Foe? The Effects of Recent IMF Conditional Lending in Latin America (International Political Science Review 2009 30: 431) <<http://ips.sagepub.com/content/30/4/431>> accessed 11 March 2011

[47] Chelsea Brown (n46)

[48] Carlos Santiso, Good Governance and Aid Effectiveness: The World Bank and Conditionality (The Georgetown Public Policy Review, Volume 7 Number 1 Fall 2001, pp.1-22) <[http://www.swisstph.ch/fileadmin/user\\_upload/Pdfs/swap/swap108.pdf](http://www.swisstph.ch/fileadmin/user_upload/Pdfs/swap/swap108.pdf)> accessed 11 March 2011

[49] Chelsea Brown (n46)

Indeed, IMF's agendas generally regulate privatization, social welfare, foreign investment, taxes, basically everything related with government budget.<sup>[50]</sup> This means that the result of the election is trivial because all important issues will be fixed by the IMF policies.<sup>[51]</sup> Moreover, if the borrower member does not comply with the certain conditions, the agreed program will be halted.<sup>[52]</sup>

Contrary to the United Nations, the representation system of the Fund is designated by economic power of members. For example, the United States has 16.17% voting power. However, India, Bhutan, Bangladesh and Sri Lanka collectively have 2.34% of the total votes.<sup>[53]</sup> The United States is the only country which has veto power.<sup>[54]</sup> Hence, western developed countries have been able to impose their economic systems on debtor countries by IMF policies.<sup>[55]</sup> Furthermore, by defending the Washington Consensus, the Fund's reform perspective can be smoothly exploited by Western multinational companies.<sup>[56]</sup> Goldstein and Williamson assert that in some situations, Fund's conditions have been directed by the desires of the G-7 countries.<sup>[57]</sup> It is not a surprise, because developed countries have a crucial benefit in affecting the investment policies of the developing countries, and IFI's conditionality regimes make this feasible.<sup>[58]</sup>

Conditionality cannot be coercive for countries such as Brazil, Korea or Mexico who have a strong connection with the international financial markets and a good macroeconomic situation.<sup>[59]</sup> This is because they will have a strong position in any negotiations with IMF.<sup>[60]</sup> However, if these countries were in the middle of a financial crisis, they might be compelled to comply with the conditions to access the Fund's credit.<sup>[61]</sup> Volcker believes that "*When the Fund consults with a poor and weak country, the country gets in line. When it consults with a big and strong country, the Fund gets in line*".<sup>[62]</sup>

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[50] Chelsea Brown (n46)

[51] Chelsea Brown (n46)

[52] Erica R. Gould, Money Talks: Supplementary Financiers and International Monetary Fund Conditionality ( International Organization Foundation, Vol. 57, No. 3 (Summer, 2003), pp. 551-586)  
<<http://www.jstor.org/stable/3594837>> accessed 15 February 2011

[53] IMF Executive Directors and Voting Power (March 03, 2011) <http://www.imf.org/external/np/sec/memdir/eds.htm> accessed 10 March 2011

[54] Catherine H. Lee, To Thine Ownself Be True: IMF Conditionality And Erosion Of Economic Sovereignty In The Asian Financial Crisis (24 U. Pa. J. Int'l Econ. L. [ix] 2003)  
<<http://heinonline.org/HOL/LandingPage?collection=journals&handle=hein.journals/upjtel24&div=6&cid=&page=>>> accessed 11 March 2011

[55] Daniel Kalderimis (n1)

[56] Daniel Kalderimis (n1)

[57] Daniel Kalderimis (n1)

[58] Daniel Kalderimis (n1)

[59] Ariel Buira (n9)

[60] Ariel Buira (n9)

[61] Ariel Buira (n9)

[62] Paul A. Volcker and Toyoo Gyohten, "*Changing Fortunes: The World's Money and the*

Despite the fact that the conditionality is determined to maintain macroeconomic stability and development, it has restricted debtor countries' sovereignty.<sup>[63]</sup> Actually, although initially the Fund's programs have been intended to fix balance of payment problems, the fund has expanded its mission to adjust also social ills.<sup>[64]</sup> Thereby, conditional lending has composed a domination of the IFI in national policies.<sup>[65]</sup> This is inherently dangerous for democracy.<sup>[66]</sup> Generally, loan negotiations conducted between the executive organs of the governments and IFI without participation of the legislature.<sup>[67]</sup> Thus, politicians generally hide conditionality debates from society.<sup>[68]</sup> Przeworski and Vreeland hypothesise that the Fund prefers authoritarian governments rather than democracies; because authoritarian regimes are more favourable to dictate antipathetic reforms.<sup>[69]</sup> In spite of these evidences, defenders of structural adjustment still allege that these conditions reinforce democracy by promoting political and economic stability.<sup>[70]</sup> Surprisingly, not do only fiscal reforms have a malevolent impact on democracy, but also legal and institutional reforms have a negative impact on democracy.<sup>[71]</sup> It is commonly accepted that although Bolivia, Argentina and Ecuador adapted IMF's reforms, they could not note developments in democracy.<sup>[72]</sup>

It is alleged that reforms may decrease corruption incidents which contribute to democratic development.<sup>[73]</sup> On the other hand, structural adjustments generate many damaging socioeconomic consequences that produce political

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*Threat to American Leadership*" (Times Books, New York 1992)

[63] Chelsea Brown (n46) citing Friedman, T. (2000). *The Lexus and the Olive Tree: Understanding Globalization*. New York:Random House.

[64] Chelsea Brown (n46)

[65] Erik Denters, *New Challenges To IMF Jurisdiction* (Netherlands Yearbook of International Law 1998) <<http://journals.cambridge.org/action/displayAbstract?fromPage=online&aid=5083436>> accessed 10 March 2011

[66] Chelsea Brown (n46)

[67] Chelsea Brown (n46) citing Alexander, N. (2006). "*Decentralization and Sovereignty: How Policy Space Is Eroded*," Social Watch Report 2006. Uruguay: The Third World Institute.

[68] Chelsea Brown (n46) (Drazen, 2002; Przeworski and Vreeland, 2000 at bibliography)

[69] Chelsea Brown (n46) (Przeworski and Vreeland, 2000 at bibliography).

[70] Chelsea Brown (n46) citing Lipset, S.M. (1959). "*Some Social Requisites of Democracy: Economic Development and Political Legitimacy*," *American Political Science Review* 53(1): 69–105.; Abouharb, R. and Cingranelli, D. (2006). "*The Human Rights Effects of World Bank Structural Adjustment, 1981–2000*," *International Studies Quarterly* 50(2): 233–62; Abouharb, R. and Cingranelli, D. (2007) *Human Rights and Structural Adjustment*. Cambridge: Cambridge University Press; and Ethier, D. (2003). "*Is Democracy Promotion Effective? Comparing Conditionality and Incentives*," *Democratization* 10(1): 99–120.)

[71] Chelsea Brown (n46) citing Nooruddin, I. and Simmons, J. (2006). "*The Politics of Hard Choices: IMF Programs and Government Spending*," *International Organization* 60(4): 1001–33.

[72] Chelsea Brown (n46)

[73] Chelsea Brown (n46)

dissatisfaction.<sup>[74]</sup> These outcomes compel the debtor countries to limit liberties for maintaining the authority and to reduce political transparency for prevailing in the elections.<sup>[75]</sup> For example; poverty, income inequality and unemployment rates grow after reforms.<sup>[76]</sup> Conversely, diminished social services, government expenditure and living standards can be generally observed distinctly.<sup>[77]</sup> Moreover, IMF's market policies tend to marginalize domestic sectors which are not export oriented.<sup>[78]</sup> Government resources are spent on reducing the debt. Simultaneously, the government allocates fewer sources for long-term investments like infrastructure,<sup>[79]</sup> so the enlightenment of citizens is still disregarded.

After criticisms about legitimacy of conditionality, the Fund changed its policies and attempted to implement the domestic ownership principle over the reforms.<sup>[80]</sup> The IMF claimed that the new policies were based on the consent of the debtor countries.<sup>[81]</sup> The 'ownership' concept is identified as "*a commitment to a program of policies, by country official who have the responsibility to formulate and carry out those policies, based on their understanding that the program is achievable and is in the country's best interest.*"<sup>[82]</sup> Nobel laureate economist Stiglitz pronounces that, although the Fund insists that the conditionality policy has never been compelled on any country; a borrowing country has no bargaining chance because it needs the credit.<sup>[83]</sup> He also claims that the negotiations should have transparency rather than be bargained behind closed doors.<sup>[84]</sup> This discourse is compatible with the term of "*the right to know of the citizens*" of a borrowing state.<sup>[85]</sup> Indeed, although citizens of the member countries repay the debts, they have never have right to ratiocinate and decide the alternatives.<sup>[86]</sup>

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[74] Chelsea Brown (n46) citing Kurtz, M.J. (2004). "*The Dilemma of Democracy in the Open Economy*," World Politics 56(2): 262–302.; Stallings, B. and Peres, W. (2000). Growth, Employment, and Equity: The Impact of the Economic Reforms in Latin America and the Caribbean. Washington, DC: Brookings Institution Press.

[75] Chelsea Brown (n46)

[76] Chelsea Brown (n46) citing Crisp, B. and Kelly, M. (1999). "*The Socioeconomic Impacts of Structural Adjustment*" International Studies Quarterly 43(3): 533–52; Garuda, G. (2000), "*The Distributional Effects of IMF Programs: A Cross Country Analysis*"

[77] Chelsea Brown (n46)

[78] Chelsea Brown (n46)

[79] Chelsea Brown (n46)

[80] Jacqueline Best (n19)

[81] Jacqueline Best (n19)

[82] Jacqueline Best (n19) citing Statement of the IMF Staff on Principles Underlying the Guidelines on Conditionality, Washington DC: International Monetary Fund, 2006, p 1.

[83] Catherine H. Lee (n54)

[84] Catherine H. Lee (n54)

[85] Catherine H. Lee (n54)

[86] Catherine H. Lee (n54)

According to the Article V(3), the IMF cannot violate jurisdictional barriers even with the aim of expanding economic assistance,<sup>[87]</sup> so issues within the national jurisdiction should not be dictated or advised.<sup>[88]</sup> For example, the Fund can stipulate a country to hold its budget deficit within six per cent of its gross national product (GNP); but the Fund cannot prescribe it.<sup>[89]</sup> Moreover, IMF was not founded to affect member countries' national policies.<sup>[90]</sup> On the other hand, in reality the domestic economic matters cannot be separated from international policies.<sup>[91]</sup> Constraints of the Fund have intervened in the domestic policy matters of the member countries.<sup>[92]</sup> Eventually, this means hegemony of the Fund over borrower countries.<sup>[93]</sup> Further, almost in every situation there is no ratification of the programs by the national parliaments.<sup>[94]</sup> The negative consequences of the reforms in Malaysia and Thailand indicate that the IMF programs do not justify in the interference over the right to sovereignty.<sup>[95]</sup>

Democracy refers to the legitimacy of government, which is elected by citizens or representatives of them.<sup>[96]</sup> Thence, the conditionality does not seem to be the most convenient method for strengthening democracy in developing countries.<sup>[97]</sup> Indeed, the fund should assure voluntary cooperation.<sup>[98]</sup> Elected legislation members are not a part of deciding Fund's or WB's programs.<sup>[99]</sup> In democratic systems, parliaments should be involved in the negotiating process and drafting the agenda.<sup>[100]</sup> National parliaments have not the ability to insist on changes of the reforms.<sup>[101]</sup> For instance in Ethiopia, although the constitution regulates that the national development projects have to be ratified by legislation, the parliament was not involved the negotiations.<sup>[102]</sup> Benin, Bolivia,

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[87] Erik Denters (n65)

[88] Erik Denters (n65)

[89] Catherine H. Lee (n54) citing Lowenfeld,(n26) at page 260.

[90] Erica R. Gould (n52)

[91] Catherine H. Lee (n54)

[92] Kerry Rittich, *The Future Of Law And Development: Second Generation Reforms And The Incorporation Of The Social* <<http://students.law.umich.edu/mjil/article-pdfs/v26n1-rittich.pdf>> accessed 07 March 2011

[93] Kerry Rittich (n92)

[94] Kerry Rittich (n92)

[95] Catherine H. Lee (n54)

[96] Carlos Santiso (n48)

[97] Carlos Santiso (n48)

[98] Randall W. Stone, *The Scope of IMF Conditionality* (April 10, 2008) <[http://www.princeton.edu/~pcglobal/conferences/institutions/papers/stone\\_S100.pdf](http://www.princeton.edu/~pcglobal/conferences/institutions/papers/stone_S100.pdf)> accessed 11 March 2011

[99] Tim Jones and Peter Hardstaff, *Denying Democracy -How The IMF And World Bank Take Power From People* (May 2005) <<http://siteresources.worldbank.org/INTPRS1/Resources/PRSP-Review/WDMRSPdoc.pdf>> accessed 10 March 2011

[100] Tim Jones and Peter Hardstaff (n99)

[101] Tim Jones and Peter Hardstaff (n99)

[102] Tim Jones and Peter Hardstaff (n99)

Cameroon, Chad , Gambia , Ghana, Guinea, Honduras, Laos, Madagascar, Malawi, Mauritania, Mozambique, Rwanda, Senegal, Tanzania, Uganda, Zambia, Albania, Cambodia, Georgia, Kenya, Kyrgyzstan, Mongolia, Pakistan are the other examples of lack of participation of the legislature.<sup>[103]</sup> Parliaments are critical links between citizens and governments.<sup>[104]</sup> If the IFI ignores the involvement of parliaments, the citizens' political rights will be usurped.<sup>[105]</sup> Collier aptly suggests that the conditionality can be abused for transferring of sovereignty, which is not unprecedented.<sup>[106]</sup>

Another harsh criticism is about the transparency of IFI's policies.<sup>[107]</sup> In modern democratic systems, citizens should be able to observe and know what decisions are taken and how and why they are fixed.<sup>[108]</sup> For instance, the Executive Board records of the IMF are revealed after ten years and archived documents are released after twenty years.<sup>[109]</sup> Especially, in the negotiations with indebted developing countries, the reforms debated only with their financial ministers.<sup>[110]</sup> Then, commonly financial ministers sacrifice their economic independence.<sup>[111]</sup> Generally, developing countries' parliaments and citizens are excluded from the process.<sup>[112]</sup> Correspondingly, the budgets of such countries are prepared by IMF officers, who are not elected by citizens or not liable to them.<sup>[113]</sup> Consequently, the IFI designates their future, but the citizens are not aware of it.<sup>[114]</sup>

Critics of the conditionality have been not just related with independence and sovereignty of the borrower countries.<sup>[115]</sup> There is also disproportion in the World Bank and IMF's members voting rates.<sup>[116]</sup> Even though developed countries form the minority of the world's population and these institutions'

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[103] Tim Jones and Peter Hardstaff (n99)

[104] Pippa Norris, 'The Growth of Critical Citizens?' (Harvard University, 1999) <[http://www.hks.harvard.edu/fs/pnorris/Acrobat/Critical\\_ch1.pdf](http://www.hks.harvard.edu/fs/pnorris/Acrobat/Critical_ch1.pdf)> accessed 11 March 2011

[105] Tim Jones and Peter Hardstaff (n99)

[106] Carlos Santiso (n48) citing Collier, Paul. 1999. "Learning from Failure: The International Financial Institutions as Agencies of Restraint in Africa", in Andrea Schedler, Larry Diamond and Marc Plattner, *The Self-Restraining State: Power and Accountability in New Democracies* (Boulder and London: Lynne Rienner)

[107] Tim Jones and Peter Hardstaff (n99)

[108] Tim Jones and Peter Hardstaff (n99)

[109] Tim Jones and Peter Hardstaff (n99)

[110] Mac Darrow, *Between Light and Shadow: Between Light and Shadow: The World Bank, the International Monetary Fund and International Human Rights Law* (Studies in International Law Volume I, Hart Publishing, Oxford, 2003)

[111] Mac Darrow (n110)

[112] Mac Darrow (n110)

[113] Mac Darrow (n110)

[114] Jochen Hippler, 'Democratisation of the Third World After the End of the Cold War' (Pluto Press, London, 1995) page 104-105

[115] Andreas F. Lowenfeld (26) page 646

[116] Tim Jones and Peter Hardstaff (n99)

income, they hold nearly %60 per cent of the votes.<sup>[117]</sup> Further, US have generated legitimacy crises in the Fund by abusing its privileged role in favour of its interests.<sup>[118]</sup> Consequently, international financial institutions have played a pivotal role in international economic politics, but in an unfair way.<sup>[119]</sup>

## CONCLUSION

In conclusion, IFI advocate that their remedies still shed light on the countries which struggle with fiscal crises. However, it is generally accepted by the doctrine that the conditionality is not a legitimate method to affect domestic policies. Indeed, the influence of the United States within the IFI creates a dilemma. Moreover, even though administrative international agreements can be implemented without ratification of national parliaments<sup>[120]</sup>, it is not democratic if parliaments are excluded from the process. Although IFI's endeavours to ensure economic growth and decrease poverty are unsuccessful, IFI insists on their macroeconomic policies. May be the judgement of Robert Joseph Barro should be reviewed "*IMF doesn't put out fires, it starts them*,"<sup>[121]</sup>

[117] Tim Jones and Peter Hardstaff (n99)

[118] Randall W. Stone (n98)

[119] Randall W. Stone (n98)

[120] Eva Riesenhuber, 'The International Monetary Fund Under Constraint: Legitimacy Of Its Crisis Management' (Kluwer Law International, The Hague 2001) page 268

[121] Olivier Jeanne, Jonathan D. Ostry, and Jeromin Zettelmeyer, 'A Theory of International Crisis Lending and IMF Conditionality' (October 2008, IMF Working Papers, Vol., pp. 1-33) < <http://ssrn.com/abstract=1316704> > accessed 08 March 2011 citing Barro, Robert, 1998, "*The IMF Doesn't Put Out Fires, It Starts Them*," Business Week, December 7.

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