

FAILURE OF THE INTERNATIONAL MONETARY FUND & WORLD BANK TO ACHIEVE INTEGRAL DEVELOPMENT: A CRITICAL HISTORICAL ASSESSMENT OF BRETTON WOODS INSTITUTIONS POLICIES, STRUCTURES & GOVERNANCE

Mark J. Wolff[†]

CONTENTS

I.	INTRODUCTION	72
II.	THE BRETTON WOODS INSTITUTIONS	76
	A. <i>Worldwide Economic Instability After World War I</i>	76
	B. <i>The Bretton Woods Conference</i>	77
	C. <i>After the Bretton Woods Conference</i>	79
	D. <i>The Voting Structures</i>	84
	1. <i>International Monetary Fund</i>	84
	2. <i>World Bank</i>	86
	E. <i>Critique of the Voting Structures</i>	87
III.	THE IMPOSITION OF NEOLIBERALISM ON A GLOBAL SCALE	93
	A. <i>Influence through Vote and Governance</i>	94
	B. <i>Evolution and Critique of Neoliberalism</i>	96
	C. <i>Loan Conditionality</i>	104
	D. <i>Case Studies</i>	107
	1. <i>Argentina</i>	107
	2. <i>Sub-Saharan Africa</i>	111
	3. <i>The Asian Crisis</i>	115
IV.	OTHER CHALLENGES TO THE BWIS	119

[†] Professor of Law, St. Thomas University School of Law; LL.M. (in Taxation) 1978, New York University School of Law; J.D. magna cum laude 1977, Nova Southeastern School of Law; B.A. summa cum laude 1973, Wadhams Hall Seminary College. The author would like to express appreciation to the following persons for their support and assistance: Professor Edward "Joe" Holland, St. Thomas University; Ambassador Oscar de Rojas; my research assistants, David Bauer, Michelle Soto, Vanessa E. Diaz, Francoise Blanco, Angelique Romero, Luis Fernandez, Kathy Riano, Rabdem Leon, and Samantha Levokove.

A. <i>Challenge of the Monterrey Consensus</i>	119
B. <i>The Challenge of the Heavily Indebted Poor Countries</i>	130
C. <i>The Challenge of the G-20</i>	134
VI. CONCLUSION.....	140

I. INTRODUCTION

Scholars worldwide have clearly demonstrated the inability of the Bretton Woods Institutions (the “BWIs”) to promote authentic sustainable development.¹ Some have criticized the BWIs for their

1. The Bretton Woods Institutions encompass the World Bank and the International Monetary Fund. In July 1944, delegates from forty-four allied nations gathered at the Mount Washington Hotel in Bretton Woods, New Hampshire. DEPARTMENT OF STATE, PROCEEDINGS AND DOCUMENTS OF UNITED NATIONS MONETARY AND FINANCIAL CONFERENCE Vol. I at 5 (1948). They gathered to create institutions that would regulate the international monetary system and reconstruct the international relations. *Id.* at 5-7. The meeting resulted in the creation of the International Bank for Reconstruction and Development (“IBRD”), and the International Monetary Fund (“IMF”). See LEE E. PRESTON & DUANE WINDSOR, *THE RULES OF THE GAME IN THE GLOBAL ECONOMY: POLICY REGIMES FOR INTERNATIONAL BUSINESS* 132-33 (2d. ed. 1997) (explaining that the IMF was established to carry out exchange, reserve, and short-term loan functions normally associated with “bank,” while the IBRD is essentially a “Fund” for providing long-term loans). The purpose of these institutions was to stabilize the global economy and fund reconstruction of countries recovering from World War II. JOSEPH E. STIGLITZ, *GLOBALIZATION AND ITS DISCONTENTS*, 12 (2003). See DEPT. OF PUBLIC INFO., *EVERYONE’S UNITED NATIONS* 364-65 (9th ed. 1979) (explaining that the IBRD was established to assist in the reconstruction and development of members’ territories by facilitating the investment of capital for productive purposes; to promote private foreign investment and to supplement it by providing loans for productive purposes; and to promote growth of international trade and maintenance of equilibrium in balances of payments by encouraging international investment for the development of the productive sources of the Bank’s members). The IMF was established with the purposes of facilitating international monetary cooperation; promoting exchange rate stability; assisting in the establishment of multilateral payment systems; eliminating foreign exchange restrictions; providing loans to nations experiencing balance of payments issues; all for the purpose of creating conditions for strong economic growth. *Id.* at 55. The IMF created an orderly basis for international currency exchange, and established both stabilization and adjustment mechanisms. See LEE E. PRESTON & DUANE WINDSOR, *THE RULES OF THE GAME IN THE GLOBAL ECONOMY: POLICY REGIMES FOR INTERNATIONAL BUSINESS* (2d. ed. 1997); see also EDWARD S. MASON & ROBERT E. ASHER, *THE WORLD BANK SINCE BRETTON WOODS* 21, 22 (1973). The IBRD provided loans to support reconstruction in war-damaged countries, and later promoted economic growth and development in nations with low per-capita income. See LEE E. PRESTON & DUANE WINDSOR, *THE RULES OF THE GAME IN THE GLOBAL ECONOMY: POLICY REGIMES FOR INTERNATIONAL BUSINESS* (2d. ed. 1997); see also EDWARD S. MASON & ROBERT E. ASHER, *THE WORLD BANK SINCE BRETTON WOODS* 21, 22 (1973). The World Bank actually refers to two banks: the International Bank for Reconstruction and Development and the

inability to rehabilitate, evolve, and reform their respective policies.² Some scholars argue that the core of this problem is the voting structures of the BWIs.³ Additional critiques address the lack of transparency and limited participation by developing countries in formulation of BWIs' policies; both deficiencies have resulted in fewer developing countries benefiting from these policies.⁴

International Development Association. See WORLD BANK, available at <http://www.worldbank.org/en/about> (last visited Dec. 3, 2013). The World Bank Group refers to the two banks and three other agencies: the International Finance Corporation, the Multilateral Investment Guarantee Agency, and the International Centre for Settlement of Investment Disputes. See *id.*

2. See *What Are the Main Concerns and Criticisms about the World Bank and IMF?*, BRETTON WOODS PROJECT, available at <http://www.brettonwoodsproject.org/item.shtml?x=320869> (last visited Dec. 3, 2013) ("Criticism of the World Bank and the IMF encompasses a whole range of issues but they generally centre around concern about the approaches adopted by the World Bank and the IMF in formulating their policies, and the way they are governed. This includes the social and economic impact these policies have on the population of countries who avail themselves of financial assistance from these two institutions, and accountability for these impacts.").

3. ARIEL BUIRA, CHALLENGES TO THE WORLD BANK AND IMF: DEVELOPING COUNTRY PERSPECTIVES 1 (2003); see also JOHN E. CHEN, THE ROLE OF INTERNATIONAL INSTITUTIONS IN GLOBALIZATION: THE CHALLENGES OF REFORM 81 (2003); M. PANIC, GLOBALIZATION AND NATIONAL ECONOMIC WELFARE 228 (2003); WILLIAM K. TABB, ECONOMIC GOVERNANCE IN THE AGE OF GLOBALIZATION 184, 373 (2004); V. SPIKE PETERSON, A CRITICAL REWRITING OF GLOBAL POLITICAL ECONOMY: INTEGRATED, REPRODUCTIVE AND VIRTUAL ECONOMIES 3, 8 (2003); JEFFREY D. SACHS, THE ANTI-GLOBALIZATION MOVEMENT, THE GLOBALIZATION AND DEVELOPMENT READER: PERSPECTIVE ON DEVELOPMENT AND SOCIAL CHANGE 356 (2007); JOSEPH STIGLITZ, GLOBALISM'S DISCONTENTS, THE GLOBALIZATION AND DEVELOPMENT READER: PERSPECTIVE ON DEVELOPMENT AND SOCIAL CHANGE 295 (2007); Messner et al., *Governance Reform of the Bretton Woods Institutions and the U.N. Development System* 6 (Friedrich Ebert Stiftung: Dialogue on Globalization, Occasion Paper No. 18, 2005). The IMF and the World Bank have a weighted system of voting. *Articles of Agreement of the International Monetary Fund*, INTERNATIONAL MONETARY FUND, available at <http://www.imf.org/external/pubs/ft/aa/aa12.htm#5> (last visited Dec. 3, 2013) [hereinafter *Articles of IMF*] (explaining subsection a); WORLD BANK, *Voting Powers*, available at <http://go.worldbank.org/VKVDQDUC10> (last visited Dec. 3, 2013) [hereinafter *Voting Powers*] (explaining that the IMF's voting bylaws state that each member is guaranteed 250 votes, plus one additional vote for each part of its quota equal to 100,000 special drawing rights. Within the World Bank, a new member country is allotted 250 votes plus one additional vote for each share it holds in the World Bank's capital stock); see also *ICSID Basic Documents*, ICSID, available at <https://icsid.worldbank.org/ICSID/FrontServlet?requestType=ICSIDDocRH&actionVal=RulesMain> (last visited Dec. 3, 2013) (discussing how the ICSID allocates its voting within its Administrative Council; all decisions are taken by a majority of the votes cast, and each member must vote in person).

4. See Ngaire Woods, *Governance in International Organizations: The Case for Reform in the Bretton Woods Institutions*, INT'L AND FIN. MONETARY ISSUES (2008), available at <http://www.globaleconomicgovernance.org/wp->

Acknowledging these critiques, this article will argue that current BWI policies must be fundamentally redesigned, since many are archaic and others are counter-productive to integral sustainable development in the current global economy. Further, the article will argue that the dominant nations in the BWI have forced their political agendas on the rest of the world while hiding behind the veil of these multilateral funding institutions.⁵

In making these arguments, the article will begin with a review of the origin, purpose, and structures of the BWIs and offer a brief critique of their voting structures. Next, this article will analyze and critique the neoliberal revival of the classical laissez-faire liberal ideology now on a global scale, and show how it has played out in the Asian financial crisis, the current world financial crisis, and the on-going debt crisis. Two case studies will then be provided and discussed: one on Argentina; and a second on Sub-Saharan Africa. The paper will then analyze other institutions' alternative solutions to the ongoing problems with the BWI, specifically the Monterey Consensus, developed by the United Nations Financing for Development process, the "Heavily Indebted Poor Countries," created by the World Bank, and the G-20⁶, a policy-advising group of 20 countries claiming to represent the most "systemically significant" world's economies. Finally, a conclusion will summarize this article's critique of the BWIs and suggest alternative lines of strategy.

Part II first reviews the events and global instability that led to the Bretton Woods Conference creating the early BWIs, and then explains

content/uploads/Governance%20and%20Decision-Making.pdf (last visited Dec. 3, 2013) ("While pressure for good governance has been magnified by the policy role of the [IMF and World Bank, also known as the] Bretton Woods twins, neither institution has adequately reformed [the] core aspects of accountability and participation."); see also Madeline Baer, *Water Privatization and Civil Society in Bolivia, Addressing the Democratic Deficit of International Organizations*, Annual Meeting of International Studies Association (2006), available at http://citation.allacademic.com/meta/p_mla_apa_research_citation/1/0/0/4/0/pages100408/p100408-1.php (last visited Dec. 3, 2013) (providing another critique which charges that recent BWIs' globalization policies favoring privatization—allowing private lenders to come in and charge higher rates—are further aggravating the problem for developing countries).

5. See, e.g., Nico Kirsch, *International Law in Times of Hegemony: Unequal Power and the Shaping of the International Legal Order*, 16 EUR. J. INT'L L. 369, 382 (2005). "Most predominant states have been active forces behind the development of international law, and they have made extensive use of the international legal order to stabilize and improve their position." *Id.*

6. See *About the G20*, G20.ORG, available at http://www.g20.org/about_G20 (last visited Dec. 4, 2013); see *infra* Part IV.C.

the Bretton Woods Conference itself and the global response to the creation of the BWIs.⁷ Part II then concludes with a critical analysis of the IMF and World Bank voting structures.⁸

Part III begins by showing how neoliberal agendas influence the policies of the BWIs through vote and governance.⁹ A historical analysis of the rise of the contemporary neoliberal ideology is then provided.¹⁰ At the heart of this has been the University of Chicago School of Economics, led by the late Professor Milton Friedman, and the Austrian School of Economics. Both were highly influential in developing a new and problematic model of so-called global 'development' for the BWIs. Part III then examines loan conditionality; the mechanism by which the BWIs pressure other countries into accepting neoliberal ideas.¹¹ Part III concludes by providing a critical analysis of the neoliberal ideology in its application to the Asian Financial Crisis,¹² along with case studies showing its impact on Argentina and Sub-Saharan Africa.¹³

Part IV analyzes alternative solutions, which have been put forth by various global endeavors. It begins with an examination of the Monterrey Consensus, the product of an international conference held in Monterrey, Mexico.¹⁴ Part IV then examines The Heavily Indebted Poor Countries, a program created by the World Bank and the IMF, which currently classifies forty developing countries with high levels of poverty and debt which are eligible for special assistance.¹⁵ Finally, the G-20 is a group of twenty countries that hold periodic meetings to review and promote discussions pertaining to the promotion of international financial stability and the governance of the world economy.¹⁶

7. See *infra* Parts II.A-C.

8. See *infra* Parts II.D-E.

9. See *infra* Part III.A.

10. See *infra* Part III.B.

11. See *infra* Part III.C.

12. See *infra* Part III.D.3.

13. See *infra* Part III.D.1-2.

14. See Inaamul Haque & Ruxandra Burdescu, *Monterrey Consensus on Financing for Development: Response Sought from Economic Law*, 27 B.C. INT'L & COMP. L. REV. 219 (2004); see *infra* Part IV.A. (stating the conference in Monterrey, Mexico comprised of over fifty Heads of State, two hundred Ministers of Finance, and the Heads of the United Nations, IMF, World Bank, and World Trade Organization).

15. See Eric A. Friedman, *Debt Relief in 1999: Only One Step on a Long Journey*, 3 YALE HUM. RTS. & DEV. L.J. 191, 191-94 (2000); *infra* Part IV.B.

16. See *What is the G20*, G20.ORG, available at http://www.g20.org/about_g20/g20_members (last visited Dec. 3, 2013) (providing that the

Finally, Part V concludes that the BWIs, due to their lending policies and governing structures, have restrained true global development. The BWIs have served as impediments to authentic development and these institutions are in need of fundamental reform including overhauls to their policies, voting systems, and governance structures. Part V proposes alternative strategies for authentic sustainable development through other multilateral global institutions.

II. THE BRETTON WOODS INSTITUTIONS

A. *Worldwide Economic Instability After World War I*

A world trading system was practically nonexistent during the Great Depression because there were no major multilateral trading agreements or international agencies at the time to regulate or promote trade relations between countries.¹⁷ Developed countries pursued nationalistic policies of closing their borders to imports in an effort to protect their domestic productions and shift unemployment to the nations from which they formerly imported.¹⁸ At the mercy of their "European Masters,"¹⁹ developing countries suffered from these isolationist policies, as they were cut off from their trading partners and no longer had external purchasers for their nationally produced goods.²⁰

group consists of both developed and developing countries, heads of state and government, finance ministers and central bank governors); see *infra* Part IV.C.

17. KENT ALBERT JONES, WHO'S AFRAID OF THE WTO? 68 (2004) (discussing how the world trading system after World War I collapsed during the Great Depression partly because most countries established bilateral trade agreements, thus precluding any sort of broad multilateral trade agreement).

18. JOSEPH E. STIGLITZ, GLOBALIZATION AND ITS DISCONTENTS 15, 107 (2003) (explaining that these policies became known as "beggar-thy-neighbor" policies). Beggar-thy-neighbor policies are a government's protectionist course of action taken to discourage imports by raising tariffs and instituting nontariff barriers, usually to reduce domestic unemployment and increase domestic output. *Id.* This term is sometimes applied to competitive currency devaluation. *Id.* at 107.

19. *Id.* at 11-13 (asserting that contrary to its original policies, the IMF lends funds only if countries "engage in policies like cutting deficits, raising taxes, or raising interest rates that lead to a contraction of the economy.").

20. CHARLES P. KINDLEBERGER, THE WORLD IN DEPRESSION: 1929-1939, 26-28 (1973) (discussing how beggar-thy-neighbor tactics put countries in a worse-off position since they led to retaliation among countries). National economic interests trumped international cooperation. *Id.* In addition to the British government's micromanagement of the agricultural industry, the 1932 Import Duties Act imposed an ad valorem tariff on almost all goods, with only minimal exceptions. *Id.* Further, the Ottawa Agreements Act granted a duty exemption for all British Commonwealth Countries; this led to the economic discrimination against Great Britain's neighboring countries. *Id.* at 85-86 (explaining further that the duty exemption granted reciprocity on duty-free imports and exports to all

B. The Bretton Woods Conference

In July 1944, delegates from forty-four allied nations²¹ gathered at the Mount Washington Hotel in Bretton Woods, New Hampshire, with the objective of creating institutions that, through a unified system of purpose, policies, and rules, would regulate the international monetary system while simultaneously reconstructing the international relations which had begun to foster before World War II.²² Although all of the

British Commonwealth Countries). Germany responded to the international financial crisis by establishing its own beggar-thy-neighbor policies in the form of exchange controls in 1931, and by 1933, several state import boards were granted the power to regulate trade through import quotas and tariffs. *Id.*; B. N. GHOSH, GLOBAL FINANCIAL CRISIS AND REFORMS: CASES AND CAVEATS 379 (2001) (explaining how Germany and France increased border protection and domestic market regulations). Parallel to the United Kingdom and Germany, most developed countries introduced exchange-control systems. DEREK HOWARD ALDCROFT, EUROPE'S THIRD WORLD: THE EUROPEAN PERIPHERY IN THE INTERWAR YEARS 61 (2006) (listing countries that established exchange controls during the 1930's as: Bulgaria 1931, Estonia 1931, Greece 1931, Hungary 1931, Latvia 1931, Lithuania 1935, Poland 1936, Romania 1932, Spain 1931, Turkey 1930, and Yugoslavia 1931). Those that did not introduce exchange systems became members of trade blocs similar to that of the British Commonwealth; these blocs were characterized by preferential trading agreements that benefited bloc members and discriminated against nonmembers. EUROPE IN THE INTERNATIONAL ECONOMY 1500 TO 2000 156 (Derek Howard Aldcroft & Anthony Sutcliffe eds., 1999) (explaining how exchange control systems were also an issue in the development of South American and African countries). Thirteen of the fourteen countries using these systems in the IMF were Latin American countries. *See id.*; ELIZABETH HENNESSEY, A DOMESTIC HISTORY OF ENGLAND: 1930-1960 85 (1992) (explaining how African countries fared differently under the exchange control systems depending upon their relationship with the British Commonwealth).

21. The Department of State, Proceedings and Documents of United Nations Monetary and Financial Conference Vol. I at 5 (1948) [hereinafter Bretton Woods Conference Vol. I]. The forty-four nations were comprised of: Australia, Belgium, Bolivia, Brazil, Canada, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Honduras, Iceland, India, Iran, Iraq, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippine Commonwealth, Poland, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom, United States of America, Uruguay, Venezuela, and Yugoslavia. *Id.*

22. *See id.* at 5-7; DEPT. OF PUBLIC INFO, EVERYONE'S UNITED NATIONS 365 (9th ed. 1979). The draft documents presented to delegates at the Bretton Woods conference were presented in four different versions: the U.S. version, the U.K. version, new material, and material taken from the Monetary Fund proposal. EDWARD S. MASON & ROBERT E. ASHER, THE WORLD BANK SINCE BRETTON WOODS 21 (1973). Least developed members, including European countries damaged during World War II, held a greater interest in development of the IBRD than the IMF. *Id.* Therefore, when the first week of the conference primarily focused on development of the IMF, delegates feared the IBRD would not be established. *Id.* Stable monetary conditions are the cornerstone to successful lending and a precondition to the membership in the BWIs. *Id.*; JACQUES J. POLAK, THE WORLD BANK AND THE IMF: A CHANGING RELATIONSHIP 1 (1994). An attempt to reconcile openness and trade expansion with economic and employment stabilization, the agreement was "an unprecedented

forty-four nations were present, the Bretton Woods agreement was largely negotiated between Britain and the United States of America.²³ The meeting resulted in the creation of the International Bank for Reconstruction and Development ("IBRD"), and the International Monetary Fund ("IMF").²⁴

Despite the peaceful northern New Hampshire setting for the Bretton Woods conference, the meeting set the stage for future conflict not only between the United States and Great Britain, but also between historical differing economic policies. At the conference, Great Britain's Lord John Maynard Keynes ("Keynes") sought to retain the imperial preferential system and bilateral trading, while the United States' Harry Dexter White ("White") preferred an open, non-discriminatory multilateral trading system.²⁵ Fundamentally, Great

experiment in international economic constitution building." G. JOHN IKENBERRY, *THE POLITICAL ORIGINS OF BRETTON WOODS, A PERSPECTIVE ON THE BRETTON WOODS SYSTEM* 155 (1993).

23. The United States of America and Britain were the two major Western powers from World War II. See IKENBERRY, *supra* note 22; see also ERIC HELLEINER, *STATES AND THE REEMERGENCE OF GLOBAL FINANCE: FROM BRETTON WOODS TO THE 1990s* 33 (1996) ("The Bretton Woods negotiations are often portrayed as a battle of wills between Keynes and White."); M.J. Stephey, *A Brief History of Bretton Woods System*, TIME (Oct. 21, 2008), available at <http://www.time.com/time/business/article/0,8599,1852254,00.html> (last visited Dec. 1, 2013).

24. LEE E. PRESTON & DUANE WINDSOR, *THE RULES OF THE GAME IN THE GLOBAL ECONOMY: POLICY REGIMES FOR INTERNATIONAL BUSINESS* 132-33 (2d. ed. 1997) (explaining that the names of these two institutions are somewhat confusing, since the IMF was established to carry out exchange, reserve, and short-term loan functions normally associated with "bank," while the IBRD is essentially a "Fund" for providing long-term loans). The IBRD was established on December 27, 1945 with the intent to:

"[A]ssist in the reconstruction and development of territories of members by facilitating the investment of capital for productive purposes; to promote private foreign investment and, when private investment is not readily available on reasonable terms, to supplement it by providing loans for productive purposes out of its own capital funds; and to promote the balanced growth of international trade and the maintenance of equilibrium in balances of payments by encouraging international investment for the development of the productive sources of the Bank's members."

DEPT. OF PUBLIC INFO., *EVERYONE'S UNITED NATIONS* 364-65 (9th ed. 1979). Membership to the IBRD is open to all members of the IMF. *Id.* at 364. The IMF was established with the purposes of facilitating international monetary cooperation; promoting exchange rate stability; assisting in the establishment of multilateral payment systems; eliminating foreign exchange restrictions; providing loans to nations experiencing balance of payments issues; all for the purpose of creating conditions for strong economic growth. *Id.* at 55.

25. IKENBERRY, *supra* note 22, at 156. Britain's position was to secure employment and economic stabilization within its borders for its citizens. See *id.* at 157. Formal negotiations on international trade took place in Havana, Cuba three years later under the formulation of the International Trade Organization. TYRONE FERGUSON, *THIRD WORLD*

Britain recognized a need for some post-war regulation on the international scene; it recognized that the potential exploitation by the war's victors of the defeated Axis Powers, as a means of financing the reconstruction of war-torn European nations, could lead to another global disaster.²⁶ The United States' influence and power ultimately won out, for the BWIs were mostly modeled after White's proposals.²⁷

C. After the Bretton Woods Conference

Throughout the 1960s, the BWIs faced three great obstacles: decolonization, threats of decreasing international liquidity, and a weakening gold standard.²⁸ In partial response, the World Bank created the International Development Association ("IDA")²⁹ in 1960, which

AND DECISION MAKING IN THE INTERNATIONAL MONETARY FUND 25 (1988). The multilateral organization taking the place of the ITO was the General Agreement on Tariffs and Trade ("GATT") in 1947. *See id.* Analysts consider the Bretton Woods system's "triadic structure" to include the GATT, IMF, and IBRD, encompassing trade, monetary, and financial relations. *Id.* The GATT was intended to reverse protectionist and discriminatory trade practices such as the imperialistic approach. *See* General Agreement on Tariffs and Trade, Oct. 30, 1947, 61 Stat. A5, 55 U.N.T.S. 187, art. XV [hereinafter GATT].

26. *See* JOHN D. CIORCIARI, *The Lawful Scope of Human Rights Criteria in World Bank Credit Decisions: An Interpretive Analysis of the IBRD and IDA Articles of Agreement*, 33 CORNELL INT'L L. J 361-69 (2000) (describing the negotiations leading up to the creation of the BWIs that took place prior to the end of WWII); *World War II*, U.S. HISTORY, available at <http://www.u-s-history.com/pages/h1661.html> (last visited Dec. 1, 2013) (explaining that the Allies were determined not to repeat the mistakes of World War I); Paul Wachtel, *Understanding the Old and New Bretton Woods* 6 (New York University, Stern School of Business Working Paper No. 2451, 2007), available at http://w4.stern.nyu.edu/emplibrary/Florence_paper_jan4.pdf (last visited Dec. 1, 2013). Keynes proposed an international bank and a radical institutional system for management of currencies, including creation of a common world-unit of currency. *Id.* He envisioned that these institutions would manage international trade through regulation, and prove strong incentives for countries to avoid substantial trade deficits while fostering economic growth. *Id.* Meanwhile, White's proposal called for less regulation. *Id.* White proposed limited government interference and gave more emphasis to market based solutions. *Id.*

27. Sabine Dammasch, *The System of Bretton Woods: A Lesson from History*, 5, available at <http://www.hiddenmysteries.org/money/policy/b-woods.pdf> (last visited Dec. 1, 2013).

28. *See* Jong Il You, *The Bretton Woods Institutions: Evolution, Reform and Change*, in GOVERNING GLOBALIZATION: ISSUES AND INSTITUTIONS 209, 210-12 (2000) (explaining that SDR's were created in 1969 to respond to the shortage of international liquidity); *Historical Gold Prices - 1833 to Present*, NATIONAL MINING ASSOCIATION, available at http://www.nma.org/pdf/gold/his_gold_prices.pdf (last visited Dec. 1, 2013) (listing the price of gold from 1833 to present day).

29. International Development Association, *Articles of Agreement and Report of the Executive Directors of the International Bank for Reconstruction and Development on the Articles of Agreement*, Sept. 24, 1960, at 21 [hereinafter *IDA Articles of Agreement*].

was praised as “the most significant moment in institutional expansion of the BWIs toward a poverty-focused approach.”³⁰ When Robert McNamara arrived as World Bank President in 1968, the Bank’s fundraising efforts grew.³¹ Envisioning a larger, more active, and more efficient bank, McNamara established lending targets which, due to acceleration of the Bank’s growth, justified reorganization in 1973.³²

The IDA,³³ led by the United States, assisted the world’s most impoverished countries, which were ineligible for bank loans, by offering concessional or soft loans.³⁴ Shifting its attention to newly

30. Balakrishnan Rajagopal, *From Resistance to Renewal: Third World Social Movements and International Institutions*, 41 HARV. INT’L L.J. 529, 552 (2000) (explaining how the IDA led to the further establishment of additional development institutions because its framework, lending primarily to Third World countries, helped the World Bank become a true international institution).

31. *Id.* at 140, 180; JOCHEN KRASKE, ET AL., BANKERS WITH A MISSION: THE PRESIDENTS OF THE WORLD BANK, 1946–1991 at 175 (1996); PHILIPPE LE PRESTRE, THE WORLD BANK AND THE ENVIRONMENTAL CHALLENGE 59 (1989). McNamara’s stated reorganization goal was to:

“[r]eplace the . . . procedure in which unrelated project loans, considered in isolation from another, filter up through the levels with a five year program based on systems analysis and overall development strategy, taking account of relative priorities among countries and within sectors of each country.”

Id.; see also Enrique R. Carrasco & M. Ayhan Kose, *Symposium: Social Justice and Development: Critical Issues Facing the Bretton Woods System: Income Distribution and the Bretton Woods Institutions: Promoting an Enabling Environment for Social Development*, 6 TRANSNAT’L L. & CONTEMP. PROBS. 1, 18 (1996). Lending to alleviate poverty in developing countries expanded considerably after Robert McNamara took over the Bank’s helm in the late 1960’s; structural adjustment lending followed in the late 1970’s. Carrasco & Kose, *supra*; see also KRASKE, *supra*, at 140 (discussing how during McNamara’s presidency, the World Bank staff tripled, growing from 1,600 to 5,700 people).

32. SEBASTIAN MALLABY, THE WORLD’S BANKER 26–27 (2004) (discussing the divergence of the World Bank from a conservative lender to an ambitious bank set on offering loans to countries even if they could not afford to pay them back). The creation of the IDA reflected a shifting mind-set of the World Bank’s largest shareholders as they saw the tide of independence sweeping Africa, combined with the height of the Cold War, as an opportunity to aid others in the hopes that those governments aided through the IDA would not become communist. *Id.*

33. See *IDA Articles of Agreement*, *supra* note 29 (discussing how the United States and a group of the Bank’s member countries set up an agency that would lend to the poorest countries with the most favorable terms possible).

34. See DEVESH KAPUR, JOHN P. LEWIS & BERNARD WEBB, THE WORLD BANK: ITS FIRST HALF CENTURY VOL. 2 PERSPECTIVES 204, 207 (1997) (explaining how the United States encouraged the World Bank during the establishment of IDA to extend lending to low-income countries, become involved in development problems such as agricultural productivity, and take the lead in matters relating to industrial and trade liberalization in India); see e.g., OECD, *Concessional Loans*, available at <http://stats.oecd.org/glossary/detail.asp?ID=5901> (last visited Dec. 1, 2013) (defining

industrializing countries in Africa, Asia, and Latin America, the World Bank expanded its reach into new sectors.³⁵ The IDA's funding was derived from the contributions of wealthier nations, IBRD income, and borrowers' credit repayments.³⁶ Due to the fact that funds were initially insufficient to meet the IDA's commitments—because of the unlikelihood of substantial replenishment due to the balance of payment deficit experienced by wealthier states—there emerged a certain skepticism about progress, which contributed to delays associated with recuperating the funds.³⁷

As time passed, however, a significant and problematic shift emerged in the IDA's operational philosophy. It moved away from the World Bank's original theory of market-based lending, and instead adopted a new theory favoring loans to the poorest countries.³⁸

concessional loans as "loans that are extended on terms substantially more generous than market loans; the concessionality is achieved either through interest rates below those available on the market or by grace periods, or a combination of these. Concessional loans typically have long grace periods.")

35. See Martin A. Weiss, *CRS Report for Congress: The World Bank's International Development Association (IDA) 2*, 6 (Apr. 1, 2008), available at <http://fpc.state.gov/documents/organization/104719.pdf> (last visited Dec. 1, 2013) (explaining how concerns of the World Bank loans being unaffordable to low-income countries prompted the establishment of the IDA); see also International Development Association, *What is IDA?*, THE WORLD BANK, available at <http://www.worldbank.org/ida/ida-15-mid-term-review.html> (last visited Dec. 1, 2013). "The IDA-15 replenishment raised funds for poor countries for the three-year period between July 2008 and June 2011. These are critical years for countries trying to achieve the U.N. Millennium Development Goals since it takes time for projects to be completed and yield measurable results." *Id.* Forty-five donor countries made pledges toward this replenishment. *Id.*

36. See generally KRASKE, *supra* note 31, at 142-43 (explaining that IDA commitments dropped in 1968 from \$400 million per year to \$107 million). This became a problem of mobilizing resources within the IDA. *Id.*

37. See generally *id.* This became a problem of mobilizing resources within the IDA. *Id.* at 140; see *id.* at 180; EDITH KUIPER & DRUCILLA K. BARKER, *FEMINIST ECONOMICS AND THE WORLD BANK: HISTORY, THEORY AND POLICY* 17 (2006) ("A critical junction in the Bank's history was the appointment as its president of Robert McNamara. . . . During his tenure . . . the Bank shifted from an emphasis on infrastructure to agriculture and rural development, in an attempt to address people's basic needs, particularly the rural poor.")

38. These loans were then furnished at cheaper rates, under the guise of giving "World Bank credits as a useful tool for propping up sympathetic governments." See Carrasco & Kose, *supra* note 31, at 3.

Income inequality came under scrutiny during preparatory meetings for the World Summit for Social Development (Social Summit). Observers noted that although living standards in developing countries have improved over the past two decades, disparities within countries—the subject of this article—are likely to rise, with the largest gaps occurring in South Asia, Latin America, and the Caribbean.

Id.; see also DIGUMARTI BHASKARA RAO, *WORLD SUMMIT FOR SOCIAL DEVELOPMENT* 198

Originally, the cornerstone of the Bretton Woods system had been the United States' policy of buying and selling gold according to an official price set at the behest of foreign monetary authorities.³⁹ The Bretton Woods Articles of Agreement, Article IV, defined the unit of the international monetary system as either the U.S. dollar or gold of a specified weight and fineness.⁴⁰ However, the vulnerability of the gold standard began to show in the 1960s. Later, in August of 1971, President Richard Nixon officially suspended the automatic conversion of dollars into other currencies.⁴¹ Although solutions to fixing the gold standard for the international monetary system were proposed, ultimately the Bretton Woods gold-standard system collapsed. This led to the development of Special Drawing Rights ("SDRs")⁴² in 1969.⁴³

(1998) (quoting former secretary general Boutros-Ghali); LE PRESTRE, *supra* note 31, for a discussion on the BWIs involvement in the development debate of the 1960's and 1970's.

39. MICHAEL D. BORDO & BARRY EICHENGREEN, *Bretton Woods and the Great Inflation* 28 (Soc. Sci. Res. Network, Working Paper No. w14532, 2008) (explaining how first, there was an asymmetric adjustment between deficit and surplus countries, which led to a deflationary bias); see FRITZ MACHLUP, *REMAKING THE INTERNATIONAL MONETARY SYSTEM: THE RIO AGREEMENT AND BEYOND* 7-8 (1968) (explaining how the United Kingdom and United States conflicted over the gold standard because the United States and White wanted it, but the United Kingdom and Keynes saw the system as imposing intolerable restraints on member countries). Gold supplies were inadequate to finance the growth of world output, and to serve as gold cover to back national currencies. BORDO & EICHENGREEN, *supra*. Shifts of currency holdings between London and New York risked a confidence crisis in the weak sector, while a shift between the key currencies and gold occurred when foreign holders of key currency balances staged runs on banks where reserve centers' could not convert their outstanding liabilities into gold. *Id.*

40. BAHRAM GHAZI, *THE IMF, THE WORLD BANK GROUP AND THE QUESTION OF HUMAN RIGHTS* 3 (2005) (explaining how other IMF members also had to keep the value of their currency within one percent of the par value). If a change of margin was needed, IMF members had to undergo thorough discussions with other members and obtain their consent before implementing the measure. *Id.*

41. See *id.*; see also THE ECONOMIST, *A Brief History of Funny Money*, Jan. 6, 1990, at 21 (providing a brief account of why the Bretton Woods system ended and a larger debate as to which exchange-rate system has worked best in the world economy).

42. *Special Drawing Rights (SDRs)*, INTERNATIONAL MONETARY FUND, available at <http://www.imf.org/external/np/exr/facts/sdr.HTM> (last visited Oct. 19, 2013) [hereinafter SDRs] (discussing the makeup of the SDR). The SDR is a potential claim on the freely usable currencies of IMF members where holders of SDRs can obtain currencies in exchange for their SDRs through the arrangement of voluntary exchanges between IMF members, or through an IMF designation of members with strong external positions to purchase SDRs from members with weak external positions. *Id.*; *Held in Reserve: A Brief Guide to the IMF's "Currency"*, THE ECONOMIST (Apr. 8, 2009), available at <http://www.economist.com/node/13447239> (last visited Oct. 19, 2013) (discussing the redefinition of the SDR as a basket of currencies consisting of the value of a fixed amount of the Japanese yen, U.S. dollar, pound sterling, and Euro).

43. *Held in Reserve*, *supra* note 42 (discussing how various sources of liquidity became unreliable and inadequate toward financing the growth of output and trade). In the

Essentially, SDRs are “[i]nternational reserve asset(s) [which] supplement existing reserve assets.”⁴⁴

SDRs have been criticized as funny money, as nothing more than a fancy term for allocated credits doled out by the IMF to member countries that have no value, but can be exchanged for subsidized loans to non-reserve currency countries.⁴⁵ Because SDRs are allocated in proportion to countries’ existing IMF quotas, when the G20⁴⁶ countries authorized the IMF to issue \$250 billion in new SDRs in 2009, up to approximately \$170 billion could still land in the reserves of wealthy

late 1950’s the world’s monetary gold stock became insufficient. *Id.* The supply of U.S. dollars was dependent on the U.S. balance of payments, which hedged on the “vagaries of government policy and the confidence problem.” *Id.* The probability of all dollar holders being able to convert their dollars into gold at the fixed price declined” and “outstanding dollar liabilities held by the rest of the world monetary authorities increased relative to the U.S. monetary gold stock.” *Id.*; Joseph Gold, *The “Sanctions” of the International Monetary Fund*, 66 AM. J. OF INT’L L. 737 (1972) (discussing the special drawing rights amendment to the IMF Articles, with a focus on sanctions); William Bernhard, J. Lawrence Broz & William Roberts Clark, *The Political Economy of Monetary Institutions*, 56 INT’L ORG. 693, 700 (2002) (discussing the gold overhand and lax U.S. macroeconomic policies).

44. See Editorial, *The G-20’s Funny Money*, WALL ST. J., Apr. 1, 2009, at A22 (Originally, to participate in this system, a country needed official reserves, government or central bank holdings of gold, and widely accepted foreign currencies that could be used to purchase the domestic currency in foreign exchange markets. After the Bretton Woods system collapsed, the major currencies shifted to a floating exchange-rate).

45. *Held in Reserve*, *supra* note 42 (discussing the April 2, 2009 authorization of \$250 billion in fresh SDRs). Another example is China; its SDR reserves, already nearly \$2 trillion, will go up \$9.3 billion. *Id.*; see SDRs, *supra* note 42 (discussing how the IMF allocates SDRs). Under the Articles of Agreement, the IMF may allocate SDRs to members in proportion to their respective IMF quotas using two kinds of allocations: general and special. SDRs, *supra* note 42. General allocations are based on a long-term global need to supplement existing reserve assets, and have only been made three times, where special allocations occur in the form of a one-time allocation of SDRs enabling all members of the IMF to participate in the SDR system on an equitable basis. *Id.* This corrects the inequity for countries that joined the IMF after 1981, as they had never received an SDR allocation. *Id.* The three general allocations were distributed in 1970 through 1972, 1979 through 1981, and on August 28, 2009; the special allocation was implemented on September 9, 2009. See *id.*

46. See *Held in Reserve*, *supra* note 42 (explaining that the United States needs Congressional approval to part with its share). The last proposed SDR allocation in 1997 failed because only 75% of the votes accepted the proposal, and the IMF requirement is 85% of votes in order for the allocation to be ratified. *Id.* The United States, with nearly seventeen percent of the votes in the IMF, never approved. *Id.*; see also *G-20 Funny Money*, *supra* note 44 (explaining how SDRs cost U.S. taxpayers \$330 million per year). Had the 1997 resolution been approved, U.S. exposure would have been about \$12 billion with a \$750 million annual cost to taxpayers. *Id.* Although IMF financing does not show up on the annual United States expenditure, the SDR credits make countries in turmoil, such as Syria, Zimbabwe, Sudan, Venezuela, and Burma, eligible for substantial amounts of money. *Id.*

countries such as the United States, Japan, and Britain.⁴⁷ Although the IMF hopes the reserve-rich countries will lend their shares to those countries in greater need, this is not a guarantee required by the current system.⁴⁸

D. The Voting Structures

I. International Monetary Fund

The voting structure of the IMF was a debated topic at the outset by the principal founding nations.⁴⁹ Despite the desire of many countries to institute purely economic criteria in determining how votes would be distributed, the votes were allocated based on the relative economic importance of member-states to the international economy.⁵⁰ In order to appease smaller economic nations, the weighted voting system was bifurcated to include the allocation of a certain number of "basic" votes, which would be guaranteed to each member, thus giving smaller countries a "sense of participation," and tempering the overriding control that would be exercised by larger countries.⁵¹ Also, while majority-voting for decision-making was to be a requisite in the IMF's Articles, the United States successfully advocated that certain decisions should require higher majorities for approval.⁵² Despite the

47. *Held in Reserve*, *supra* note 42; see also *G-20 Funny Money*, *supra* note 44.

48. See *Voting Powers*, THE WORLD BANK (Jan. 10, 2010), available at <http://go.worldbank.org/VKVDQDUC10> (last visited Oct. 19, 2013) [hereinafter *Voting Powers*] (providing links to voting statuses of the IBRD, IFC, IDA, and MIGA listed by country and executive director).

49. See J. KEITH HORSEFIELD, *THE INTERNATIONAL MONETARY FUND 1945-1965: TWENTY YEARS OF INTERNATIONAL MONETARY COOPERATION* 59 (1969) ("It would be an advantage if the proposed Union could be brought into existence by the United States and the United Kingdom as joint founder-States . . . [t]he management and the effective voting powers might adhere permanently in the founder States."). Michael Tanzer, *Globalizing the Economy: the Influence of the International Monetary Fund and the World Bank*, MONTHLY REV., Sept. 1, 1995 at 1 (discussing how the United States was ensured to be the dominant voice, having thirty-six percent of the subscribed capital).

50. FERGUSON, *supra* note 25, at 60-61.

51. Tanzer, *supra* note 49; see FERGUSON, *supra* note 25, at 60-61 (explaining that although this requirement effectively gave the United States a unilateral veto power, it was added to the Fund's Articles albeit in a more limited version in which the high, special majorities would be reserved for a few important decisions).

52. Articles of Agreement of International Monetary Fund. Art. V, s. 5-7, available at <http://www.imf.org/external/pubs/ft/aa/pdf/aa.pdf> (last visited Oct. 19, 2013). Repurchase of currency and dealings of special drawing rights are some examples of instances which require super majority approval. See *id.* The voting structure provides that, when a vote is needed to waive any conditions on loan eligibility or even to declare a member country ineligible for IMF funds, the member's votes shall be increased by each 400,000 special

attempt to evenly allocate a certain percentage of votes to smaller countries, subsequent IMF practice, and the increase in the number of smaller economies as members of the IMF, has led to a reduction in the proportionality of basic votes as compared with total voting power.⁵³

To fully analyze the voting requirements and their effects on the many nations, an analysis of the IMF's overall governance structure and implementation is required.⁵⁴ The IMF is governed by a Board of Governors that meets once each year and consists of one governor and one alternate governor for each member country.⁵⁵ The day-to-day business of the IMF is handled by a twenty-four member Executive Board of Directors.⁵⁶ There are cases, such as in Africa, where dozens of countries are represented by just one director.⁵⁷

The IMF has two ministerial committees: the International Monetary and Financial Committee ("IMFC"),⁵⁸ and the Development

drawing rights of net sales and reduced for each 400,000 special drawing rights of net purchases. *Id.* at Art. XII, s. 5.

53. Hector Torres, *Reforming the International Monetary Fund—Why its Legitimacy is at Stake*, 10 J. INT'L ECON. L. 443, 446 (2007) (explaining Torres' experience within the Fund and that the imbalance in voting power leads to the dilution of a true consensus voting forum, thereby falsifying by effect the Fund's frequent statements that its decisions are mostly taken by consensus); see e.g., *IMF Members' Quotas and Voting Power, and IMF Board of Governors*, INT'L MONETARY FUND (July 11, 2011), <http://www.imf.org/external/np/sec/memdir/members.aspx>. See FERGUSON, *supra* note 25 (emphasizing that votes are distributed according to quotas and quotas are meant to reflect wealth. G7 countries alone have 41.72% of votes and 28 countries hold over 61% of the voting power at both the Fund and the World Bank).

54. Alexander Mountford, *Independent Evaluation Office Background Paper of the International Monetary Fund, The Formal Governance Structure of the Monetary Fund* (March 2001), available at <http://www.imf.org/external/about/govstruct.htm> (last visited Oct. 10, 2013).

55. *Id.* See Factsheet: A Guide To Committees, Groups, and Clubs, INT'L MONETARY FUND, <http://www.imf.org/external/np/exr/facts/groups.htm#IC> (last visited Oct. 23, 2013) [hereinafter IMF Factsheet] (providing a general discussion of the IMFC and explaining that larger economies, mirroring the weighted-voting philosophy, are represented by individual directors while smaller economies—developing countries—are grouped together and represented by a single director). During meetings, the governors vote on various amendments to the structure and operation of the IMF. Each governor, usually the minister of finance or the head of the central bank within his or her country, is appointed by his or her respective member country. *Id.*

56. See *IMF Executive Directors and Voting Power*, INT'L MONETARY FUND, available at <http://www.imf.org/external/np/sec/memdir/eds.htm> (last visited Oct. 10, 2013).

57. IMF Factsheet, *supra* note 55.

58. See *id.* (discussing the Development Committee); See also William N. Gianaris, *Weighted Voting in the International Monetary Fund and the World Bank*, 14 FORDHAM INT'L L.J. 910, 914 (1990) (The IMFC discusses matters of concern affecting the global economy.).

Committee (jointly with the Bank).⁵⁹ The ministerial composition of these two committees is basically identical to the composition of the respective Executive Boards.

2. World Bank

The planning involved in creating the World Bank was significantly less rigorous than that of the planning required for the creation of the IMF.⁶⁰ White's initial plan for a postwar stabilization fund and international bank included voting in proportion to stock holding,⁶¹ however, his ultimate plan proposed voting power by the number of shares held by each government.⁶² Ultimately, subscriptions to the capital of the Bank determined voting power, and thus, the World Bank's use of the weighted voting system is almost identical to that of the IMF.⁶³ Despite a revision of the voting structure in 2010, the six largest economies of the 187 member countries still maintain 38.61% of the total vote, with the United States having 15.85% alone.⁶⁴

Similar to the governing structure of the IMF, the World Bank's

59. See *IMF Executive Directors and Voting Power*, INT'L MONETARY FUND, available at <http://www.imf.org/external/np/sec/memdir/eds.htm> (last visited Oct. 10, 2013). The Development Committee advises the Boards of Governors of the IMF and the World Bank on issues related to economic development in emerging and developing countries. *Governance Structure*, INT'L MONETARY FUND, available at <http://www.imf.org/external/about/govstruct.htm> (last visited Oct. 10, 2013);. The Boards of Governors appoints or elects the Executive Board. *IMF Executive Directors and Voting Powers*, *supra*. The Executive Board takes care of the daily business of the IMF. *Id.*

60. MASON & ASHER, *supra* note 1, at 14–16 (explaining how the Inter-American Bank combined the functions of an ordinary commercial bank, intergovernmental bank, and international stabilization fund).

61. *Id.* at 16–17 (explaining that no government could hold more than twenty–five percent of the total voting power).

62. *Id.* at 11.

63. Gianaris, *supra* note 58, at 917–18, 927–28 (discussing further that although membership in the World Bank is contingent upon membership in the IMF, the reverse is not true).

Like the IMF, each member has 250 basic votes plus one additional vote for each share of capital equivalent to U.S. \$100,000 subscribed . . . While most states wanted a large quota in the IMF, giving them enhanced drawing rights, the less developed countries preferred a lower quota in the World Bank because the amount they could borrow was independent of their capital contribution. To resolve the controversy, the United States agreed to accept a larger quota in the World Bank than in the IMF.

Id.

64. *Members*, INT'L MONETARY FUND, <http://www.imf.org/external/np/sec/memdir/members.aspx> (last visited Oct. 24, 2013). The United States currently has 16.75% of the voting power. *Id.*

powers are vested in its Board of Governors.⁶⁵ Another analogous feature is that the Board of Executive Directors for the World Bank has all of the day-to-day powers. The Articles of Agreement sets forth the structure and powers of the Board of Governors and the Board of Executive Directors; of the twenty-four Executive Directors, the five largest shareholders, France, Germany, Japan, the United Kingdom, and the United States.⁶⁶ Interestingly enough, each of the eleven Presidents of the World Bank, also known as the Chairman of the Board of Executive Directors, have been the appointed Executive Director of the United States.⁶⁷

E. Critique of the Voting Structures

Both IMF member countries and critics of the IMF have attacked the IMF's voting structure, characterizing it as outdated.⁶⁸ In response to such criticisms, the IMF issued proposals to change the voting structure, such as a one-time boost in voting power to under-represented countries and an increase in the developing nations' voting share coupled with a respective decrease in the voting share of some of the industrial nations, especially those in Europe.⁶⁹ Yet, these proposed

65. *Board of Governors, IMF, Articles of Agreement, art. XII, Section 2. See also THE WORLD BANK, available at <http://go.worldbank.org/L46NF9XJ40> (last visited Oct. 24, 2013).* (The World Bank's Board of Governors consist of one governor and one alternate governor appointed by each member country.)

66. *About the World Bank, THE WORLD BANK, <http://web.worldbank.org/WBSITE/EXTERNAL/EXTSITETOOLS/0,,contentMDK:20147466~menuPK:344189~pagePK:98400~piPK:98424~theSitePK:95474,00.html> (last visited Oct. 24, 2013).* (Each appoints an individual Executive Director while the remaining nineteen Executive Directors represent the other 182 member countries.)

67. *Id.*

68. Jonathan Gregson, *The World Bank: Trying Times*, GLOBAL FIN., Oct. 2007, at 24 (discussing how emerging countries want a greater say within the World Bank's voting structure). India and Brazil are examples of emerging economies which have criticized the IMF's voting structures as being outdated and who believe that as a result of their respective increased contributing to the global economy, they should henceforth be provided with voting powers which correlate. *Id.*

69. Anthony Faiola, *Nations Cast Plan for Expanded IMF: Role to Deepen in Global Economy*, WASH. POST, Oct. 7, 2009, at A18 (explaining the preliminary plan that, by January 2011, would give more voting power to emerging financial powers like Brazil and China). Emerging economies would have more long-term say over the IMF's policies if voting rights were redistributed, "giving a 50-50 split to the developing and developed worlds." *Id.*; IMF Board of Governors Approves Quota and Related Governance Reforms (Sept. 18, 2006), *available at <http://www.imf.org/external/np/sec/pr/2006/pr06205.htm>* (last visited Oct. 10, 2013) (explaining how on September 18, 2006, the IMF's Board of Governors adopted a resolution that aimed to align the IMF's quota shares with members' positions within the world economy). Mexico, China, Korea, and Turkey, which were characterized as underrepresented countries, gained an increase in quota shares. *Id. But see*

changes were not without their own sets of criticism.⁷⁰

The “basic vote” of the IMF was originally a compromise to give developing countries a specified amount of votes on top the allocated “quota-based” votes.⁷¹ Since 1944, the IMF’s quota has increased by a factor of thirty-seven while its membership has quadrupled.⁷² Originally, basic votes accounted 11.3 percent of all votes but that has been reduced to merely 2.1 percent. This drastic decline in the power of the basic vote “has substantially shifted the balance of power in favor of large-quota countries. . . . Consequently, the voice of small countries in discussions has been substantially weakened and their participation in decision-making made negligible.”⁷³ The result of the weighted voting structure is that developed countries have 60.4 percent of the IMF’s voting power, while only accounting for twenty percent of the IMF’s membership and fifteen percent of the world’s population.⁷⁴

Realizing a need for some sort of voting reform, the IMF is in the process of instituting amendments to the overall voting structure after the Board of Governors approved such reform on December 15, 2010.⁷⁵

Intergovernmental Group of Twenty-Four on International Monetary Affairs and Development Communiqué (Oct. 10, 2008), available at <http://www.imf.org/external/np/cmi/2008/101008.htm> (last visited Oct. 10, 2013) (explaining that an agreement was not reached on an increase in the voting power of developing and transition countries). It was stressed that broader objectives were necessary to achieve a realignment of voting shares because the current proposal at the time was a piece-meal approach. *Id.*

70. Christopher Swann, *Critics Assail IMF Plan on Developing Nations' Voting Share*, WASH. POST, Mar. 29, 2008, at D03 (discussing a 2008 plan that intended to give more voting authority to developing countries). The voting share of developing countries was to rise to forty-two percent from about 40.5% while the voting share of advanced economies would have fallen from 59.5% to 58%. *Id.* Former IMF officials, such as former chief economist at the U.S. agency for International Development Colin Bradford and former executive vice president with the Inter-American Development Bank Nancy Birdsall signed a letter authored by former assistant Treasury secretary Edwin M. Truman expressing their displeasure with the proposed reforms because they fell short in “addressing the challenges facing the IMF and its evolution toward a truly global institution. *Id.*”

71. FINANCE, DEVELOPMENT, AND THE IMF 290 (James M. Boughton & Domenico Lombardi eds., 2009) (stating that the compromise was to allocate 250 “basic votes” to each member country).

72. DAVID WOODWARD, UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT, G-24 DISCUSSION PAPER SERIES, IMF VOTING REFORM: NEED, OPPORTUNITY AND OPTIONS 1 (2007).

73. BUIRA, *supra* note 3, at 15.

74. WOODWARD, *supra* note 72, at 2.

75. See *IMF Quota and Governance Publications*, IMF, available at <http://www.imf.org/external/np/fin/quotas/pubs/index.htm> (last visited Oct. 21, 2013). Even more drastic than the 2008 reforms, the Board of Governors, on December 15, 2010, passed a package of far-reaching reforms, completing the “14th General Review of Quotas.” *Id.*

In 2008, reforms passed increasing basic votes to 5.502 percent of total votes, which results in 741 basic votes for each 187 member countries of the IMF.⁷⁶ Additionally, the reform enabled Executive Directors representing seven or more members to each appoint a second Alternate Executive Director following the 2012 regular elections of Executive Director.⁷⁷ Unfortunately, despite the much needed reform, developed countries still maintain a large percentage of the IMF's voting power; the seven G7 countries alone maintain 43.12 percent of all the votes while the top ten quota-based countries, including the G7 countries, have 52.13 percent of all the votes.⁷⁸

The World Bank has experienced the same sort of criticisms, notwithstanding these criticisms developed and large emerging economies are asserting pressure on the World Bank desiring more influence on the institution.⁷⁹ Recently, the World Bank sought to pursue a reform program where developing countries would get at least forty-seven percent of the voting shares in the institution, although fifty

The 14th General Review of Quotas will: (1) double quotas from approximately SDR 238.4 billion to approximately SDR 476.8 billion, (about US\$767 billion at current exchange rates); (2) shift more than 6 percent of quota shares from over-represented to under-represented member countries; (3) shift more than 6 percent of quota shares to dynamic emerging market and developing countries (EMDCs); (4) significantly realign quota shares. China will become the 3rd largest member country in the IMF, and there will be four EMDCs (Brazil, China, India, and Russia) among the 10 largest shareholders in the Fund, and preserve the quota and voting share of the poorest member countries. This group of countries is defined as those eligible for the low-income Poverty Reduction and Growth Trust (PRGT) and whose per capita income fell below US\$1,135 in 2008 (the threshold set by the International Development Association) or twice that amount for small countries. *Id.*

76. *Factsheet: IMF Quotas*, IMF (Sept. 13, 2011), available at <http://www.imf.org/external/np/exr/facts/quotas.htm> (last visited Oct. 21 2013).

77. Press Release, Int'l Monetary Fund, IMF Executive Board Recommends Reforms to Overhaul Quota and Voice (Mar. 28, 2008), available at <http://www.imf.org/external/np/sec/pr/2008/pr0864.htm> (last visited Oct. 21, 2013) (stating that the Executive Directors of African countries will receive additional Alternate Directors).

78. See *IMF Members' Quotas and Voting Power, and IMF Board of Governors*, INT'L MONETARY FUND, available at <http://www.imf.org/external/np/sec/memdir/members.aspx> (last visited Oct. 21, 2013) (stating that Canada, France, Germany, United States, Italy, Japan, United Kingdom, China, Russia, and Saudi Arabia have a combined 1,312,437 votes out of the 2,517,646 total votes); *Group of Seven*, INFOPLEASE, available at <http://www.infoplease.com/ce6/history/A0821954.html> (last visited Oct. 21, 2013) (listing the G7 countries as Canada, France, Germany, United States, Italy, Japan, United Kingdom).

79. Press Release, The World Bank, The World Bank, World Bank Reforming to Meet New Challenges, Zoclick Says (Oct. 6, 2009), available at <http://go.worldbank.org/5JYWTSK5U0> (last visited Oct. 21, 2013).

percent has been argued to be the optimal percentage.⁸⁰

That being pursued, the voting structure still results in unfair situations. For example, the World Bank granted a loan on the condition that a country's water and sanitation services are privatized.⁸¹ The country then sells its water and sanitation industries to a private consortium, which is financed by the IFC, a branch of the World Bank.⁸² When the people of the country start complaining about sharp price increases due to privatization, the country is forced to turn to the ICSID, a branch of the World Bank, to dispute the situation.⁸³ So the weighted voting structure allows larger countries to impose their policies through the World Bank, which in this scenario results in the World Bank Group controlling the (1) conditions for which a country may take a loan, (2) the financing for the privatization of certain services, and (3) the dispute settlement.⁸⁴ This scenario happened at El Alto (Bolivia) in 2004–05.⁸⁵

Although reforms to promote good governance were stressed as early as 1996,⁸⁶ the IMF's governance did not begin a major reform

80. *Id.* (discussing a speech made by World Bank Group President Robert B. Zoellick at the beginning of the 2009 Annual Meetings of the World Bank and IMF in Istanbul, Turkey). The World Bank's shareholders supported giving developing countries at least a 47 percent share of the voting shares, yet Zoellick called for developing countries to have a 50% share. *Id.*; see Robert B. Zoellick, President, The World Bank Group, Remarks at Board of Governors of World Bank Group Annual Meeting: The World Bank Group Beyond the Crisis (Oct. 6, 2009) (discussing the World Bank's pursuit of an ambitious program of reform).

81. ERIC TOUSSAINT, *THE WORLD BANK A CRITICAL PRIMER 3* (Sylvain Dropsy ed., Elizabeth Anne trans., Pluto Press, 2008).

82. *Id.*

83. *Id.* at 3–4.

84. *See id.*

85. *Id.*; see Maude Barlow, *Securing the Right to Water in Bolivia*, BLUE PLANET PROJECT (Mar. 23, 2010) available at [http://www.blueplanetproject.net/?s=Securing+the+Right+to+Water+in+Bolivia&searchsubmit=\(last+visited+on+Oct.+21,+2013\)](http://www.blueplanetproject.net/?s=Securing+the+Right+to+Water+in+Bolivia&searchsubmit=(last+visited+on+Oct.+21,+2013).). “[C]itizens in El Alto, Bolivia [struggled] to regain control of their local water supply from multinational corporate giant, Suez. . . . As a condition for a World Bank loan, the public water system in El Alto was privatized in 1997. Eight years later, despite promises of expanded water services, the private company Aguas del Illimani (Suez is the major shareholder) had failed to deliver water to 200,000 people in El Alto and had no plans to do so in the future. . . . In January 2005, after a general strike and public protests demanding the immediate withdrawal of Suez from Bolivia and for the government to investigate the company's actions, the Bolivian government decided to cancel its contract with Aguas del Illimani. . . . Despite this initial victory, the Bolivian government, under pressure from the Inter-American Development Bank, the World Bank and German Corporation GTZ, announced its intention to create a supposed ‘New Model’ of Public-Private Partnership where Suez would continue to hold 35% of the shares.” *Id.*

86. *See* INT'L BANK FOR RECONSTRUCTION AND DEV., *THE WORLD BANK*

process until 2006.⁸⁷ A 2009 Committee on IMF's Governance Reform report described the drawbacks to the current governance framework as: legitimacy and effectiveness; political voice; the executive board itself; overlaps and gaps; and mandates.⁸⁸ To rectify the drawbacks, the Committee recommended enhancement of clear leadership, enablement of effective executive decision-making, and an increase in membership accountability.⁸⁹ Emerging economies are not in favor of the reforms sought by the IMF.⁹⁰

PARTICIPATION SOURCEBOOK (1996), available at http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/1996/02/01/000009265_3961214175537/Rendered/PDF/multi_page.pdf (last visited Oct. 21, 2013) (showing reform ideas proposed in 1996, which suggested that increased participation by developing countries was necessary).

87. *Governance Structure*, INT'L. MONETARY FUND, available at <http://www.imf.org/external/about/govstruct.htm> (last visited Oct. 21, 2013) (explaining the governance reform ideals between 2006 and 2008). A committee was appointed to assess the adequacy of the IMF's current framework. *Id.* The committee on IMF Governance Reform was appointed by Managing Director Dominique Strauss-Kahn on September 4, 2008. *Id.*; see INT'L MONETARY FUND, COMMITTEE ON IMF GOVERNANCE REFORM FINAL REPORT (Mar. 24, 2009), available at <http://www.imf.org/external/np/omd/2009/govref/032409.pdf> (last visited Oct. 21, 2013) [hereinafter COMMITTEE ON IMF] (explaining the findings of the committee); Press Release, Int'l Monetary Fund, IMF Managing Director Dominique Strauss-Kahn Welcomes Experts' Report on Fund Decision Making (Mar. 25, 2009), available at <http://www.imf.org/external/np/sec/pr/2009/pr0988.htm> (last visited October 31, 2013) (discussing the makeup of the eight-person committee).

88. COMMITTEE ON IMF, *supra* note 87, at 7-10. Changes are reforms that are implemented and take years to go into effect, and many nations are not following through with their respective portions of the bargain. *Id.* at 7. "High-level political representation on a decision-making body that provides strategic and policy direction, and discusses macroeconomic and financial policy coordination, is needed." *Id.* at 9. The Executive Board, while in actuality is a body of high professional and technical capacity, is treated by its members as a position on international civil servitude, rather than a capacity of political representation, therefore the members are often removed from the actual policy-making. *Id.* at 9. Regarding the overlaps and gaps, in order for a governing body to be efficient there needs to be clarity in the roles and responsibilities delineated to each area of the governmental framework. *Id.* at 9. "Components of institutional decision-making—namely, the legislative function, the executive function, and a means of measuring performance and holding the executive accountable—are insufficiently delineated and assigned. The IMFC lacks the mandate to take strategic decisions; the Board is too stretched in day-to-day operational decisions to be able to set broad strategic directions; and there are few explicit systems for measuring management and board performance and holding them accountable." COMMITTEE ON IMF, *supra* note 87, at 9.

89. *Id.* at 10.

90. Lesley Wroughton, *Emerging nations stand firm on IMF vote reform*, REUTERS NEWS, Aug. 5, 2009 (explaining that emerging economies want voting shares realigned before governance reforms are tackled). Emerging powers want voting shares to reflect their shares within the global economies before the governance is reformed because the emerging economies fear that a decision-making ministerial council backed by the current

The World Bank's governance, in its role as the premier multilateral banking institution, has been inherently critiqued, as it is the sole global institution of the sort.⁹¹ As a result of weathering the heavy criticism, the World Bank has evolved vastly since its inception and has become a pioneer in terms of accountability.⁹² The World Bank's governance structure is in a constant state of review and reformation.⁹³ As such, the World Bank instituted an independent review by experienced individuals, which the World Bank hopes will aid in strengthening its aims of becoming more accountable, agile, effective, inclusive, innovative, and financially sound.⁹⁴

That independent review, headed by former Mexican President Ernesto Zedillo, emphasized the lack of accountability at the top—at the

IMF's powers would delay basic reforms emerging countries want. *Id.*

91. Ngaire Woods, *The Challenge of Good Governance for the IMF and the World Bank Themselves*, World Development (May 2000) 17–18 (discussing the critiques as the greater influence in research direction and results by large shareholders, and the World Bank's Anglo-Saxon approach to economics including the homogeneity in the World Bank's staffing). An example of influence is that in the 1980's, the Reagan administration, Germans, and British played a role in squelching research on debt issues. *Id.* The Anglo-Saxon approach consisted of the staffing of the agency being dominated by English speaking United States' citizens. *Id.* Fluency in English advanced employees within the organization. *Id.*

92. *Id.* at 6. In 1993, the World Bank became the first multilateral organization to create an independent inspection panel for public accountability. By 1998, that panel had received thirteen requests for inspection. *Id.*

93. Press Release, *The World Bank, Outside Review Supports World Bank Group Reform* (Oct. 21, 2009) (on file with author), available at <http://go.worldbank.org/2I98FYWNJ0> (last visited Oct. 21, 2013) (explaining that the reforms that are already underway deal with financial capacity, the strengthening of management accountability, the leadership selection process, expanding voice, and the restructure of the World Bank's governing bodies). Financial measures such as the injection of paid-in capital were developed to reform financial capacity. *Id.* The World Bank is doing an institutional review of independent evaluation entities to strengthen management accountability. *Id.* The leadership selection process was reformed so selection of the World Bank Group President is now merit-based, transparent, and open. *Id.* The World Bank's voice has been expanded through a new chair for Sub-Saharan Africa, an increase in developing countries' shares in IBRD, and a raise in developing and transition countries' voting power. *Id.* The World Bank Group's governing bodies were restructured to improve Board operations and client services. *Id.*

94. See Press Release, *The World Bank, supra* note 93 (explaining that World Bank Group President Robert B. Zoellick created the High Level Commission on Modernization of World Bank Group Governance in October 2008 which did an external review of the World Bank Group's governance). Headed by former Mexican President Ernesto Zedillo, the Commission made five recommendations: 1) restructure the World Bank Group's governing bodies; 2) strengthen the World Bank Group's resource base; 3) strengthen management accountability; 4) reform the leadership selection process; and 5) enhance voice and participation. *Id.*

level of the Executive Board and Senior Management.⁹⁵ The accountability problem is exasperated by the Executive Board having three counterproductive functions: political representation, management, and oversight.⁹⁶ The report calls for more division of labor and responsibilities via a restructure of the current governance structure.⁹⁷ It is suggested that the Board of Directors be elevated to a “World Bank Board” with more responsibilities including making major policy decisions, conducting general oversight of the institution, and approving the World Bank Group’s overall strategy and direction.⁹⁸ Furthermore, all responsibility for the approval of all World Bank Group financing operations should be transferred to Management.⁹⁹ The separation of management responsibilities will provide a checks and balances system where management will be accountable through effective performance evaluation by the World Bank Board.¹⁰⁰

III. THE IMPOSITION OF NEOLIBERALISM ON A GLOBAL SCALE

The purpose of this section is to provide an overview of the economic principles which have controlled the actions of the BWIs and World Trade Organizations and how these principles have led to the failure of these institutions. Subsection A suggests that specific economic policies have played a fundamental role in the outcome of implementing the ideals underlying the BWIs.¹⁰¹ Subsection “B” presents the evolution of neoliberalism and how it has had dramatic negative effects on the global economy throughout the last two centuries.¹⁰² Subsection “C” analyzes the IMF and the World Bank’s use of loan conditions, their chosen tool for imposing neoliberalism.¹⁰³

95. ZEDILLO COMM’N, REPOWERING THE WORLD BANK FOR THE 21ST CENTURY, REPORT OF THE HIGH-LEVEL COMMISSION ON MODERNIZATION OF WORLD BANK GROUP GOVERNANCE 30 (2009) [hereinafter ZEDILLO COMM’N REPORT], available at <http://siteresources.worldbank.org/NEWS/Resources/WBGovernanceCOMMISSIONREPORT.pdf> (last visited Oct. 11, 2013).

96. *Id.*; *Governing Structure of the World Bank*, THE WORLD BANK, available at <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/CSO/0,,contentMDK:20094705~menuPK:220464~pagePK:220503~piPK:220476~theSitePK:228717,00.html> (last visited Oct. 11, 2013).

97. See ZEDILLO COMM’N REPORT, *supra* note 95, at 30, 39.

98. *Id.* at 39.

99. *Id.* at 40.

100. See *id.* at 43.

101. See *infra* Part III.A.

102. See *infra* Part III.B.

103. See *infra* Part III.C.

Subsection “D” presents case studies on Argentina and Africa and how the neoliberalist approach of the IMF and World Bank has impacted those countries.¹⁰⁴

A. Influence through Vote and Governance

The British economist Keynes was a key participant at the Bretton Woods.¹⁰⁵ Through the looking glass of the Great Depression, the IMF and the World Bank’s policies were based primarily on Keynes’ prescriptions to resolve global economic problems.¹⁰⁶ However, by the mid 1980’s, the controlling economic policy of these institutions shifted to the neoclassical approach.¹⁰⁷ “The Keynesian orientation of the IMF, which emphasized market failures and the role for government in job creation, was replaced by the free market mantra of the 1980’s, as part of a new “Washington Consensus”—a consensus between the IMF, the World Bank, and the U.S. Treasury about the “right” policies for developing countries—that signaled a radically different approach to economic development and stabilization.”¹⁰⁸ Rapid trade liberalization corresponding to the free market ideology would ultimately lead to the colonization of developing countries to the IMF.¹⁰⁹

The IMF brought in the World Bank initially planning to provide billions of dollars in emergency support to Europe after the fall of the Berlin Wall.¹¹⁰ In the 1980’s the Bank lost sight of this humanitarian foundation and began lending structural adjustment loans burdened with IMF imposed conditions to developing countries.¹¹¹ The BWIs collectively represented the aggregate desire of the capitalist market to expand globally beyond the boundaries of the developed industrial world with minimum state restrictions.¹¹² Within the IMF, capitalistic

104. See *infra* Part III.D.

105. See STIGLITZ, *supra* note 1, at 11.

106. See *id.*

107. See ARIEL BUIRA, THE IMF AND THE WORLD BANK AT SIXTY, 8 (2005) (“The growing breach between world economic and financial realities and the governance structure of the BWIs argues for reform to enhance the legitimacy and restore the effectiveness of these institutions”).

108. See STIGLITZ, *supra* note 1, at 16.

109. See *id.*

110. See *id.* at 14.

111. See CARL JAYARAJAH & WILLIAM H. BRANSON, OPERATIONS EVALUATION DEP’T, STRUCTURAL & SECTORAL ADJUSTMENT: WORLD BANK EXPERIENCE, 1980–92 (1995) (explaining an extensive study performed by the Operations Evaluation Department in 1995 regarding the World Bank’s experience with adjustment lending in the 1980’s, including conditionality).

112. See BUIRA, *supra* note 3, at 8; Under Bretton Woods, structural balance of

nations like the United States and England forcibly imposed neoliberal ideologies on underdeveloped countries by swinging heavily weighted voting power in favor of free markets.¹¹³ President Reagan brought this neoliberal ideal to the annual meeting of the World Bank in 1983 when he stated:

The societies that achieved the most spectacular, broad based economic progress in the shortest period of time have not been the biggest in size, nor the richest in resources and certainly not the most rigidly controlled. What has united them all was their belief in the magic of the marketplace. Millions of individuals making their own decisions in the marketplace will always allocate resources better than any centralized government planning process.¹¹⁴

The IMF was the perfect mechanism for the United States to realistically pursue an implementation of the free market concept on a global scale.¹¹⁵ Starting in the mid 1970's, the IMF and the World Bank hired graduates from the Chicago School to implement capitalistic free market irrespective of humanitarian rights.¹¹⁶ Underdeveloped countries which had sought refuge in the IMF and World Bank were blindly subjected to the neoliberal ideas of the Chicago School and became heavily indebted to the institutions.¹¹⁷

The IMF issued structural adjustment programs to bail out countries in financial crisis, which also helped to advance privatization

payments disequilibria were to be corrected by exchange rate movements. *Id.* The IMF through its surveillance function is supposed to assess a country's economic health by reviewing its monetary, fiscal, exchange rate, trade and other financial policies. *Id.* However, under Milton Friedman's floating exchange rate approach, developed countries would essentially absolve themselves from any form of IMF oversight. See MILTON FRIEDMAN, *CAPITALISM AND FREEDOM*, 65-71 (2nd ed. 1982); John R. Kroger, *Enron, Fraud, and Securities Reform: An Enron Prosecutor's Perspective*, 76, U. COLO. L. REV. 57, 60-65 (2005) (stating there is a complete lack of transparency and review of leading international financial bodies promotes lack of discretion, illegality, and fraud within the global economic community).

113. See STIGLITZ, *supra* note 1, at 14-15. The IMF and the World Bank were both driven by the collective will of the G-7, the governments of the most important advanced industrial countries. *Id.* These countries are the United States, Japan, Germany, Canada, Italy, and France. *Id.* In year 2011 the G-8 was formed to include Russia. *Id.*

114. See RICHARD PEET, *UNHOLY TRINITY: THE IMF, WORLD BANK, AND WTO 13* (2003) (recognizing that Friedman and the Austrian School of Economics had profound implications on global fiscal policy).

115. See generally NAOMI KLEIN, *THE SHOCK DOCTRINE: THE RISE OF DISASTER CAPITALISM* 388-403 (2007).

116. *Id.* at 161-63 (describing the policy makers of the IMF and their relation to the Chicago School).

117. See generally *id.* at 388-403 (building a connection between lifting regulations on interest rates and the colonization of Third World countries).

and free trade.¹¹⁸ Countries which adhered to the adjustment programs took on massive floating interest rate loans.¹¹⁹ Since interest rates were not regulated under the IMF and World Bank,¹²⁰ eventually the cost of borrowing money increased at a faster pace than countries could repay debt. This morally bankrupt lending practice was the driving force behind the colonization of the financially bankrupt countries to the IMF and World Bank.¹²¹

B. Evolution and Critique of Neoliberalism

Prior to an examination on the impact of neoliberalism on the policies of the IMF and World Bank, it is worth discussing the evolution of political economics. During a time when government regulations were desired Keynesian economics became the most popular.¹²² From the Great Depression until the end of World War II, Keynesian economics had its primary influences on economic policies.¹²³ Keynes presumed that in order to correct market imperfections, state intervention had to be implemented.¹²⁴ One of the most important

118. *Id.* at 155–56, 200–03, 216. The IMF was originally concerned with exchange rates and balance of payment loans. *Id.* The IMF short term loans were at first used mainly by the same circle of industrial economies that had dominated the institution's founding. KLEIN, *supra* note 115, at 155-56, 200-03, 216 (2007). The IMF shifted in the mid 1970's to a more intervention-type stance where loans were granted under conditions of greater austerity to Third World countries. Loan conditionality was based on how countries achieve economic growth. This conception was formulated by right wing politicians and bureaucrats operating mainly through the U.S. Treasury in the series of Republican administrations. The result of neoliberal conditionality, together with policy moves, such as capital account liberalization, has proven to be disastrous for working people in developing countries. *Id.*

119. *See generally* KLEIN, *supra* note 115 at 156 (discussing the issues pertaining to government debt inheritance).

120. *See* BUIRA, *supra* note 3, at 72 (stating that Ronald Reagan and Margaret Thatcher had a policy to promote free market reform and opened the developing world to foreign trade and investment).

121. *See* STIGLITZ, *supra* note 1, at 41 (stating that the Fund's approach to developing countries has had the feel of a colonial ruler); *See generally* KLEIN, *supra* note 115 (explaining that industrialized countries pillage Third World countries in the modern day just as governments colonized the New World in the pre-industrialization era).

122. *See* PAUL KRUGMAN, THE RETURN OF DEPRESSION ON ECONOMICS AND THE CRISIS OF 2008 100 (2009) (explaining how during the 1930s the United States fell into the Great Depression and John Maynard Keynes attempted to explain the causes of the slump to the general public).

123. *See id.* at 102 (expounding on the notion that Keynes was in favor of macroeconomic intervention and this was viewed as acceptable by conservatives throughout WWII).

124. *See id.* (making an assumption that Keynes did not want to return to a free market ideal even after the economy responded positively to government intervention).

lessons which Keynes helped teach was that markets are not self-correcting and government intervention is required to ensure recovery and a return to full employment.¹²⁵

Keynesian economics lost popularity in the mid 1970's due to stagflation and associated ideological assaults launched by the Chicago School.¹²⁶ Unlike Keynes' idealization of government regulations, economists from the Chicago School such as Milton Friedman perceived most government expenditures as excessive. Hence, government intervention was viewed as inefficient and not likely to achieve projected goals.¹²⁷

With the help of Friedman, the Chicago School derived a three-part formula for creating the perfect free market economy.¹²⁸ The formula included government deregulation, privatization of government enterprises, and cutbacks on government spending.¹²⁹ Under this

125. See JOSEPH E. STIGLITZ, *THE STIGLITZ REPORT 20* (2010) (explaining how the United States economy would not have recovered after Great Depression without government intervention).

126. See BEN FINE, *ECONOMICS IMPERIALISM AND INTELLECTUAL PROGRESS*, *HISTORY OF ECONOMICS REVIEW* 15 (2000). The cornerstone of Milton Friedman's economic theory was that individuals make economic choices based upon self interests alone, and therefore, rational expectations of individuals in the market cannot be predicted through quantitative data. See *id.* Optimal levels of economic health were measured and predicted by formulating the rational expectations of individuals. *Id.* Friedman's rational expectations theory did not simulate a systematic macroeconomic policy requiring the gathering of data to calculate economic agents. *Id.*

127. See STIGLITZ, *supra* note 1, at 60 (discussing the economic policies behind the global financial crisis of 2008 and mentioning how doctrines that supported deregulation were predicated on the assumption that sophisticated market participants were rational and had rational expectations and unfettered markets would result in optimal economic efficiency).

128. See MILTON FRIEDMAN, *CAPITALISM AND FREEDOM* 65-71 (2d ed. 1982). Friedman promoted a floating exchange rate system because it is self-correcting and fully automatic. Friedman believed the instability of exchange rates is a symptom of instability in the underlying economic structure. Elimination of this symptom by administrative freezing of exchange rates, a method of direct controls, only aggravates the underlying problem. One way to correct this problem is for the U.S. to announce that it will not proclaim official exchange rates between the dollar and other currencies, and in addition, it will not engage in any speculative or other activities influencing exchange rates. *Id.* Exchange rates would then be determined in free markets. MILTON FRIEDMAN, *CAPITALISM AND FREEDOM* 65-71 (2d ed. 1982). These measures would conflict with the U.S. obligation to the IMF, to specify an official parity for the dollar. However, the IMF found it possible to reconcile Canada's failure to specify a parity with its Articles and gave its approval to a floating rate for Canada. The IMF should do the same for the U.S. Also, other nations will be able to peg their currency to the U.S. by drawing on reserves, coordinating their internal policies with U.S. policy, and by tightening or loosening direct controls on trade. *Id.*

129. See MILTON FRIEDMAN, *CAPITALISM AND FREEDOM* 65-71 (2d ed. 1982). (speaking on the pitfalls of social welfare programs and government regulations; for

doctrine, only self regulation was appropriate.¹³⁰ To increase overall wealth, the government would have to not only sell all state capital assets to private corporations, but also required dramatic cut backs on entitlements, minimal taxes, and a deregulation of trade.¹³¹

In the late twentieth century, the Chicago School began to have a profound influence on South American Governments such as Chile.¹³² At this time, Chile was under the power of a socialist group led by Salvador Allende (“Allende”).¹³³ Allende came into power as a result of an election in which he promised to promote a democratic society.¹³⁴ Conversely, Allende proceeded to convert Chile into a fully fledged communist state.¹³⁵ In turn, Allende’s communist policies provoked the military to overthrow him and set up a military regime led by General

example, minimum wage laws effectively increase the unemployment rate because employers cannot afford to pay workers at the required rates). *But see* Frontline: The Warning (PBS DVD release Jan. 5, 2010) (showing that Summers, the Obama’s administration financial advisor, is unopposed to government regulation).

130. See STIGLITZ, *supra* note 1, at 60 (discussing the doctrines which support free markets).

131. See generally Kroger, *supra* note 112, at 57, 60 (exemplifying the consequences of complete government deregulation; Enron was built upon deregulation).

132. See e.g., NOAM CHOMSKY, PROFIT OVER PEOPLE: NEOLIBERALISM & GLOBAL ORDER 9 (2003); see also BUIRA, *supra* note 3, at 145 (During the 1990’s, policymakers in Chile sought to improve investor confidence and promote stable, sustainable economic and export growth. Chile confronted issues resulting from the neoliberal hyperinflation with Capital Management Techniques “CMTs”. The CMT Chile set in place in the 1990’s was designed to insulate the economy from volatile international capital flows).

133. See e.g., *id.* Friedman had no qualms over the military overthrow of Chile’s democratically elected Allende government in 1973, because Allende was interfering with business control of Chilean society. *Id.* After fifteen years of often brutal and savage dictatorship—all in the name of the democratic free market—formal democracy was restored in 1989 with a constitution that made it vastly more difficult, if not impossible, for the citizenry to challenge the business–military domination of Chilean society. *Id.*; see also KLEIN, *supra* note 115, at 97 (explaining how Sergio de Castro was a prominent Chilean U.S. trained economist). See generally KLEIN, *supra* note 115, at 18, 82. (defining the trinity of free markets as privatization, deregulation, and cuts of social spending).

134. See BUIRA, *supra* note 3, at 145 (explaining how Chile uses CMT’s to protect their economic infrastructures which were derailed during the 1970’s and 1980’s when the Chicago School had profound influences on their financial stability). “The policy regime sought to balance the challenges and opportunities of financial integration, lengthen the maturity structure and stabilize capital inflows, mitigate the effect of large volumes of inflow on the currency and exports, and protect the economy from the instability associated with speculative excess and the sudden withdrawal of external finance.” *Id.*

135. See *id.* at 146 (Ariel Buira and the G-24 Research Program 2003) (explaining the Chilean model, whereby, financial integration in Chile was regulated through a number of complementary, dynamic measures; the authorities revalued the exchange rate mechanism that was initially adopted in the early 1980’s).

Pinochet.¹³⁶

Pinochet and his military tried to increase the overall wealth the Chilean economy.¹³⁷ However, inflation doubled in the first eight or nine months of their regime.¹³⁸ When rates of inflation continued to rise, Pinochet consulted with economists to stabilize the failed economy.¹³⁹ These economists were called “Chicago Boys” because they had studied at the University of Chicago and had received their Ph.D. degrees at the University of Chicago.¹⁴⁰ At the time, the “Chicago Boys” was the only group of economists in Chile not tainted by a connection with the Allende socialists.¹⁴¹ They were untainted because the University of Chicago was one of the only institutions in the United States where the economics department had a strong group of free market economists.¹⁴²

The Chicago Boys assured Pinochet that if he withdrew government involvement from all private sectors at once that the natural laws of economics would push the domestic economic variables, such as inflation and unemployment, back to equilibrium.¹⁴³ Pinochet followed the Chicago School’s recommendations; he privatized a majority of state-owned companies including several banks, permitted speculative financing of projects, opened borders to foreign imports exposing Chilean manufacturers to competition, and cut all government

136. See *id.* (explaining how regulations in Chile were central to the success of the Chilean model; foreign loans faced a tax of 1.2% per year; foreign direct investment and private investment faced a one year residence requirement).

137. See *id.* at 147 (showing how CMT’s greatly reduced the likelihood that the currency would appreciate and made it difficult for investors to leave, which would ultimately jeopardize the Chilean currency).

138. See *id.* (showing that despite restraints on trade, investors committed funds to the Chilean infrastructure because the regime offered attractive opportunities for development within their growing market).

139. See BUIRA, *supra* note 3, at 151 (Ariel Buira and the G24 Research Program 2003) (explaining how the CMTs employed in Chile in the 1990s not only reduced the risk of financial crisis but was a major preventative defense against IMF involvement within their policymaking).

140. See KLEIN, *supra* note 115, at 71, 77–81 (describing the Chicago Boys influence on the Chilean government in the 1970’s and 1980’s).

141. See BUIRA, *supra* note 3, at 150. “The general soundness of the Chilean banking system in the 1990s and macroeconomic policy, the maintenance of price stability and the high level of official reserves were important sources of investor confidence.” *Id.* “International support for the neoliberal aspects of Chile’s economic reforms provided the government with the political space to experiment with CMTs.” *Id.*

142. See KLEIN, *supra* note 115 at 75 (explaining how the Chicago School influenced the theory taught within the Chilean economic schools).

143. See MILTON FRIEDMAN, CAPITALISM AND FREEDOM 15 (2d. ed. 1982) (explaining how neoliberalism is the cure to economic inefficiencies).

funding by ten percent.¹⁴⁴ In 1974, Pinochet's adaptations backfired and inflation escalated above 700 percent.¹⁴⁵ Both Castro and scholars of the Chicago School insisted that the inflation was attributable to Pinochet's incorrect implementation of free market ideals.¹⁴⁶ Noam Chomsky articulated the concerns of Henry Kissinger regarding the likelihood of a widespread negative implication of Pinochet's regime.¹⁴⁷ Chomsky described the implications of the Chilean economic practices as a true threat to social change worldwide.¹⁴⁸

Within a year, Friedman convinced Pinochet to fire his economic advisor and hire Sergio de Castro as the finance minister.¹⁴⁹ Castro invited friends from the Chicago School to join him to work with him in the Chilean government and appointed one of the Chicago School economists to the central bank.¹⁵⁰ In 1975, over 500 companies were privatized, government spending was cut by twenty seven percent, domestic manufacturers were absolved, and the Chilean economy fell into a major recession.¹⁵¹ Friedman's concept of shocking the economy into equilibrium by lifting all government restraints on trade had failed to cure Chile's domestic economic market problems.¹⁵²

Certain governments, such as Mexico, have begun to view Chile as a model of a failed free market and realize the necessity to strengthen their financial systems through regulations.¹⁵³ However, supporters of

144. See KLEIN, *supra* note 115, at 75-100 (stating that Pinochet was an admired Chilean leader, and defining the trinity of free markets as privatization, deregulation, and cuts of social spending).

145. *Inflation Chile 1974*, INFLATION.EU, available at <http://www.inflation.eu/inflation-rates/chile/historic-inflation/cpi-inflation-chile-1974.aspx> (last visited Oct. 29, 2013).

146. See *id.* at 75-80 (explaining how the Chicago Boys influenced Chilean economic policy).

147. See CHOMSKY, *supra* note 132, at 21-22. Noam Chomsky is the leading intellectual figure in the world today in the battle for democracy and against neoliberalism. *Id.* at 11. In the 1960's, Chomsky was a prominent U.S. critic of the Vietnam war, and, more broadly, he became perhaps the most trenchant analyst of the ways U.S. foreign policy undermines democracy, quashes human rights, and promotes the interests of the wealthy few. *Id.* In the 1970's, Chomsky, along with his co-author Edward S. Herman, began their research on how the U.S. news media serves elite interests and undermines the capacity of the citizenry to actually rule their lives in a democratic fashion. *Id.* at 11.

148. See *id.* (describing the issues of Chile in light of neoliberal influence).

149. See KLEIN, *supra* note 115, at 75.

150. See *id.* at 254-55 (explaining how the Chicago Boys sought to liberate central banks in Africa).

151. See *id.* at 100

152. See *id.* at 75-100 (denoting how the Chicago Boy theory of economic policy did not have positive long lasting effects on the Chilean economy).

153. See KRUGMAN, *supra* note 122, at 31-34. ("If a national economy goes sour and default looms, the IMF is the preferred creditor. It gets paid back first - even if others, such

free markets, such as the Washington Consensus, continue to argue against any artificial barriers to trade.¹⁵⁴ The free market supporters continue to believe that growth can be achieved through sound budgets, low inflation, deregulation of markets, and free trade.¹⁵⁵

Further magnifying the failure of Chile's economic policies was the success of countries that have moved away from the policies set forth by the "Washington Consensus." Brazil and Bolivia are two examples of two South American economies that have challenged the neoliberal model and moved to a more nationalistic approach.¹⁵⁶

Bolivia, like many other South American countries, was in the midst of a debt crisis at the start of the 1980s.¹⁵⁷ Fueled by increased public borrowing during the petrodollar boom of the 1970's and the corruption of the military governments, Bolivia's GDP declined every year between 1981–1986.¹⁵⁸ Pushed to the brink of insolvency resulting from the falling price of tin elections were held a year early.¹⁵⁹ The election of Victor Paz Estenssoro marked the beginning of

as foreign creditors, do not. They might get nothing. So a rational private sector financial institution is going to insist on a risk premium—a higher interest rate to cover the higher likelihood of not getting paid back."); See also STIGLITZ, *supra* note 1, at 206.

154. See KRUGMAN, *supra* note 122, at 31–34. Stiglitz, commenting on his experience at the World Bank and their failed policy decision making:

At the World Bank, during the time I was there, there was an increasing conviction that participation mattered, that policies and programs could to be imposed on countries but to be successful had to be "owned" by them, that consensus building was essential, that policies and development strategies had to be adapted to the situation in the country, that there should be a shift from "conditionality" to "selectivity", rewarding countries that had proved track records for using funds well with more funds, trusting them to continue to make good use of their funds, and providing them with strong incentives.

Id.; see also STIGLITZ, *supra* note 1, at 49.

155. See KRUGMAN, *supra* note 122, at 31–34.

156. Nathanael Hamilton, *The Brazilian Economy in Transition: Explaining President Lula's Response to Neoliberal Reform* (May 23, 2011) (unpublished M.A. dissertation, San Diego State University), available at http://sdsu-dspace.calstate.edu/bitstream/handle/10211.10/1351/Hamilton_Nathanael.pdf?sequence=1 (last visited Oct. 29, 2013).

157. Lydia Chavez, *Man in the News; Bolivian in an Encore: Victor Paz Estenssoro*, THE N.Y. TIMES (Aug. 7, 1985), available at <http://www.nytimes.com/1985/08/07/world/man-in-the-news-bolivian-in-an-encore-victor-paz-estenssoro.html> (last visited Oct. 22, 2013).

158. Benjamin Kohl, *Challenges to Neoliberal Homogenies in Bolivia*, ANTIPODE 304, 310 (2006), available at <http://www.temple.edu/gus/kohl/documents/ChallengesNLHegAntipode..pdf> (last visited Oct. 21, 2013).

159. *Id.*

neoliberalism in Bolivia.¹⁶⁰

Paz Estenssoro, through Presidential Decree 21060, initiated the New Economic Policy (NEP), which called for the closing of state mines, privatized state-owned enterprises, and increased foreign direct investment, all leading to the end of protectionist policies that had been in place.¹⁶¹ While the plan initially succeeded in slowing inflation within the first couple of weeks, over time it failed to address Bolivia's fundamental economic problems.¹⁶² In 1993, under the leadership of Gonzalo Sánchez de Lozada, Bolivia instituted what is known as "El Plan de Todos."¹⁶³ The Law of Capitalization implemented the partial privatization of five major industries in Bolivia: oil and gas, telecommunications, airlines, power generations, and railroads.¹⁶⁴ Bolivia, a 50% shareholder in the multinational corporations that took control of these industries, planned on using the stock revenue to bail out the failing national pension system; however, factors such as lost revenues resulting from the Law of Capitalization as well as economic forecasts not being met led to a major reduction of government programs.¹⁶⁵ A populist backlash against neoliberal policies soon followed, culminating in the Cochabamba Protests of 2000 and the Bolivian gas conflict of 2003.¹⁶⁶ The current administration has attempted to further implement state control over the national economy, as evidenced by the nationalization of the hydrocarbon sector.¹⁶⁷

The result seems to be a success for Bolivia. In 2010, the country's exports totaled \$7.1 billion while imports totaled \$5.3 billion, resulting in a healthy trade surplus of \$1.6 billion.¹⁶⁸ Bolivia is part of several international trade partnerships, including the Andean Community (the "CAN") and the Bolivarian Alliance for the Americas (the "ALBA").¹⁶⁹ The country currently enjoys a BB- rating from the rating agency, Standards and Poor.¹⁷⁰ Though the country still is

160. Chavez, *supra* note 157.

161. Kohl, *supra* note 158.

162. *Id.* at 310-11.

163. Benjamin Kohl, *Restructuring Citizenship in Bolivia: El Plan de Todos*, 27.2 INT'L J. URB. & REG'L RES. 337, 340 (2003).

164. *Id.* "El Plan de Todos" was not a complete transfer over of the public sector to private industry; rather, it was a sale of 50% of the state industries to multinational corporations. The remaining shares were transferred back to the . *Id.*

165. *Id.*

166. Press Release, U.S. State Dep't, Background notes: Bolivia (Aug. 3, 2011).

167. *Id.*

168. *Id.*

169. *Id.*

170. *Sovereign's Ratings List*, STANDARD AND POOR'S RATINGS SERVS., available at

heavily dependent on foreign assistance to help finance development projects,¹⁷¹ Bolivia has rebounded nicely following the reign of neoliberalism in the country.

Brazil presents another successful example of a country flourishing after moving away from neoliberal policies. Neoliberal reform was brought to Brazil after the election of Fernando Collor de Mello in 1990.¹⁷² The Collor de Mello administration implemented a number of policies to help deal with the high inflation rates of the 1990's, including market deregulation, reduction of import tariffs, and an investor-friendly tax system that helped pave the way to opening up Brazil to the global market.¹⁷³ A second round of neoliberal policies were followed up by the administration of Itamar Franco with the "Plano Real".¹⁷⁴ These measures involved a mix of privatizing several state-owned entities, including a global public offering of shares of the oil and gas giant Petrobras, and the raising of interest rates.¹⁷⁵ The plan drew a huge influx of foreign investors to Brazil.¹⁷⁶ Although the "Plano Real" seemed to first be a success, it was not able to bring about mass prosperity.¹⁷⁷

Former President Luiz Ignazio "Lula" Da Silva had to juggle between not upsetting his left-leaning Workers Party base and representing the interests of the conservative neoliberals.¹⁷⁸ Lula issued a statement during the 2002 campaign stating that his government would respect the IMF programme agreed upon by the Cardoso administration and has maintained interest rates at levels set out by the "Plano Real."¹⁷⁹ In stark contrast to these neoliberal measures, Lula introduced "Bolsa Familia", a government program aimed to help

<http://www.standardandpoors.com/ratings/sovereigns/ratings-list/en/us/?subSectorCode=39§orId=1221186707758&subSectorId=1221187348494>
(last visited Oct. 22, 2013).

171. U.S. State Dep't, *supra* note 166.

172. James Brooke, *Man in the News: The Choice of Brazilians; Fernando Collor*, THE N.Y. TIMES (Dec. 20, 1989), available at <http://www.nytimes.com/1989/12/20/world/man-in-the-news-the-choice-of-brazilians-fernando-collor.html> (last visited Oct. 22, 2013).

173. Maria de Lourdes Rollemberg Mollo & Alfredo Saad-Filho, *Neoliberal Economic Policies in Brazil (1994-2005): Cardoso, Lulu and the Need for a Democratic Alternative*, 11 NEW POL. ECON. 99 (2006).

174. *Id.*

175. Hamilton, *supra* note 156.

176. *Id.*

177. *Sovereign's Ratings List*, *supra* note 170.

178. Gerardo Renique, *Introduction: Latin America Today: The Revolt Against Neoliberalism*, 19 SOCIALISM AND DEMOCRACY 1,1-11,182 (2005).

179. Hamilton, *supra* note 156.

reduce poverty by providing a government subsidy to families whose children attend school.¹⁸⁰ The multidisciplinary approach used by Brazil may be the reason for its economic success.

Amid an economic downturn throughout the global markets, Brazil has managed to maintain strong economic activity.¹⁸¹ The state-run energy company, Petrobras, is among the international industrial leaders in oil production.¹⁸² A portion of government expenditures has been directed at a number of high-tech industries, including aerospace, information technology, and telecommunication.¹⁸³ Government's willingness to invest in innovation has led to success in private entrepreneurship, resulting in a growing middle class that now accounts for more than half of the 190 million people in Brazil.¹⁸⁴ With a nominal GDP of \$2.09 trillion, the country enjoyed a GDP growth of 7.5% in 2010.¹⁸⁵ The country currently enjoys an A- rating from the rating agency, Standards and Poor.¹⁸⁶ Brazil is an emerging market rich with resources that is looking to benefit from added representation at the negotiating tables of the BWIs.¹⁸⁷

C. Loan Conditionality

The economic policies of those in charge of running the IMF and World Bank have generally been imposed through conditions placed on loans and other benefits of membership with the IMF and World Bank. The IMF's embracement of loan conditionality was declared the "biggest divergence from the Bretton Woods objectives."¹⁸⁸ The

180. *How to get children out of jobs and into school: The limits of Brazil's much admired and emulated anti-poverty programme*, ECONOMIST (Jul. 29, 2010) available at <http://www.economist.com/node/16690887> (last visited Oct. 25, 2013).

181. See Andrew Downie & Tim Padgett, *The One Country That Might Avoid Recession...*, TIME (Mar. 05, 2009), available at <http://www.time.com/time/magazine/article/0,9171,1883301-1,00.html> (last visited Oct. 25, 2013).

182. See Lori Ioannou, *Brazil's Start-up Generation*, Time Online, Aug. 22, 2010, available at <http://www.time.com/time/magazine/article/0,9171,2010076,00.html> (last visited Oct. 25, 2013).

183. Press Release, U.S. State Dep't, Background notes: Brazil (Mar. 8, 2011).

184. *Id.*

185. *Id.*

186. *Sovereign's Ratings List*, *supra* note 170.

187. See Julia E. Sweig, *A New Global Player: Brazil's Far-Flung Agenda*, FOREIGN AFFAIRS (Nov/Dec 2010), available at <http://www.foreignaffairs.com/articles/66868/julia-e-sweig/a-new-global-player> (last visited Oct. 29, 2013).

188. Yilmaz Akyuz, *The Rationale For Multilateral Lending; A Critical Assessment 20* (July 5, 2004) (unpublished manuscript), available at <http://www.new-rules.org/storage/documents/ffd/akyuz04.pdf> (last visited Oct. 25, 2013).

principle of conditionality was incorporated within the Articles of Agreement in 1969, empowering the IMF to condition access to financial assistance upon the borrowing country's assent to mandated reforms targeting primary causes of their balance of payments issues.¹⁸⁹ The majority of conditions imposed on poor countries wanting loans from the IMF and World Bank include privatization-related conditions.¹⁹⁰ For example, when Bangladesh received a large credit from the World Bank in 2005, of the fifty-three conditions added to the loan, eighteen required that Bangladesh, where over 50% of the population lives below the poverty line, privatize its banks, electricity, and telecommunications sectors.¹⁹¹ Despite the fact these conditions have ultimately made matters worse within poorer countries, the average amount of conditions imposed on low income countries rose from forty-eight per loan to sixty-seven per loan between 2002 and 2005.¹⁹²

The World Bank has also been known to impose conditions involving trade liberalization on poor countries.¹⁹³ Rwanda was

189. Article V, Section 3(a) of the Articles of Agreement provides:

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.

IMF ARTICLES OF AGREEMENT, Amended July 28, 1969, available at <http://www.imf.org/external/pubs/ft/aa/pdf/aa.pdf> (last visited Oct. 25, 2013). The nature of the conditions have predominantly centered on restricting government spending and foreign borrowing, regulating currency to limit inflation, and in strengthening banking supervision. See *id.*; John W. Head, *Law and Policy in International Finance Institutions: The Changing Role of Law in the IMF and the Multilateral Development Banks*, 17 KAN. J.L. & PUB. POL'Y 194, 214-18 (2007-2008) (discussing the legal aspects of IMF conditionality).

190. EURODAD, WORLD BANK AND IMF CONDITIONALITY: A DEVELOPMENT INJUSTICE 12 (2006), available at http://www.eurodad.org/uploadedfiles/whats_new/reports/eurodad_world_bank_and_imf_conditionality_report.pdf (last visited Oct. 29, 2013); see also *Privatization and the World Bank*, THE WHIRLED BANK GROUP, available at <http://www.whirledbank.org/development/private.html> (last visited Oct. 25, 2013) (questioning the effectiveness of privatization conditions imposed by the IMF and World Bank, and providing examples of privatization conditions in Argentina, India, and Mexico).

191. EURODAD, *supra* note 190, at 12; Shahzad Uddin & Trevor Hopper, *Accounting for Privatisation in Bangladesh: Testing World Bank Claims*, available at <http://www.scribd.com/doc/21894315/Accounting-for-Privatisation-in-Bangladesh-Testing-World-Bank-Claims> (last visited Nov. 13, 2013).

192. EURODAD, *supra* note 190, at 9.

193. *Id.* at 12; JUBILEE U.S.A., *Are IMF and World Bank Economic Policy Conditions Undermining the Impact of Debt Cancellation?* (2008), available at

conditioned to join the East African Trade Agreement, practically stripping its right to freely contract for its exports.¹⁹⁴ Bangladesh was required to remove any quantitative restrictions it had imposed on sugar imports.¹⁹⁵ Luckily, such trade conditions only constitute 3% of all World Bank conditions to low income countries.¹⁹⁶

In essence, the purpose of the World Bank and IMF in giving loans to poorer countries is to assist those countries in raising their economy while helping to end the perpetuating cycle of poverty. However, the World Bank has been known to impose "Micro-Management" type conditions, which ultimately prevents much needed aid from reaching those actually in need of help.¹⁹⁷ Uganda, where 37.7% of the country lives in poverty, was required to "review and approve its school sports policy for tertiary schools," before it could access its World Bank financing in 2005.¹⁹⁸ As a condition to receiving their financing, The Republic of Mali, where 10% of children die as infants, was forced to move its government offices to a new location.¹⁹⁹

The discord between loan conditionality and development objectives is rooted in the IMF and World Bank's governance structure permitting dominant shareholders to utilize conditionality as a means of furthering their own global economic and political agendas.²⁰⁰ Actions by the IMF and World Bank give credence to the growing belief that the

http://www.jubileecusa.org/fileadmin/user_upload/Resources/Policy_Archive/208briefnoteconditionality.pdf (last visited Oct. 25, 2013) ("Some of the most egregious policies force countries applying for debt relief to adhere to strict IMF fiscal and monetary targets, privatize key industries, liberalize their markets, and remove subsidies for sensitive commodities like gasoline and cooking oil.").

194. EURODAD, *supra* note 190, at 15.

195. *Id.*; Bangladesh: Trade Policy and Integration, THE WORLD BANK, available at <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/SOUTHASIAEXT/EXTSARRREGTOPINTECOTRA/0,,contentMDK:20592516~menuPK:579454~pagePK:34004173~piPK:34003707~theSitePK:579448,00.html> (last visited Oct. 23, 2013).

196. EURODAD, *supra* note 190, at 15.

197. *Id.* at 11; KENYA NATIONAL ASSEMBLY OFFICIAL REPORT 871 (May 3, 2006) ("The impression that has been created is that . . . econom[ies] [are] being managed by the IMF and the World Bank. The impression is that all these prices are as a result of micro-management by the IMF and the World Bank.").

198. EURODAD, *supra* note 190, at 11.

199. *Id.*

200. See STIGLITZ, *supra* note 1, at 19 (showing how sometimes conditionality was even counterproductive, either because the policies were not well suited to the country or because the way they were imposed engendered hostility to the reform process); *Contra* STIGLITZ, *supra* note 1, at 52 (stating that "sometimes money has gone to governments with good policies in place—but not necessarily because the IMF recommended these policies."). Stiglitz also continues the argument that loan conditionalities shifted the debate inside the country in ways that led to better policies. *Id.*

institutions “systematically act in the interest of creditors and of rich elites. . . in preference to that of workers, peasants, and other poor people.”²⁰¹

D. Case Studies

I. Argentina

Argentina provides a context for examining the economic and human impact of IMF lending over the course of nearly half a century. Prior to World War I, Argentina was viewed by the public and investors as a land of opportunity.²⁰² Argentina was a resource-rich nation and therefore attracted both European and American investors.²⁰³ The Great Depression negatively affected Argentina due to its reliance on exporting capital.

Argentina initially appealed to the IMF for assistance in 1958 with the hope of receiving an infusion of capital to address its rampant inflation and a resulting balance of payment crisis.²⁰⁴ The early successes associated with the loans were mitigated by an emerging discontent within the labor force stemming from a decrease in real wages, a rise in inflation, and a decline in the country’s gross domestic product.²⁰⁵

Argentina’s internal political problems led to a problematic relationship with the IMF until, in 1965, President Arturo Illia terminated Argentina’s relationship with the IMF, rejecting all of the

201. GILBERT RIST, *THE HISTORY OF DEVELOPMENT: FROM WESTERN ORIGINS TO GLOBAL FAITH* 140–41 (2d ed. 2006) (explaining that people in industrial countries began to complain that Third World demands were being ignored, causing the underdevelopment of the Global South). While transnational corporations were getting rich, countries of the South were being exploited for their resources. *Id.*

202. See KRUGMAN, *supra* note 122, at 38–40.

203. See *id.*

204. See *id.* at 51 Argentina’s lower profile rescue came via the World Bank, which enabled a capital injection of \$12 billion to support the nation’s banks. *Id.* Subsequently, the Fund conditionally provided capital in the amount of 75 million and a further 254 million dollars, which was derived from public and private U.S. agencies. *Id.*

205. Margaret Conklin & Daphne Davidson, *The I.M.F. and Economic and Social Human Rights: A Case Study of Argentina, 1958–1985*, 8 HUM. RTS. Q. 231–32 (1986) (explaining that in 1959 real wages, decreased by twenty-six percent from the previous year, inflation rose to 111%, and GDP declined by eight percent). As the working class became increasingly dissatisfied, Argentina had a record number of employee strikes. *Id.* Even after the Fund negotiated similar stand-by arrangements for 1959 and 1960, the atmosphere within Argentina was not positive because the allocation of the funds were conditioned upon the attainment of strict deficit reduction goals that were reliant upon “large dismissals of employees, limitation on wage increases, and a reduction in public works.” *Id.*

IMF's conditions and attempting to deal unilaterally with the \$2.5 billion Argentina owed to international creditors.²⁰⁶ By failing to comply with the IMF's policies, Illia eroded international confidence in the Argentinean economy. This was reflected in the severe decline of international loans to the country over the next three year period, and thus, Illia suffered the same fate as his Argentinean predecessors.²⁰⁷

In 1967, Colonel Juan Onganía ascended to power and agreed to implement an IMF stabilization program, which mandated the same fiscal deficit and inflation goals that had relegated Argentina to a constant state of political and economic turmoil since 1958.²⁰⁸ However, in 1969 the IMF proclaimed a successful stabilization effort in Argentina based on an increase in its gross domestic product and reduction in the inflation rate.²⁰⁹ These economic indicators seemingly validated the IMF's policies, but failed to resonate in the hearts of the Argentinean people who had been forced to adapt and survive on real wages that had fallen 11% in 1968.²¹⁰

Starting in 1970, and continuing throughout the next three decades, the citizens of Argentina galvanized together against the IMF and fought for political changes as the IMF remained resolute in the conviction that the "shock therapy" approach was the right path for Argentina to attain progress and prosperity.²¹¹ After a further decline in real wages in 1978, only ten percent of the population had the economic means to purchase the government's shopping basket of basic goods

206. *Argentina: Going It Alone*, TIME (Apr. 30, 1965), available at <http://www.time.com/time/magazine/article/0,9171,898668,00.html> (last visited Oct. 23, 2013) (explaining how Illia had attacked the IMF during his campaign for president, calling it an economic intruder and recommending that Argentina break relations with the Fund).

207. Conklin & Davidson, *supra* note 205, at 234. International loans to Argentina fell drastically, from 361 million in 1962, to 99 million in 1963 and 6 million in 1964. See *id.* The military overthrew Illia in June 1966. *Id.*

208. *Id.* at 235. Conditions in 1967 and 1968 including the devaluation of the peso, limits on fiscal deficit (increased utility charges for public services, restraints on government spending, and higher internal taxes), and wage controls (wage freezes until 1968). *Id.*

209. See KRUGMAN, *supra* note 122, at 41 (comparing Mexico and Argentina's positive reaction to capital inflows when inflation dropped to nearly zero and GDP increased by 25% in three years).

210. Conklin & Daphne Davidson, *supra* note 205, at 236.

211. See Kim Reisman, *World Bank and the IMF: At the Forefront of World Transformation*, 60 FORDHAM L. REV. 349, 390 (1991-1992) (explaining that shock therapy is a means used by the IMF and World Bank to establish a market economy in countries by inflicting the attendant hardships for as short a time as possible in contrast to an evolutionary or gradual approach).

and services.²¹² After struggling with massive inflation rates and a costly war that ended in 1982, Argentina appealed to the IMF for aid.²¹³ The startling figures taken in the 1980's illuminate a blatant disregard by the IMF to balance the human cost of economic stabilization with the benefits of attaining arbitrary economic indicator targets.²¹⁴ The problems of inflation and economic stagnation in the 1980s culminated in the hyperinflation that occurred in 1989.²¹⁵

In 1991, Argentina instituted a Convertibility Plan designed to stabilize the economy through drastic measures, including fixing the peso to the U.S. dollar.²¹⁶ The Convertibility Plan and structural reforms led to stabilization, and the IMF believed that the six percent average GDP growth through 1997 was a sign of the success of these measures.²¹⁷ However, the appreciation of the currency placed exports and domestic producers at a disadvantage because payments became more difficult to make. Ultimately, the rise in prices led to a balance of payment issue. In 1995, the payment issue was coupled with government public relations problems with the IMF, and eventually resulted in the decline of the stock market.²¹⁸ Additionally, laws

212. Conklin & Davidson, *supra* note 205, at 245–52 (explaining that in the years of 1976 to 1978, public sector employees had their wages decreased by 53%, so that the government could comply with the Fund's fiscal deficit targets). The Fund's demand to reduce government expenditures translated to massive cuts and layoffs of public sector employees who were already "paid among the lowest in Argentina." *Id.* Although the deficit declined, the citizens were confronted with the reality that the cost of gas, telephone, water, rail fares, electricity, postal charges, and metro fare had increased an average of 405 percent. *Id.*

213. *Id.* at 239; *I.M.F. Loan to Argentina*, N.Y. TIMES, Jan. 25, 1983, at D2 (explaining that in early 1983, the IMF approved a \$2 billion loan, including \$1.5 billion SDR, to improve the collapsing economy).

214. Conklin & Davidson, *supra* note 205, at 245–52 (explaining that a study in 1985 estimated that one third of employed workers failed to earn sufficient wages so as to be able to feed a family of four); see Milt Freudenheim, Henry Giniger, & Richard Levine, *A Heartfelt Cry From Alfonsin On Debt Crisis*, N.Y. TIMES, Mar. 24, 1985, at 42 (explaining the plight of President Raul Alfonsin in 1985). Alfonsin's presidency followed eight years of military rule. *Id.* During his presidency, inflation began eating away at the standard of living to a point where Alfonsin had to balance the IMF's demands for austerity measures with the demands by Argentinean wage-earners for pay increases. *Id.*

215. INT'L MONETARY FUND INDEP. EVALUATION OFFICE, THE ROLE OF THE IMF IN ARGENTINA, 1991-2002 (July 2003), available at <http://www.imf.org/external/np/ieo/2003/arg/070403.pdf> [hereinafter *The Role of the IMF*].

216. *Id.* (defining the Convertibility Plan). It was centered around a currency board-like arrangement in which the peso was fixed at par with the dollar and autonomous money creation by the central bank was severely constrained. *Id.* "[I]t also included a broader agenda of market-oriented structural reforms to promote efficiency and productivity." *Id.*

217. *Id.*

218. Juan Carlos Linares, *After the Argentine Crisis: Can the IMF Prevent Corruption*

influenced by the IMF conditions, along with changes to the social security system, ultimately sparked massive “anti-IMF riots” in 1998.²¹⁹

Later, in mid-2001, the lack of access to capital markets caused an increased capital flight that, in turn, resulted in Argentina’s financial collapse later that year.²²⁰ Once again, as had happened repeatedly before 1991, Argentina was unable to meet IMF conditions and the IMF suspended disbursements.²²¹ The Convertibility Plan was widely criticized for failing to account for Argentina’s internal conditions because linking the currency with the U.S. dollar forced Argentina to “align its monetary policy with that of the United States, despite cyclical differences between the two countries.”²²²

The IMF’s negative involvement in Argentina culminated in January 2002, when the government of Argentina defaulted on \$141 billion in public sector debt; this embodied “the largest sovereign default” of a state in history.²²³ The catalyst behind Argentina’s default and economic collapse has been “attributed to the country’s excessive adherence to International Monetary Fund advice.”²²⁴ Argentina’s 2009 statement that it does not need the IMF’s financial help seems tenuous at best, as earlier that same year Argentina demanded IMF loans without conditions.²²⁵ It has been stated that “the success story of the

in its Lending? A Model Approach, 5 RICH. J. GLOBAL L. & BUS. 13, 19 (2005) (explaining how Argentina was forced to renegotiate its IMF loan, leading to the stock market decline).

219. *Id.* at 20 (describing the situation in Argentina around the time prior to the anti-IMF riots). The IMF’s bailouts were seen as protecting the affluent at the expense of the poor. *Id.* The austerity programs installed to pay for the IMF loans were said to be absorbed by the poor instead of the wealthy. *Id.*

220. The Role of the IMF, *supra* note 215.

221. *Id.* (explaining how this led to the abandonment of the Convertibility Plan and, by the end of 2002, the economy had contracted by twenty percent since 1998).

222. The Role of the IMF, *supra* note 215; see Linares, *supra* note 218, at 23 (explaining other factors that contributed to the economic collapse, including decline in capital flows, institutional and political factors unique to Argentina, external shocks, failures in the banking system, and systemic corruption that was inherent in Argentina’s politics and economy).

223. Linares, *supra* note 218, at 18–19 (explaining the steps taken by the IMF and Argentina, starting in 1991 to its default in December 2001). Argentina’s relationship with the IMF from 1990’s through 2000 was marked by a series of renegotiations to loan agreements and requests for financial assistance. *Id.* Although Argentina never really complied with any of the IMF conditions, the IMF was unwilling to abandon its work there. *Id.* Meanwhile, Argentinean citizens and businesses found themselves marred in government tax increases and spending reductions. *Id.*

224. See Jo Marie Griesgraber & Oscar Ugarteche, *The IMF Today and Tomorrow: Some Civil Society Perspectives*, 12 GLOBAL GOVERNANCE 351 (2006).

225. Walter Brandimarte, *Argentina Demands IMF Lend Without Conditions*, REUTERS, Apr. 24, 2009, available at

Argentine stabilization program can be best told by international creditors as . . . they have been paid punctually and . . . could hardly be happier regarding the success of International Monetary Fund recommendations.²²⁶

2. Sub-Saharan Africa

The BWIs have been the cause of the most numerous set of policies Sub-Saharan African countries have ever faced.²²⁷ Either directly, or as a consequence, the World Bank and IMF are responsible for policies which make significant changes in African economies.²²⁸ Even with the implementation of these policies, Sub-Saharan Africa is still the poorest region of the world and the least likely to meet the Millennium Development Goals²²⁹ by the established date.²³⁰

<http://www.reuters.com/article/idUSN2445415920090424>; Sujata Rao & Carolyn Cohn, *Argentina Says Does Not Need Aid From IMF*, REUTERS (Sept. 5, 2009, 2:30 PM), <http://www.reuters.com/article/idUSTRE58429020090905>.

226. Conklin & Davidson, *supra* note 205, at 259–60 (explaining how the Fund consistently went against the poor and working class Argentineans). The Argentine government, faced with many hardships, had poor bargaining power against the Fund. *Id.*

227. AFRICAN DEVELOPMENT BANK, AFRICAN DEVELOPMENT REPORT 55 (2006) (listing the IMF and World Bank conditionality's in Sub-Saharan Africa as of 1999 as: Cameroon 92; Djibouti 134; Gambia 121; Ghana 80; Guinea 125; Madagascar 137; Mali 105; Mozambique 74; Rwanda 135; Senegal 165; Tanzania 150; Uganda 74; and Zambia 87).

228. REGIONAL SURVEYS OF THE WORLD: AFRICA SOUTH OF THE SAHARA 2004 20 (Katherine Murison ed., 33d ed. 2003) (explaining how the IMF and World Bank have pushed pressured Sub-Saharan African countries to large scale economic reforms). In 1998, thirty-five African countries began economic reform programs or borrowed from the IMF to support economic reform programs. *Id.* A 1981 World Bank study proposed four economic policy changes including: (1) the correction of overruled exchange rates; (2) the improvement of price incentives for exports and agriculture; (3) the protection of industry in a more uniform and less direct way; and (4) the reduction of direct governmental controls. *Id.*; see GÉRARD ROLAND, PRIVATIZATION: SUCCESSES AND FAILURES 44 (2008) (explaining that most of these policies concentrated on the goals of privatizing and stabilizing the economies). The hope was for economic growth and financial development results to follow. *Id.* Many of the newly private companies, instead of contributing to the growth of the economy, actually worsened the population's situation by laying workers off. *Id.* In Zambia for example, two large mines were sold to a bidder who agreed not to dismiss any of the workers. *Id.* However, after title was transferred, three thousand of the seven thousand workers were dismissed, and subsequently, the new owner went out of business causing the remaining four thousand workers to lose their jobs. *Id.*

229. *The Millennium Development Goals: Eight Goals for 215*, UNITED NATIONS DEV. PROGRAMME, <http://www.un.org/millenniumgoals> (last visited Oct. 12, 2013) (laying out the Millennium Development Goals, which include: ending poverty and hunger; universal education; gender equality; child health; maternal health; combating HIV, AIDS and other diseases; environmental sustainability; and global partnership).

230. SAUL BERNARD COHEN, GEOPOLITICS: THE GEOGRAPHY OF INTERNATIONAL

During the 1950s and 1960s, the World Bank concentrated on the development of physical infrastructure.²³¹ Through the 1970s, the Bank's lending shifted and concentrated more on social areas like education, water access, poverty reduction, and income distribution.²³² However, as the 1980s approached, most economic leaders were conservative and favored economic liberalization and keeping governments at the edge of the economic markets.²³³ In 1963, the IMF started lending to Sub-Saharan Africa; however, the number of loans granted to the area was relatively small until the 1970s.²³⁴ The World Bank, influenced by conservative economists, began taking this approach as well in the policies it pushed Sub-Saharan African countries to employ.²³⁵ Lending during the 1980s became conditioned on economic policy reforms, and by the end of the decade, there was practically no difference between the World Bank and IMF conditionality terms.²³⁶ Countries who received aid in Sub-Saharan Africa were at times undeserving, due to the political and economic turmoil present within.²³⁷

RELATIONS 31 (2009) (explaining that the average per capita income in Sub-Saharan Africa is \$2,500, and 30% of the working poor earn less than one dollar per day); see JEFFREY SACHS, COMMON WEALTH: ECONOMICS FOR A CROWDED PLANET 31 (2008) for a discussion on the history of Sub-Saharan Africa's poverty and lack of development in comparison with the United States and United Kingdom; see also ROB BOWDEN, AFRICA SOUTH OF THE SAHARA 10 (2008) (stating that the World Bank has said that twenty-two of the twenty-five poorest countries in the world are in Sub-Saharan Africa, Burundi being the poorest of the world, with an average annual income per person of \$640).

231. PHILIP W. JONES, EDUCATION, POVERTY AND THE WORLD BANK 11 (2006).

232. John Williamson, *The Impact of the Bretton Woods Institutions on the Prospects for development, in SOUTH AFRICA AND THE WORLD ECONOMY IN THE 1990'S* 178, 179 (Pauline H. Baker et al eds., 1993). From his first speech to the Board of Governors McNamara spoke of directing Bank lending toward improving the living conditions of individual poor people, and proposed expanding education lending to emphasize advanced technical training as well as fundamental literacy. *Id.*; see MARTHA FINNEMORE, NATIONAL INTERESTS IN INTERNATIONAL SOCIETY 107 (1996); RONALD G. RIDKER, THE WORLD BANK'S ROLE IN HUMAN RESOURCE DEVELOPMENT IN SUB-SAHARAN AFRICA: EDUCATION, TRAINING, AND TECHNICAL ASSISTANCE 42 (1994) (explaining that these were the goals of the World Bank's president at the time, Robert McNamara).

233. See Williamson, *supra* note 232.

234. Robert S. Browne, *The IMF in Africa: A Case of Inappropriate Technology, in THE POLITICAL MORALITY OF THE INTERNATIONAL MONETARY FUND: ETHICS AND FOREIGN POLICY; VOLUME 3* (Robert J. Myers ed., 1987).

235. See Williamson, *supra* note 232.

236. IDA'S PARTNERSHIP FOR POVERTY REDUCTION: AN INDEPENDENT EVALUATION OF FISCAL YEARS 1994-2000 77 (2002); Howard Stein, *Structural Adjustment, in THE ELGAR COMPANION TO DEVELOPMENT STUDIES* 599 (David A. Clark ed., 2006).

237. KENDALL W. STILES, NEGOTIATING DEBT: THE IMF LENDING PROCESS 69, 75 (1991) (describing the IMF's loan to Zaire). Zaire's Chief of State, Mobutu Sese Seko,

Both the World Bank and the IMF still subject African countries to dozens of conditions in order to receive loans.²³⁸ The conditions are mainly focused on lowering government expenses on social issues and diverting them towards market liberalization in order to cover forgone government revenues from lowering export barriers.²³⁹ The results of these conditions are lower salaries, impoverishment for Africans, and cheaper raw materials for multinational companies.²⁴⁰ Presently the

began talks with the IMF in 1976, and a forty-seven million dollar one-year stand-by loan was approved. *Id.* The loan called for a forty-two percent devaluation to align Zaire with the SDR; a twenty percent ceiling on wage increases; a cut of government expenditures involving foreign exchange; a twenty-two percent limit on domestic credit expansion during 1976; and a renegotiation of external public debt. *Id.* Zaire became ineligible for further assistance in 1977 because it failed to meet conditions of the loan and repay debts. *Id.* at 72, 76. Zaire provided the IMF with disjointed, uncoordinated, and confused financial information that “tried the patience of the IMF to its limit.” *Id.* It also became clear to Zaire’s creditors that Zaire had not intent to implement the IMF reforms. *Id.* In 1978, at the urging of Zaire’s creditors, the IMF sent officials to replace local Zairian financial leadership, and other stand-by arrangement of \$155 million was given in 1979. *Id.* at 69, 76. Zaire’s political aristocracy frustrated the efforts of the IMF team, and thus the loans were cancelled by 1983. *Id.* at 70, 74. The willingness of the IMF to keep returning to Zaire with loans was deemed “startling” in the context that Zaire’s performance indicated its unwillingness to meet the terms of its loans. *Id.* at 79, 83.

238. See SALIWE M. KAWWE, *POLITICS AND ECONOMICS OF AFRICA*, VOL. 5 43 (Olufemi Wusu ed., 2007) (stating that if governments fail to meet the measures imposed, any loans that may have been promised to them are withheld or canceled); *THE POLITICS AND POLICIES OF SUB-SAHARAN AFRICA* 73 (Robert A. Dibia ed., 2001) (stating that “the conditions attached to World Bank and IMF structural adjustment program . . . effectively transferred sovereignty from the African State to Washington”) [hereinafter *THE POLITICS AND POLICIES*].

239. *THE POLITICS AND POLICIES*, *supra* note 238; see KAWWE, *supra* note 238, at 44 (stating that the World Bank and IMF force governments to reduce spending on basic human needs and necessities like the elimination of subsidies for food prices, and reduction or social welfare and programs, including health and education); VINCENT B. KHAPOYA, *THE AFRICAN EXPERIENCE: AN INTRODUCTION* 182 (1998) (explaining how the IMF has required governments from Sub-Saharan Africa to reduce budget deficits by making cuts on expenditures on public programs).

240. See KAWWE, *supra* note 238, at 44 (noting Zimbabwe as an example where the elimination of price controls on manufactured goods, retrenchment of works, devaluation of currency, and privatization of government industries resulted in a sharp shrinkage of income opportunities for the urban middle class and the working class). The elimination of price controls simultaneously marginalizing the poor further, especially women and children. *Id.*; RICHARD PEET, *UNHOLY TRINITY: THE IMF WORLD BANK AND WTO* 141 (2007) (stating that during the 1980’s when most African countries came under World Bank and IMF tutelage, per-capita income decreased by twenty five percent in most of Sub-Saharan Africa). In addition, the removal of food and agricultural subsidies caused prices to rise and created increased food scarcity. *Id.* Since between one-fourth and one-third of the population of Sub-Saharan Africa is malnourished, the vulnerability of African populations to the spread of diseases and other health problems, has increased. *Id.* This, coupled with the closing of numerous hospitals and the understaffing of the ones remaining, has only added to the

global economic crisis affecting the industrialized nations is likely to affect donors' commitments, and thus, efforts to reach the MDGs by the 2015 deadline will be slowed down.²⁴¹ Sub-Saharan African countries have accumulated increasingly high debt allowances, whereby, interest outlay payments to financial institutions exceed income from loans which results in harmful net outflows of cash.²⁴²

The IMF and World Bank structural reforms have proven to be inefficient and detrimental to the people in Sub-Saharan Africa.²⁴³ After adhering to the IMF's and World Bank's policies and mandated structural adjustments, residents of Sub-Saharan African countries have not experienced any long-term improvement in their living conditions.²⁴⁴ However, since the voting power in the IMF of all Sub-Saharan African countries together is only about a fourth of that allocated to the United States alone, their voice is not likely to bring about any major reform.²⁴⁵

problems rampant within Sub-Saharan Africa. *Id.*

241. UNITED NATIONS, WORLD ECONOMIC SITUATIONS AND PROSPECTS 21 (2009) (explaining how the decrease in demand for exports, lower commodity prices, and decline in investments in the Sub-Saharan African region resulting from the crisis, will affect Sub-Saharan African countries' economic development).

242. THE ENCYCLOPEDIA OF AFRICAN HISTORY: VOLUME 1 338 (Kevin Shillington ed., 2004).

243. See REGIONAL SURVEYS OF THE WORLD: AFRICA SOUTH OF THE SAHARA 2004 119 (Katherine Murison ed., 33d ed. 2003) (explaining the case of Burkina Faso which highlights the inefficiencies of the policies) [hereinafter REGIONAL SURVEYS OF THE WORLD]. Since the 1970's there has been a history of fiscal deficit in Burkina Faso which has been mainly attributable to the economy's low taxable capacity. *Id.* In 1993 the IMF accorded an Enhanced Structural Adjustment Facility to Burkina Faso. *Id.* Under the terms of the accord the primary objective was to reduce the fiscal deficit, which was at 4.6% of GDP. *Id.* However, by 1994, instead of decreasing, the deficit had actually increased to 5.1% of GDP. *Id.* By 1999, the deficit was still four percent of GDP. See REGIONAL SURVEYS OF THE WORLD, *supra*.

244. Andrew Conteh, *Sub-Saharan Africa in the Post Cold War Era*, in THE POLITICS AND POLICIES OF SUB-SAHARAN AFRICA 73-76 (Robert A. Dible ed., 2001).

245. International Monetary Fund, Annual Report 2009 47, available at <http://www.imf.org/external/pubs/ft/ar/2009/eng/index.htm> (last visited Oct. 21, 2013) (showing that the aggregated voting power for all Sub-Saharan countries is 4.36 percent, while the United States alone holds 16.77 percent); see Maurilo Portugal, *Improving IMF Governance and Increasing the Influence of Developing Countries*, in IMF DECISION-MAKING, IN REFORMING THE GOVERNANCE OF THE IMF AND THE WORLD BANK 75, 83 (Ariel Buira ed., 2006) (explaining Sub-Saharan Africa's voting power); see also MARCUS POWER, RETHINKING DEVELOPMENT AND GEOGRAPHIES 84 (2003) (explaining that similarly, in the World Bank, the G8 states hold ten times the voting power of all Sub-Saharan countries together). The G8 states hold forty percent of the voting power in the World Bank, while Sub-Saharan Africa holds just over four percent. *Id.*

3. The Asian Crisis

The Asian financial crisis destroyed “the conventional wisdom that East Asia’s economies would prosper indefinitely.”²⁴⁶ While few scholars predicted it,²⁴⁷ the crisis showed the flaws of IMF loan conditionality and consequences of global financial liberalization.²⁴⁸ The “[f]inancial liberalization from the 1980’s had major ramifications in the region as savings supplemented the already high domestic savings rates in the region to further accelerate the rate of capital accumulation.”²⁴⁹

Although there are at least four competing explanations that provide background for how the Asian financial crisis began,²⁵⁰ it officially started in July 1997 in Thailand, after the Thai government began to float its currency, the Thai baht.²⁵¹ At that time, “the growth

246. Peter A. Coclanis & Tilak Doshi, *Globalization in Southeast Asia*, 570 ANNALS, July 2000, at 49, 56-57 (explaining that few would have predicted the crisis because leading up to 1995 because per capita growth in Singapore, Indonesia, Malaysia, and Thailand was much greater in comparison to that of South Asia and Latin America); JEFFREY D. SACHS & WING THYE WOO, UNDERSTANDING THE ASIAN FINANCIAL CRISIS, THE ASIAN FINANCIAL CRISIS: LESSONS FOR A RESILIENT ASIA 13 (Wing Thye Woo, Jeffrey D. Sachs, & Klaus Schwab, eds. YEAR) (“The World Bank and International Monetary Fund . . . are now divided on the causes of the crisis, and on what the policy advice should have been given.”). *But see* Paul Krugman, *The Myth of Asia’s Miracle*, 73 FOREIGN AFF. 62, 64 (1994) (explaining, before the Asian Crisis began, that the rapid Asian growth that occurred at the beginning of the 1990’s was not a model that the West should follow, and that future growth would be limited).

247. JOMO K.S., GROWTH AFTER THE ASIAN CRISIS: WHAT REMAINS OF THE EAST ASIAN MODEL? 2 (March 2001), available at <http://www.unctad.org/en/docs/pogdmsmdpbg24d10.en.pdf>; *see also* STIGLITZ, *supra* note 1, at 6 (arguing how decisions concerning necessary reforms in global institutional arrangements must be made not by a self selected group such as the G-7, G-8, G-10, G-20, or G-24, but should be made by all the countries of the world).

248. STIGLITZ, *supra* note 1, at 13.

249. MANUEL F. MONTES, THE CURRENCY CRISIS IN SOUTHEAST ASIA 1 (2000) (listing four competing explanations of the Asian financial crisis). The four explanations are: the entry of low cost producers into the international export markets; macroeconomic weakness in all economies; undisciplined banking; or the shear differences between all of the different countries’ economies. *Id.*; *see* Laurent L. Jacque, *The Asian Financial Crisis: Lessons from Thailand*, 23 FLETCHER F. WORLD AFF. 87 (1999) (“[T]he Asian crisis primarily originated in the private sector. It is a crisis of flawed resource allocation abetted by misguided government policies and unfortunately corrected by Western style policies often ill-adapted to the idiosyncrasies of Asian capitalism.”).

250. SACHS & WOO, *supra* note 246, at 13 (explaining the confusion among experts as to how the financial crisis occurred even after analysts had been praising Asian economies up until the unexpected collapse in July 1997).

251. MORRIS GOLDSTEIN, THE ASIAN FINANCIAL CRISIS: CAUSES, CURES, AND SYSTEMIC IMPLICATIONS 7 (1998); *see* Helen Hughes, *Crony Capitalism and the East Asian Currency Financial ‘Crises’*, POLICY (Spring 1999) available at

of bank and nonbank credit to the private sector exceeded. . . the already rapid growth of real GDP. . . , [and] exposure to the property sector accounted for roughly twenty-five to forty percent of total bank loans in Thailand, Indonesia, Malaysia, and Singapore, and more than that in Hong Kong."²⁵² With an overextension and concentration of credit, countries became vulnerable to shifts in cyclical and credit conditions.

By the end of 1997, Indonesia, Malaysia, South Korea, Thailand, and the Philippines' stock markets had lost more than sixty percent of their value.²⁵³ "[T]he Indonesian rupiah was down more than 80 percent against the dollar, and the currencies of Thailand, Malaysia, and Philippines all fell by 30-50 percent; . . . [w]ithin months of the baht flotation, the stock markets of all four saw losses of sixty percent or more in dollar terms."²⁵⁴ Most surprisingly affected by the crisis was South Korea, because at the onset it was the most rapidly growing country in the region and the eleventh biggest economy in the world, yet after the crisis hit, South Korea lost its credibility as it became known that its banks lacked "commercial orientation" and had made too many risky loans.²⁵⁵

At the center of some of the criticism before the crisis was the IMF, whose inappropriate advice "led to overly tight macroeconomic policies and badly designed and badly handled restructuring programs."²⁵⁶ Besides persuading Thailand into devaluation, the IMF

<http://www.cis.org.au/POLICY/Spr99/polspr99-1.htm> (last visited Oct. 21, 2013) (explaining that most East Asian banks did not adopt the proper accountability and transparency measures necessary to police loaning practices, thus a high proportion of those loans were non-performing).

252. *Id.* at 8-9 (explaining that falling property prices and rising shares of nonperforming bank loans were a consequence of the ASEAN-4 economies being vulnerable to the shifts in credit and cyclical conditions). In an effort to minimize borrowing costs, too much of those countries' borrowing consisted of short maturities and/or foreign currency; an ultimately risky strategy as it contributed to currency mismatches. *Id.*; see *Overview, the Association of Southeast Asian Nations*, ASEAN, available at <http://www.asean.org/asean/about-asean/overview> (last visited Oct. 21, 2013) (providing an overview of ASEAN).

253. Coclanis & Doshi, *supra* note 246, at 59 (describing these events as the "Asian flu" or "bahtulism"); see Jomo K.S., *supra* note 247, at 12 (discussing how the Republic of Korea's currency, the won, collapsed, and as a result, the Hong Kong dollar was directly attacked).

254. Coclanis & Doshi, *supra* note 246, at 59; see Jomo K.S., *supra* note 247, at 12.

255. John W. Head, *Global Implications of the Asian Financial Crisis: Banking, Economic Integration, and Crisis Management in the New Century*, 25 WM. MITCHELL L. REV. 939, 945-46 (1999) (explaining how South Korea's financial difficulties basically forced it to accept an IMF bailout package in December 1997). At the time, South Korea's twenty-one billion dollar IMF loan was the largest the IMF ever made. *Id.*

256. SACHS & WOO, *supra* note 246, at 14; see Hughes, *supra* note 251 (criticizing the

was alleged to have pressured Indonesia to devalue the rupiah, which also led to devaluation in the Philippines and South Korea, and the needless “debasing” of the Taiwan dollar.²⁵⁷ The World Bank was not immune from criticism either, as just four years prior to the crisis it argued that Indonesia, Thailand, and Malaysia were the preferred models of economies for other developing countries to emulate.²⁵⁸ Both the IMF and World Bank encouraged Asian countries to adopt a strategy known as “fast-track capitalism” which ended up putting countries in high-yield, yet high-risk sectors; this ultimately led to the crisis.²⁵⁹

After the crisis broke, the IMF attempted to come to the countries’ rescue by instituting “programmes and conditionalities, as well as policies favored by the international . . . financial communities and others affected.”²⁶⁰ Its three-point strategy was aimed toward financing, macroeconomic policy, and structural reform within Indonesia, South Korea, and Thailand.²⁶¹ The IMF’s programs “urged bank closures,

IMF for funding countries that had balance of payment difficulties). This led to a moral hazard where private lenders and developing country borrowers relied upon the IMF for perpetual credit. *Id.* The author goes on to criticize the World Bank for giving loans to countries “that had no intention of following prudent economic policies.” *Id.*

257. Editorial, *The IMF Crisis*, WALL ST. J., Apr. 15, 1998, at A22 (describing the IMF’s mishandling of Asia’s economy). “The IMF tripped this crisis by urging the Thais to devalue, then, promoted contagion by urging everyone else to do likewise.” *Id.*

258. Jomo, *supra* note 247, at 1–2 (explaining The East Asian Miracle study conducted by the World Bank in 1993 that the World Bank sought to distance itself from). The study concluded, in contrast to the majority of case-studies such as those in Latin America and Africa, that structural adjustment programs were working in East Asia. *Id.*

259. Jomo, *supra* note 247, at 23–24; see John W. Head, *Lessons from the Asian Financial Crisis: The Role of the IMF and the United States*, 7 KAN. J.L. & PUB. POL’Y 70, 71–74 (1998) (detailing the IMF’s bailout package broken down by country and dollar amounts); PETER G. ZHANG, IMF AND THE ASIAN FINANCIAL CRISIS 73–74, 78 (World Scientific Publ’g Co. Pte. Ltd.) (1998) (explaining, for example, how at the peak of the crisis, the IMF loaned South Korea fifty-eight billion dollars on December 4, 1997). The IMF’s immediate response was to help Korea, Indonesia, and Thailand design programs of structural economic reforms to win investors’ confidence. *Id.* The loans did not curb the financial crisis, because, for example, the South Korean won ended up falling to 1,745 wons for every U.S. dollar on January 23, 1998. *Id.*

260. *Recovery from the Asian Crisis and the Role of the IMF*, INT’L MONETARY FUND (June 2000), available at <http://www.imf.org/external/np/exr/ib/2000/062300.htm#III> (last visited Oct. 21, 2013) (listing the three components of the IMF’s Asian crisis rescue plan). Although the IMF initially put in thirty-five billion dollars of support for Indonesia, Korea, and Thailand to be distributed equally, eventually, Indonesia got more money, in 1998 and 1999. *Id.* The macroeconomic policies affected were monetary and fiscal policies. *Id.* Money was tightened to stop the collapse of each country’s exchange rate and, especially in Thailand, fiscal policy was tightened to diminish deficit increases. *Id.* Finally, structural reforms were taken to address corporate and financial sector weaknesses. *Id.*

261. Jomo, *supra* note 247, at 23–24.

government spending cuts and higher interest rates in the wake of the crisis.²⁶² In the end, the IMF's aid failed as the programs it instituted were contradictory in consequence and exacerbated the impact of the crisis in countless aspects.²⁶³

In a review of its handling of the Asian Crisis of 1997 to 1998, the IMF recognized that it needed to improve the infrastructure of the international financial system.²⁶⁴ The IMF Managing Director, Dominique Strauss-Kahn, echoed this realization by stating "the Fund has advocated fiscal stimulus to restore global growth; . . . [t]here is now a broad consensus on this."²⁶⁵ The lessons of the Asian Crisis have not manifested themselves within the framework of the policy advice that has been directed toward countries battling the current economic

262. *Id.*; see Editorial, *Dousing the IMF Fires*, WALL ST. J., Oct. 8, 1998, at A18. "Before you pour liquid on a raging fire. . .make sure it doesn't smell like gasoline . . . the IMF doesn't look like much of a fireman." *Id.* In March 1997, IMF Managing Director Michel Camdessus encouraged Thailand to devalue its currency, but as the Asian crisis proves, this was a huge mistake. *Id.* Then, the IMF gave eighteen billion to Thailand, forty-three billion to Indonesia, and fifty-seven billion to South Korea. *Id.* Those loans, coupled with loans to Russia and Brazil, totaled \$171 billion from the beginning of the Asian Crisis through 1998 as the crisis continued. *Id.* In 1997, Camdessus predicted that the crisis would not be prolonged. Editorial, *supra* note 257. His prediction looked foolish for the IMF to have stood behind at the time. *Id.*; but see *Letters to the Editor: A Gross Distortion of IMF's Policies*, WALL ST. J., May 29, 1998, at A15 (discussing IMF External Relations Department Director Shailendra Anjaria's contention that the IMF did not force Thailand to devalue its currency).

263. *The IMF's Response to the Asian Crisis*, INT'L MONETARY FUND, available at <http://www.imf.org/External/np/exr/facts/asia.htm> (last visited Oct. 21, 2013) (explaining the six major areas where the IMF should be strengthened: (1) more effective surveillance over countries' economic practices and policies; (2) financial sector reform; (3) ensuring orderly and properly sequenced integration of international financial markets; (4) promoting regional surveillance; (5) promoting good governance and fighting corruption; and (6) more effective structures for orderly debt workouts).

264. Neil Watkins, *The London G-20 Summit: The Global New Deal We Need*, JUBILEE USA NETWORK at 3 (Mar. 3, 2009), available at [http://www.jubileeusa.org/fileadmin/user_upload/Resources/G20/Briefing_note_G20_Lond on_Summit.pdf](http://www.jubileeusa.org/fileadmin/user_upload/Resources/G20/Briefing_note_G20_Lond_on_Summit.pdf) (last visited on Oct. 22, 2013) (quoting Managing Director of the IMF, Dominique Strauss-Kahn).

265. See *id.* at 4 (discussing the recent history of the IMF in its loans to Serbia, El Salvador, Latvia, and Hungary). Serbia was told that anything less than a tight fiscal stance would jeopardize the credibility of the program in the eyes of foreign investors and the Serbian public. *Id.* A loan to El Salvador in January of 2009 advocated the attainment of economic growth through the administering of tax increases and diminishing gas and transport subsidies. *Id.* In funding a December 2008 loan to Latvia, the lending was contingent upon reduction in many government related expenditures as well as the incorporation of a value added tax. *Id.* The implementing of stringent fiscal deficit and inflation targets were also a critical component of the loan to Hungary in November 2008. Watkins, *supra* note 264, at 4. The IMF's policies toward developing countries differ from its policies toward developed countries. *Id.*

crisis.²⁶⁶ The nature of the conditions attached to the loans symbolizes the unresponsiveness and systematic inability of the IMF to avoid the historic cyclical pattern of providing loans to those without the sufficient financial and economic systems set in place to provide for timely repayment, the cost of which has been nothing less than a country's sovereignty.²⁶⁷

IV. OTHER CHALLENGES TO THE BWIS

A. Challenge of the Monterrey Consensus

In 2002, the BWIs conjured a recipe of false hope through their participation in and subsequent lack of commitment to the Monterrey Consensus ("Consensus").²⁶⁸ Prior to the Consensus, the World Bank was criticized because many of its low-interest loans went to corrupt governments who were not held responsible when no accounting could be given for the money.²⁶⁹ The IMF was criticized for its expensive rescue operations, and for giving too little attention to improving financial structures in developing countries.²⁷⁰

266. See PAUL BLUSTEIN, *THE CHASTENING: INSIDE THE CRISIS THAT ROCKED THE GLOBAL FINANCIAL SYSTEM AND HUMBLING THE IMF* 382 (Pub.Affairs) (2003) (suggesting that instead of attaching conditions, loans should only go to countries that pre-qualify by adhering to certain banking standards); see also *infra* Part IV.

267. See STIGLITZ, *supra* note 1, at 84 (proposing countercyclical lending to countries in distress in order to stabilize the suffering economies); see *id.* (stating how lending at higher rates in a cyclical manner will infringe upon the economic recovery of the nation). The policies pushed by the international financial institutions are now seen as having contributed to the lack in confidence in these institutions and the loan conditionalities they imposed. See *id.* at 110.

268. Editorial, *Forging the Monterrey Consensus*, N.Y. TIMES, Mar. 24, 2002, § 4 at 14 (explaining criticisms aimed at the World Bank and other international development bodies because the aid doled out by those institutions to countries made no great progress in those countries at eliminating poverty) [hereinafter *Forging the Monterrey Consensus*]; see Susanne Soederberg, *Recasting Neoliberal Dominance in the Global South? A Critique of the Monterrey Consensus*, ALTERNATIVES: GLOBAL, LOCAL, POL., Vol. 30, No. 3, 325 (July-Sept. 2005) (explaining how the World Bank found a seventy-three percent failure rate in Africa); see also *supra* (explaining the Monterrey Consensus conference). The Monterrey Consensus set a priority for combating corruption at all levels, reaffirmed at the Doha Conference. See *Draft Outcome Document on the Follow-up International Conference on Financing for Development to Review the Implementation of the Monterrey Consensus, Submitted by the President of the General Assembly in Accordance with General Assembly Resolution 62/187: Doha Outcome Document on Reviewing the Implementation of the Monterrey Consensus*, UNITED NATIONS (Jul. 28, 2008), available at http://www.un.org/esa/ffd/doha/draftoutcome/DraftOutcomeDoc_English.pdf (last visited Oct. 21, 2013)[hereinafter *General Assembly Resolution 62/187*].

269. *Forging the Monterrey Consensus*, *supra* note 268.

270. See General Assembly Resolution 55/2, Monterrey Consensus (Mar. 22, 2002),

The Consensus sought to establish a common ground for developed and developing countries to converge in an effort to stabilize and grow the global economy in pursuit of the MDG's development objectives.²⁷¹ The atmosphere leading into Monterrey was built upon several factors: the 1997 economic crisis in South East Asia,²⁷² international financial institutions ("IFIs") were not acting as neutral and independent public authorities; the Consensus' precursor, the Washington Consensus,²⁷³ was "not solely political in nature, but had its roots in the changing nature of the world economy;"²⁷⁴ and "growing

reprinted in *Financing for Development: Building on Monterrey*, UNITED NATIONS 9 (2002), available at <http://www.un.org/esa/ffd/documents/Building%20on%20Monterrey.pdf> (last visited Oct. 21, 2013) [hereinafter *Building on Monterrey*]. As a result, the IMF attempted reorganization in its fight against poverty with lowering demands for loan approval. *Id.*; see M.L. NARASIAH, MICROCREDIT AND RURAL POVERTY 103-04 (Discovery Publ'g House) (2006) (explaining that structural-adjustment programs were replaced by Poverty-Reduction Strategy Papers).

271. The Consensus contains six thematic "chapters" for action, including one devoted to external-debt-relief. See *Building on Monterrey*, *supra* note 270, at VII-X.

272. See *id.*; Akila Weerapana, *Lecture 23: The IMF and Its Critics, Spring 2003 & 2004*, WELLESLEY, available at <http://www.wellesley.edu/Economics/wcerapana/econ213/econ213pdf/lect213-23.pdf> (last visited Oct. 21, 2013). Following the East Asia crisis, the IMF imposed conditions on the Indonesian government to get fiscal spending under control. *Id.* Rather than using financial aid to put an end to widespread corruption, the Indonesian government was forced to remove food and fuel subsidies, a blow to the poor in Jakarta. *Id.* The IMF was further criticized for allowing devaluation to occur, stating this was the catalyst to the crisis. *Id.* The IMF should be helping countries defend their currencies, rather than devaluing them. *Id.* The IMF required high interest rates in exchange for bailouts. Weerapana, *supra*; see Paul Blustein, *World Bank Turns Up Criticism of the IMF*, WASH. POST (Dec. 3, 1998), available at <http://www.globalpolicy.org/component/content/article/209/43528.html> (last visited on Oct. 21, 2013). Although the institutions usually work in tandem, the World Bank lending for long-term and the IMF short-term relief, this rift marked a growing separation between Europe and the United States of America. See *General Assembly Resolution 62/18*, *supra* note 268.

273. Soederberg, *supra* note 268 (explaining the Washington Consensus as the neo-liberalistic policy of the IFIs, such as the IMF and World Bank, that believed political and social problems should not be solved through state intervention and instead through market-based mechanisms).

274. See Soederberg, *supra* note 268 (discussing three caveats leading to the Monterrey consensus). The heavily skewed IMF voting power and United States dominance within the World Bank's standby capital were examples of how IFIs are not natural and independent authorities. *Id.* The roots of the Washington consensus being in the changing nature of the economy meant that policies were created as a reaction to the crisis of overproduction and thus there was a growing dependence of corporations, governments, and consumers on debt financing. *Id.* Finally, the policies of the Bush administration led to overproduction because performance-based grants were intrinsically tied to the efforts to maintain U.S. competitiveness and dominant position in the world economy. *Id.* Thus, tax cuts and government spending, coupled with a fear of public

protectionism, unilateralism, and fiscal overrun pursued by the Bush administration” created a crisis of overproduction, which was not simply a reaction to the events of September 11, 2001.²⁷⁵

Preparation for the Consensus spanned four years of “patient consensus-building work.”²⁷⁶ By the end of the fourth preparatory meeting for the Monterrey Conference, all participants endorsed the Monterrey Consensus.²⁷⁷ The Zedillo report,²⁷⁸ prepared by a panel of

backlash by policymakers wary of criticizing the administration’s budget, led to a rise in debt levels. *Id.*

275. *Calls Heard for Increased Aid to Reduce Poverty at Monterrey Conference on Development Financing*, UNITED NATIONS, Mar. 21, 2002, available at <http://www.un.org/ffd/pressrel/21c.htm> (last visited Oct. 30, 2013) (explaining how September 11 tore down the invisible wall dividing rich and poor worldwide) [hereinafter *Calls Heard for Aid*]. The Monterrey Conference should serve to rebuild confidence lost in the international economy and system as a result of 9/11/01 events. *See id.*; *Group of 77 Plays Key Role in Monterrey Consensus on FFD*, G77, available at <http://www.g77.org/news/monterrey.htm> (last visited Oct. 30, 2013) [hereinafter *Group of 77*]. “Greater confidence should lead to higher investments and stronger recovery as well as concrete measures in international trade and better prices for primary commodities.” *Group of 77, supra*. Since then, re-development in the world’s poorest societies as taken on a sense of urgency because “although not a direct cause of terrorism, ‘poverty breeds frustration and resentment . . . particularly in those countries in which poverty is coupled with a lack of political rights and basic freedoms.’” *Calls Heard for Aid, supra* note 276; *see* Lan Cao, *Cultural Change*, 47 VA. J. INT’L L. 357, 363 (2007) (citing Colin Powell, *No Country Left Behind*, FOREIGN POL’Y Jan.-Feb. 2005, at 30); *see also* Soederberg, *supra* note 268 (discussing three caveats leading to the Monterrey consensus). The heavily skewed IMF voting power and United States dominance within the World Bank’s standby capital were examples of how IFIs are not natural and independent authorities. *Calls Heard for Aid, supra*. The roots of the Washington consensus being in the changing nature of the economy meant that policies were created as a reaction to the crisis of overproduction and thus there was a growing dependence of corporations, governments, and consumers on debt financing. *Id.* Finally, the policies of the Bush administration led to overproduction because performance-based grants were intrinsically tied to the efforts to maintain U.S. competitiveness and dominant position in the world economy. *Id.* Thus, tax cuts and government spending, coupled with a fear of public backlash by policymakers wary of criticizing the administration’s budget, led to a rise in debt levels. *Id.*

276. Building on Monterrey, *supra* note 270, at vii. The Paris Club has since become a highly-popular bilateral institution supplying multiple avenues of debt relief to many low-income developing countries. *See* Club de Paris, available at <http://www.clubdeparis.org/en/> (last visited Oct. 30, 2013). Under most administrations, a common thread has been the identification and focus on enhancing long-term development goals. *See* JOHN R. ERIKSSON, TOWARD COUNTRY-LED DEVELOPMENT: A MULTI-PARTNER EVALUATION OF THE COMPREHENSIVE DEVELOPMENT FRAMEWORK 25 (2003). Nations were encouraged to lead a strong commitment and ownership of national strategies. *Id.*

277. *See* Ernesto Zedillo, Report of the High-Level Panel on Financing for Development, U.N., available at <http://www.un.org/esa/ffd/a55-1000.pdf> (last visited Oct. 30, 2013) [hereinafter “Zedillo Report”]. The MDGs can only be reached if developed countries increased aid by \$50 dollars per year. *Id.*

278. Barbara Crossette, *No Headline*, N.Y. TIMES, July 1, 2001 at 6 (discussing the

the world's leading financial and development experts,²⁷⁹ was reviewed by the preparatory committee and indicated that restructuring the international financial architecture was a crucial issue in attaining the MDGs.²⁸⁰

External-debt relief, in addition to other goals and challenges of financing for development, was not a novel idea to the heads of State and Government at the international conference²⁸¹ in Monterrey, Mexico.²⁸² External debt damaged countries by consuming resources that could be used for public services and poverty eradication.²⁸³ Thus, the focal point of the development committee's meeting at Monterrey was ensuring commitment to lifting more people from poverty and allowing them to reap benefits associated with globalization and economic development.²⁸⁴ The challenging plan set forth by the BWIs

recommendations put forth in the Zedillo report as setting an objective of free trade to take place between industrial and developing countries, as it already had between industrial countries). See Zedillo Report, available at <http://www.un.org/esa/ffd/a55-1000.pdf> (last visited Oct. 30, 2013) (describing the key issues in the Zedillo Report, which include mobilizing domestic financial resources, foreign investment, trade, official development assistant (ODA), external debt and the international financial architecture); see also World Bank and IMF Roles Debated at Development Finance Summit, available at <http://www.brettonwoodsproject.org/art-16170> (last visited Oct. 30, 2013) [hereinafter Roles Debated].

279. Roles Debated, *supra* note 278.

280. See *Development Finance Summit a Fiasco: Say Campaigners*, BRETTON WOODS PROJECT (Mar. 25, 2002), available at <http://www.brettonwoodsproject.org/art-16172> (last visited Oct. 30, 2013) [hereinafter Development Finance Summit].

281. The summit marked the culmination of four years of "patient consensus-building work." See Soren Ambrose, *Social Movements and the Politics of Debt Cancellation*, ALLBUSINESS, available at <http://www.allbusiness.com/accounting/debu/883639-1.html> (last visited Oct. 26, 2013).

282. BUILDING ON MONTERREY, *supra* note 270, at vii (explaining that the heads of State and Government met March 18–22, 2002 in Monterrey, Mexico to discuss and finalize implementation of the Consensus).

283. BUILDING ON MONTERREY, *supra* note 270, at 25. "We must do our utmost to ensure that people at the local level understand this process, are engaged, and have the means to take advantage of its opportunities." *Id.* Criticism at the NGO Global forum stated "Monterrey . . . is an example of the negative impacts of globalization on people, particularly the high social costs of production of the large-scale enterprises." *Id.* at 307. Rather than focusing on privatization and neo-liberal tactics, which incur substantial micro-economic harms, the focus should be on developing world-wide economy based on human rights and environmental protections. See *id.*

284. See Trevor Manuel, Remarks at the International Conference on Financing for Development (Mar. 18, 2002), <http://www.un.org/ffd/statements/cdcE.htm> (last visited Oct. 12, 2013); see also *Inclusive Globalization*, United Nations Development Program on Poverty Reduction, available at <http://www.undp.org/poverty/inclglob.htm> (last visited Oct. 12, 2013) [hereinafter *Inclusive Globalization*]. Chairman Manuel noted that although the consensus for cooperation between developed and developing countries were strong, so was

involved commandeering globalization to advance the goal of poverty reduction.²⁸⁵ Chairman Trevor Manuel stated that “[r]eform of international financial governance is critical to ensuring developing countries benefit from globalization through participation.”²⁸⁶ Challenges in achieving debt-relief changed institution objectives from “achieving a permanent exit from debt rescheduling . . . to removing the debt overhang within a reasonable time and providing a base from which to achieve debt sustainability.”²⁸⁷

Since halving poverty was the cornerstone of the MDGs,²⁸⁸ the primary focus in formulating the Consensus was to address the commonly occurring “shortfalls in resources required to achieve the internationally agreed development goals, including those contained in the United Nations Millennium Declaration (the “Declaration”).”²⁸⁹ At the conference, the “performance-driven aid”²⁹⁰ initiative was heavily supported through the two-tiered lending structure of the Highly

the risk of failing to implement the Consensus. *Id.* The BWIs envision globalization as the solution to poverty, and their neo-liberal practices as its antidote. *See* Joseph Yu, *Has Globalization eased global poverty?*, CHOIKE.ORG, Aug. 2005, http://www.choike.org/nuevo_eng/informes/3316.html. The BWIs claim ineffective integration of low-income countries rather than globalization has caused the onslaught of global poverty. *See id.* “Although globalization brought overall net benefits and was also contributing to poverty reduction, its growth effects were unequally distributed, and so far it had contributed little to greater gender equality. As a result, progress towards the Millennium Development Goals differed considerably across regions and countries.” *Id.*; *see* United Nations Conference on Trade and Development, Accra, Ghana, Apr. 20–24, 2008, *Globalization, Development, and Poverty Reduction— Their Social and Gender Dimensions*, U.N. Doc. TD/L.405, available at http://unctad.org/en/Docs/tdl405_en.pdf.

285. Remarks at the International Conference on Financing for Development, *supra* note 284; *see also* *Inclusive Globalization*, *supra* note 284; *Poverty Reduction*, UNITED NATIONS DEVELOPMENT PROGRAMME, <http://www.undp.org/poverty/incglob.htm> (last visited Oct. 27, 2013).

286. *Id.* *See* A. GESKE DIJKSTRA, *THE IMPACT OF INTERNATIONAL DEBT RELIEF* 107 (2007).

287. Calls Heard for Aid, *supra* note 275.

288. *Monterrey Consensus of the International Conference on Financing for Development*, UNITED NATIONS (2002), available at <http://www.un.org/esa/ffd/monterrey/MonterreyConsensus.pdf> (last visited Oct. 30, 2013) [hereinafter *International Conference on Financing and Development*].

289. Sophie Smith & Anna Triponel, *Development Goals and Indicators: Education as a Lynchpin for Development: Legal and Policy Considerations in the Formation of Education for All – Fast Track Catalytic Trust Fund*, 6 SUSTAINABLE DEV. L. & POL’Y 8, 8 (2005) (“international development aid should follow and support clear evidence of commitment to reform and improvement on the part of the recipient country”).

290. *See Debt Relief Under the Heavily Indebted Poor Countries (HIPC) Initiative*, INT’L MONETARY FUND, available at <http://www.imf.org/external/np/exr/facts/hipc.htm> (last visited Oct. 26, 2013); *see also* *The Heavily Indebted Poor Countries Initiative*, THE WORLD BANK, available at <http://go.worldbank.org/XLE8KKLEX0> (last visited Oct. 26, 2013).

Indebted Poor Countries Initiative (the "HIPC").²⁹¹ The Consensus also called for international financial institutions and bilateral agencies to "scale-up."²⁹² The main emphasis was "broadening and strengthening the role of developing countries in international economic decision-making and norm setting."²⁹³

Crucial to this objective was a financial structure and system that could be beneficial, purposeful, and feasible in facilitating the stated 21st century values.²⁹⁴ The Consensus sought the formulation of a "new partnership between developed and developing countries,"²⁹⁵ fueled by the fundamental values expressed in the Declaration.²⁹⁶ It promoted the values of freedom, equality, solidarity, tolerance, respect for nature, and shared responsibility²⁹⁷ as essential for survival in the 21st century international arena.

"Sustainable debt financing is an important element for mobilizing resources for public and private investment."²⁹⁸ The Consensus promoted the idea of accountability, stating "[d]ebtor and creditor countries should be mutually responsible for preventing and resolving un-sustainable debt situations."²⁹⁹ The BWIs' critical role, in addition to facilitating lending venues, was to provide "technical assistance for external debt management and debt tracking."³⁰⁰

Several opinions regarding the facilitation of worldwide debt

291. *Id.*

292. BUILDING ON MONTERREY, *supra* note 270, at 3.

293. See United Nations Millennium Declaration, G.A. Res. 55/2, U.N. GAOR, 55th Sess., Supp. No. 49, at 4, U.N. Doc. A/55/49 (2000), available at <http://www.un.org/millennium/declaration/ares552e.htm> [hereinafter Millennium Declaration]. Development and poverty eradication "depends on good governance at the international level and on transparency in the financial, monetary and trading systems." *Id.* "We are committed to an open, equitable, rule-based, predictable and non-discriminatory multilateral trading and financial system." *Id.*

294. *International Conference on Financing and Development*, *supra* note 288.

295. Millennium Declaration, *supra* note 293. The declaration was a re-affirmation of the original charter of the United Nations. See *id.* In addition to the original principles of human dignity, equality, and equity, the Millennium Declaration sought to expand their perspective to ascertain the needs of a developing global economy. See *id.*

296. See Millennium Declaration, *supra* note 293. Responsibility for managing worldwide economic and social development, as well as threats to international peace and security, must be shared among the nations of the world and should be exercised multilaterally. *Id.* As the most universal and most representative organization in the world, the United Nations must play the central role. *Id.*

297. See BUILDING ON MONTERREY, *supra* note 270, at 4.

298. *Id.* at 9.

299. *Id.* at 219.

300. Calls Heard for Aid, *supra* note 275.

reduction were presented at the Consensus.³⁰¹ The developed nations and developing countries held differing views on how debt should be reduced. Norway's Prime Minister Kjell Magne Bondevik informed delegates that the Norwegian government planned to increase official development assistance from .92% to 1% of GDP by 2005, advance policy coherence, and forgive all debts to countries under the HIPC.³⁰² Most donor countries only provided 0.22% of GDP, with only five countries reaching the 0.70% target.³⁰³ Former U.S. President George W. Bush proposed, "development resources should be distributed fifty percent for grants and fifty percent for loans."³⁰⁴ The approach to cancellation of debts expressed by NGOs attending the conference was heavily ignored.³⁰⁵

Developing countries held strong views about how poverty reduction should have been accomplished.³⁰⁶ Small island nations

301. *See id.*

302. *See id.* By the rate at which it was improving at the time of the conference, the ODA would only reach 0.7% in 2032. *See id.* The European Union was only contributing 0.27%, pledging to increase its contribution to 0.33% at the EU Barcelona Summit. *See id.*; *see Small Steps Towards More Development Aid: Financing for Development Conference Finishes in Monterrey*, OUTREACH 2002 (Mar. 25, 2002), available at www.earthsummit2002.org/es/newsletter/Issue%2020.rtf.

303. *See Calls Heard for Aid*, *supra* note 275. Proposed increase in development assistance by the United States was projected to reach "a \$5 Billion annual increase over current levels." *Id.* *see BUILDING ON MONTERREY*, *supra* note 270, at 113; *see also* Stephen Marks, *U.S. Foreign Policy and Human Rights: The Human Right to Development: Between Rhetoric and Reality*, 17 HARV. HUM. RTS. J. 137, 156-57 (2004) (discussing Bush's speech at Monterrey). Bush said that developed nations had duties to share wealth and encourage sources that produce wealth such as economic freedom, human rights, rule of law, and political liberty. *Id.*

304. *See BUILDING ON MONTERREY*, *supra* note 270, at 308. "[A] fair and transparent process of arbitration" should be used to cancel "external debt of countries of the south." *Id.* "All forms of conditionality should be eliminated, such as tied aid, and food aid, which undermines the productive capacity, and food security of countries." *Id.*

305. *See World Economic Outlook: Database – WEO Groups and Aggregates Information*, INT'L MONETARY FUND (Oct. 2009), available at <http://www.imf.org/external/pubs/ft/weo/2009/02/weodata/groups.htm#oem> (listing emerging and developing economies as well as advanced economies) (last visited Oct. 15, 2013).

306. Gaston Browne, Minister of Planning Implementation and Pub. Serv. Affairs of Ant. & Barb., Statement at the International Conference on Finance for Development, (Mar. 22, 2002), available at <http://www.un.org/ffd/statements/aabE.htm> (explaining how developing countries wanted to make sure the Consensus would catapult developed countries into action instead of being just another "talk shop") (last visited Oct. 15, 2013); *see* Eduardo Duhalde, President of the Arg., Statement at International Conference on Financing for Development (Mar. 21, 2002), available at <http://www.un.org/ffd/statements/argentinaE.htm> (stating: "the gap between many emerging economies and developed countries has not been reduced[,] and [o]n the contrary, it seems

pushed for the international community to expand the HIPC.³⁰⁷ African developing countries stressed that since most of their economies were based on exporting, the deterioration of trade had a negative impact on the balance of payments and thus, economic growth.³⁰⁸ Donald Kaberuka, Rwanda's Minister for Financing and Economic Planning, stressed that aid alone would not eliminate poverty and that there should be greater integration of poor countries into world-wide trade and investment.³⁰⁹

To achieve the development objectives, including the MDGs, the U.N. members and the representatives from the BWIs addressed six areas of financing for development that ultimately would become known as the Monterrey Consensus: (1) the mobilization of domestic financial resources for development,³¹⁰ (2) the mobilization of international resources for development through foreign direct

deeper day by day") (last visited Oct. 15, 2013).

307. WORLD BANK, WORLD DEVELOPMENT INDICATORS 2007, 11, 13 (2007) (explaining that small island developing nations have special needs due to their particularly difficult geographic constraints, such as a small tax base, lack of natural resources, lack of access to ODA, substantially reduced foreign direct investment flows, and a lack of access to capital markets; several of these needs were addressed through the Programme of Action for the Sustainable Development of Small Island Developing States and the 22nd special session of the General Assembly).

308. Calls Heard for Aid, *supra* note 275 (discussing how creating sound environments, frameworks for investment, structural and government reforms, and transparency are all primary responsibilities of developing countries and aid should be secondary).

309. Altai Efendiev, Chairman of the Delegation of the Republic of Azerbaijan, Statement to the International Conference on Financing for Development at Monterrey, Mexico (Mar. 21, 2002), available at <http://www.un.org/ffd/statements/azerbaijanE.htm>.

Handling and managing the expected massive inflows of resources in a most efficient way, transform potentially high growth into sustainable development is one of the major challenges. . . building up adequate institutional infrastructure, enhancing institutional capacities, introducing good-governance practices, pursuing radical structural and administrative reforms, implementing poverty reduction strategy, SME and non-oil sector development are . . . the areas where the international assistance and expertise is most needed.

Id.

310. See BUILDING ON MONTERREY, *supra* note 270, at 4. "In our common pursuit of growth, poverty eradication and sustainable development, a critical challenge is to ensure the necessary internal conditions for mobilizing domestic savings, both public and private, sustaining adequate levels of productive investment and increasing human capacity." *Id.* "An enabling domestic environment is vital for mobilizing domestic resources, increasing productivity, reducing capital flight, encouraging the private sector, and attracting and making effective use of international investment and assistance." *Id.* "We recognize the need to strengthen and develop the domestic financial sector, by encouraging the orderly development of capital markets . . . addressing development financing needs, including the insurance sector and debt and equity markets." *Id.*

investment and other private flows;³¹¹ (3) international trade as an engine for development;³¹² (4) increasing international financial and technical cooperation for development;³¹³ (5) external debt;³¹⁴ and (6) addressing systemic issues, including enhancement of the coherence and consistency of the international monetary, financial, and trading systems in support of development.³¹⁵ The ability of the BWIs to contribute in

311. See BUILDING ON MONTERREY, *supra* note 270, at 5. “We will support new public/private sector financing mechanisms, both debt and equity for developing countries and countries with economies in transition.” *Id.* at 6. See Abdel H. Bouab, Comment, *Financing for Development, the Monterrey Consensus: Achievements and Prospects*, 26 MICH. J. INT’L L. 359, 361 (2004). “Both domestic and international conditions are necessary to facilitate direct investment flows to Least Developed Countries (‘LDCs’).” *Id.*; see U.S.A. Gov’t Submission, Review of the Monterrey Consensus on Financing for Development Feb. 15, 2008 Review Session on Mobilizing International Resources for Development: Foreign Direct Investment and Other Private Flows, available at http://www.un.org/esa/ffd/doha/chapter2/USA_submission.pdf (last visited Oct. 12, 2013) (stating each country is primarily responsible for maintaining its own economic environment and international institution support should be considered secondary). Although the benefits of foreign direct investment include “increase in employment, technological spill-overs, higher public revenue, and a positive impact on growth . . . such benefits may be off-set by negative long-term balance-of-payments effects.” *Id.*; see David Woodward, *Foreign Direct Investment for Development?*, G-24,1, <http://www.g24.org/PolicyBriefs/pbno23.pdf> (last visited Oct. 12, 2013). “A clear distinction needs to be made between maximizing FDI flows and maximizing their contribution to development” in order to make effective use of funds. *Id.* at 2.

312. See BUILDING ON MONTERREY, *supra* note 270, at 6. Trade is the single most important external source of development financing. See *id.* “We urge international financial institutions, including regional development banks, to continue to support projects that promote sub-regional and regional integration among developing countries and countries with economies in transition. . . we invite multilateral and bilateral financial and development institutions to expand and coordinate their efforts.” *Id.* at 7; see Bouab, *supra* note 311, at 362.

313. See BUILDING ON MONTERREY, *supra* note 270, at 8. “We recognize that a substantial increase in ODA and other resources will be required if developing countries are to achieve the internationally agreed development goals and objectives, including those contained in the Millennium Declaration.” *Id.* “There is a need for the multilateral . . . development institutions to intensify efforts to . . . enhance the absorptive capacity and financial management of the recipient countries . . . [and] enhance recipient countries’ input into and ownership of the design, including procurement, of technical assistance programs.” *Id.*; see Bouab, *supra* note 311, at 363.

314. See BUILDING ON MONTERREY, *supra* note 270, at 9. “External debt relief can play a key role in liberating resources that can then be directed towards activities consistent with attaining sustainable growth and development.” *Id.*

315. *Id.* at 10; see Bouab, *supra* note 311, at 365; UNITED NATIONS ECON. AND SOC. COUNCIL, ECON. AND SOC. COMM’N FOR ASIA AND THE PAC., *Date, Venue and Theme Topic for the Sixty-First Session of the Commission*, available at <http://www.unescap.org/60/E/E1327e.pdf> (last visited Oct. 10, 2013). Commentators have suggested these six themes can actually be merged into four: (a) bringing about a substantial increase in the volume and effectiveness of foreign resource flows (private, bilateral, and

these areas, and particularly the sixth one which touches precisely on economic governance, was crucial to their viability.³¹⁶

With public skepticism looming,³¹⁷ early criticisms regarding Monterrey were that it did not call for independent external evaluations of the performance of either the World Bank or the IMF,³¹⁸ and few initiatives were substantially generated to achieve the MDGs.³¹⁹ Furthermore, insufficient attention was given to reforming the international financial institutions regarding composition and decision-making process of the executive boards in dealing with debt relief.³²⁰ In

multilateral) in support of development, with a clear focus on poverty eradication; (b) setting up a fair, transparent, and ethical procedure and institutional framework for resolving external debt problems; (c) improving global economic governance to make it more participatory and accountable to a broader community of nations; and (d) creating an international trading environment that is more supportive of growth, in general, and the development of the poor, in particular. *Id.*; see Innamul Haque & Ruxandra Burdeseuc, *Monterrey Consensus on Financing for Development: Response Sought from International Economic Law*, 27 B.C. INT'L COMP. L. REV. 219, 243-44 (2004).

316. See Latin American and Caribbean Economic System (SELA), THE MONTERREY CONSENSUS SIX YEARS LATER AND FINANCING FOR DEVELOPMENT IN LATIN AMERICA AND THE CARIBBEAN 9 (June 20, 2008), available at http://www.sela.org/DB/ricsela/EDOCS/SRed/2008/06/T023600002872-0-Monterrey_Consensus_six_years_later_and_financing_for_development_in_LAC.pdf (last visited Oct. 21, 2013). "A real reform of the Bretton Woods Institutions is necessary . . . [t]he boards of directors of these institutions must be restructured so as to increase the number of seats for least developed countries." *Id.* at 23. Others have stated the UN, rather than the BWIs should take charge in restructuring worldwide finances. *Id.*; see Rbisso, *U.N. Only Legitimate Body to Reform Financial System*, IFIWATCH.NET (Nov. 22, 2008), available at <http://www.ifiwatchnet.org/?q=en/node/26509> (last visited Oct. 21, 2013).

317. See Development Finance Summit, *supra* note 280 (explaining the skepticism as the product of the Monterrey Consensus being drafted in preparatory committees, and not being subject to any further negotiations). Thus, the predetermined nature of the Conference caused many civil society organizations to question their own, what was then, upcoming participation in the Conference. *Id.*

318. *Assessment of the FfD Outcome Paper and Proposed Next Steps*, BRETTON WOODS PROJECT (Mar. 25, 2002), available at <http://www.brettonwoodsproject.org/art-16171> [hereinafter *Assessment of the FfD*]; see Independent Evaluations Office, available at <http://www.ieo-imf.org/ieo/pages/ieohome.aspx> (last visited Oct. 21, 2013) [hereinafter IEO] (discussing the IMF's Independent Evaluation Office ("IEO")). The IEO was established in 2001 "to conduct independent and objective evaluations of Fund policies and activities." *Id.* The IEO is fully independent of IMF management and operates at arm's length from the Executive Directors. *Id.* The IEO's mission is to "[e]nhance the learning culture within the Fund, [s]trengthen the Fund's external credibility, [p]romote greater understanding of the work of the fund, and [s]upport institutional governance and oversight." *Id.*

319. Development Finance Summit, *supra* note 280 (explaining that civil society groups organized Foro Global, ahead of the Conference, to challenge the Monterrey Consensus). The Consensus was chastised for failing to propose any new ways to mobilize finances toward achieving the MDGs. *Id.*

320. *Assessment of the FfD*, *supra* note 318.

response to criticisms, IMF Managing Director, Horst Köhler, proclaimed the underlying stigma of the new plan: "nothing will work without good governance."³²¹ Under the HIPC, the IMF would contribute rehabilitation and stimulus loans once the poor countries took certain measures in evaluating and formulating their domestic policies.³²² Priorities included: trade; a standard of 0.7% GNP for debt assistance; debt relief; and institutional capacity.³²³

With twenty-five years of failed structural adjustment programs for poverty reduction and the inability to assist major countries out of poverty crisis,³²⁴ whether the IMF is truly in a position to command the correct administration of such funds towards developing countries is at issue. However, it is fair to recognize, given the traditional opposition

321. Horst Köhler, Managing Dir., Int'l Monetary Fund, Introductory Remarks at the International Conference on Financing for Development (Mar. 18, 2002), available at <http://www.un.org/ffd/statements/imfE.htm> (last visited Oct. 21, 2013) (stating poor countries should be ready to confront responsibility to their people before the international community can step in to bail them out); Horst Köhler: *Biographical Information*, INT'L MONETARY FUND, available at <http://www.imf.org/external/np/omd/bios/hk.htm> (last visited Oct. 21, 2013). Horst Köhler served as Germany's Deputy Minister of Finance from 1990 to 1993. Horst Köhler: *Biographical Information*, INT'L MONETARY FUND, available at <http://www.imf.org/external/np/omd/bios/hk.htm> (last visited Oct. 21, 2013). During that time, he led negotiations on behalf of the German government on the Maastricht treaty. *Id.* He was President of the German Savings Bank Association from 1993 to 1998, and in September 1998, he was appointed President of the European Bank for Reconstruction and Development. *Id.* From May 2000 to March 2004 Köhler served as the Managing Director of the International Monetary Fund. *Id.*

322. Horst Köhler: *Biographical Information*, INT'L MONETARY FUND, available at <http://www.imf.org/external/np/omd/bios/hk.htm> (last visited Oct. 21, 2013); see Rick Rowden, *A World of Debt: Why "Debt Relief" has Failed to Liberate Poor Countries*, AM. PROSPECT, July 1, 2001, at 29, available at http://www.thirdworldtraveler.com/Reforming_System/World_of_Debt.html (last visited Oct. 22, 2013) (criticizing the HIPC initiative). Although the HIPC framework invites NGOs and civic groups to consult with governments, there are not any clear guidelines as to how a legitimate NGO can be identified. *Id.* Governments in some countries had the ability to handpick who was allowed to participate in the poverty reduction process. *Id.* Legitimate NGOs have called this process a joke. *Id.*

323. Rowden, *supra* note 322. Even the IMF doubted its capacity to provide assistance to poor countries. *Id.* A draft resolution by the economic and financial committee, in a follow-up meeting to the Monterrey Consensus held in 2005, urged for time tables to stage increments for developed countries to achieve 0.7% GDP, reaching 0.5% by 2010. See Press Release, United Nations, Second Comm. Approves Draft Resolution Underlying Need to Improve Commitments of Monterrey Consensus, GA/EF/3141 (Dec. 20, 2005), available at <http://www.unis.unvienna.org/unis/pressrels/2005/gaef3141.html> (last visited Oct. 21, 2013).

324. *IMF Support for Low-Income Countries*, INT'L MONETARY FUND (Sept. 30, 2013), available at <http://www.imf.org/external/np/exr/facts/poor.htm> (last visited Oct. 21, 2013) [hereinafter IMF and Poor Countries].

of industrial countries to discuss international financial and monetary matters in a UN setting, the Monterrey Conference, and the resulting Consensus, constituted an unprecedented blueprint for action that would bring the Bretton Woods agencies, historically dominated just by Finance Ministries, into much closer touch with broader political decision makers.

B. The Challenge of the Heavily Indebted Poor Countries

In response to criticism of their development approach and structural-adjustment policies, the BWIs ended an eleven-year productivity drought with the formation of the HIPC.³²⁵ With its establishment in 1996 and doubling in 1999, the HIPC provides comprehensive debt-relief³²⁶ assistance to countries qualified to receive aid from the International Development Association (the "IDA").³²⁷ To eliminate poverty, the mission was to promote local government spending on public services such as healthcare and education, and for relief to include multi-lateral creditors, such as the IMF and World Bank.³²⁸ Unfortunately, commentators correctly predicted real debt relief provided by the HIPC would be substantially lower than

325. BARBARA P. THOMAS-SLAYTER, *SOUTHERN EXPOSURE: INTERNATIONAL DEVELOPMENT AND THE GLOBAL SOUTH IN THE TWENTY-FIRST CENTURY* (2003) (discussing how the HIPC doubled through the Enhanced HIPC Initiative). For the World Bank's description of the HIPC and links to the HIPC At-A-Glance Guide and Status of Implementation see (HIPC) *The Enhanced Heavily Indebted Poor Countries Initiative*, THE WORLD BANK, available at <http://go.worldbank.org/85B908KVE0> (last visited Oct. 22, 2013).

326. LEONIE F. GUDER, *THE ADMINISTRATION OF DEBT RELIEF BY INTERNATIONAL FINANCIAL INSTITUTIONS: A LEGAL RECONSTRUCTION OF THE HIPC INITIATIVE 2* (2009) (defining debt relief as "a restructuring of debt that contains an element of forgiveness or reduction, thus relieving the overall debt burden of a country"). Although providing relief, as opposed to extending loans, is a drastic turn from concessional lending structures of the past, the HIPC conditions ultimately reveal similar development goals. *Id.* at 28–29. In addition to the World Bank and IMF, there are eighteen lenders affiliated with the HIPC. *See id.* at 48. The debts relieved are "official debts" because they are owed by governments or state-owned enterprises. *Id.* Half of the debt relief will be provided by bilateral funding and the other cancelled by the BWIs. *Id.* at 49.

327. THOMAS-SLAYTER, *supra* note 325, at 175 (discussing that qualification includes an unsustainable debt burden, limited exports, low foreign currency reserves, and other limited resources). Of the qualified countries, eighty percent are in Africa. *Id.*; see also Part IV for regional case studies involving countries which qualify for the HIPC.

328. Sanjee Gupta et al., *Bulletin of the World Health Organization*, SCIELO PUBLIC HEALTH, available at http://www.scielosp.org/scielo.php?script=sci_arttext&pid=S0042-96862002000200011 (last visited Oct. 22, 2013) (discussing fiscal policy issues related to debt relief in twenty-three countries that reached their decision point under the HIPC framework).

anticipated.³²⁹

The BWIs began the HIPC initiative for the purpose of assisting poor countries that were sustaining potentially unmanageable amounts of debt.³³⁰ The World Bank administers a trust fund, separate from its own resources, financed and administered by external donors, allowing for the leveraging of poverty-reduction programs by providing expanding development collaboration, including technical assistance, advisory services, debt relief, and co-financing.³³¹ In response to harsh criticism of the qualifying criteria for the original HIPC, the IMF initiated and advanced a version of the Initiative in 1999.³³²

In 2004, the World Bank stated: “the enhanced HIPC initiative provides an opportunity to strengthen the economic prospects and poverty reduction efforts of its beneficiary countries.”³³³ Nevertheless,

329. Daniel Cohen, *The HIPC Initiative: True and False Promises 5* (OECD Dev. Centre, Working Paper No. 166, 2000). Furthermore, the G-7 Leaders have expressed doubt stating:

[N]ot all creditors have agreed to reduce their HIPC debts; the expected financing needs for the initiative have not been met, and as a result of weaker growth and export commodity prices, a number of countries could be at risk of not having sustainable debt loads at the Completion Point.

G-7 Leaders at Kananaskis Summit, *supra*. The leaders encouraged the BWIs to seek assistance from both regional and multilateral development institutions. *Id.* Furthermore, they requested the institutions seek additional assistance and availability from internal resources. *Id.* The leaders of the G-8 committed to contribute \$1 billion to the initiative. *Id.*

330. See *Debt Relief Under the Heavily Indebted Poor Countries (HIPC) Initiative*, INT'L MONETARY FUND, available at <http://www.imf.org/external/np/ext/facts/hipc.htm> (last visited Oct. 22, 2013) [hereinafter *Debt Relief Under HIPC*]; see also Eugenia McGill, *Poverty and Social Analysis of Trade Agreements: A More Coherent Approach?*, 27 B.C. INT'L & COMP. L. REV. 371, 380 (2004) (“The initiative was the result of a civil-society campaign for meaningful external debt relief to free up scarce financial resources to address HIV/AIDS and other social development needs.”).

331. John R. Crook, *United States Supports G-7 Decisions to Reduce Debt Burden of Poor Countries, Including Those Affected by December 2004 Tsunamis*, 99 AM. J. INT'L L. 500, 501 (2005); Bonnie D. Jenkins, et. al., *International Institutions*, 37 INT'L LAW. 609 (2003). The United States has repeatedly encouraged other bilateral creditors to follow it on providing 100 percent loan forgiveness for MDB soft loans to the HIPCs. *Id.*

332. Robin Goldberg, *Financing Developments and the Desperate Need for Debt Relief*, 17 N.Y.L. SCH. J. HUM. RTS. 969, 969 (2001); Elizabeth Justice, *The African Union: Building A Dream to Facilitate Trade, Development, and Debt Relief*, 12 CURRENTS: INT'L TRADE L.J. 127, 130-31 (2003) (explaining that at its inception in 1996, only 5 countries qualified for the HIPC).

333. Bouab, *supra* note 311, at 365. “When default becomes inescapable, the debts that governments cannot pay are almost always owed in foreign currency . . . an inability to stay current on payments on external debt causes deep economic trauma.” Barry Herman, *Doing the Right Thing: Dealing with Developing Country Sovereign Debt*, 32 N.C.J. INT'L L. & COM. REG. 773, 775 (2007). During the time building up to the Monterrey Consensus,

as of 2009, of the two trillion dollars owed by developing countries, about \$250 billion is owed by nations that were given "low income" status.³³⁴ Critics claim that although the program has good intentions, the program is inadequate because it does not force debtor nations to adequately reduce poverty or provide basic health care and education for their citizens.³³⁵ Irrespective of these shortcomings, budget cuts are often incurred in these areas to meet stringent demands for receiving debt relief.³³⁶

Currently, thirty-eight states are recognized as HIPC qualified.³³⁷ The initiative provides low-interest loans and debt relief to reduce external debt payments and achieve levels sustainable for countries to reach "completion point."³³⁸ Factors for considering whether a country

fifty-six countries had "arrearages in their foreign debt payments or rescheduled their debt-servicing obligations . . . accounting for one-fifth of world's population, over one billion people, but less than six percent of world's gross product." *Id.* at 776. Middle-income countries such as Argentina, the Dominican Republic, and Iraq have also restructured debts they could no longer service. *See id.* "While the IMF has usually assumed the role of international arbiter of how much relief, new financing, and policy reform a country needs to overcome its debt crisis, it has been widely accused of systematically underestimating the amount of relief needed." *Id.* at 779. There may be systematic bias for countries following IMF policy advice. *See id.*

334. David Ricksecker, *What is the HIPC Initiative?*, UNIV. OF IOWA CTR. FOR INT'L FIN. AND DEV. (Sept. 21, 2006), available at http://www.uiowa.edu/ifdebook/faq/faq_docs/HIPC.shtml (last visited Oct. 22, 2013) (describing how without major debt reduction, poor income countries are trapped and stuck making endless interest payments on debts). Since inception of the initiative, Guyana is the only country that has successfully been removed from the list of heavily indebted poor countries. *See* DIJKSTRA, *supra* note 286, at 107. The problem with achieving sustainability through the HIPC is evident in its qualification methods: almost ten countries have not even reached the decision point and eight more have not reached completion. *See id.*

335. *See* A. Mechele Dickerson, *Insolvency Principles and the Odious Debt Doctrine: The Missing Link in the Debate*, 70 LAW & CONTEMP. PROBS. 53, 59 (2007).

336. UNITED NATIONS, WORLD ECONOMIC SITUATIONS AND PROSPECTS 77 (2009), available at <http://www.un.org/esa/policy/wess/wesp2009files/wesp2009.pdf> (last visited Oct. 22, 2013). This would require the reduction in poverty to mirror the release of government-subsidized programs. *Id.*

337. INT'L MONETARY FUND, FACTSHEET—DEBT RELIEF UNDER THE HEAVILY INDEBTED POOR COUNTRIES (HIPC) INITIATIVE (Oct. 1, 2013), available at <http://www.imf.org/external/np/exr/facts/hipc.htm> (last visited Oct. 22, 2013). *See* Dickerson, *supra* note 335, at 59 (explaining that qualification requires eligible nations to have a current track record of satisfactory performance under a Poverty Reduction Strategy, an IMF program, or an interim PRS in place). An agreed plan must also be in place to clear any outstanding debts to foreign creditors. *Id.*

338. *See* INT'L MONETARY FUND, *supra* note 337 (describing the two-step process which countries must follow for HIPC Initiative assistance). The completion point is the second and final step where, upon completion, a country is allowed to receive its full debt relief committed at decision point. *Id.*

is heavily indebted include “a nation’s total outstanding debt relative to exports and GDP, as opposed to ratios of debt service expenses to government revenues.”³³⁹ Furthermore, qualification is conditional upon the governments’ abilities to attain a range of economic management and performance targets as set and agreed upon with either the World Bank or the IMF.³⁴⁰

As the ‘gatekeeper’ for development assistance, the IMF requires HIPC countries to prepare and submit Poverty Reduction Strategy Papers (the “PRSPs”) for approval, prior to receiving loans or debt relief.³⁴¹ However, this type of loan-bargaining structure often ends up one-sided, placing the IMF in a totalitarian position regarding budget cuts in the debtor countries,³⁴² and thereby limiting availability of

339. See Charles Seavey, *The Anomalous Lack of an International Bankruptcy Court*, 24 BERKLEY J. INT’L L. 499, 504 (2006). These standards “penalize countries with: (i) low government tax revenues relative to exports or GDP; and/or (ii) high debt service relative to total outstanding debt.” *Id.* at 517.

340. See Ambrose, *supra* note 281, at 272 (“[Governments] with questionable creditworthiness will only be considered eligible for grants, loans, or credits once the IMF has signaled its approval of the government’s economic program.”).

341. See *Poverty Reduction Strategy Papers Fact Sheet*, INT’L MONETARY FUND (Oct. 4, 2013), <http://www.imf.org/external/np/prsp/prsp.asp#H>. PRSPs are prepared by member countries (of the BWIs) and updated every three years. *Id.* PRSPs include annual progress reports, a description of macro and micro-economic policies and programs for promotion of growth and reduction of poverty. *Id.* Countries also provide interim PRSPs through the process of finalizing the fully-developed PRSPs. See *id.* See also Lisa Philipps & Miranda Stewart, *Fiscal Transparency: Global Norms, Domestic Laws, and the Politics of Budgets*, 34 BROOK. J. INT’L L. 797, 817–21 (2009) (explaining several accountability mechanisms, including PRSPs, that country donors have used to help strengthen and manage public finances and fiscal policy in aid-recipient countries). The PRSPs are meant to increase focus on poverty reduction while providing stronger collaboration between the country and the financing institutions. *Id.* More than sixty-six countries completed PRSPs between 2000 and March 2009. *Id.*

342. See Dickerson, *supra* note 335, at 56. “Some members of the financial community . . . contend that IMF lending creates a moral-hazard problem . . . knowingly lending to repressive regimes who illegally divert the loan process or use the funds in ways that affirmatively harm the countries’ citizens.” *Id.* Contrary to the effects of its implementation, the PRSPs were supposed to grant governments greater influence in “tripartite” discussions for loan forgiveness and redevelopment. MARC DARROW, *BETWEEN LIGHT AND SHADOW: THE WORLD BANK, THE INTERNATIONAL MONETARY FUND, AND INTERNATIONAL HUMAN RIGHTS LAW* 289 (2006). This allows for the IMF and World Bank policy makers to take advantage of the developing countries’ weakness, diverting government attention regarding obligations from citizens to the institutions. *Id.*; see Fergus MacKay, *Universal Rights or a Universe unto Itself? Indigenous Peoples’ Human Rights and the World Bank’s Draft Operational Policy 4.10 on Indigenous Peoples*, 17 AM. U. INT’L L. REV. 527, 532–33 (2002); Ibrahim F. I. Shihata, *The World Bank and the IMF Relationship—Quo Vadis*, 35 INT’L LAW. 3549 (2001). However, it is been assessed most developing countries may not have the institutional capacity to conduct the necessary public consultations required for approval of a PRSP. *Id.*; see Rajesh Swaminathan, *Regulating*

resources for public services.³⁴³ While urging priority in repayment of debts, the IMF urges low-income countries to adopt potentially cataclysmic policies.³⁴⁴

C. The Challenge of the G-20

The Group of Twenty, otherwise known as G-20, is of a group of finance ministers and central bank governors from countries across the world initially dedicated to discussing and coordinating policies related to the stabilization and regulation of global financial markets, but which has recently broadened its agenda to include more general global economic governance issues.³⁴⁵ Established as a response to the financial crises of the late 1990s,³⁴⁶ the G-20 consists of selected both advanced and so-called “systemically significant” emerging economies.³⁴⁷ The G-20 functions as an informal forum, allowing for

Development: Structural Adjustment and the Case for National Enforcement of Economic and Social Rights, 37 COLUM. J. TRANSNAT'L L. 161, 214 (1998). There are several operational issues regarding the inter-relational aspects of these structural policies and individual human rights standards. See *id.*

343. See Goldberg, *supra* note 332, at 970 (furthering insight into why countries participating in the HIPC run into problems even with their participation in the program). HIPC debtor countries usually apportion their domestic investments toward infrastructure, such as providing electrical power, paving roads, and telephone connections instead of spending money toward health and education. See *id.* This form of neoliberal economic ideology has proven detrimental to certain countries. See Anup Shah, *Structural Adjustment – A Major Cause of Poverty*, GLOBAL ISSUES, (Oct. 29, 2008), available at <http://www.globalissues.org/print/article/3> (last visited Oct. 23, 2013). Minimizing the role of the state, privatization, reduced protection of domestic industries, currency devaluation, increased interest rates, elimination of subsidies, reduction and removal of regulations to gain attraction from foreign investors are all parts if this ideology. See *id.* “Structural adjustments have . . . contributed to ‘the greatest peacetime transfer of wealth from the periphery to the imperial center in history’ . . . without much media attention.” *Id.*

344. See KUNIBERT RAFFER, DEBT MANAGEMENT FOR DEVELOPMENT: PROTECTION OF THE POOR AND THE MILLENNIUM DEVELOPMENT GOALS 101 (2010).

345. See Haque & Burdescue, *supra* note 315, at 241 (explaining how leaders came to the Conference with the objective of establishing a framework for cooperation and assistance with alleviating poverty). See also *What is the G20?*, G20, available at http://www.g20.org/docs/about/about_G20.html (last visited Oct. 23, 2013).

346. See St. Petersburg Hosts the F20 Summit G-20, http://www.g20.org/about_what_is_g20.aspx (last visited Oct. 13, 2013).

347. *Id.* The finance ministers and central bank governors hail from the European Union and the following nineteen countries: Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Africa, Republic of Korea, Turkey, United Kingdom, and the United States. Former Canadian Finance Minister (later, Prime Minister) is credited with proposing the G-20. See John Ibbitson & Tara Perkins, *How Canada Made the G20 Happen*, THE GLOBE AND MAIL, (June 18, 2010, 4:09 PM), <http://www.theglobeandmail.com/news/world/how-canada-made-the-g20-happen/article4322767/?page=all>.

discussion between the participating developed and developing countries as to the promotion of global economic stability and development.³⁴⁸ The inaugural meeting of the G-20 took place in Berlin, Germany on December 15-16, 1999.³⁴⁹ Since then, the G-20 has held annual meetings, engaging in a dialogue about key economic issues and implementing various initiatives and reforms.³⁵⁰

Creation of the G-20 was premised in part on remedying the limited participation of key emerging developing economies in global economic discussion and governance.³⁵¹ Other forums discussing world economic issues preceded the G-20, and these “showed the potential benefits of a regular international consultative forum embracing the emerging-market countries.”³⁵² Building on these predecessors, the handicapped G-20 enabled a regular dialogue with a constant set of partners.³⁵³ Reflecting the broad representation of the G-20, its member countries represent around ninety percent of global national product, eighty percent of world trade, and two-thirds of the world population.³⁵⁴ However, critics of the Group of Twenty mention that it is essentially a self-appointed, elite group, and point to its corresponding lack of inclusiveness, accountability and, most importantly, political legitimacy.³⁵⁵

Because of the informal nature of the G-20, members can make comments, recommendations, and measures to be adopted.³⁵⁶ There are

348. See *St. Petersburg Hosts the F20 Summit*, *supra* note 346.

349. *Id.*

350. *Id.* The meetings are annual, but they are preceded by workshops, reports, case studies to provide ministers and governors with analysis and insight. *Id.* The 2011 G-20 summit meeting took place on November 3-4, 2011, in Cannes, France. *Id.*

351. See *St. Petersburg Hosts the F20 Summit*, *supra* note 346.

352. *Id.* Before the G-20 was created, there was a G-22, G-7, and even a G-33. *Id.* These groups of leaders made proposals to deal with world economic issues. *Id.* The G-7 was established in 1976, comprised of major industrial economies including Canada, France, Germany, Italy, Japan, the United Kingdom and the United States of America. *Id.* The G-7 also allows for discussion of current economic issues, but the discussion is geared toward the interests of the seven countries. *Id.* The G-20, in contrast, reflects the diverse interests of the industrial and emerging-market economies. *St. Petersburg Hosts the F20 Summit*, *supra* note 346.

353. *Id.*

354. *Id.*

355. *Id.*

356. *Id.* Participation in the G-20 meetings is limited to the members. *St. Petersburg Hosts the F20 Summit*, *supra* note 346. The limit is linked to ensuring the “effectiveness and continuity of [the G-20’s] activity. *Id.* Although the meetings are not open to the public, the public has access to discussions via a “communiqué” which the G-20 publishes after each meeting. See *G-20 Publications*, G-20, http://www.g20.org/pub_communiques.aspx (last visited Oct. 10, 2013) (providing record

no formal votes or resolutions.³⁵⁷ Instead, “[e]very G-20 member has one “voice” with which it can take an active part in G-20 activity.”³⁵⁸ There is no permanent staff; the chair, selected from a different regional group of countries each year, rotates on an annual basis.³⁵⁹ The chair is part of a three-member management “Troika” of chairs.³⁶⁰

Financial ministers and central bank governors are not the only attendees at G-20 meeting.³⁶¹ Also present at the meetings are important representatives of the BWIs, namely the Managing Director of the IMF, the President of the World Bank, and the chairs of the International Monetary and Financing Committee and Development Committee of the IMF and World Bank.³⁶² This participation attempts to ensure that “the G-20 process is well integrated with the activities of the BWIs.”³⁶³

Reform of the BWIs has, indeed, been on the agenda of more than one G-20 meeting.³⁶⁴ Acknowledging the “vital role the [BWIs] should play in promoting macroeconomic and financial stability, economic growth, and poverty reduction,”³⁶⁵ the G-20 concentrated in great part on governance reforms.³⁶⁶ Recognizing the evolution of the global

of communiqués).

357. *Id.* There are no voting shares attached to the voting member, and voting power is not governed by the member’s economic status. *Id.*

358. *Id.* “To this extent the influence a country can exert is shaped decisively by its commitment.” *Id.*

359. The 2011 Chair is France. *The G20*, UNIV. OF TORONTO, available at <http://www.g20.utoronto.ca/g20whatisit.html> (last updated Sept. 28, 2011). Mexico will chair the G20 in 2012. *Id.* Starting in 2011, G–20 summits will be held annually. *Id.*

360. The 2011 Chair is France. *G20 Information Centre*, U. OF TORONTO, <http://www.g20.utoronto.ca/> (last updated Sept. 10, 2013). Mexico will chair the G20 in 2012. *G–20 Information Centre: The G20*, <http://www.g20.utoronto.ca/g20whatisit.html> (last updated July 22, 2010). Starting in 2011, G–20 summits will be held annually. *Id.*

361. *Id.*

362. *Id.* These participate on an ex–officio basis. *Id.*

363. *Id.* The G–20 also collaborates with the Financial Stability Board and the Basel Committee on Banking Supervision. *The G20*, *supra* note 359.

364. G20 Statement on Reforming Bretton Woods Institutions, Meeting of Finance Ministers and Central Bank Governors in Xianghe (Oct. 16, 2005), available at <http://www.g20.utoronto.ca/2005/2005bwi.html> (last visited Oct. 26, 2013) [hereinafter *Statement on Reforming BWIs*].

365. *Id.*

366. *Id.* The G–20 also called for reinforcement of the cooperation between the BWIs, and discussed their separate responsibilities. *Id.* The G–20 emphasized that the IMF should focus on macroeconomic and financial stability, both nationally and internationally, on the surveillance of the global economy, and on strengthening crisis prevention. *Id.* As to the World Bank, the G–20 advised that it focus on development “sharpening its financial and technical assistance roles for both least–developed countries and emerging markets.”

economy since the inception of the BWIs,³⁶⁷ the G-20's statement emphasized the need to have the governance structure of the BWIs, with respect to both quotas and representation, reflect the changes in economic weight."³⁶⁸

The 2005 Statement also addressed management reforms.³⁶⁹ The Statement suggested that the BWIs work to enhance their "institutional effectiveness," advising that selection of senior management should be premised on merit and allow for broad representation of all member countries.³⁷⁰ The G-20 also drew attention to lending practices, advising the BWIs to "continue improving their lending frameworks," and to take measures to meet their members' financial needs.³⁷¹

As has been indicated, the 2008 financial crisis gave the G-20 forum a new dimension and promoted the G-20 to call for continued BWI reform.³⁷² By 2004, Canadian Prime Minister Paul Martin wanted the G-20 to be not only a forum for finance ministers and central bank governors, but also one for the leaders of the governments.³⁷³ Martin's goal came to fruition as a result of the 2008 financial crisis, when then-president George W. Bush decided to convene a meeting of world

Statement on Reforming BWIs, supra note 364. See also Communiqué, Meeting of Finance Ministers and Central Bank Governors in Xianghe (Oct. 16, 2005), available at <http://www.g20.utoronto.ca/2005/2005communiqué.html> (last visited Oct. 26, 2013) (reiterating support for reformation of the BWIs and drawing attention to the importance of improving the governance, management, and operational strategies of the BWIs).

367. Specifically the growth in emerging markets and "deepened integration in industrialized countries." G-20, Statement on Reforming the Bretton Woods Institution (2005), available at www.g20.utoronto.ca/2005/2005bwi.pdf.

368. *Id.*

369. *Id.*

370. *Id.*

371. *Id.* The 2006 G-20 meeting renewed discussion regarding the reform of the BWIs. Communiqué, Meeting of Finance Ministers and Central Bank Governors (Nov. 19, 2006), available at <http://www.g20.utoronto.ca/2006/2006communiqué.html> (last visited Oct. 26, 2013). At the meeting, members discussed the formula of a quota formula and how to implement it. *Id.* The members also agreed to further consider issues relating to IMF surveillance, the IMF's role in emerging market economies, and its role in low-income countries, as well as collaboration between the BWIs. *Id.* The members called for the modernization and strengthening of IMF surveillance to "meet the needs of globalization." *Id.* Suggesting a possible weakness in the area of surveillance, the G-20 addressed the strengthening of IMF surveillance as recently as 2011, noting G-20 agreement on the need to further strengthen the effectiveness and coherence of bilateral and multilateral IMF surveillance. See Final Communiqué, Meeting of G20 Finance Ministers and Central Bank Governors in Wash. D.C. (Apr. 15, 2011), available at <http://www.g20.utoronto.ca/2011/2011-finance-110415-en.html> (last visited Oct. 26, 2013).

372. See Ibbitson & Perkins, *supra* note 347; *What is the G20, G20*, available at http://www.g20.org/docs/about/about_G20.html (last visited Oct. 12, 2013).

373. Ibbitson & Perkins, *supra* note 347; *What is the G20, supra* note 372.

leaders to deal with the crisis.³⁷⁴ The Bush administration gathered the world leaders by turning to the G-20 countries.³⁷⁵ The result was the G-20 Summit, which convened on November 15, 2008 and featured a gathering of both finance ministers and political leaders.³⁷⁶

Notwithstanding its lack of inclusiveness (and legitimacy), the Washington, D.C. summit has been billed by some as the “Bretton Woods 2” meeting for its emphasis on reform of the BWIs.³⁷⁷ After the Summit, the G-20 issued a declaration setting forth reforms to be implemented in response to the ongoing financial crisis.³⁷⁸ The G-20 announced an action plan designed to respond to the crisis, noting five categories of reform and characterizing the measures to be taken in each category as either “immediate” or “medium term.”³⁷⁹ One of the categories of reform was the reform of international financial institutions.³⁸⁰ Recognizing the plight of developing economies as to financing, the G-20 expressed approval of the IMF’s new short-term liquidity facility and urged the “ongoing review of its instruments and facilities to ensure flexibility.”³⁸¹ As to the World Bank, the G-20 encouraged full-capacity use of its development agenda, approving the introduction of new facilities by the World Bank in the area of infrastructure and trade finance.³⁸² The G-20 expressed its intent to act to “[e]nsure that the [BWIs] . . . have sufficient resources to continue

374. Ibbitson & Perkins, *supra* note 347; *What is the G20*, *supra* note 372.

375. Ibbitson & Perkins, *supra* note 347; *What is the G20*, *supra* note 372.

376. Ibbitson & Perkins, *supra* note 347; *What is the G20*, *supra* note 372. Since then, the leaders of the G-20 nations have held summits semi-annually or annually. *Id.* Summits were held in London and Pittsburg in 2009. *Id.* Summits were also held in Toronto and Seoul in 2010. *Id.*

377. *G20 Heads of State Meeting 15th November 2008: Summary and Analysis of Washington Meeting*, BRETTON WOODS PROJECT (Nov. 17 2008), available at <http://www.brettonwoodsproject.org/2008/11/art-562975/> (last visited Oct. 22, 2013).

378. Declaration of the Summit on Financial Markets and the World Economy (Nov. 15, 2008), available at <http://www.g20.utoronto.ca/2008/2008declaration1115.html> (last visited Oct. 26, 2013).

379. *Id.*

380. *Id.* The IMF and World Bank were the focus of this category of reform. *Id.* The other categories of reform were: strengthening transparency and accountability; enhancing sound regulation; promoting integrity in financial markets; and reinforcing international cooperation. *Id.* The proposed reforms were separated into five categories: (1) strengthening transparency and accountability; (2) enhancing sound regulation; (3) promoting integrity in financial markets; (4) reinforcing international cooperation; (5) reforming international financial institutions. Declaration of the Summit on Financial Markets and the World Economy, *supra* note 378.

381. *Id.*

382. *Id.*

playing their role in overcoming the crisis."³⁸³

The November declaration emphasized the state of developing and emerging economies in urging BWI reform.³⁸⁴ The G-20 tied BWI reform to these countries, noting its commitment to the BWIs' reform "so that they can more adequately reflect changing economic weights in the world economy . . ."³⁸⁵ It called for International Financial Institutions to review and adapt their lending instruments to meet their members' needs, and also called for the consideration of ways to "restore emerging and developing countries' access to credit and resume private capital flows which are critical for sustainable growth and development, including ongoing infrastructure investment."³⁸⁶ The G-20 once again addressed the issue of surveillance, noting that the IMF should conduct "vigorous and even-handed surveillance reviews of all countries . . ."³⁸⁷ Elaborating on another weakness in IMF operations, the G-20 stated the BWI's role in providing macro-financial policy advice would be strengthened if it gave greater attention to the financial sectors of all countries and better integrated the reviews with the joint IMF/World Bank financial sector assessment programs.³⁸⁸

IMF operations were once again a source of discussion during the April 2009 G-20 Summit, which took in place in London.³⁸⁹ In a declaration issued after the Summit, G-20 leaders noted the continued need to reinforce international financial institutions, "particularly the IMF."³⁹⁰ To that end, the G-20 pledged to make available \$850 billion in resources through the global financial institutions "to support growth in emerging market and developing countries by helping to finance

383. *Id.*

384. *See id.*

385. Declaration of the Summit on Financial Markets and the World Economy, *supra* note 378. The G20 also noted that the FSF should expand to a broad membership of emerging economies. *Id.*

386. *Id.*

387. *Id.*

388. *Id.* The G-20 also addressed crisis response, emphasizing the need for the IMF to collaborate with the FSF and other bodies in an effort to "better identify vulnerabilities, anticipate potential stresses, and act swiftly to play a key role in crisis response." Declaration of the Summit on Financial Markets and the World Economy, *supra* note 378. Part of the action plan was for the IMF, in conjunction with the expanded FSF and other regulators and bodies, to develop recommendations to "mitigate pro-cyclicality, including the review of how valuation and leverage, bank capital, executive compensation, and provisioning practices may exacerbate cyclical trends." *Id.*

389. Communiqué, Global Plan for Recovery and Reform, Statement Issued by the G20 Leaders (Apr. 2, 2009), <http://www.g20.utoronto.ca/2009/2009communiqu0402.html> [hereinafter Global Plan for Recovery and Reform].

390. *Id.*

counter-cyclical spending, bank recapitalization, infrastructure, trade finance, balance of payments support, debt rollover, and social support.”³⁹¹ The G-20 agreed to increase the resources available to the IMF through immediate financing of \$250 billion from members, and announced its support for a substantial increase in lending of at least \$100 billion by the multilateral development banks, specifically to low income countries.³⁹² Many of these same topics were revisited and reiterated at the November 2011 summit meeting in Cannes, France.

VI. CONCLUSION

Despite the promotion of neo-liberal policies by the BWIs, over the last decade or so developed countries have hypocritically instituted various government actions and regulations. For instance, on September 8, 2008, the United States government bailed out and took over the nation’s largest mortgage buyer, The Federal National Mortgage Association (“Fannie Mae”), along with the Federal Home Loan Mortgage Corporation (“Freddie Mac”), after the two mortgage giants struggled with deep losses and investors had lost confidence in them.³⁹³ Amid an economic recession, and shortly after the fall of

391. *Id.* Counter-cyclical spending is a fiscal policy characterized by an increase in government expenditures that is meant to jumpstart economic recovery. Martin Khor, *Reality Behind the Hype of G20 Summit*, THIRD WORLD NETWORK (Apr. 6, 2009), available at <http://www.twinside.org.sg/title2/gtrends/gtrends246.htm> (last visited Oct. 25, 2013). Programs that automatically expand fiscal policy during recessions, and contract it during booms, are one form of countercyclical fiscal policy. David N. Weil, *Fiscal Policy*, THE CONCISE ENCYCLOPEDIA OF ECON., available at <http://www.econlib.org/library/Enc/FiscalPolicy.html> (last visited Oct. 10, 2013). Additionally, bank recapitalization refers to the restructuring of a troubled bank with the assistance of a deposit insurance fund. *Business Definition for: Recapitalization*, ALL BUS., available at <http://www.allbusiness.com/glossaries/ Recapitalization/4954442-1.html> (last visited Nov. 7, 2013). Debt rollover refers to the rolling over of existing debt into new debt when the existing debt is about to mature. *Rollover Risk*, INVESTOPEDIA, available at <http://www.investopedia.com/terms/r/rollover-risk.asp#axzz1Zls25wls> (last visited Nov. 7, 2013). The IMF defines balance of payments as a:

statistical statement that systematically summarizes, for a specific time period, the economic transactions of an economy with the rest of the world. Transactions, for the most part between residents and nonresidents, consist of those involving goods, services, and income; those involving financial claims on, and liabilities to, the rest of the world; and those (such as gifts) classified as transfers, which involve offsetting entries to balance—in an accounting sense—one-sided transactions.

INT’L MONETARY FUND, *BALANCE OF PAYMENTS MANUAL 6*, available at <http://www.imf.org/external/np/sta/bop/bopman.pdf> (last visited Nov. 7, 2103).

392. Global Plan for Recovery and Reform, *supra* note 389.

393. See *Federal National Mortgage Association Fannie Mae*, N.Y. TIMES, available at http://topics.nytimes.com/top/news/business/companies/fannie_mae/index.html?inline=nyt-

Lehman Brothers,³⁹⁴ the American International Group (the “AIG”) was suffering from a liquidity crisis when its credit ratings were downgraded in September 2008.³⁹⁵ Fearing the catastrophic consequences of AIG filing for bankruptcy, on September 16, 2008, the Federal Reserve Board announced that it would authorize the Federal Reserve Bank of New York to lend up to \$85 billion to AIG.³⁹⁶

In 2008, the United States automotive industry was facing financial downturn partially linked to a substantial increase in the prices of automotive fuels.³⁹⁷ General Motors and Chrysler were given large government bailouts to support them through this crisis while Ford was given an open credit line.³⁹⁸ However, due to poor management and

org (last visited Oct. 25, 2013); see *Freddie Mac*, N.Y. TIMES, available at http://topics.nytimes.com/top/news/business/companies/freddie_mac/index.html?inline=nyt-org (last visited Oct. 25, 2013); see also Charles Duhigg, *As Crisis Grew, a Few Options Shrank to One*, N.Y. TIMES (Sept. 7, 2008), available at http://www.nytimes.com/2008/09/08/business/08takeover.html?_r=2&hp=&pagewanted=all&oref=slogin (last visited Oct. 25, 2013) (“The downfall of Fannie and Freddie stems from a series of miscalculations and deferred decisions, both by their executives and government officials, according to company insiders, regulators, auditors and outside analysts.”).

394. See John Cassidy, *Anatomy of a Meltdown: Ben Bernanke and the Financial Crisis*, THE NEW YORKER (Dec. 1, 2008), available at http://www.newyorker.com/reporting/2008/12/01/081201fa_fact_cassidy?currentPage=all (last visited Oct. 25, 2013); Sam Mamudi, *Lehman Folds with Record \$613 Billion Debt*, MARKET WATCH (Sept 15, 2008), available at <http://www.marketwatch.com/story/lehman-folds-with-record-613-billion-debt?siteid=rss> (last visited Oct. 25, 2013). Lehman Brothers, a Wall Street investment bank, filed for bankruptcy protection in 2008. *Id.* The bankruptcy was the largest in history, with a total of \$613 billion in debt against \$639 billion in assets, effectively ending the company’s 158-year existence. *Id.*

395. See William Greider, *The AIG Bailout Scandal*, THE NATION (Aug. 6, 2010), available at <http://www.thenation.com/article/153929/aig-bailout-scandal?page=full> (last visited Oct. 25, 2013); see also Jim Puzzanghera, *AIG Bailout is ‘Poisonous’; Taxpayers Risk ‘Severe Losses,’ Panel Says*, L.A. TIMES (June 11, 2010), available at <http://articles.latimes.com/2010/jun/11/business/la-fi-aig-bailout-20100611> (last visited Oct. 25, 2013) (referring to the bailout as a \$182-billion bailout, and noting lack of clarity as to whether taxpayers ever will be fully repaid).

396. Press Release, Bd. of Governors of the Fed. Reserve Sys. (Sept. 16, 2008), available at <http://www.federalreserve.gov/newsevents/press/other/20080916a.htm> (last visited Oct. 25, 2013); Pam Selvarajah, *The AIG Bailout and AIG’s Prospects for Repaying Government Loans*, 29 REV. BANKING & FIN. L. 363, 364 (2010) (noting that the loan carried a twenty-four month term).

397. See *Gas Prices Put Detroit Big Three in Crisis Mode*, NBC NEWS (June 1, 2008), available at <http://www.msnbc.msn.com/id/24896359/ns/business-autos/t/gas-prices-put-detroit-big-three-crisis-mode/#.TsBwSMPNltM> (last visited Oct. 25, 2013).

398. See David Shephardson, *Ratner Applauds Auto Bailouts’ ‘Happy Ending’*, 1853 CHAIRMAN (Nov. 1, 2011), available at <http://www.1853chairman.com/2011/11/01/ratner-applauds-auto-bailouts%E2%80%99%E2%80%98happy-ending%E2%80%99/> (noting that the Treasury extended Chrysler a \$12.5 billion bailout, \$11.3 billion of which has been recovered, and extended General Motors a \$49.5 billion bailout, of which \$23.2 billion has

business practices, General Motors and Chrysler still filed for Chapter 11 Bankruptcy in 2009.³⁹⁹ Having emerged from bankruptcy, the United States federal government now holds nearly 61% of the new company.⁴⁰⁰

The United States has not been the only developed country to institute the type of hypocritical policies described above. Currently facing an economic debt crisis, Europe has been urged to begin bailing out its banks.⁴⁰¹ The recommendation to do so came directly from the IMF's managing director, Christine Lagarde.⁴⁰² In agreement with the bailout, the first major European bank bailout of 2011 occurred when the governments of both France and Belgium pledged to participate in a rescue plan for their banking giant Dexia.⁴⁰³ The plan is to place Dexia's "toxic assets, including Greek and other peripheral euro zone government bonds" into a government-supported "bad-bank."⁴⁰⁴ Bank of France Governor and G20 member, Christian Noyer, has stated "[w]e will loan Dexia as much as it needs."⁴⁰⁵

As developed countries begin to institute actions contradictory to neo-liberal policies, maybe the BWIs will begin to recognize the harm of forcing neo-liberal policies on developing countries; however, it should not be forgotten that, in the final analysis, the general policies of these institutions are set by member states's governments, not by the secretariat bureaucracy. Newly-elected Managing Director Christine

been recovered). "At current trading prices, the Treasury would lose more than \$13 billion on its GM bailout." *Id.*

399. See *Automotive Industry Crisis*, N.Y. TIMES, available at http://topics.nytimes.com/top/reference/timestopics/subjects/c/credit_crisis/auto_industry/in dex.html (last updated May 25, 2011).

400. *Id.* The Canadian government, a health care trust for the United Auto Workers Union, and bondholders own the balance. *Id.*

401. Heather Stewart, Jill Treanor & Dominic Rushe, *IMF Chief Tells Europe: You Must Bail Out the Banks Again*, THE GUARDIAN (Sept. 22, 2011), available at <http://www.guardian.co.uk/world/2011/sep/22/imf-chief-europe-bail-out-banks> (last visited Oct 25, 2013).

402. *Id.* (discussing Lagarde's call for action).

403. Philip Blenkinsop & Robert-Jan Bartunek, *Dexia Bailout Set as Wider Bank Rescue Muddled*, REUTERS (Oct. 9, 2011), available at <http://www.reuters.com/article/2011/10/09/us-dexia-idUSTRE7962XE20111009> (last visited Oct. 25, 2013). Dexia used short-term funding to finance long-term lending, and had difficulty obtaining credit as the European debt crisis worsened. *Id.*

404. John O'Donnell & Ilona Wissenbach, *EU Preparing Bank Rescues Amid Greece Doubts*, REUTERS (Oct. 4, 2011), available at <http://www.reuters.com/article/2011/10/04/us-eurozone-idUSTRE79211720111004> (last visited Oct. 25, 2013).

405. Alexandria Sage, *France's Noyer Says Will Ensure Dexia Liquidity*, REUTERS (Oct. 5, 2011), available at <http://www.reuters.com/article/2011/10/05/france-dexia-noyer-idUSP6E7KC01N20111005> (last visited Oct. 25, 2013).

Lagarde has shown promise with her actions in trying to move towards a more balanced approach (to the degree that she can). After edging out the Bank of Mexico's governor Agustín Carstens,⁴⁰⁶ the former Finance Minister of France took over the top post at the IMF in the midst of global economic turmoil. Ms. Lagarde won the support of a several economic powers including China, Russia, and the United States with the promise to bring "reform" to the IMF.⁴⁰⁷

The most prominent reform pledged by Ms. Lagarde was to increase the presence of emerging economies at the IMF. Several emerging markets leaders voiced concern over the election of yet another European to head the IMF, something that has not changed since its inception in 1944.⁴⁰⁸ Ms. Lagarde was able to curtail complaints through assurance that the interests of emerging markets would be represented under her leadership.⁴⁰⁹ To show her commitment, Ms. Lagarde created a fourth deputy managing director position and appointed Chinese economist Zhu Min to the position. Cornell University Professor Eswar S. Prassar hailed the move as a "grand bargain" in that Europeans were able to keep control of the top job at the IMF while emerging markets were able to gain more of a voice with the appointment.⁴¹⁰

Even with a promising new managing director, massive changes to the BWIs are still unlikely. The policies of the BWIs flow from ideals, positions and interests of developed countries. The core structure of the BWIs gives the voice of developed countries more weight than developing countries because the BWIs are fundamentally a corporation

406. Press Release No. 11/259, Int'l Monetary Fund, IMF Executive Board Selects Christine Lagarde as Managing Director (June 28, 2011) (on file with author), available at <http://www.imf.org/external/np/sec/pr/2011/pr11259.htm> (last visited Oct. 25, 2013).

407. See *US Backs Christine Lagarde as Next Head of IMF*, THE TELEGRAPH (June 28, 2011), available at <http://www.telegraph.co.uk/finance/dominique-strauss-kahn/8603421/US-backs-Christine-Lagarde-as-next-head-of-IMF.html> (last visited Oct. 25, 2013).

408. See Liz Alderman, *France's Lagarde Selected as I.M.F. Managing Director*, N.Y. TIMES (June 28, 2011), available at <http://www.nytimes.com/2011/06/29/business/global/29fund.html?pagewanted=all>. (last visited Oct. 25, 2013).

409. See Liz Alderman & Keith Bradsher, *Emerging Nations Warm to Lagarde for I.M.F. Role*, N.Y. TIMES (June 7, 2011), available at <http://www.nytimes.com/2011/06/08/business/global/08fund.html?pagewanted=all> (last visited Nov. 7, 2013).

410. Binyamin Appelbaum, *I.M.F.'s New Chief Names American and Chinese Deputies*, N.Y. TIMES (July 12, 2013), available at <http://www.nytimes.com/2013/07/13/business/us-and-chinese-officials-named-to-imf-posts.html> (last visited Nov. 7, 2013).

with developed countries controlling its Board of Directors as majority shareholders. Naturally, the actions of the corporation are for the benefit of its shareholders. Without a major redevelopment to the core structure of the International Monetary Fund and the World Bank, developed countries will continue to favor neo-liberal policies as they open the economies of these developing countries to the benefit of developed countries, despite contradictory actions within their own countries.