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Shock Therapy, Social Engineering, and Financial Discipline: What Does an Increasingly Financialized World Mean for Democratic Participation?

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SHOCK THERAPY, SOCIAL ENGINEERING, AND FINANCIAL DISCIPLINE: WHAT DOES AN INCREASINGLY FINANCIALIZED WORLD MEAN FOR DEMOCRATIC PARTICIPATION?

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Over the last several decades, the Bretton Woods Institutions have come to be drivers of policy in the realms of economic liberalization and development, exceeding their original mandates of fostering monetary cooperation and facilitating post-war reconstruction. The structural adjustment programs of the World Bank and the International Monetary Fund have engendered mixed results–delivering some countries from financial crises, while inciting riots and compounding state failure in others. Such varied experiences suggest there is some disconnect between the conditions to lending promulgated by these institutions and the realities on the ground. This Note will trace the evolution of high conditionality lending vis-à-vis a number of nations and argue that a relationship between participatory democracy and structural adjustment programs should be forged in the interest of successful lending and authentic national ownership of programs.

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Introduction

This Note traces the evolution of the Bretton Woods Institutions ("BWI") and high conditionality lending and argues that the design of structural adjustment programs ("SAPs") should accommodate the theory of democratic participation to implement sustainable policies and avoid aggravating crises. High conditionality lending's one-size-fits-all approach has led to an untenable situation that exacerbates inequality and poor governance, leaving "emerging markets" susceptible to crisis–a far cry from the BWI's initial mandate to strengthen state capacities and confront financial crises. Compliance with the BWI's conditions for lending has inspired decreases in public spending, weakened labor laws, and left developing nations vulnerable to increased speculation, all of which ultimately contribute to the stifling of democratic participation.

This Note is organized into three thematic sections, all of which are presented through the lens of participatory democratic theory. The first section provides the contours of the governance and operational structures of the World Bank and the International Monetary Fund ("IMF"). The second assesses high conditionality lending vis-à-vis a number of nations. The final section tenders a participatory, ownership-oriented approach to the design and implementation of SAPs in the form of citizen action groups.

I. The Bretton Woods Institutions

Emerging from World War II as a hegemon–politically, economically, and militarily–the United States spearheaded a gathering of delegates from forty-four Allied nations in 1944 to agree upon a set of standards for the post-war international monetary system. The culmination of the so-called Bretton Woods Conference was the creation of the IMF and the International Bank for Reconstruction and Development ("IBRD").[1] Guided by the conviction that markets should be open to trade and the cross-border movement of capital, the Articles of Agreement of the respective institutions were adopted. The IMF set out to foster international monetary cooperation and maintain a system of fixed exchange rates centered on the US dollar, while the IBRD focused on the reconstruction and development of territories affected by the war.

The IMF was charged with surveilling the exchange rates of its member nations, ensuring their equitable economic growth, and controlling the financial resources from which it could directly lend to members experiencing difficulties with balancing payments. The IBRD was charged with investing in reconstruction and development projects by lending to member countries at market rates in addition to evaluating the viability of projects and providing technical support.[2] Since their establishment, the

1. Now known as the World Bank.

2. Ngaire Woods, The Globalizers: The IMF, the World Bank, and Their Borrowers 7 (2006).

BWI have come to service the same pool of clients and often clash on projects and lending, despite distinctions in their mandates.

The BWI have exceeded their original mandates, focusing their efforts since the 1970s oil shock and 1980s debt crisis on the "developing world," i.e. turning their attention and resources away from post-war Europe to less industrialized nations in the global south and functioning as crisis managers. Over time, their objectives have come to encompass non-crisis lending for poverty reduction, infrastructure development, and natural disaster relief among other social and economic ills.[3] The BWI's fixation on the global south translated into ensuring trade liberalization, privatization of state-owned enterprises, opening up to foreign investment, and deregulation of labor markets at any cost, i.e. unleashing the forces of the free market on nations that were ill-equipped for such endeavors.[4] The IMF and World Bank impose conditions such as the aforementioned on nations known as SAPs that seek financial support from them during crises, namely in the form of macroeconomic policy reforms. These programs are also known as high conditionality lending.[5]

A. *Participatory Democracy and the Bretton Woods Institutions*

Before surveying the effects of high conditionality lending on a number of crisis-inflicted nations and tendering potential reforms, the governance and operational structures of the BWI should be outlined in order to contextualize the forces that influence these institutions' lending practices, particularly with the theory of participatory democracy as a frame of reference.

Participatory democracy, for the purposes of this Note, is a form of governance grounded in the individual participation of citizens in political decisions and policies that affect their lives, particularly in a direct manner rather than through elected representatives. The basic tenets of this theory are located within Jean-Jacques Rousseau's hypothesis about the role of participation in a democratic polity.[6] Rousseau's theory of democratic participation is animated by the conviction that society, through economic equality and independence, provides the citizen with the security and independence necessary for political equality and independence.[7] If these conditions are met, citizens can organize and assemble both as independent and interdependent individuals.[8] "This is not so paradoxical as it sounds," according to Pateman, "because the participatory situation is

3. *See* Jane Harrigan & Paul Mosley, *Evaluating the Impact of World Bank Structural Adjustment Lending: 1980-87*, 27 J. Dev. Stud. 3, 63 (1991).

4. Woods, *supra* note 2, at 1–7.

5. "High conditionality lending" and "structural adjustment programs" are used interchangeably throughout the Note.

6. Jean-Jacques Rousseau, *Whether the General Will Can Err*, *in* The Social Contract 40 (1762).

7. Carole Pateman, Participation and Democratic Theory 22 (1970).

8. *Id.*

such that each citizen would be powerless to do anything without the co-operation of all the others, or the majority."[9] Rousseau describes this as each citizen being excessively dependent on the republic, the republic being the collective citizenry.[10]

The three integrative functions Rousseau attributes to participation undergird the arguments put forward in this Note.[11] First, participation increases the value of the individual's freedom by enabling him to be his own master. Second, the participatory process ensures that no man or group is the master of another, but rather all are equally dependent on one another. Third, participation increases feelings of belonging among individual citizens.[12]

The sections of this Note that follow are informed by this theory of participation. This Note argues that the absence of participation within the BWI and the greater global finance architecture is a critical barrier to genuine economic growth and political stability during and in the aftermath of a crisis. Translating Rousseau's theory of participation from its original peasant context into the Bretton Woods context can foster the kind of participation that provides for the mutual dependency and benefits Rousseau envisions in a participatory system.

B. *Running Deficits in Democracy*

With the Bretton Woods Conference colored by war in Europe, the United States exploited its superior position in the global order and secured an international agreement with minimal participation from European nations at war.[13] Consequently, weaker nations could either acquiesce in the new system or be left behind. Under the adopted system, each member country of the IMF is assigned a quota according to its relative position in the world economy. This determines what each country is required to contribute in capital subscriptions as well as its access to IMF resources.[14] The quota formula is the weighted average of GDP, openness, economic variability, and international reserves.[15] The IMF's primary source of funding is members' capital subscriptions, which are also determined by the quota system.[16]

The quota system also determines voting shares within the IMF. Each IMF member's voting share is comprised of basic votes plus one vote for

9. *Id.* at 23.

10. Rousseau, *supra* note 6, at 82.

11. *See* Pateman, *supra* note 7, at 22–27.

12. *Id.*

13. Woods, *supra* note 2, at 17.

14. *IMF Quotas,* Int'l Monetary Fund (Oct. 13, 2017), http://www.imf.org/en/About/Factsheets/Sheets/2016/07/14/12/21/IMF-Quotas.

15. *Id.*

16. *Id.*

every 100,000 Special Drawing Rights ("SDR").[17] When the quotas were first determined, the United States required that its military allies should have the largest quotas.[18] Basic votes were created as an equalizing force, unencumbered by quotas and allocated to all members regardless of size or contribution. When the quotas of developing nations appeared too small relative to those of other nations, the IMF doubled them and set a minimum quota, ensuring these smaller nations could more effectively participate as members of the international community.[19]

Voting shares in the World Bank, which is comprised of four organizations, are allocated differently.[20] This Note focuses only on the IBRD and the International Development Association ("IDA")—the public sector lending arms of the World Bank.[21] In the IBRD, each member state is allocated one vote for each share of Bank capital stock it holds plus basic votes.[22] The World Bank is funded by four sources: paid-in-capital, retained earnings, loan repayments, and borrowing on global capital markets.[23] Members contribute capital proportional to their quotas, but this is only a small portion of the Bank's total funds. The Bank borrows at the lowest rates on the capital market and subsequently lends to developing countries at higher rates, covering bank costs and generating net income.[24]

In the IDA, each member's share of votes is allocated based on replenishment schemes negotiated every few years. Member contributions constitute half of its total funding, and the other half comes from loan repayments.[25] The original voting structure of the IDA reflected initial subscriptions, but it was then decided that the structure would not change as replenishments varied, i.e. increasing contributions will not translate into more power within the institution.[26] Over the years, the United

17. Special Drawing Rights are an international reserve asset created for the IMF to facilitate currency exchange among member states. The value of the SDR is calculated daily. 1 USD = 0.69 SDR at the time of writing (April 2018). See *Special Drawing Rights*, Int'l Monetary Fund (Oct. 13, 2017), http://www.imf.org/en/About/Factsheets/Sheets/2016/08/01/14/51/Special-Drawing-Right-SDR for more information.

18. Woods, *supra* note 2, at 22.

19. *Id.* at 23.

20. The World Bank is comprised of the International Bank for Reconstruction and Development ("IBRD"), the International Development Association ("IDA"), the International Finance Corporation ("IFC"), the Multilateral Investment Guarantee Agency ("MIGA"), and the International Center for Settlement of Investment Disputes ("ICSID").

21. The IFC and MIGA have an independent recourse mechanism in place for complaints arising under private sector lending agreements. More information about the Office of the Compliance Advisor/Ombudsman can be found here: http://www.cao-ombudsman.org/about/.

22. *Voting Powers*, The World Bank, http://www.worldbank.org/en/about/leadership/votingpowers (last visited Mar. 6, 2018).

23. *See* Woods, *supra* note 2, at 24.

24. *Id.*

25. *Id.* at 28.

26. *Id.* at 198.

States' contribution to the IDA has declined, yet it retains the largest voting share.[27]

The IMF and World Bank each have a respective Board of Governors that function as their highest decision-making bodies. In the IMF, the Board consists of a governor from each member country. Much of the Board's decision-making authority is delegated to executive directors ("EDs") elected by the Board. This executive board, which is responsible for the daily operations of the IMF, consists of 24 EDs representing the 189 member countries. The five largest shareholders – the United States, Japan, Germany, France, and the United Kingdom – are each represented by their own ED in both institutions, while more than three-quarters of member states are not directly represented, but rather grouped into constituencies which are determined according to quotas.[28] Each constituency is comprised of between four and twenty-four nations that elect a director to represent them as a collective, compounding the problem of skewed voting on the Boards.[29] In the IMF, for example, a total of 46 countries in Sub-Saharan Africa are represented by two EDs.[30] An African constituency composed of twenty-four nations wields only 1.42% of voting power; another African constituency of nineteen nations wields only 3% of total voting power.[31] In the World Bank, seven of the twenty-five constituencies are comprised of one nation, while all of Sub-Saharan Africa is divided into only three constituencies.[32]

EDs who represent each of the five most powerful member states individually are directly accountable to the governments of those nations, whereas the EDs of constituencies have only a tenuous responsibility to represent the interests of the group.[33] The Articles of Agreement of the IMF require EDs to act as representatives of the institution and of their nation.[34] According to IMF legal counsel, "a director is not obliged to defer to the views of his or her member states, nor to cast votes in accordance with their instructions. The votes of the director will be 'valid even if they are inconsistent with any instructions he may have received from his constituents.'"[35] Aggravating this disconnect between the votes of an ED and the policy goals of those they represent is the inability of individual members of a constituency to remove an ED from office and the se-

27. *Id.*

28. *Id*. at 73.

29. Alnoor Ebrahim & Steven Herz, *The World Bank and Democratic Accountability: The Role of Civil Society, in* BUILDING GLOBAL DEMOCRACY? CIVIL SOCIETY AND ACCOUNTABLE GLOBAL GOVERNANCE 58, 73 (Jan Aart Scholte ed., 2011).

30. WOODS, *supra* note 2, at 73.

31. *Id.* at 191.

32. *Id.* at 73.

33. *Id.* at 192.

34. *Id.*

35. *Id.*

crecy which veils both IMF and World Bank board meeting proceedings.[36] The IMF archive policy does not allow for the release of the full record of board meetings until at least ten years have passed. Moreover, neither institution allows constituents to know the positions their representatives took in the boardroom.[37] These circumstances are not only inherently undemocratic, but anti-participatory as well. Individuals are denied any stake or sense of belonging in this community that makes decisions that bear directly on their daily affairs.

The governance structures of the BWI produce an imbalance in accountability among nations. Wealthy member states – those least affected by the World Bank and IMF – dictate the institutions' goals, expand their activities, and have the most power to hold them accountable, even as their contributions decrease over the years.[38] This state of affairs heightens the burden on poor, borrowing nations and disincentivizes approaching the BWI during times of need.[39] As Woods describes the situation, "the institutions themselves are today distributing money from poor to rich countries as borrowers increasingly shoulder the burden not just of bad loans but also of building up the reserves of each organization and of remunerating creditor members in the IMF."[40] This problem is only exacerbated by the dearth of opportunities for poorer constituents to participate in the selection of EDs and policy-making decisions.

C. *A Culture of Lending*

A disbursement culture pervades both BWI. Within the Bank, staff are more concerned with using the budget within its allocation period than making sure Bank projects are sustainable and effective in the long-run. There are no incentives to sustain projects beyond the short-term lending period. Staff members are discouraged from spending extended periods of time at project locations for fear that they will "go native" and sympathize too much with locals.[41] There is high employee turnover, with few employees spending more than two years in the same country.[42] Observable evidence also indicates that far fewer staff resources are invested in the programs of countries that spend significantly more time under IMF programs than more successful, temporary users of IMF resources.[43] When these aspects of the lending culture interact with one another, the result is a staff that is unable to hone real expertise or acquire deep knowledge of the countries to which they lend. This deepens the rift between the BWI

36. *Id.*
37. *Id.* at 193.
38. *Id.* at 199.
39. *Id.* at 200.
40. *Id.*
41. *Id.* at 207.
42. *Id.* at 161.
43. *Id.*

and their borrowers, despite the BWI's alleged emphasis on lending that encourages local ownership, participation, and better governance in borrowing countries.[44]

The 1991 Wapenhans Report, commissioned by the World Bank, revealed that 37.5 percent of the Bank's projects were failures.[45] The report focused on the pervasive approval culture within the Bank, wherein "staff perceived project appraisals as internal marketing devices for securing loan approval and achieving personal recognition."[46] The report also found that "pressure to lend overwhelmed all other considerations – including project quality."[47] It also shed light on the lack of attention paid to the implementation and supervision of loans and effects on sustainable development.[48] Numerous studies of the Bank's internal structure reveal similar findings: careers in the Bank have long been built by designing projects that receive Board approval and meet project volume targets.[49] Staff performance and promotion are heavily influenced by these pressures.[50]

In both the World Bank and the IMF, there is not only pressure to design projects and loan packages that will receive senior management's approval, but also to adhere to template proposals. BWI staff purportedly have an aversion to designing original projects in order to avoid personal responsibility for failed projects.[51] Template proposals allow staff to deflect blame onto the institutions as a whole while also allowing the IMF and World Bank to respond to crises quickly.[52] These pressures not only perpetuate groupthink and conformity within the BWI, but more perversely, they result in a high degree of uniformity in projects that are applied to a diverse array of political economies.[53] Still, the BWI pride themselves on their ability to "stand above" local knowledge and to claim a universally applicable expertise, based squarely in the discipline of eco-

44. *Id.* at 207.

45. Lori Udall, *The World Bank and Public Accountability: Has Anything Changed?, in* The Struggle for Accountability: The World Bank, NGOs, and Grassroots Movements 391, 401 (Johnathon A. Fox and L. David Brown eds., 1998).

46. *Id.* at 401.

47. *Id.*

48. Lewis T. Preston, *Records of the Portfolio Management Task Force (Wapenhans Report) and Follow-up*, WORLD BANK GROUP ARCHIVES HOLDINGS, (Feb. 4, 2018), https://archivesholdings.worldbank.org/exc-portfolio-management-wapenhans-task-force-executive-directors-statements-recommendations.

49. Paul J. Nelson, The World Bank and Non-Governmental Organizations: The Limits of Apolitical Development 90–91 (New York: St. Martin's Press, Inc., 1995).

50. *Id.*

51. Woods, *supra* note 2, at 160.

52. *Id.*

53. *Id.* at 160–61.

nomics,"[54] even when their projects inflict significant harm on borrowing countries.

Ultimately, the governance and operational structures of the BWI present few opportunities for the citizens of borrowing countries to participate in decision-making. Moreover, the EDs of developing nations have little say in policy design due to the skewed voting framework and have little to no fidelity to the interests of the nations they represent. Not only are participatory processes absent, but the representative configurations which the BWI boast are deficient as well.

II. High Conditionality Lending

Structural adjustment, also known as high conditionality lending, refers to a set of economic conditions the IMF and World Bank impose as prerequisites for loans.[55] These conditions are typically a combination of free market-inspired policies such as trade liberalization and deregulation, privatization, fiscal austerity, tax reform, exchange rate manipulation, and currency devaluation. This list of neoliberal reforms is known as the "Washington Consensus," as it has become the standard loan package offered to countries in crisis by the Washington-based BWI.[56] Although these requirements are designed to encourage macroeconomic stability and provide liquidity to cash-strapped governments, they often constrain government behavior and sovereignty and occasion severe economic and social harms.

High conditionality lending is justified by the assumption that borrowing nations experiencing balance of payments troubles cannot make credible commitments to use loans for investment purposes absent stringent conditions. Nations that turn to the IMF for assistance have been deemed uncreditworthy by most creditors on the global market. It is these countries that come within the purview of structural adjustment.[57] Although the IMF's position as a lender of last resort is important in an increasingly financialized world, the conditions imposed on borrowing nations that are already experiencing economic troubles ultimately only exacerbate their circumstances. High external indebtedness and internal imbalances, compounded by the IMF's loan conditions, provide very little incentive or capacity for borrowers to undertake the necessary reforms to stabilize their

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54. *Id.* at 64.

55. Articles of Agreement of the IMF, Art 5 §1: "Conditions governing use of the Fund's general resources," *IMF Articles of Agreement*: "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."

56. *See* Woods, *supra* note 2, at 63.

57. *See* Graham Bird, IMF Lending to Developing Countries: Issues and Evidence 74–75, 83 (1995).

economies and service their debts. According to Sachs, "IMF programs are very frequently, if not typically, unsuccessful in restoring stability and growth in countries beset with balance-of-payments and inflation problems."[58]

The IMF offers a variety of lending instruments contingent upon the urgency of the balance of payments crisis, i.e. whether it is actual, prospective, potential, short-term, or medium-term.[59] Upon the request of borrowing countries, IMF loans are provided to assist them in efforts to "rebuild their internal reserves, stabilize their currencies, continue paying for imports, and restore conditions for strong economic growth, while implementing policies to correct underlying problems."[60] The World Bank, on the other hand, lends for specific development projects and provides technical assistance.[61]

The rapid privatization required by structural adjustment increases unemployment considerably and, when coupled with spending cuts and price increases, may result in higher poverty rates.[62] These circumstances cultivate fertile ground for insider deals and rent-seeking behavior. Moreover, inflation control and market liberalization reduce government revenues. This especially harm small businesses, which ultimately face downward pressure on their labor costs and may be driven out of business. The fiscal discipline required by the IMF and World Bank ultimately impairs citizen protections and services and inflates wealth disparities. The IMF itself published an article in 2016 highlighting the components of its neoliberal agenda that were oversold.[63] In particular, the IMF conceded that removing restrictions on cross-border capital flows and fiscal consolidation, also known as austerity, ultimately increased inequality, though the authors were hesitant to censure other facets of IMF neoliberalism that have similar effects.[64]

The Washington Consensus prescriptions have been described as shock therapy by observers due to the speed with which these radical reforms are expected to be implemented and the adverse effects they have on borrowing countries.[65] Easterly defines shock therapy as a form of social engineering that has been employed in the swift transition to capitalism in

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58. JEFFREY SACHS, DEVELOPING COUNTRY DEBT AND THE WORLD ECONOMY 270 (1989).

59. *IMF Lending*, INT'L MONETARY FUND (Mar. 8, 2018), http://www.imf.org/en/About/Factsheets/IMF-Lending.

60. *Overview of the IMF as a Financial Institution,* INT'L MONETARY FUND 1 (2016), http://www.imf.org/external/pubs/ft/finop/2016/pdf/chapter1.pdf.

61. *What We Do*, WORLD BANK, http://www.worldbank.org/en/about/what-we-do.

62. NELSON, *supra* note 49, at 21–22. *See also* WOODS, *supra* note 2.

63. *See* Jonathon D. Ostry et al., *Neoliberalism: Oversold?*, 53 FIN. & DEV. 38 (2016).

64. *Id.*

65. *See* WILLIAM EASTERLY, THE WHITE MAN'S BURDEN: WHY THE WEST'S EFFORTS TO AID THE REST HAVE DONE SO MUCH ILL AND SO LITTLE GOOD 14 (2007).

borrowing countries that eschews gradual democratic reforms.[66] Attempts by the BWI to engineer the societies of nations in the global south with unaccommodating, underdeveloped institutions precipitated riots in several countries, ran afoul of public institutions, furthered indebtedness and economic downturn, and ultimately prolonged the dependence of borrowing countries on the BWI. Perhaps the most salient criticism of the high conditionality lending practices of the IMF and World Bank is that, in their quest for economic reform and development, they ignore or wish away political realities.[67] The two institutions acknowledge the need for more holistic approaches to their mandates that adequately attend to the social and structural constraints of development, but they have not yet achieved this.[68]

It must be noted that there is also significant doubt as to whether IMF programs were ever actually implemented in a number of cases, particularly in Africa. As many as 53 percent of IMF programs from 1979 to 1993 are considered failures,[69] and 75 percent of World Bank adjustment loans during this period experienced noncompliance issues.[70] Despite noncompliance with its conditions, which is ostensibly a barrier to further IMF lending or receiving subsequent tranches of a loan package, the IMF continues to disburse loans to borrowers that cannot repay previous debts, essentially creating IMF addicts. "Once a country is in deep to the IMF, with the country owing the IMF due to previous bailout packages," Easterly avers, "it is hard to get out. . . The probability of getting a new loan does not go down with the number of IMF and World Bank adjustment loans already received . . . In 2001, loans to prolonged users accounted for half of all IMF lending."[71]

The deficient record of implementation of IMF and World Bank programs is perhaps more appropriately attributable to the infeasibility of their implementation. This may explain why many countries, particularly in Latin America, abandon reform programs they previously agreed to.[72] A lack of citizen ownership may also explain such deficiencies, as there is scant citizen participation in program creation and thus little incentive to ensure program success on the ground.

A. *Who Decides?*

IMF and World Bank lending arrangements are negotiated by BWI staff and a select group of officials from borrowing nations—namely from

66. *Id.*

67. Woods, *supra* note 2, at 161.

68. *Id.*

69. Defined as a country not implementing twenty percent or more of the program's conditions.

70. Woods, *supra* note 2, at 161.

71. Easterly, *supra* note 65, at 228.

72. *See* Woods, *supra* note 2, at 161, 167.

the Finance and Planning Ministries and the Central Bank. These negotiations are typically conducted clandestinely and enjoy relative insulation from public institutions and political processes.[73] The BWI benefited from this independence for quite some time, relying on "sympathetic interlocutors" in borrowing countries to sway the appropriate technocrats to sign and implement such agreements without going through the full political machinations.[74] The IMF and World Bank are most persuasive in highly centralized political systems, isolated from democratic, deliberative processes.[75] Woods contends that the influence of the IMF and World Bank is high where economic policy is centralized and insulated from political pressures and tenuous where economic policy is less easily controlled because of political processes and electoral cycles.[76] In other words, IMF and World Bank adjustment programs are best received without public participation. Since the "good governance" reforms undertaken by the BWI in the 1990s, however, the process opened up under the guise of transparency and accountability, albeit without public input.[77]

One of the most potent difficulties of negotiating with a sovereign borrower is the diffusion of power within government. Sachs posits that power is often diffused to such an extent that officials negotiating agreements with the BWI lack the authority to actually execute them.[78] During negotiations, the IMF and World Bank operate under the assumption that there is one unified government actor that can be bound by the agreement, but in reality, the reform policies to which the finance ministers agree are often of the nature that require the approval of other branches of government.[79] As SAP negotiations foreclose input from the legislative branches of borrowing countries, the public is effectively disenfranchised and voiceless in the creation of programs that affect their daily lives, often in destructive ways. In fact, domestic constituencies often oppose structural adjustment and austerity. In order to deny their voice in the matter, policymakers seek conditionality-laced reforms instead.[80] This allows government officials to shift the blame onto the BWI when structural adjustment programs run afoul of the citizenry, and these officials consequently appear blameless when elections approach. Not only are democratic deficits present within the governance structures of the IMF and World Bank, but such deficits ultimately mirror the lack of transparency borrowing governments proffer to their constituents regarding SAP and policymaking in general.

73. *Id.* at 73.

74. *Id.*

75. *Id.* at 79.

76. *See id.* at 83.

77. *Id.* at 77.

78. *See* Sachs, *supra* note 58, at 264.

79. *Id*. at 275.

80. *See* Chelsea Brown, *Democracy's Friend or Foe? The Effects of Recent IMF Conditional Lending in Latin America*, 30 Int'l Pol. Sci. Rev. 431 (2009).

B. *Speed Lending*

A recent body of literature has focused on the responsiveness of the IMF to loan requests.[81] The number of days that elapse between the time a formal "letter of intent" is filed with the IMF and the time a loan is actually disbursed is crucial because of its implications for containing crises and democratic deliberation.[82] Current trends indicate the timespan between crisis and IMF intervention has decreased over time in order to mitigate aggravating factors and curb contagion.[83] The IMF's concern in such circumstances is predicated on the depth of international financial markets and the need to respond in a timely manner to prevent crises from spreading as markets react to bad news.[84] In its program design, the IMF faces the continuing challenge of balancing the need to expeditiously stem crises with the time needed to devise a program that will reverse the policies that led to the crisis. Augmenting this balance is the IMF's concern for protecting its own resources. Consequently, speed lending appears to have curtailed democratic deliberation in this process.

Should the speed and efficiency necessary for responding to financial crises come at the expense of democratic mechanisms to create and implement SAPs? Can an efficient balance between democratic deliberation and SAPs be struck in an increasingly integrated global financial structure? In two studies on IMF responsiveness, Mody and Saravia reveal four findings: 1) the more severe a crisis, the quicker a program is implemented, 2) the response to and scope of vulnerability has increased over time, 3) the increase in value over time of affiliation with the United States has led to rapid program closure, and 4) the need for speed has not undermined domestic democratic processes, nor do such domestic variables influence program decision or response speed.[85] This section examines the fourth finding through the lens of participatory democracy.

Mody and Saravia's assessment suggests that, because political participation and economic openness reinforce one another and are thus in harmony, forgoing one for the other – i.e. curtailing deliberation for the sake of economic openness – may not be troubling if their alignment is backed by institutions that can accommodate rapid decision-making.[86] This leads to the inference that the countries that more frequently borrow from the BWI do not fall under this category, although the authors leave the influ-

81. *See*, *e.g.*, Ashoka Mody & Diego Saravia, *From Crisis to IMF-Supported Program: Does Democracy Impede the Speed Required by Financial Markets?* (IMF Working Paper WP/08/276, 2008).

82. A Letter of Intent is a document submitted to the Executive Board detailing the policies the borrowing nation intends to implement in exchange for the provision of a loan from the IMF.

83. *See* Mody & Saravja, *supra* note 81.

84. *Id.* at 3.

85. *Id.* at 22; *See also* Ashoka Mody & Diego Saravia, *The Response Speed of the International Monetary Fund,* 16 INT'L. FIN. 189 (2013).

86. Mody & Saravia, *supra* note 81, at 18.

ence of other political factors for further exploration.[87] Mody and Saravia also find that institutional checks that impose constraints on executives are associated with more rapid program negotiation and that democracies have adapted to the need for speed.[88] They report that, during the global onset of democratization in the 1970s, political processes initially slowed the lending process, but in the 1980s, democracies began to accommodate the need for expeditious lending.[89] Variables they consider in reaching this conclusion include a country's PolityIV (the conventional measure of political participation in democratic processes) and PolConIII (the extent to which the legislature can constrain the executive) indicators and the role of veto players in voicing concerns and delaying decisions.[90] They find that the democracy variable (PolityIV) is insignificant on its own, but when the executive constraints (PolConIII) are introduced, decision speeds increase.[91]

The two democracy variables Mody and Saravia employ in their study quantify regime type and the presence of institutions and procedures through which citizens can express their preferences about policies and leaders respectively.[92] Most intriguing about their findings is that such conclusions are drawn without a full treatment of the insulation of the IMF negotiation processes, though they do acknowledge that there are political factors their study does not account for.[93] While the presence of democratic machinery in a borrowing government may indicate it does not fall on the authoritarian end of the PolityIV scale, this does not necessarily mean such machinery is employed by the citizenry during the negotiation period with the IMF.[94] In fact, except for the occasional input from non-governmental or civil society organizations, the average citizen is excluded from the process of designing SAPs.[95] The clandestine SAP negotiations undertaken by a select few government officials do not provide for the direct involvement of citizens in decision-making that is idealized under the theory of participatory democracy. Moreover, the principal recipients of IMF loans, discussed in the following section, were governed by authoritarian or military regimes at the height of their borrowing and lacked the institutional capacity and political will to accommodate the kind of participation the PolityIV measure presupposes, casting further doubt on the utility of the indicators operationalized by Mody and Saravia.

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87. *Id.*

88. *Id.* at 22.

89. *Id.*

90. *Id.* at 19.

91. *Id.*

92. *See* Monty G. Marshall & Keith Jaggers, Polity IV Project (2007).

93. Mody & Saravia, *supra* note 81, at 18.

94. *See* section *Who Decides?*, *supra* p. 373.

95. *Id.*

C. *The Latin American Experience*

The Latin American debt crisis of the 1980s, often referred to as the "lost decade,"[96] is considered the posterchild of the need for speed as concerns over the spread of crisis in the region were high. Following the oil price shocks of the 1970s,[97] a number of Latin American countries were unable to service their foreign debt, which was used to finance large current account deficits.[98] Banks in the United States and the IMF instituted a cooperative effort to restructure Latin American debt, which entailed lending to pay off interest and imposing structural reforms to reconfigure national economies.[99]

Under the auspices of the IMF, Latin American governments, including Mexico, Argentina, and Bolivia, cut spending on infrastructure, education, and healthcare, froze wages, increased prices on basic commodities, and reduced subsidies – i.e. austerity, deregulation, and privatization.[100] Still, the debts of these nations reached unsustainable levels. By 1989, it was clear they would not be able to service their debts and simultaneously reinvigorate their economies.[101] Inequality rose sharply due to plummeting employment rates and increased poverty, and crime became more prevalent.[102] Anti-austerity riots transpired in 39 of approximately 80 countries that borrowed from the IMF between 1976 and 1992, and a few carried over into the early 2000s.[103] In Argentina, violent riots and looting culminated in the death of at least sixteen people.[104] In Bolivia, clashes between civilians and the military resulted in twenty-five fatalities.[105] In Mexico City, angry farmers barricaded streets and government buildings, and protests broke out in a number of cities.[106] Despite similar unrest as a result of structural adjustment, however, the democratic trajectories of Argentina, Bolivia, and Mexico diverged in radically different directions.

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96. *See, e.g.*, Margaret Daly Hayes, *The U.S. and Latin America: A Lost Decade?*, FOREIGN AFFAIRS (1988), https://www.foreignaffairs.com/articles/central-america-caribbean/1989-02-01/us-and-latin-america-lost-decade.

97. A series of energy crises, including the OPEC oil embargo, that shook oil prices from 1967 to 1979 and led to a rapid buildup of international debt in the affected countries.

98. Jocelyn Sims & Jessie Romero, *Latin American Debt Crisis of the 1980s*, FEDERAL RESERVE HISTORY, https://www.federalreservehistory.org/essays/latin_american_debt_crisis#working.

99. *Id.*

100. JOHN WALTON & JONATHON SHEFNER, *Latin America: Popular Protest and the State*, *in* FREE MARKETS AND FOOD RIOTS: THE POLITICS OF GLOBAL ADJUSTMENT 101 (1994).

101. *See id.*

102. *See* Brown, *supra* note 80.

103. Lesley J. Wood, *Anti-World Bank and IMF Riots*, *in* THE WILEY-BLACKWELL ENCYCLOPEDIA OF SOCIAL AND POLITICAL MOVEMENTS 1 (David A. Snow et al. eds., 2013).

104. "Argentinian finance minister resigns after 16 die in riots," THE GUARDIAN (Dec. 20, 2001), https://www.theguardian.com/world/2001/dec/20/argentina2.

105. Brown, *supra* note 80, at 441.

106. *Id.* at 432.

By the end of 2001, the entire Argentine government resigned, and five interim governments came and went.[107] Civil and political liberties were severely restricted, and the government declared a state of emergency.[108] The Bolivian government imposed a state of martial law in 2001 after protests frenzied out of control.[109] Frustrated and suffering due to increasing unemployment, water privatization, and social service cutbacks, protesters toppled two Bolivian governments.[110] Heavy government repression in Argentina and Bolivia in response to protest led to declines in their Freedom House measures.[111] Meanwhile in Mexico, the government maintained its stability, improved civil liberties and electoral processes, and its Freedom House score increased, despite public protest over conditionality.[112]

In attempts to make sense of the disparate effects IMF lending had on democracy in Latin America, Brown concludes that "[t]he simple presence or absence of an IMF loan does not have a significant effect on democracy. When more reforms are required as part of the loan package, however, the effects on democracy are significant and generally negative."[113] In addition to fiscal reforms, legal and institutional reforms required by loan packages engender harmful effects on democracy as well. This may be because the borrowing countries' institutions do not function with the efficiency and sophistication the reforms require. The infeasibility of effectuating the complete set of reforms ultimately contributes to the socioeconomic problems of borrowing nations.

In the case of Mexico, the IMF agreement required social changes that improved or increased services that largely benefit the poor and working classes, which may explain the relative success Mexico enjoyed compared to other loan recipients.[114] Institutional differences between Mexico, Argentina, and Bolivia can explain the democratic consequences as well. Mexico did not impose a state of emergency, nor did it attempt to restrict dissent.[115] Moreover, Mexico's close relationship with the United States may indicate Mexico was under pressure to respect democratic proceedings.[116] Such outcomes, in concert with a nation's ability to implement reform policies, underscore the need to tailor IMF programs more narrowly to account for domestic circumstances.

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107. *Id.* at 432; "Argentina gets a new president for a day," CNN (Jan. 1, 2002), http://edition.cnn.com/2001/WORLD/americas/12/31/argentina.resign/.

108. Brown, *supra* note 80, at 436.

109. *Id.* at 444.

110. *Id.*

111. *Id.*

112. *Id.* at 445.

113. *Id.* at 439.

114. *Id.* at 443.

115. *Id.* at 445.

116. *Id.*

D. *Crisis in Africa*

While IMF conditionality may have yielded relatively positive outcomes in some Latin American nations, the BWI's lending programs in Africa are largely considered to be abject failures. Rather than attending to the external variables that were straining African economies, the IMF looked internally and concerned itself with reducing the size of the state in the hopes of enhancing the role of the private sector.[117] While African leaders expressed their anxieties about the continent's dependence on the export of raw materials and its corollary susceptibility to external shocks and constraints, the IMF required countries to undertake stabilization policies to reduce budget deficits and stem inflation.[118]

By 1990, seven of the eight states in the world that failed or collapsed spent a significant period of time preceding collapse under an IMF program.[119] Six of these nations are in Africa—Burundi, Liberia, Sierra Leone, Somalia, Sudan, and Zaire (presently Democratic Republic of the Congo).[120] Easterly asserts that spending significant periods of time under an IMF program is associated with a higher risk of state collapse.[121] Of course, the political systems in these nations were already sickly and their central banks poorly run. But, this raises the question: why would the IMF apply the same programs to nations with weak financial and political institutions as it does to those with relatively strong or functioning ones?

In Africa, the IMF possessed unreliable data and paid scant attention to facts on the ground. In Sierra Leone, the IMF intervened each time there was a pause in the civil war throughout the 1990s—this after heavy IMF involvement before the state collapsed in 1990. While rebels were terrorizing civilians, the IMF was granting additional loans. The total debt of borrowing countries in Africa doubled between 1979 and 1985 and doubled again in the early 1990s.[122] The value of their external debt as a share of gross national product rose from around 25% in 1980 to more than 80% in 1994.[123] Woods observed that, as BWI involvement in Africa increased, "indebted countries began to use bilateral loans from individual donor agencies to repay the IMF and World Bank who were necessarily their 'preferred creditors.' The result was both to create reverse flows of funds to the IMF and to create strong political pressure for a change in the debt strategy."[124]

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117. *See* Woods, *supra* note 2, at 143.

118. *Id.* at 142.

119. Easterly, *supra* note 65, at 218.

120. *Id.* Table 4 (showing that, as of 1990, Burundi spent 62% of the ten years prior to collapse under an IMF program; Liberia 70%; Sierra Leone 59%; Somalia 74%; Sudan 58%; Zaire 73%).

121. *Id.*

122. Woods, *supra* note 2, at 146–47.

123. *Id.*

124. *Id.*

Most high conditionality lending conducted in Africa was Enhanced Structural Adjustment Facility ("ESAF"), which has since been scrapped following an IMF-commissioned report concluding that it did not work.[125] ESAF prioritized balancing budgets without heeding long-term growth consequences, pushed rapid privatization without regard for the ways politicians could use it for rent-seeking, encouraged countries to undertake financial and exchange rate liberalization before stabilizing their economies, and operated based on exaggerated fiscal deficits.[126] As for the World Bank, its conditionality programs rested on the assumption that there were too many civil servants in Africa, despite its own research demonstrating otherwise.[127] More appropriate guidance would entail helping African nations achieve better governance through technical assistance, institution-building, and public expenditure reviews.[128]

In designing their loan packages, the World Bank and IMF discounted the realities of the market structures and institutional capacities of their African constituents and focused instead on short-term targets that were easily achievable. They exhibited a willful blindness to the unsustainability of African debt and the fact that stabilization and adjustment were not working to reverse it.[129] Borrowers are required to fulfill loan conditions in order to receive a subsequent loan, but the IMF adopted the practice of turning a blind eye with each new loan issued, resulting in deficient compliance and massive debt accumulation.[130]

Woods recounts donor countries' concerns in the 1980s about the poverty that SAPs seemed to ignore, particularly in Africa. The World Bank and IMF had internal debates about how to protect the poor from structural adjustment and how social services may be channeled directly to the poor, but in practice, there was little modification to their modus operandi, which assumed that stabilization and adjustment were necessary to achieve poverty alleviation.[131] The IMF and World Bank insisted on their uniform approach to crisis for quite some time.

E. *Inching Toward Reform*

Much of the criticism outlined above has been internalized by the IMF and World Bank, and the institutions have signaled that they are interested in mitigating the concerns lodged against them.[132] Maintaining a stable international monetary system and fostering economic development

125. *Id.* at 153–56.

126. *Id.*

127. *Id.* at 157.

128. *Id.*

129. *Id.* at 158.

130. Easterly, *supra* note 65, at 228.

131. Woods, *supra* note 2, at 160.

132. *See* The Struggle for Accountability: The World Bank, NGOs, and Grassroots Movements (Jonathon A. Fox & L. David Brown, eds.).

across the globe are noble causes worthy of pursuing. That being said, accomplishing these goals is immensely challenging and requires a great deal of nuance. The BWI concede this much and have attempted to consult with individuals and organizations on the ground in borrowing countries to soften the blow of their SAPs.[133]

Some of the most vocal critics of the IMF and World Bank are civil society organizations ("CSOs"). In the context of global finance, civil society is understood as a political space where voluntary associations attempt to shape policies, norms, and social structures.[134] These associations of citizens seek to change the rules that govern their social lives. The principal types of CSOs concerned with the IMF and World Bank are research institutes, non-governmental organizations ("NGOs"), business forums, labor unions, and faith groups.[135] CSOs take up the cause of the average citizen unacquainted with the global financial system.

The vast majority of people across the globe have scant, if any, awareness of the major players in global finance and the immense power that they wield. States do not hold referenda on issues related to financial regulation, and legislatures have little, if any, direct involvement or power to supervise the transnational institutions that comprise the global financial architecture. There is a significant rift between the "beneficiaries" of global financial regulation and those who transmit policy from above. CSOs have attempted to narrow this gap through sustained protest and advocacy efforts. They made significant inroads in accountability with respect to BWI projects and policies but have seen limited success at the Executive Board level or with respect to staff performance incentives.

The BWI began their direct engagements with civil society in the 1970s, specifically with environmental groups concerned about the impacts World Bank projects have on human populations, ecosystems, and the climate. Environmental groups found success in the 1980s with the World Bank's adoption of the Environmental Impact Assessments.[136] In 1995, the World Bank created the Structural Adjustment Participatory Review Initiative ("SAPRI") in which over 1200 civil society associations from across the globe participated. SAPRI "was conceived as a collaborative exercise in which the World Bank, civil society organizations, and government officials would agree upon methodology and jointly assess the impacts of structural adjustment."[137] The initiative concluded with the

133. *See, e.g.*, the IMF's Poverty Reduction Strategy Papers and the World Bank's Civil Society Poicy Forum.

134. Civil Society and Global Finance 11, 22 (Jan A. Scholte & Albrecht Schnabel eds., 2002).

135. Jan A. Scholte, *Civil Society and the Governance of Global Finance*, *in* Civil Society And Global Finance 11, 22 (Jan A. Scholte & Albrecht Schnabel eds., 2002).

136. *See* Jose O. Castaneda, *The World Bank Adopts Environmental Impact Assessments*, 4 Pace Y.B. Int'l L. 241 (1992); Alnoor Ebrahim & Steven Herz, *The World Bank and democratic accountability: the role of civil society*, *in* Building Global Democracy?: Civil Society and Accountable Governance 67–68, (Jan Aart Scholte ed.).

137. Ebrahim & Herz, *supra* note 136, at 69.

World Bank accepting the findings but falling short of revising its policies.[138]

The World Bank later redefined its approach to lending for low-income countries with the launch of the Poverty Reduction Strategy Papers ("PRSP"). These Papers were hailed as an embrace of more participatory practices that allow member countries to prepare reports on their poverty levels and to develop strategies to eliminate poverty with the World Bank's assistance. Scholte reasons the BWI may have resorted to this approach due to the very visible public demonstrations against the institutions, which are an important counterweight to the susceptibility of consultations to co-optation.[139] The World Bank described the PRSP as a resolution of the tension between conditionality and sovereignty, claiming it was "a crucial step towards greater national ownership of development programs which is essential for increased effectiveness of external assistance."[140] The IMF agreed and expressed its pleasure that member countries would take ownership of poverty reduction. Despite these endorsements, the PRSP have been widely criticized.

Van de Walle describes the PRSP as a form of ventriloquism, wherein countries have to guess what programs the IMF and World Bank will approve.[141] The PRSP ultimately result in the suggestion of the same conditions the BWI impose, a dubious attempt at handing over the reins and providing countries with the opportunity to take real ownership of solutions to national problems. Interestingly, Scholte observes that PRSP consultations chiefly facilitate dialogue between CSOs and governments rather than CSOs and global agencies.[142] When the World Bank does directly engage CSOs, observers maintain that the consultations often fall flat because it rarely indicates what it hopes to achieve from certain consultative processes, clarifies what issues are or are not open for consideration, or what policy options are feasible.[143] Moreover, the World Bank is not transparent about how reviews inform policy reforms, bolstering the perception that these institutions are not receptive to public input.[144] The Bank asserts, however, that CSOs have unrealistic expectations.[145]

Due to the sweeping campaigns waged against the institutions for their alleged lack of accountability and transparency, the BWI respectively appointed civil society liaison officers and organized a Civil Society Policy

138. *Id.*

139. Jan A. Scholte, *Conclusion*, *in* BUILDING GLOBAL DEMOCRACY? CIVIL SOCIETY AND ACCOUNTABLE GLOBAL GOVERNANCE 306, 318 (Jan A. Scholte ed. 2011).

140. EASTERLY, *supra* note 65, at 146.

141. *Id.*

142. Jan A. Scholte, *Civil Society and IMF Accountability*, *in* BUILDING GLOBAL DEMOCRACY? CIVIL SOCIETY AND ACCOUNTABLE GLOBAL GOVERNANCE 78, 90 (Jan A. Scholte ed. 2011).

143. Ebrahim & Herz, *supra* note 136, at 69.

144. *Id.* at 71.

145. *Id.* at 69.

Forum at their annual meetings.[146] In 1981, an NGO-World Bank Committee was in operation but became defunct by the early 2000s.[147] A permanent, institutionalized consultation with CSOs is absent altogether at the IMF, though it issued a guide on consultations with CSOs in 2003.[148] The World Bank continues to encourage consultations with civil society, but they have become more of a tick-the-box exercise with no real consequences for policy reforms rather than a genuine attempt to account for the concerns of affected people. Furthermore, both World Bank and IMF officials tend to treat civil society consultations as unilateral briefings as opposed to a two-way dialogue.[149]

In the instances that the IMF has granted CSOs an audience, they have largely been through a hegemonic lens, reinforcing the structures within the institution that subordinate weaker borrowing nations and reinforce the undemocratic nature of its stratification. To the extent civil society made the IMF more accountable, these efforts tended to legitimate the existing framework of IMF operations—that is, "a reformist quality that adjusts Fund practices while remaining within the dominant patterns of world order (e.g. of capitalism and Western modernity)."[150]

Hegemonic characteristics are also observable on the occasions the IMF opens itself up to public scrutiny. When interrogating who the IMF is accountable to, it is equally, if not more, important to ask for whom the IMF makes itself transparent. The IMF directs its transparency campaigns at English-speaking, financially-literate audiences with access to the internet and/or specialist libraries.[151] These efforts bypass those who are most acutely affected by the IMF's policies. The institution tried to remediate this by making its website available in different languages, but the substance is still highly technical and does not divulge information on the political and social concerns at stake in IMF activities.[152]

IMF consultations with civil society to date predominantly engage groups in the global north and exclude marginalized groups such as indigenous peoples, women, non-Christian groups, disabled persons, and peasants among others. This policy of exclusion is informed by the misguided assumption that stakeholders who lack technical expertise have no role to play in policy deliberations. Additionally, the content of IMF consultations with CSOs does not stray from the paradigmatic Keynesian, neoliberal approach to economics. Consequently, these engagements, operating in concert with the lending pressures and disbursement culture that permeate the BWI's operations, reinforce the structural inequalities

146. Scholte, *supra* note 134, at 316.

147. *Id.*

148. *Id.*

149. *Id.* at 318.

150. Scholte, *supra* note 142, at 80.

151. Jan Aart Scholte, *Civil society and IMF accountability*, *in* Building Global Democracy?: Civil Society and Accountable Governance 86, (Jan Aart Scholte ed.)

152. *Id.* at 86.

of the BWI and the construction of the global financial system rather than remedying them through more participatory processes.

F. *Democratic Deficits Within Civil Society Organizations*

CSOs can certainly claim victories in making the BWI more accountable and transparent, but these associations suffer from their own democratic deficits as well. Civil society is defined in a number of ways, but it is broadly understood as a space for citizens to assemble and deliberate the circumstances of their collective life.[153] Civil society engagement is an exercise in citizenship, whereby members of the same polity come together to play a part in the acquisition, distribution, and exercise of power that affects their daily lives. However, CSOs are not always concerned with the issues facing ordinary citizens. Some CSOs embrace mandates that are inspired by hate and greed. Some of their activities have negative consequences. Many of them are not forthcoming about their goals, funding, and internal operations. Civil society participation in the international financial system is a means to an end, but it is not the end in and of itself.

CSOs can be instrumental in advancing democratic interests and providing public benefits. Particularly in the context of global finance, CSO engagement furnishes opportunities for public education by raising citizens' awareness and understanding of global finance; furthers good governance initiatives by amplifying the voices of stakeholders and shifting policy-making in a more participatory direction; increases public transparency and accountability; and enhances social cohesion.[154] A number of CSOs pursued economic literacy projects in countries under IMF programs, including Kenya, Malawi, Zambia, and Sierra Leone. For example, the Malawi Equal Justice Network ("MEJN") and Civil Society for Poverty Reduction ("CSPR") in Zambia produced lay versions of their governments' agreements with the IMF. These kinds of initiatives are rare and short-lived, but they demonstrate the good CSOs can accomplish within the global financial system.[155]

The importance of and progress made by CSOs in the global financial architecture should not be discounted, but the democratic shortcomings of their construction cannot be ignored either. Under the guise of lending their resources and visibility to the voiceless, CSOs often displace those they purport to speak on behalf of in consultative processes. One major risk when NGOs enter the fray is the unofficial transfer of power from elected representatives to unelected civil society activists and bureaucrats. The role civil society has effectively taken on is the same as that of government officials, resulting in the same lack of engagement with the average citizen affected by global financial regulations and thus frustrating pros-

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153. *See* Jan A. Scholte, *Global Governance, Accountability, and Civil Society*, *in* BUILDING GLOBAL DEMOCRACY? CIVIL SOCIETY AND ACCOUNTABLE GLOBAL GOVERNANCE 8, 33–34 (Jan Aart Scholte ed. 2011).

154. Scholte, *supra* note 142, at 29.

155. Scholte, *supra* note 142, at 85.

pects for direct participation. The displacement of citizens by CSOs runs counter to the theory of participation this Note hinges on. As such, their involvement cannot be considered truly participatory or constructive for achieving national ownership of BWI reforms.

III. On Ownership and Participation

The IMF defines policy ownership as "a willing assumption of responsibility for an agreed program of policies, by officials in a borrowing country who have the responsibility to formulate and carry out those policies, based on an understanding that the program is achievable and is in the country's own interest."[156] This conception of ownership does not require that officials create the policies in order for a government to own them, nor must the policies be independent of conditionality. What it does require is a government to appreciate the benefits of the policies and accept responsibility for them.[157] As discussed, only a select few individuals from borrowing countries negotiate with the IMF. Their "ownership" of the policies negotiated with the IMF, whether they initially approve of them or not, does not translate into national ownership. The isolation of this process marginalizes the public that is affected by the negotiated policies. Framing ownership in this manner is inherently undemocratic and exclusionary.

Ownership is necessary for a program's success. The IMF acknowledges this and touts its Article IV consultations as a vehicle for borrowing countries to design and implement economic reforms on their own terms.[158] The World Bank similarly presents its PRSP as a panacea for the criticism it receives.[159] Article IV of the IMF Articles of Agreement promulgates a number of obligations and surveillance arrangements in pursuit of "the continuing development of the orderly underlying conditions that are necessary for financial and economic stability."[160] Article IV consultations occur on an annual or a biennial basis with all 189 members of the IMF. The IMF consults with each member government in an attempt to assess its economic health and advise on macroeconomic policies. In many countries, the Article IV missions also engage with a selection of CSOs.[161] Given the foregoing discussion of IMF interactions with civil society over time, however, it is difficult to imagine the IMF lending itself to truly participatory discourse. CSO inclusion in Article IV consultations is more likely treated as another tick-the-box affair.

156. IMF, *Strengthening Country Ownership of Fund-Supported Programs*, at 6 (Dec. 5, 2001), http://www.imf.org/external/np/pdr/cond/2001/eng/strength/120501.pdf.

157. James M. Boughton & Alex Mourmouras, *Is Policy Ownership An Operational Concept?*, at 3 (IMF Working Paper 2002).

158. Scholte, *supra* note 142, at 89.

159. *Id.* at 18.

160. Articles of Agreement of the IMF, Art. 4, §1.

161. Scholte, *supra* note 142, at 89.

The IMF Executive Board affirmed that ownership is "essential to the successful and sustained implementation of a program of economic policies" and that "conditionality cannot compensate for a lack of program ownership."[162] Nevertheless, creditors and debtors often clash in defining ownership. Borrowing governments assert that it is the prerogative of the sovereign to decide what measures are necessary for its economic recovery, whereas creditors are concerned with safeguarding their resources and ensuring their investment sees a return, or at least does not generate a loss. Neither of these interpretations consider direct citizen engagement. Given the degrees of separation between the average citizen and the government official negotiating with the BWI, the debtor definition is particularly inadequate. The purpose of this Note is to develop a counterweight to traditional conceptions of "domestic ownership," namely "citizen ownership" achieved through processes informed by a theory of participatory democracy that do not impinge on the sovereign's right to devise and implement economic policies.

Observers of IMF lending contend that true domestic ownership of SAPs is found in situations where the country would have adopted similar policies in the absence of IMF auspices, defining such ownership as "the extent to which a country is interested in pursuing reforms independently of any incentives provided by multilateral lenders."[163] That is to say, national objectives for reform align with those of the IMF and should ostensibly make it easier for SAPs to receive domestic support because they do not appear to be a foreign imposition.[164] Reference to "national" objectives in the participatory context should not, however, point to the goals of the government officials who negotiate the policies, but rather to those of the citizenry that is most directly affected by them.

Ownership, according to Khan and Sharma, "is intricately connected to trust in domestic institutions, effectiveness of political structures, and whether the government—negotiating on behalf of its citizens—has sufficient support to speak for a fair majority."[165] The secrecy with which IMF programs are negotiated and the general disdain for austerity and structural adjustment cast doubt on whether government negotiators are authorized interlocutors from a participatory perspective and whether true domestic ownership of the policies is possible under such circumstances. This situation, often found in principal-agent relationships, is described as "moral hazard in teams," wherein the principal's payoff depends on the efforts of other agents.[166] IMF programs are negotiated with a select few

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162. IMF, *Public Information Notice: IMF Executive Board Discusses Conditionality* (Mar. 21, 2001), https://www.imf.org/en/News/Articles/2015/09/28/04/53/pn0128.

163. Allen Drazen, *Conditionality and Ownership in IMF Lending: A Political Economy Approach*, 49 IMF Staff Papers 36, 37. (2002).

164. Mohsin Khan & Sunil Sharma, *IMF Conditionality and Country Ownership of Adjustment Programs*, 18 World Bank Res. Observer 227, 235 (2003).

165. *Id.* at 237.

166. *Id.* at 232.

government representatives, but the success of the programs depends on other stakeholders in society, including government ministries, civil society, and the general population.[167]

A participatory conception of ownership includes the average citizen in this group of affected stakeholders, as ownership by the authorities does not directly translate to citizen ownership. True ownership, as Drazen contends, negates the need for conditionality.[168] If the proposed policies are truly in the nation's best interest, conditionality should not be necessary to compel compliance. Drazen's findings demonstrate that only when a government faces internal opposition does conditionality play an important role in policy implementation, often to the detriment of the general welfare.[169] The final section of this Note proposes a method of reconciling these tensions.

A. *Prospects for Participatory Processes*

There are certainly challenges to the viable incorporation of direct citizen participation in a highly technical and expansive enterprise like global finance. It is an endeavor that requires serious introspection and demands a deep interrogation of the limitations of representative democracy. The current state of global governance is hinged upon the successful transfer of decision-making power from the electorate to the elected, who ultimately constitute the government that acts on behalf of the nation in the international arena. What this Note has showcased thus far is that this representative construction falls short with respect to BWI programming, necessitating more participatory processes.

The major theorists of participatory democracy identify its three prongs as participation, control, and education.[170] Participatory democracy "requires that the decision-making process be continuous and significant, direct rather than through representatives, and organized around issues instead of personalities."[171] It requires a decision-making process by the affected, for the affected – constituted by popular control of agenda-setting, decision-making, and implementation. Most important in the Bretton Woods context is the need for participatory democratic theory to serve as a bulwark against the paternalistic approach of these institutions when lending.

Benello posits that "[w]hat is engendered by the large bureaucratic organizations that dominate our social system is an inflexibility of purpose and a vested interest in the status quo. Relationships between the various

167. *Id.*

168. *See* Drazen, *supra* note 163, at 37.

169. *Id.* at 64–65.

170. Joel D. Wolfe, *A Defense of Participatory Democracy*, 47 Rev. Pol. 370, 371 (1985).

171. *See* Dimitrios Roussopoulos & C. George Benello, *Introduction*, *in* Participatory Democracy: Prospects for Democratizing Democracy 6 (Dimitrios Roussopoulos & C. George Benello eds., 2005).

institutional orders. . .thus become a matter of conflict or, at best, compromise, rather than a matter of harmonization of interests."[172] He refers to this social order as a market system, perpetually in pursuit of selfish interests at the expense of the ongoing dialectic between the individual and the collective. Benello concedes that the role of the technical expert is central to achieving group purpose, but technical decisions have social dimensions as well. Social decisions cannot be made for the people by an expert. The expert should present consequences of various lines of decisions, while leaving discussions about value tradeoffs to the affected group.[173]

There is no single, correct technical solution because "[c]ustoms, norms, ethical and social considerations inject themselves at every point, and groups made up of those affected are the only valid interpreters of such norms and values."[174] So how can Benello's framework of participation be operationalized with respect to the BWI? One possibility is to tailor the concepts underlying Community Development Corporations ("CDCs") and the Consumer Financial Protection Bureau ("CFPB") to the context of global finance in a manner that provides for the autonomy and education participatory democratic theory requires.

CDCs are nonprofit organizations that originated during the civil rights movement to provide programs and services and to engage in activities that promote community development, specifically within African-American communities. CDCs take various forms, but the majority exhibit the following features:[175]

1) They are institutions focused on developing a specific neighborhood or area and are concerned with local problems.
2) Their corporate structure offers shares or membership primarily to residents of that selected area.
3) The goals of CDCs are many, but they always include the creation of new economic institutions. Because they span the civic interests of an entire neighborhood and offer shares or membership to all residents, there is generally a clear preference for community ownership of the economic institutions. Despite this preference, they also provide services and capital to privately owned businesses of residents.
4) Their constituencies are most often economically and socially disadvantaged. The purpose of CDCs is to change the social institutions that maintain the economically and socially disadvantaged position of those groups.[176]

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172. George C. Benello, *"Group Organization and Socio-Political Structure," in* PARTICIPATORY DEMOCRACY: PROSPECTS FOR DEMOCRATIZING DEMOCRACY 35 (Dimitrious Roussopoulos and C. George Benello eds., 2005).

173. *Id.* at 42.

174. *Id*.

175. Stewart E. Perry, *A Note on the Genesis of the Community Development Corporation, in* PARTICIPATORY DEMOCRACY: PROSPECTS FOR DEMOCRATIZING DEMOCRACY 50_51, (Dimitrious Roussopoulos and C. George Benello eds., 2005).

176. *Id.*

It is important to confine analysis of CDCs to their civil rights context in order to emphasize their purpose beyond business development, namely that they are a means of enhancing and uplifting marginalized communities. To understand the importance of CDCs not just for the African-American community but disadvantaged peoples across the globe, the institutional impoverishment of these groups cannot be discounted.

CDCs were not founded under the auspices of outside sponsors. They are truly the product of those they are designed to serve and thus are more attuned and responsive to local needs. Their principal goal is to provide the poor and disenfranchised with "meaningful participation" in their own institutions, defined as "when a person has a sense of his involvement in a total enterprise, a sense of where his effort fits into an overall plan, when he identifies with the collective goals, has a feeling of efficacy with respect to the accomplishment of the goals, and has a stake in the results of the total enterprise."[177] This sense of meaningful participation can be achieved through financial education initiatives that encourage citizens to be active participants in the global financial architecture.

One of the principal goals of the CFPB, created in the wake of the 2008 financial crisis, is to encourage consumers to take control of their economic lives via empowerment, enforcement, and education initiatives.[178] The CFPB website offers a wealth of resources – in a number of languages – in pursuit of financial empowerment of the most vulnerable in society. These resources include materials on community training, financial coaching, webinars, and youth financial education.[179] Financial empowerment and literacy are key for effective participation and policy ownership in the global finance context. The examples of the MEJN in Malawi and CSPR in Zambia, which disseminated lay versions of their governments' agreements with the IMF, should be recreated to promote general financial literacy and direct citizen engagement with the BWI.

This Note envisions a fusion of the grassroots organization and ownership concepts of CDCs and the educational objectives of the CFPB in the form of citizen action groups ("CAGs"). Transplanting these concepts to the poor and marginalized in the global south is ambitious and completely contingent on the ability of these people to mobilize and organize themselves. Even more aspirational is the idea that the IMF or World Bank would ever engage such groups. But it is possible and worth exploring because the BWI are public institutions that are obligated to be accountable to those they serve. Their legitimacy depends on it. Armed with the educational and technical expertise of CSOs, these citizen action groups can participate in consultations about the social and economic consequences of structural adjustment that they are better positioned to value.

177. *Id.* at 57–63.

178. *The Bureau*, Consumer Fin. Prot. Bureau, https://www.consumerfinance.gov/about-us/the-bureau/ (last visited Feb. 5, 2018).

179. *Id.*

B. *Necessary Reforms*

CAGs, if properly fashioned, can fill the lacuna between SAP design and promoting sustainable growth and development. These groups would satisfy the three requirements of participatory democratic theory – participation, control, and education – by providing citizens with a medium for direct participation in decision-making processes that impact their lives; control via opportunities to take initiative and ownership within these organizations; and education via cooperation with civil society and the BWI.

It must be stressed that this participatory framework demands engagement with government. CAGs are a complement to the government and are not intended to displace the sovereign in negotiations with the BWI. Their purpose is to humanize the policy design process and remind those creating SAPs that there are human beings on the receiving end of these policies. CAGs should ultimately operate in a manner that disrupts the purely economic-theoretical approach to structural adjustment and compel the BWI and government representatives to consider the social consequences of their policies.

CAGs can transport citizens from the traditional, passive position the BWI and sovereign governments relegated them to and offer opportunities for active participation. This conception of participation is "[b]uilt on a belief that citizens can be trusted to shape their own future . . . [and] uses local decision-making and capacities to steer and define the nature of an intervention. . .It champions the sovereignty of people over the sovereignty of a state,"[180] while leaving room for traditional government operations. Coupling the CFPB and CDC's advocacy for education, community organizing, and local development with this conception of participation, the role this Note imagines for citizen involvement via CAGs is clear. Collective empowerment and a belief in self-help are essential for active participation. CAGs offer a way to achieve this and a remedy for the disenfranchisement that citizens in borrowing nations experience. These groups can provide affected citizens with the meaningful participation CDCs imagine. Citizens would no longer be sidelined by the state and instead directly engage with the institutions that promulgate policies that affect their social, political, and economic lives. Citizens have a direct stake in the consequences of structural adjustment, and they are better positioned than the BWI to assess those consequences and to make value judgments about what policies should be instituted.

As for the educational aspect of this framework, there is ample room for cooperation with the BWI themselves and CSOs. CSOs are often comprised of bureaucrats and technocrats capable of understanding and translating agreements and consultations with the BWI and pertinent data. Furthermore, they are capable of waging public information campaigns to increase financial literacy and awareness of government undertakings.

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180. Paul Ward, *Participatory Development in Jamaica: Does It Work In Practice?*, 59 Soc. & Econ. Stud. 167, 171 (2010).

CSOs are best positioned to take on a role similar to the CFPB. Financial literacy initiatives similar to those in Malawi, Sierra Leone, and Zambia should be replicated in order to facilitate direct citizen participation in consultations with the BWI. This is especially important for people on the margins of society who are disproportionately affected by structural adjustment and have little to no stake in government proceedings, e.g. indigenous peoples and minorities. If CSOs initiate and maintain effective campaigns to inform the public about the consequences of poorly-designed SAPs, significant interest in learning about the programs and participation in their creation may be fostered. This may also allay concerns about CSOs displacing average citizens and offer an opportunity to achieve their goals in a concrete way.

This kind of information campaign would require much more transparency from the BWI, including information from Executive Board meetings and their archives, as well as a willingness to engage CAGs. But if the BWI decide to pursue authentic reforms within their governance and operational structures, direct engagements with citizens will lend them a great deal of credibility and legitimacy in the eyes of their constituents and encourage nations in crisis to once again seek the help of the much-maligned lenders of last resort. Not only will a more participatory approach to lending make the BWI more accountable to the recipients of their loans, but it will provide for more sustainable policies that engender authentic economic growth and development. Furthermore, offering citizens a seat at the negotiating table may have the corollary effect – or boomerang effect – of making governments more accountable to their citizens and encouraging better governance.

C. *Reconfiguring the Bretton Woods Institutions*

Empowering communities is essential for successful and sustainable structural adjustment. The IMF's posture as a lender of last resort, however, presents a significant obstacle to the incorporation of participatory processes in the midst of crisis. Sustainable policies that foster real growth have proven elusive in the experience of the BWI. A reconfiguration of their mandates could solve this. As this Note highlights, the World Bank and IMF's policy approaches are animated by a disbursement culture that is compounded by a need for speed. With the resources they have at their disposal, however, they can and should assign staff to projects for longer periods of time to allow them to develop regional and country-specific expertise in order to have tailored SAPs ready if and when they are needed. The BWI may undertake multilateral initiatives with other international and regional organizations to monitor the political and social circumstances of their constituents in concert with their typical economic surveillance activities. If each constituent nation is assigned a permanent staff, whether locally or remotely, that regularly consults with CAGs and CSOs on the ground in addition to sovereign governments, the disasters that follow many BWI lending schemes can be avoided. All that is required is less insularity and more participation, and the need for speed will not be jeopardized.

Conclusion

There is indeed latitude in the global financial architecture to accommodate the theory of democratic participation. As public institutions, the BWI are well-positioned, and in fact obliged, to heed the concerns of the people their policies directly affect. The representative approach currently employed, both within the BWI and in their sovereign counterparts, demonstrates an inability and unfortunate resistance to lending an audience to affected citizens. Lukewarm attempts at reform have unsurprisingly fallen flat as they appear primarily to be face-saving initiatives with no real force. In addition to the governance reforms prescribed by scholars and observers, the BWI would do well to collaborate with local partners and affected citizens in the design of SAPs to rectify their past mistakes. A more participatory process with direct citizen participation in the form of CAGs can bolster prospects for sustainable growth and stability and enhance the credibility of the BWI. Restructuring the BWI based on the theory of participatory democracy and no longer limiting engagements to national representatives in official capacities is ultimately for the benefit of all parties. Such a restructuring also aligns with Rousseau's three integrative functions of participatory democracy by allowing affected individuals to be master of their fate and enhancing their sense of belonging within the BWI and their local communities.