Chapter 19

Conditionality and sovereign debt: An overview of human rights implications


19.1 Introduction

International financial institutions (IFIs) typically condition the provision of loans, grants, and debt relief on the implementation, by the recipient country, of policy reforms that are aimed at making the fiscal and debt situation sustainable, improving competitiveness, and boosting economic growth. Common measures that governments are required to implement include privatization of public assets, public spending cuts (or ‘austerity’), and structural reforms (such as changes to labour market reforms, trade liberalisation, and legal reform). These so-called ‘conditionalities’ afford IFIs substantial policy influence on governments throughout the world, thereby reducing national policy space and undermining national development agendas. The measures also have implications for the enjoyment of human rights.

This chapter sets the context for the contributions in Part IV by providing an overview of these policies, as well as their impact on the ability of the implementing governments to provide basic public services necessary for the realisation of human rights, including health, labour, and civil and political rights. The chapter begins with an examination of the mandates of the IMF and World Bank. It then discusses the lending practices of the two institutions and

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reviews existing debates around the effects of conditionalities on human rights. Finally, the chapter offers suggestions for reform of IMF and World Bank lending practices in ways that ensure that they respect human rights.

19.2 A Brief History of the IMF and World Bank

Serving as lenders of last resort to countries experiencing unsustainable levels of sovereign debt, the International Monetary Fund (IMF) and World Bank are among the most influential IFIs. The two organisations possess a similar array of tools for persuading governments to adopt reforms, the best known of which is conditionality: the practice of requiring policy reforms in exchange for access to resources. In conditional lending arrangements with IFIs, policy reforms are outlined in documents specifying timetables for their introduction and are assessed on a regular basis. Non-implementation can result in delays in loan disbursements and—ultimately—the suspension of lending altogether.

The origins of these organisations can be traced to the Bretton Woods conference in July 1944, which laid the foundations of the post-World War II economic order. In response to appeals for a system of global financial governance and greater international economic cooperation, the IMF and the International Bank for Reconstruction and Development (IBRD, later known simply as the World Bank) were established soon after in 1945.

Both organisations have diverged from their original mandate set out at Bretton Woods. The role of the IMF was initially to oversee the exchange rates of member governments, and to make financial resources available to member governments facing balance of payments problems. Following the shift to floating exchange rates in 1973, only the second—and most controversial—aspect of the IMF’s mandate survived. For its part, the World Bank was established to provide investment capital for post-war reconstruction and economic development. It initially specialized in lending to advanced nations for infrastructural projects, such as ports, railroads and hydroelectric dams. In response to demands of developing countries for greater financing, however, world leaders set up an additional organisation within the World Bank in 1960,

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3 Sarah Babb and Alexander Kentikelenis, ‘International Financial Institutions as Agents of Neoliberalism’ in Damien Cahill, Melinda Cooper, Martijn Konings and David Primrose (eds), The Sage Handbook of Neoliberalism (Sage 2018).
the International Development Association (IDA). This shaped the Bank into a more development-focused organisation, and its mandate expanded to encompass the eradication of global poverty.\(^5\)

In meeting these revised functions, the two organisations became involved in promoting market-liberalizing reforms as part of their lending operations.\(^6\) Through the 1970s and 1980s, the IMF introduced a series of lending programmes targeting structural change, such as the Extended Fund Facility and Structural Adjustment Facility.\(^7\) Prior to this, conditions attached to the IMF’s loans were largely confined to a series of standard quantifiable targets, such as ceilings to government expenditure and net domestic assets; whereas these new facilities incorporated detailed micro-economic reforms spanning a wide array of policy areas. For its part, the World Bank continued the tradition of providing ‘project’ lending—for instance, loans to build roads or schools—but, in 1980, also introduced a ‘programme’ lending facility of its own, the Structural Adjustment Loan.\(^8\) As the 1980s proceeded, the World Bank steadily devoted a much larger proportion of its resources to programme lending than to development projects, while the IMF became—for all intents and purposes—a development institute that collaborated with the World Bank.\(^9\)

Against a background of debt crises, structural adjustment programmes became ubiquitous in the 1980s, achieving notoriety for requiring low- and middle-income countries to implement free-market policies.\(^10\) Indeed, the term ‘structural adjustment’ became shorthand for an extensive range of reforms designed to promote fundamental, comprehensive, and enduring overhaul of a borrowing country’s policy arrangements.\(^11\) These policies conform around four key policy pillars: stabilisation, liberalisation, deregulation, and privatisation.\(^12\) Stabilisation—or simply, ‘austerity’—refers to measures designed to reduce the fiscal deficit and money supply, intended to control inflation,

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8 Babb and Kentikelenis (n 3).

9 Babb, *Behind the Development Banks* (n 6); Babb and Buira (n 7).

10 Babb and Kentikelenis (n 3).

11 Pfeiffer and Chapman (n 7).

stabilize currencies and free resources to repay external debt. Liberalisation entails the elimination of barriers to trade and the movement of capital in order to facilitate access to international markets and promote foreign direct investment. Deregulation involves the repeal of government rules, regulations, checks, and balances surrounding economic activity—such as industry entry criteria—geared towards abolishing perceived inefficiencies to the functioning of the private sector. Finally, privatisation occasions the selling of state-owned enterprises and natural resources to the private sector, with the aim of improving the economic management of these industries.

For both organisations, the practice of conditionality became a prominent feature of their modus operandi, and—by the 1990s—was a staple vehicle for implementing the transition to capitalism in post-communist countries. Securing compliance with these prescriptions was achieved not only through the threat of suspending the loan from borrowing governments, but was also encouraged through closer relationships between the IMF, World Bank, various regional development banks, and private creditors. In particular, the various multilateral agencies harmonized and upheld one another’s conditions; while the presence of structural adjustment programmes also served as a ‘stamp of approval’ that could catalyse additional bilateral aid from donor governments—including debt relief—and mobilise financial flows from private international capital. Among the World Bank and regional development banks, policy leverage was also consolidated through greater selectivity in awarding project loans to countries that were compliant with these policies.

The IMF and World Bank were widely criticized in subsequent years, especially following their handling of the financial crises in Mexico, East Asia, Russia, and Argentina. The organisations promised that painful austerity measures would be justified in the long run by sustained economic growth.

14 Babb, Behind the Development Banks (n 6) 139–141.
Yet, economic growth failed to materialize\textsuperscript{18} and negative implications for the enjoyment of human rights abounded (see Section 4). Faced with disconfirming evidence, the view of the organisations was that structural adjustment programmes had paid insufficient attention to the institutions that allow markets to function, such as laws and judicial systems, but that the underlying market-liberalizing impetus was essentially correct.\textsuperscript{19} By the early 2000s, in response to extensive criticisms, the IMF and World Bank pledged to strengthen the pro-poor orientation of their programmes and to allow for flexible policy design.\textsuperscript{20}

In 2009, following the onset of the sovereign debt crises in Europe, structural adjustment programmes of the IMF—in collaboration with European Union institutions—spread to the advanced European economies of Greece, Iceland, Ireland, Portugal, and Cyprus. These programmes were similar to those advocated by the IMF and the World Bank in low- and middle-income countries insofar as they relied on extensive market-liberalizing conditionalities.\textsuperscript{21}

\section{19.3 The Evolution of Conditionality}

Consistent across IMF and World Bank structural adjustment programmes has been the use of conditionality as a compliance mechanism, as well as the free-market orientation of these policies.\textsuperscript{22} Yet, experiences of conditionality also diverge in important ways across time and space. We investigate the evolution of conditionality by drawing upon a database of IMF-mandated policy reforms for the period 1980 to 2014.\textsuperscript{23} We focus on the IMF because commensurate data for World Bank conditionality is unavailable. In any case, the IMF has been the primary organization setting the parameters of its borrowers’ policy


\textsuperscript{19} Babb and Kentikelenis (n 3).


\textsuperscript{22} Babb and Carruthers (n 17); Greer (n 21); Kentikelenis, Stubbs and King, ‘IMF Conditionality and Development Policy Space, 1985–2014’ (n 1); Pfeiffer and Chapman (n 7).

\textsuperscript{23} Kentikelenis, Stubbs and King (n 1).
space throughout this period.\textsuperscript{24} Initially, we report on the number of conditions applicable. While revealing, this measure is an imperfect indicator of the burden of conditionality because it tells us nothing about the difficulty in implementing any particular condition. For instance, a condition stipulating privatization of a state-owned enterprise is qualitatively distinct from one introducing a value-added tax. Nevertheless, previous research shows that the number of conditions is an appropriate proxy measure for the intrusiveness of conditionality.\textsuperscript{25}

In Figure 1, we map the total number of conditions applicable in all IMF loans for each country between 1980 and 2014. It shows that countries’ experiences of IMF conditionality are widely diverging. Several countries in the West African region—including Guinea, Niger, Ghana, Cote d'Ivoire, Burkina Faso, Mali, Mauritania, Senegal, Sierra Leone—as well as Armenia, Romania, Pakistan, Tanzania, and Kyrgyzstan exhibit a heavy conditionality burden. All these countries incurred repeat loans that carried a high degree of conditionality. Romania, for instance, had IMF programmes for 26 of the 35 years covered, carrying a total of 1,271 conditions, which was the most of any country. Other countries had only brief encounters with the Fund, which is also reflected in relatively limited conditionality. For example, South Africa only had a one-year Stand-by Arrangement—the IMF’s staple lending facility—with 11 conditions attached between 1982 and 1983. Laos held the median number of conditions out of countries with at least one, with 389. Most advanced nations did not experience any conditions during the period covered because they did not borrow from the IMF, although Cyprus, Greece, Iceland, Ireland, and Portugal are notable exceptions.

Table 1 indicates how IMF conditionality has evolved between 1980 and 2014. The median number of conditions in IMF programmes gradually increased from 12 per calendar year in the early-1980s, to about 42 by 1996 where it


remained until 2007. During this period of high conditionality, several Eastern European and Central Asian countries stand out as high-lying outliers, peaking at over 140 conditions for Russia in 1998 and Ukraine in 1999. An abrupt decline to the median number of conditions applicable can then be observed in the immediate aftermath of the global financial crisis, to about 33 conditions per year, even though it remained considerably higher than the 1980s and early-1990s. Since 2008, heavy conditionality burdens were experienced by Cameroon, Moldova, Cote d’Ivoire, Ghana, Haiti, Greece, Afghanistan, Bosnia, Bangladesh, Ukraine, and Jamaica, all of which carried 60 or more conditions at least once. In 2014, the median number of conditions rose sharply, to 44, which was the third highest such figure recorded (after 47 in 2004 and 45 in 2003).

[Table 1 about here]

Figure 2 presents more detailed information on European and Central Asian countries, where the IMF was heavily involved during the post-communist transition to capitalism. The heatmap shows the burden of conditionality applicable per country-year. For instance, Romania had numerous programmes with heavy burdens, particularly between 1994 and 2005, whereas Russia had few programs but with high conditionality burdens in each for the 1995 to 1999 period. Out of the high-income European countries receiving IMF loans in recent years, Greece stands out as having a higher number of conditions applicable—more than 50 per year from 2011 to 2014. There is also evidence of IMF recidivism in the region, with Armenia, Georgia, and the Kyrgyz Republic on consecutive programmes virtually uninterrupted since circa 1995.

[Figure 2 about here]

In Figure 3, we offer the same information for the 16 countries in West Africa, another region with heavy IMF programme participation. It shows IMF recidivism is a prominent feature of the region. With the exception of Capo Verde, Guinea-Bissau, Liberia, and Nigeria, each of these countries spent the majority of the 1980 to 2014 period on IMF programmes, highlighting the extent to which the IMF has influenced the region’s development trajectory. Mauritania, which had the third highest burden of conditionality out of all countries, was subject to extensive IMF conditionality from 1993 to 1997, and again in 2000 when the country was called to implement 73 IMF conditions. More recently, Cote d’Ivoire had to implement more than 50 conditions for five of the six years since 2009.

[Figure 3 about here]
While trends in the total number of conditions are suggestive, assessing IMF conditionality also requires exploring their distribution in different policy areas—the so-called ‘scope of conditionality’. In Table 2, we report the policy areas of IMF conditions for the period 1980 to 2014, classified into mutually exclusive categories. Following conventions in the literature, these are separated into core and non-core policy areas. Core policy areas include the following: external debt issues; financial sector, monetary policy, and Central Bank issues; fiscal issues, revenues and taxation; and external sector (trade and exchange system). Together, core policies account for nearly 87 percent of the total number of conditions included in IMF programmes.

To investigate whether the policy mix of conditions in Fund programs changed, Figure 4 shows the percentage of conditions in non-core policy areas in IMF programmes. An initial observation is that the expansion of conditionality into non-core areas began in the mid-1980s. The proportion of conditions in non-core areas peaked in 1999, fluctuated for several years, and then dipped markedly from 2005 to 2009, before gradually rising again. At the disaggregated level, labour reforms and state-owned enterprise privatisations (and associated reforms) peaked in 1999, but have been in a period of abatement since 2006. Recent years have also seen an increase in redistributive conditions, which typically take the form of government spending minima on health and education; whereas institutional reforms have been maintained in recent years at similar proportions to the late-1990s. Generally speaking, while IMF programmes are not as all-encompassing as they were in the 1990s, in 2014 they still accounted to more than 12 percent of all conditions stipulating reforms to state-owned enterprises, labour policy, and institutional environments. What could be interpreted as a narrowing scope of conditionality is, in part, explained by the years a country has spent under IMF programmes. Repeat borrowers have already implemented extensive conditionality, so there is less ‘need’ for the IMF to introduce such conditions in recent programmes.


 IEO, ‘Structural Conditionality in IMF–Supported Programs: Background Documents’ (2007); Kentikelenis, Stubbs and King (n 15).

 Ibid; Kentikelenis, Stubbs and King.

 Ibid.
The technical apparatus of conditionality has also evolved over time. IMF lending programmes employ two types of conditions: quantitative and structural.\(^{30}\) Originally, IMF conditions only appeared in the form of quantifiable macroeconomic targets (e.g. limits to government borrowing). Although such quantitative conditions are restrictive, they only specify the policy ends rather than the means, so that governments can pursue a range of alternative policies to meet them. In contrast, structural conditions clearly specify means that contribute to meeting macroeconomic targets. Such reforms have commonly aimed at altering the underlying structure of an economy; for instance, by privatizing state-owned enterprises, legislating central bank independence, deregulating labour markets, or restructuring tax systems. Figure 5 shows how structural conditionality started from very low levels in the mid-1980s, but within a decade the use of such policies expanded rapidly and peaked at about 38 percent of all conditions by the late-1990s. Since then, structural conditionality flattened out before a subsequent upsurge to the present time. In 2014, the share of structural conditions reached 31 percent of all conditions. Overall, these trends highlight that structural adjustment remains as relevant as ever in the contemporary era.

19.4 The Effects of Conditionality on Human Rights

The chapter now reviews existing debates around the effects of conditionality on human rights, organized into three thematic dimensions: health rights, labour rights and civil and political rights.

19.4.1 Health Rights

The realization of the right to health is codified in the 1966 International Covenant on Economic, Social, and Cultural Rights (ICESCR), and expanded upon in General Comment 14 issued by the UN Committee on Economic, Social and Cultural Rights in 2000.\(^ {31}\) Rather than a minimalist agenda encompassing health interventions for the most vulnerable, the right to healthcare in ICESCR forms a comprehensive framework towards the highest attainable standard of health. It offers a legitimate claim to freedoms and


entitlements directly related to health, including access to quality and affordable healthcare, as well as indirectly related to health, such as access to food, water, employment, and education.\textsuperscript{32} The ICESCR and the General Comment also enshrines these rights as national and international obligations, with the latter related to development cooperation for health.\textsuperscript{33} Although the IMF and World Bank have long claimed that they are concerned about the health consequences of their policy advice,\textsuperscript{34} the available evidence suggests that many conditions included in structural adjustment programmes breach these obligations and are detrimental to health outcomes.

IMF and World Bank conditions \textit{directly} impact upon the fulfillment of the right to health in several ways.\textsuperscript{35} In particular, poverty reduction, fiscal, institutional, and labour conditions can prompt changes to the volume and quality of services provided (like health facilities and medical supplies). On the one hand, to shelter sensitive expenditure from austerity measures, structural adjustment programmes incorporate poverty reduction conditions, typically in the form of priority spending floors that stipulate minimum expenditures on health and education.\textsuperscript{36} Indeed, the past decade has seen a rapid rise in the inclusion of poverty-reduction conditions (see Figure 4). While they consisted of less than 1 percent of conditions annually up to 1998, since then the use of these instruments has become prevalent, at almost 5 percent of conditions in 2014. These may in part explain findings from cross-national studies showing that structural adjustment programmes are associated with increases in social spending in sub-Saharan African low-income countries, autocratic countries, and in Latin American countries.\textsuperscript{37} Archival evidence on IMF programmes in

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\bibitem{32} Gorik Ooms and Rachel Hammonds, ‘Global Constitutionalism, Applied to Global Health Governance: Uncovering Legitimacy Deficits and Suggesting Remedies’ (2016) 12 Globalization and Health 84.
\bibitem{33} Ibid.
\bibitem{34} Kentikelenis, Stubbs and King (n 1); Devi Sridhar, \textit{The Battle Against Hunger: Choice, Circumstance, and the World Bank} (OUP 2008).
\bibitem{35} Kentikelenis (n 21).
West African nations also demonstrates that, in select instances, priority spending floors contributed to increases in budgetary allocations for health, as was the case for Gambia in 2012 and Benin in the late-1990s.38

On the other hand, there is compelling evidence to suggest that poverty reduction conditions are accorded subsidiary importance to fiscal conditions. Priority spending targets are most often non-binding conditions that serve as markers for broader progress assessment, but do not automatically suspend a programme if unmet; whereas fiscal deficit targets are binding and automatically suspend the loan.39 Furthermore, research shows that priority spending targets were observed only about half of the time, even though fiscal deficit conditions were almost always met.40 As part of an austerity drive, governments may be under pressure to cut social spending in order to meet fiscal deficit targets, which can—in turn—limit the accessibility and affordability of healthcare.41

Several cross-national studies on the effects of structural adjustment on social expenditure suggest that it is associated with decreases in spending in low-income countries outside sub-Saharan Africa and democratic states.42 A recent study focusing on West African countries also found that each additional IMF

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42 Kentikelenis, Stubbs and King (n 37); Nooruddin and Simmons (n 37).
condition reduces government health expenditure per capita by 0.25 percent. Consequently, countries experience medical supply shortages and replacement of defunded health services with ineffective traditional programs. Empirical studies assessing the effect of health expenditures or government spending more broadly find a significant and detrimental relationship with infant mortality, under-5 mortality and several other health outcomes. The UN Human Rights Council also reports that declines in government spending promoted by IMF programmes in Cyprus, Greece, and Ireland translated into decreases in health-care staff, reductions in the number of hospital beds and increases in waiting times for medical procedures.

Aside from fiscal conditions affecting government spending on health, institutional conditions included in structural adjustment programmes can limit the accessibility and affordability of healthcare. One common measure has been the introduction of user fees for access to healthcare and co-payments for medicines or services. The rationale for applying such fees was generating additional resources, improving efficiency, and increasing access. In practice, they have undermined the right to health for poor and vulnerable people, both in terms of reducing their use of such services due to prohibitive costs and through impoverishment by the effects of unavoidable health expenses. A design simulation model of twenty African countries employing user fees for

44 Pfeiffer and Chapman (n 7); Thomson, Kentikelenis and Stubbs (n 41).
48 John Akin, Nancy Birdsall and David de Ferranti, ‘Financing Health Services in Developing Countries: An Agenda for Reform’ (World Bank Publications 1987).
health concluded that abolition of fees could prevent an estimated 233,000 under-5 deaths annually, or 6.3 percent of such deaths in these settings.\textsuperscript{50} In recent years, the IMF and World Bank policy consensus vis-à-vis low-income countries has moved away from reliance on user fees. Yet, recent structural adjustment programmes in Europe advocated the introduction or increase of user fees or co-payments and made eligibility criteria for subsidized health services more stringent.\textsuperscript{51}

Institutional conditions calling for deregulation of the health sector have also enhanced the private sector's role in healthcare provision.\textsuperscript{52} While those able to afford it can obtain access to a broader bundle of services, this can be coupled with austerity-driven roll-backs of government health provision to a more limited array of services, or outsourcing to non-governmental organizations who are often less-equipped to provide comprehensive and high-quality health services.\textsuperscript{53} Furthermore, structural adjustment programmes are linked to health system de-centralization; that is, transferring fiscal and operational responsibilities to the subnational level.\textsuperscript{54} In principle, de-centralization can make health systems more responsive to local needs; but—in practice—they often create governance problems and exacerbate local institutional weaknesses.
that undermine the right to health, especially when managing nationwide disease outbreaks.\footnote{55}

Labour–related conditions can also impact upon the right to health in terms of the quantity and quality of the public sector health workforce available, via redundancies, hiring freezes, or wage cuts.\footnote{56} In West Africa alone, almost half of all years with IMF programmes included conditions stipulating layoffs or caps on public-sector recruitment and limits to the wage bill between 1995 and 2014.\footnote{57} These targets can impede a country’s ability to hire, adequately remunerate, or retain health–care professionals, and are linked to medical ‘brain–drain’ as healthcare workers migrate in search of better employment opportunities.\footnote{58} The IMF reports that such wage caps have been discontinued in their programmes,\footnote{59} but recent evidence shows they are still incorporated into some.\footnote{60}

Notwithstanding these direct effects of IMF and World Bank conditionalities, the right to health can also be \textit{indirectly} affected. First, currency devaluations—advocated by the IMF and World Bank to improve the external competitiveness of countries—impede access to imported medicines and medical equipment by raising the price of imports.\footnote{61} Second, removal of customs duties reduces trade tax revenues in the short–run, which—unless replaced by alternative sources of revenue—can undermine the fiscal basis of

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\item \footnote{55} Stubbs and others, ‘The Impact of IMF Conditionality on Government Health Expenditure (n 25); Kentikelenis and others (n 40); Mamuka Djibuti and others, ‘Health Systems Barriers to Effective Use of Infectious Disease Surveillance Data in the Context of Decentralization in Georgia: A Qualitative Study’ (2007) 83 Health Policy 323.
\item \footnote{56} Akanksha A Marphatia and others, ‘Confronting the Contradictions: The IMF, Wage Bill Caps and the Case for Teachers’ (Actionaid 2007); Kentikelenis and others (n 40); Stubbs and others, ‘The Impact of IMF Conditionality on Government Health Expenditure (n 25); David Stuckler and Sanjay Basu, ‘The International Monetary Fund’s Effects on Global Health: Before and after the 2008 Financial Crisis’ (2009) 39 International Journal of Health Services 771; Akanksha Marphatia, ‘The Adverse Effects of International Monetary Fund Programs on the Health and Education Workforce’ (2010) 40 International Journal of Health Services 165.
\item \footnote{57} Stubbs and others, ‘The Impact of IMF Conditionality on Government Health Expenditure (n 25).
\item \footnote{60} Kentikelenis, Stubbs and King, ‘IMF Conditionality and Development Policy Space, 1985–2014’ (n 1).
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health policy; however, if the economic benefits of openness stimulate economic growth in the medium-term or if tax revenues are raised elsewhere (e.g., via new consumption taxes or improved tax collection), then greater public revenues could be invested in health.\textsuperscript{62} Third, privatisation of state-owned enterprises—designed to raise funds for cash-strapped governments—can result in the medium and long-run to losses in reliable public revenue sources for the state to fund health; where state-owned enterprises provide health coverage to employees, these benefits may be withdrawn post-privatisation, resulting in loss of access to healthcare.\textsuperscript{63} Fourth, conditionality may be interpreted by donors as firm commitment to reform, rewarded with increases in aid that could offset lost revenues for health elsewhere; even so, evidence suggests that aid substitutes—rather than complements—government spending on health, and that aid flows increase for general budget support and debt relief but not for health.\textsuperscript{64}

Shifting further down the causal chain to the ‘social determinants’ of health,\textsuperscript{65} conditions attached to structural adjustment programmes are—fifth—linked to dwindling incomes and increases in unemployment, poverty, and inequality, which are—in turn—root causes of a cascade of health problems over the life-course.\textsuperscript{66} For instance, wage caps and privatisations can results in job losses, which are linked to increases in alcoholism and suicide; exchange rate liberalisation can increase food prices, which is tied to deteriorations in children’s nutritional status; and the introduction of regressive forms of taxation


\textsuperscript{64} Stubbs, Kentikelenis and King (n 15); David Stuckler, Sanjay Basu and Martin McKee, ‘International Monetary Fund and Aid Displacement’ (2011) 41 International Journal of Health Services 67; Chunling Lu and others, ‘Public Financing of Health in Developing Countries: A Cross-National Systematic Analysis’ (2010) 375 The Lancet 1375.


can reduce poor households’ incomes and thus their ability to afford healthcare or lead healthy lives.\textsuperscript{67} Sixth, education is another key social determinant of health, as it increases individuals’ knowledge about health and improves social mobility opportunities which—in turn—affect employment and poverty; yet, studies show IMF and World Bank-mandated user fees for primary education impede educational attainment for children, and that structural adjustment also decrease the protective effect of parents’ education on child health.\textsuperscript{68} Finally, conditions on environmental policies—typically including deregulation or privatisation of water and sanitation, agriculture, energy, and other natural resources—are linked to environmental degradation, which in-turn affects population health.\textsuperscript{69}

19.4.2 Labour Rights

Several international human rights instruments contain provisions concerning labour rights. The 1966 International Covenant on Civil and Political Rights (ICCPR) articulates the rights to freedom from forced labour and freedom of association, and the ICESCR embodies the right to participate in work and the right to just working conditions. Labour rights are also protected by fundamental conventions of the International Labour Organisation (ILO) and the 1998 ILO Declaration on Fundamental Principles and Rights at Work.\textsuperscript{70} In its 2005 General Comment 18 (on the right to work), the UN Committee on Economic, Social, and Cultural Rights, understood this as the right of everyone to gain a living by work that is freely chosen, including the right not to be deprived of work unfairly. States are thereby obligated to allocate resources and


\textsuperscript{70} ILO, ‘ILO Declaration on Fundamental Principles and Rights at Work and Its Follow-Up’ (2010).
adopt policies aimed at reducing their unemployment rate. The Committee also stresses that international financial institutions, such as the IMF and World Bank, must pay attention to the protection to the right to work in their lending policies.

The IMF and World Bank have incorporated conditions that directly affect the right to work and to just working conditions vis-à-vis the deregulation of labour markets. Their rationale is based on supply-side economics, which posits that firms invest more when labour markets are flexible and when the costs associated with labour protections are low. For example, an IMF staff report on Romania states: “[L]abor market rigidities are impediments to a business-friendly environment and Romania stands out compared to other countries, particularly on costs of hiring and firing workers”. The IMF and World Bank, thus, view labour market flexibility as a key ingredient for enhancing the global competitiveness of goods and services produced in borrowing countries.

However, critics argue that the IMF and World Bank neglect the human rights implications of reducing labour market rigidities. In a recent report on structural adjustment programmes, the UN Human Rights Council concludes that such policies have contravened international human rights obligations by eroding labour rights. A study examining 131 countries for the period 1981 to 2003 also found that the more time a country was subjected to structural adjustment programmes, the lower the level of protection of labour rights. Another study on 123 countries found a negative association between structural adjustment programmes and collective labour rights, particularly with regard to workers’ freedom of association and the right to collective bargaining both in law and in practice.

Labour conditions have been a consistent feature of structural adjustment programmes since the mid-1990s, fluctuating at about 5 percent of all

74 UN Doc A/HRC/34/57/Add 1 (n 46).
75 Abouharb and Cingranelli, Human Rights and Structural Adjustment (n 74).
76 Blanton, Blanton and Peksen, ‘The Impact of IMF and World Bank Programs on Labor Rights’ (n 74).
conditions annually between 1994 and 2006 before dropping to around 2 percent of all conditions in 2014 (see Figure 4). The majority of these concern quantitative conditions related to wage caps and employment limits which have—in turn—impeded the right to work. Indeed, a study of 110 countries found a negative association between IMF programmes and workers’ wages, as proxied by the labour share of income in the manufacturing sector.\textsuperscript{77} A cross-national study examining the effects of IMF-mandated public sector reforms found that governments cut the public sector wage bill only when this is set out as a condition; but uncovered evidence of backsliding toward higher expenditure on public sector wages once the program ended.\textsuperscript{78} Similarly, the labour share in relation to GDP declined in recent adjustment programmes in Eurozone countries, especially Greece.\textsuperscript{79}

With regard to employment limits, Moldova’s IMF-designed labour-related reforms included measures to “optimize the number of employees in the budgetary sector […] by] eliminat[ing] at least 4,000 positions” in 2010.\textsuperscript{80} Recently, restrictions on hiring in the public sector were introduced in Cyprus, Greece, Ireland, and Portugal; and Tunisia’s 2014 programme incorporated a salary freeze for civil servants.\textsuperscript{81} Studies also link layoffs incorporated in adjustment programmes to declines in unionization rates (since labour unions are typically more prevalent in the public sector), a weakening of the bargaining power of workers more generally, and an expansion in the informal sector, thereby curtailing the right to decent working conditions.\textsuperscript{82}

Labour conditions have also featured difficult structural reforms geared towards a fundamental transformation of social security institutions and the deregulation of labour laws. Several studies find that the IMF and World Bank promote labour laws that legalize temporary work contracts, extend probation

\textsuperscript{77} Vreeland, ‘The Effect of IMF Programs on Labor’ (n 66).
\textsuperscript{81} See UN Doc A/HRC/34/57/Add.1 (n 46).
periods, remove barriers to firing workers, reduce employee entitlements, and dismantle rights to form and join labour unions and to collectively bargain with employees.\textsuperscript{83} Emphasizing the ubiquity of such measures, research found that almost one-third of letters of intent between the IMF and governments between 1998 and 2005 contained commitments towards flexible labour market regulation.\textsuperscript{84}

Examples abound. In a request for financial assistance from Morocco in 2011, the IMF emphasized the need for deregulating fixed-term contracts and reducing statutory labour protections.\textsuperscript{85} Romania’s 2010 IMF programme targeted pensions with a 15 percent cut and a condition stipulating the parliamentary approval of pension reform legislation, which included further pay-out reductions and raises to the retirement age.\textsuperscript{86} The recent IMF programmes in Eurozone countries also incorporated labour-related reforms on deregulation and social security systems. Greece’s programme included reforms to the collective bargaining system, the precedence of firm-level (as opposed to sectoral) agreements, and the reduction of minimum wages and employee dismissal costs.\textsuperscript{87} Similarly, Portugal’s adjustment programme stipulated increases to the retirement age, weakening of collective bargaining, and the introduction of a public administration labour law aimed at aligning the public employment regime to the private sector rules and terminating tenure.\textsuperscript{88} Furthermore, most Latin American governments made changes to their laws governing hiring, dismissal, and work hours in the past twenty years as a result of IMF pressure.\textsuperscript{89}

State-owned enterprise privatization, reform, and pricing conditions can also directly impede the right to work. For the IMF and World Bank, state-owned enterprises have been viewed as the major source of public deficit that, in turn,


\textsuperscript{85} UN Doc A/HRC/34/57 (n 83).

\textsuperscript{86} Kentikelenis, Stubbs and King (n 1).


\textsuperscript{88} Kentikelenis, Stubbs and King (n 1).

\textsuperscript{89} Burgess (n 84).
underpins many of the economic problems that sees countries turn to these institutions for loans. Consequently, they have called for wide-ranging reforms of state-owned enterprises in order to reduce state aid and limit the deficit on the national budget. These conditions typically undermine labour rights by mandating reductions in entitlements for employees in state-owned-enterprises; they may also affect collective labour rights as collateral damage from the labour force’s diminishing bargaining power, given that the state-owned enterprise sector typically features high levels of collective representation. For example, in an IMF programme dating from 1993, Mongolia agreed to “establish new procedures of corporate governance” for its state-owned enterprises, “[...] including requirements for fixed-term performance-based management contracts”. In Pakistan, privatization of state-owned enterprises led to the replacement of stable jobs with precarious jobs involving sub-contractors, which were not fully subject to the labour law provisions.

Finally, several conditions can *indirectly* affect the protection of labour rights. Those related to the trade and exchange system frequently call for the liberalisation of trade, which prompts a race to the bottom in respect of labour rights as domestic producers pressure policy-makers to drive down labour costs in order to withstand global competition. Furthermore, financial sector conditions that mandate a restrictive monetary policy may convince policy-makers to remove worker entitlements—such as a minimum wage—since higher wage levels tend to be inflationary.

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94 Blanton and Peksen (n 74).
19.4.3 Civil and Political Rights

The responsibility of the state in respect of civil and political rights is codified in the ICCPR. Political rights refer to the right to vote, the right to freedom of speech and the press, and the right not to be discriminated against on the basis of ethnicity, gender, sexual orientation, language, religion, social class, or political opinion; civil rights—also known as personal integrity or physical integrity rights—denote the right to be protected from torture, extra-judicial killings, disappearance, or political imprisonment, among others. While there is less research on the civil and political rights effects of structural adjustment conditions than on health and labour rights, most studies agree that the imposition of these policies exacerbates government practices in the fulfillment of these human rights. Unlike health and labour rights, it is not possible to isolate specific conditions impinging upon civil and political rights; rather, the effect is mediated through a series of conditionality policy areas linked to economic liberalisation and austerity.

Arguments linking structural adjustment programmes to civil and political rights violations are rooted in two causal linkages. First, a direct pathway suggests that the transfer of power from the state to the market on the basis of conditionality can cause increases in rights abuses by weakening the government's ability to enforce rights. The protection of civil rights, for example, requires government expenditures for properly trained and adequately compensated judges, police, and the military and for institutions to monitor the activities of the latter enforcement entities. One recent study also shows that IMF programmes are linked to deteriorating levels of respect for women's rights because they undermine government ability and willingness to protect such rights. In addition, cross-national studies find evidence that participation in structural adjustment programmes are associated with reductions in

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95 Abouharb and Cingranelli (n 74).
99 Detraz and Peksen (n 98).
aggregated scores on borrowers’ levels of democracy. However, recent research contradicts these studies, observing a modest but positive effect of IMF programme participation on democracy. The study argues that autocratic regimes have less capacity to repress opposition when under a tighter budget constraint imposed by the IMF, allowing greater levels of political competition to emerge. Another study of 131 developing countries between 1981 and 2003 shows that while structural adjustment programmes led to increased hardship for the poor, greater civil conflict, and more repression of human rights (discussed below), they are also—paradoxically—associated with some democratic reforms, including freer and fairer elections, greater freedom to form and join organisations and greater freedom of speech and press.

Second, an indirect pathway suggests that the infringement of health and labour rights entailed by conditionality result in a rise of social protest and instability, leading to violent repression by the ruling government, amounting to breaches of civil and political rights. We know of several studies that test for—and support—this aggregate causal relationship. The pattern of events in Bolivia typifies this argument. Limited progress under a 15-year stint of successive structural adjustment programmes came to a head in the early-2000s, following increases in unemployment and poverty, reductions in real wages, cuts in social expenditures, and—most infamously—the privatisation of the city of Cochabamba’s water system and its subsequent price hikes. Those most adversely affected responded with a spate of militant anti-government demonstrations and protests, to which the government responded by declaring a state of emergency and increasing its use of force against protestors.

We have already described how populations face increases in unemployment, poverty and inequality under structural adjustment programmes due to conditions on wage caps, redundancies and removal of price controls and subsidies for essential commodities. Various studies also document how the hardships caused by these policies lead to protests and conflict, and several


101 Abouharb and Cingranelli (n 74).


103 Abouharb and Cingranelli (n 74).
episodes illustrate this point.\textsuperscript{104} In Turkey, for instance, social unrest followed an announcement that the democratically elected government had signed an IMF programme in June 1980 and, by September of that year, the military dissolved parliament and suspended civilian political institutions.\textsuperscript{105} Cross-national empirical studies also support the notion that structural adjustment programmes are associated with increases in social and political instability, including incidents of mass demonstrations, strikes, riots, conflict, and coup d'\textquotesingle\textquotesingle\textsc{e}tats.\textsuperscript{106} Finally, structural adjustment programmes are linked to declines in economic growth,\textsuperscript{107} which is—in turn—associated with reduced respect for human rights.\textsuperscript{108}


19.5 Ways Forward

In offering loans in exchange for policy reforms, the IMF and the World Bank are imbued with substantial policy influence on governments throughout the world. We have shown that since the introduction of structural adjustment in the 1980s, the two organisations have made ongoing attempts to overhaul the underlying institutions of borrowing countries, particularly via austerity, liberalisation, deregulation and privatisation conditions. Delving into the exact policy content of these programmes, our overview revealed that conditionalities elicit mostly perverse implications for the enjoyment of health, labour, and civil and political rights.

Responding to criticism in 2001 that the IFIs were ignoring the human rights consequences of their activities, an IMF spokesperson stated that they do not have a mandate to promote human rights and are not “bound by various human rights declarations and conventions”. Indeed, it appears these organisations try to avoid human rights parlance altogether. According to a speechwriter of the IMF’s current Managing Director, Christine Lagarde, “You cannot put human rights in a speech, [or] it’ll be taken out”. But with the highly salient human rights violations in Greece’s structural adjustment programmes in recent memory, the Committee on Economic, Social and Cultural rights issued a statement expressing that IFIs are “bound to comply with human rights … that are part of customary international law or of the general principles of law, both of which are sources of international law”. Since it is a legal responsibility of the IMF and the World Bank to uphold human rights obligations, the question remains as to how the lending practices of these organizations might be revamped in ways that ensure that they respect human rights.

Looking forward, the mechanisms identified in this overview should serve as a guide for recalibrating structural adjustment programmes in ways that protect

113 For an overview of the complex issue of the human rights obligations of IFIs, see Ilias Bantekas and Lutz Oette, International Human Rights Law and Practice (2nd, CUP 2016) chp 18.
and respect existing human rights. In particular, future programmes should be designed with human rights as a core consideration. This entails a shift from managing negative human rights effects caused by conditionality—for instance, via poorly-enforced social and priority spending targets—to avoiding policies that pose risks to human rights. As a corollary of this, a human rights impact assessment should be carried out before commencing a programme. It should involve consultation with relevant stakeholders, including public health experts, trade unions, the ILO, and the UN Human Rights Council. Programmes should also be regularly reviewed and evaluated not just in relation to their economic and fiscal targets, but against social policy targets, including reducing unemployment, poverty and social exclusion, and in terms of increased access to affordable health care. A core principle of UN system organizations—like the IFIs—is to do no harm. It is time this prescription is taken seriously.  

Table 1. Descriptive statistics on conditionality

<table>
<thead>
<tr>
<th>Year</th>
<th>Mean</th>
<th>Median</th>
<th>Programmes</th>
<th>Highest conditionality in…</th>
</tr>
</thead>
<tbody>
<tr>
<td>1980</td>
<td>12.1</td>
<td>12</td>
<td>34</td>
<td>Bolivia (28 conditions), Turkey (25), Congo Dem. Rep. (21)</td>
</tr>
<tr>
<td>1981</td>
<td>11.7</td>
<td>12</td>
<td>42</td>
<td>Madagascar (27), Turkey (22), Jamaica (21)</td>
</tr>
<tr>
<td>1982</td>
<td>11.9</td>
<td>12</td>
<td>37</td>
<td>Jamaica (27), Uganda (23), Cote d'Ivoire (20)</td>
</tr>
<tr>
<td>1983</td>
<td>14.8</td>
<td>15.5</td>
<td>54</td>
<td>Dominican Republic (33), Argentina (30), Turkey &amp; Jamaica (28)</td>
</tr>
<tr>
<td>1984</td>
<td>18.7</td>
<td>18.5</td>
<td>42</td>
<td>Jamaica (50), Brazil (49), Cote d'Ivoire (32)</td>
</tr>
<tr>
<td>1985</td>
<td>20.9</td>
<td>23</td>
<td>36</td>
<td>Jamaica (46), Argentina (36), Ghana (32)</td>
</tr>
<tr>
<td>1987</td>
<td>27.3</td>
<td>28</td>
<td>35</td>
<td>Tanzania (49), Niger (42), Gabon, Senegal &amp; Tunisia (40)</td>
</tr>
<tr>
<td>1988</td>
<td>25.3</td>
<td>24</td>
<td>46</td>
<td>Tanzania (57), Togo (56), Tunisia (49)</td>
</tr>
<tr>
<td>1989</td>
<td>28.8</td>
<td>30</td>
<td>50</td>
<td>Pakistan (87), Nepal (56), Tunisia (52)</td>
</tr>
<tr>
<td>1990</td>
<td>26.7</td>
<td>25.5</td>
<td>50</td>
<td>Pakistan (61), Tanzania (59), Gabon (54)</td>
</tr>
<tr>
<td>1991</td>
<td>26.9</td>
<td>25</td>
<td>53</td>
<td>Tunisia (52), Rwanda &amp; Senegal (46)</td>
</tr>
<tr>
<td>1992</td>
<td>29.7</td>
<td>29</td>
<td>54</td>
<td>India (62), Gabon (56), Pakistan (54)</td>
</tr>
<tr>
<td>1993</td>
<td>28.4</td>
<td>28</td>
<td>48</td>
<td>Mauritania (73), Egypt (56), Burkina Faso (53)</td>
</tr>
<tr>
<td>1994</td>
<td>36.5</td>
<td>36.5</td>
<td>60</td>
<td>Mauritania (76), Kyrgyz Republic (70), Albania (66)</td>
</tr>
<tr>
<td>1995</td>
<td>36.3</td>
<td>37</td>
<td>67</td>
<td>Mauritania (88), Ukraine (78), Armenia (72)</td>
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<tr>
<td>1996</td>
<td>43.9</td>
<td>42.5</td>
<td>68</td>
<td>Azerbaijan (93), Russian Federation (87), Georgia (70)</td>
</tr>
<tr>
<td>1997</td>
<td>42.9</td>
<td>42</td>
<td>60</td>
<td>Kazakhstan (99), Bulgaria (89), Azerbaijan (88)</td>
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<tr>
<td>1998</td>
<td>43.2</td>
<td>43.5</td>
<td>60</td>
<td>Russian Federation (143), Ukraine (103), Indonesia (77)</td>
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<tr>
<td>1999</td>
<td>44.3</td>
<td>41</td>
<td>62</td>
<td>Ukraine (148), Bulgaria (99), Moldova (89)</td>
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<tr>
<td>2000</td>
<td>40.8</td>
<td>42.5</td>
<td>64</td>
<td>Kyrgyz Republic (97), Bulgaria (87), Romania (79)</td>
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<tr>
<td>2001</td>
<td>41.8</td>
<td>40</td>
<td>66</td>
<td>Pakistan (105), Ukraine, Rwanda &amp; Armenia (72)</td>
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<tr>
<td>2002</td>
<td>43.1</td>
<td>40.5</td>
<td>58</td>
<td>Romania (114), Pakistan (98), Turkey (86)</td>
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<tr>
<td>2003</td>
<td>45.3</td>
<td>45</td>
<td>57</td>
<td>Romania (114), Pakistan (87), FYR Macedonia (80)</td>
</tr>
<tr>
<td>2004</td>
<td>43.5</td>
<td>47</td>
<td>57</td>
<td>Romania (126), Serbia (87), Nicaragua (74)</td>
</tr>
<tr>
<td>2005</td>
<td>44.5</td>
<td>43</td>
<td>47</td>
<td>Serbia (122), Romania (100), Senegal (83)</td>
</tr>
<tr>
<td>2006</td>
<td>39.7</td>
<td>41</td>
<td>43</td>
<td>Cameroon (79), FYR Macedonia &amp; Congo Rep. (65)</td>
</tr>
<tr>
<td>2007</td>
<td>40.4</td>
<td>40</td>
<td>37</td>
<td>Cameroon (84), Dominican Republic (77), FYR Macedonia (67)</td>
</tr>
<tr>
<td>2008</td>
<td>30.4</td>
<td>33</td>
<td>46</td>
<td>Cameroon (75), Moldova (62), Haiti (60)</td>
</tr>
<tr>
<td>2009</td>
<td>31.8</td>
<td>33</td>
<td>53</td>
<td>Cote d'Ivoire (70), Afghanistan (53), Central African Rep. (51)</td>
</tr>
<tr>
<td>2010</td>
<td>32.9</td>
<td>34</td>
<td>50</td>
<td>Ghana &amp; Cote d'Ivoire (60), Tajikistan (58)</td>
</tr>
<tr>
<td>2011</td>
<td>31.7</td>
<td>32</td>
<td>50</td>
<td>Haiti (60), Tajikistan (58), Ghana (54)</td>
</tr>
<tr>
<td>2012</td>
<td>32.5</td>
<td>35</td>
<td>45</td>
<td>Greece (62), Afghanistan (60), Cote d'Ivoire (59)</td>
</tr>
<tr>
<td>2013</td>
<td>33.7</td>
<td>34.5</td>
<td>40</td>
<td>Bosnia-Herzegovina (85), Bangladesh (69), Cote d'Ivoire (68)</td>
</tr>
<tr>
<td>2014</td>
<td>38.7</td>
<td>44</td>
<td>35</td>
<td>Bosnia-Herzegovina (92), Ukraine (64), Jamaica (63)</td>
</tr>
<tr>
<td>Total</td>
<td>33.2</td>
<td>32</td>
<td>60</td>
<td>Romania (1271), Pakistan (1166), Mauritania (1080)</td>
</tr>
</tbody>
</table>

Source: Authors, drawing on data available via http://imfmonitor.org/downloads.html.
Table 2. Categorization of policy areas

<table>
<thead>
<tr>
<th>Policy area description</th>
<th>Number of conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Core policy areas</strong></td>
<td></td>
</tr>
<tr>
<td>External debt issues</td>
<td>16,571</td>
</tr>
<tr>
<td>Debt management and external arrears.</td>
<td></td>
</tr>
<tr>
<td>Financial sector, monetary policy, and Central Bank issues</td>
<td>15,229</td>
</tr>
<tr>
<td>Financial institution regulation, financial SOE privatization, treasury bills, interest rates, Central Bank regulation, money supply, and domestic credit.</td>
<td></td>
</tr>
<tr>
<td>Fiscal issues, revenues, and taxation</td>
<td>13,952</td>
</tr>
<tr>
<td>Expenditure administration, fiscal transparency, audits, budget preparation, domestic arrears, and fiscal balance, customs administration, tax policy, tax administration, and audits of private enterprises.</td>
<td></td>
</tr>
<tr>
<td>External sector (trade and exchange system)</td>
<td>5,142</td>
</tr>
<tr>
<td>Foreign reserves, trade liberalization, exchange rate policy, capital account liberalization, and foreign direct investment.</td>
<td></td>
</tr>
<tr>
<td><strong>Non-core policy areas</strong></td>
<td></td>
</tr>
<tr>
<td>State-owned enterprise privatization, reform and pricing</td>
<td>3,336</td>
</tr>
<tr>
<td>Non-financial SOE privatization (incl. liquidation and bankruptcy proceedings), SOE restructuring, subsidies, price liberalization, audits, marketing boards, and corporatization and rationalization.</td>
<td></td>
</tr>
<tr>
<td>Labour issues (public and private sector)</td>
<td>1,991</td>
</tr>
<tr>
<td>Wage and employment limits, pensions, and social security institutions.</td>
<td></td>
</tr>
<tr>
<td>Institutional reforms</td>
<td>1,360</td>
</tr>
<tr>
<td>Judicial system reforms, anti-corruption measures, competition enhancement, private sector development, devolution, sectoral policies, social policies (excl. poverty reduction policies), price increases for food, water, public transport, or other basic needs goods, land registries, granting of property rights, environmental regulations, and access to commons.</td>
<td></td>
</tr>
<tr>
<td>Poverty reduction policies</td>
<td>825</td>
</tr>
<tr>
<td>Poverty Reduction Strategy Paper development, increases in social sector spending, and implementation of social safety nets.</td>
<td></td>
</tr>
<tr>
<td><strong>Total number of conditions</strong></td>
<td>58,406</td>
</tr>
</tbody>
</table>

Source: Authors, drawing on data available via http://imfmonitor.org/downloads.html.
Figure 1. Total conditions, 1980—2014

Source: Authors, drawing on data available via http://imfmonitor.org/downloads.html.
Figure 2. Conditionality in Europe and Central Asia, 1980—2014

Source: Authors, drawing on data available via http://imfmonitor.org/downloads.html.
Figure 3. Conditionality in West Africa, 1980—2014

Source: Authors, drawing on data available via http://imfmonitor.org/downloads.html.
Figure 4. Conditionality in non-core areas, 1980—2014

Source: Authors, drawing on data available via http://imfmonitor.org/downloads.html.
Figure 5. Structural conditionality

Source: Authors, drawing on data available via http://imfmonitor.org/downloads.html.