

# Sovereign Debt and Human Rights

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# 19

## Conditionality and Sovereign Debt

### An Overview of Human Rights Implications

*Thomas Stubbs and Alexander Kentikelenis*

#### 19.1 Introduction

International financial institutions (IFIs) typically condition the provision of loans, grants, and debt relief on 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 labour market deregulation, trade liberalization, and legal reform). This practice of ‘conditionality’ affords IFIs substantial policy influence on governments throughout the world, thereby reducing national policy space and undermining national development agendas.<sup>1</sup> The measures also have implications for the enjoyment of human rights.

This chapter sets the context for the contributions in Part IV of the book 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 realization of human rights, including health, labour, and civil and political rights. The chapter begins with an examination of the mandates of the International Monetary Fund (IMF) and World Bank. It then discusses the lending practices of the two institutions and reviews existing debates around the effects of conditionality on human rights. Finally, the chapter offers suggestions for reform of IMF and World Bank lending practices in ways that ensure 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 IMF and World Bank are among the most influential IFIs.<sup>2</sup> The two organizations 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.

<sup>1</sup> Alexander Kentikelenis, Thomas Stubbs, Lawrence King, ‘IMF Conditionality and Development Policy Space, 1985–2014’ (2016) 23 *Review of International Political Economy* 543.

<sup>2</sup> Alexander Kentikelenis, Leonard Seabrooke, ‘The Politics of World Polity: Script-Writing in International Organizations’ (2017) 82 *American Sociological Review* 1065; Ngaire Woods, *The Globalizers: The IMF, the World Bank, and Their Borrowers* (Cornell University Press 2006).

The origins of these organizations can be traced to the Bretton Woods conference in July 1944, which laid the foundations of the post-Second World War economic order.<sup>3</sup> 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 organizations 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.<sup>4</sup> 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 infrastructure projects, such as ports, railroads, and hydroelectric dams. In response to developing countries' need for greater financing, however, world leaders set up an additional organization within the World Bank in 1960, the International Development Association (IDA). This shaped the Bank into a more development-focused organization, and its mandate expanded to encompass the eradication of global poverty.<sup>5</sup>

In meeting these revised functions, the two organizations became involved in promoting market-liberalizing reforms as part of their lending operations.<sup>6</sup> 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.<sup>7</sup> 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; these new facilities instead incorporated detailed microeconomic 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.<sup>8</sup> 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.<sup>9</sup>

Against a background of debt crises, structural adjustment programmes became ubiquitous in the 1980s, achieving notoriety for their requirement that low- and middle-income countries implement free-market policies.<sup>10</sup> Indeed, the term 'structural adjustment' became shorthand for an extensive range of reforms designed to promote fundamental,

<sup>3</sup> Sarah Babb, 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) 16.

<sup>4</sup> IMF, *Articles of Agreement* (2016).

<sup>5</sup> Devesh Kapur, John P Lewis, Richard Webb, *The World Bank: Its First Half Century, Volume 1: History* (Brookings Institution Press 1997).

<sup>6</sup> Sarah Babb, *Behind the Development Banks: Washington Politics, World Poverty, and the Wealth of Nations* (University of Chicago Press 2009).

<sup>7</sup> Sarah Babb, Ariel Buiara, 'Mission Creep, Mission Push and Discretion: The Case of IMF Conditionality' in Ariel Buiara (ed), *The IMF and World Bank at Sixty* (Anthem Press 2005) 59; James Pfeiffer, Rachel Chapman, 'Anthropological Perspectives on Structural Adjustment and Public Health' (2010) 39 *Annual Review of Anthropology* 149.

<sup>8</sup> Babb and Kentikelenis (n 3).

<sup>9</sup> Babb (n 6); Babb and Buiara (n 7).

<sup>10</sup> Babb and Kentikelenis (n 3).

comprehensive, and enduring overhaul of a borrowing country's policy arrangements.<sup>11</sup> These policies conform around four key policy pillars: stabilization, liberalization, deregulation, and privatization.<sup>12</sup> Stabilization—or, simply, 'austerity'—refers to measures designed to reduce the fiscal deficit and money supply, intended to control inflation, stabilize currencies, and free up resources to repay external debt. Liberalization 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, and checks and balances surrounding economic activity—such as industry entry criteria—geared towards abolishing perceived inefficiencies in the functioning of the private sector. Finally, privatization 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 organizations, the practice of conditionality became a prominent feature of their *modus operandi* and,<sup>13</sup> 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 recipient governments, but was also encouraged through closer relationships between the IMF, the World Bank, various regional development banks, and private creditors.<sup>14</sup> 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 mobilize financial flows from private international capital.<sup>15</sup> 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.<sup>16</sup>

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.<sup>17</sup> The organizations promised that painful austerity measures would be justified in the long run by sustained economic growth. Yet, economic growth failed to materialize,<sup>18</sup> and negative implications for the enjoyment of human rights abounded (see section 19.4). Faced with disconfirming evidence, the view of the organizations 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.<sup>19</sup> By the early 2000s, in response to extensive criticism, the IMF and

<sup>11</sup> Pfeiffer and Chapman (n 7).

<sup>12</sup> Lawrence H Summers, Lant H Pritchett, 'The Structural-Adjustment Debate' (1993) 83 *American Economic Review* 383.

<sup>13</sup> John Williamson, 'What Washington Means by Policy Reform' in John Williamson (ed), *Latin American Adjustment: How Much Has Happened?* (Institute for International Economics 1990) 7.

<sup>14</sup> Babb (n 6).

<sup>15</sup> Graham Bird, Dane Rowlands, 'Do IMF Programmes Have a Catalytic Effect on Other International Capital Flows?' (2002) 30 *Oxford Development Studies* 229; Thomas Stubbs, Alexander Kentikelenis, Lawrence King, 'Catalyzing Aid? The IMF and Donor Behavior in Aid Allocation' (2016) 78 *World Development* 511.

<sup>16</sup> David Dollar, Victoria Levin, 'The Increasing Selectivity of Foreign Aid, 1984-2003' (2006) 34 *World Development* 2034.

<sup>17</sup> Sarah Babb, Bruce Carruthers, 'Conditionality: Forms, Function, and History' (2008) 4 *Annual Review of Law and Social Science* 13; Joseph Stiglitz, *Globalization and Its Discontents* (WW Norton 2002).

<sup>18</sup> Dani Rodrik, *One Economics, Many Recipes: Globalization, Institutions, and Economic Growth* (Princeton University Press 2007).

<sup>19</sup> Babb and Kentikelenis (n 3).

World Bank had pledged to strengthen the pro-poor orientation of their programmes and to allow for flexible policy design.<sup>20</sup>

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 conditionality.<sup>21</sup>

### 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.<sup>22</sup> 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.<sup>23</sup> 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 space throughout this period.<sup>24</sup> 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 of 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.<sup>25</sup>

In Figure 19.1, 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, and Sierra Leone—as well as Armenia, Romania, Pakistan, Tanzania, and Kyrgyzstan exhibit a heavy conditionality burden. All of these countries incurred repeat loans that carried a high degree of conditionality. Romania, for instance, had IMF programmes for twenty-six of the thirty-five years covered, carrying a total of 1,271 conditions, 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

<sup>20</sup> IMF, *Creating Policy Space—Responsive Design and Streamlined Conditionality in Recent Low-Income Country Programs* (IMF 2009); World Bank, *2009 Development Policy Lending Retrospective: Flexibility, Customization, and Results* (IMF 2009).

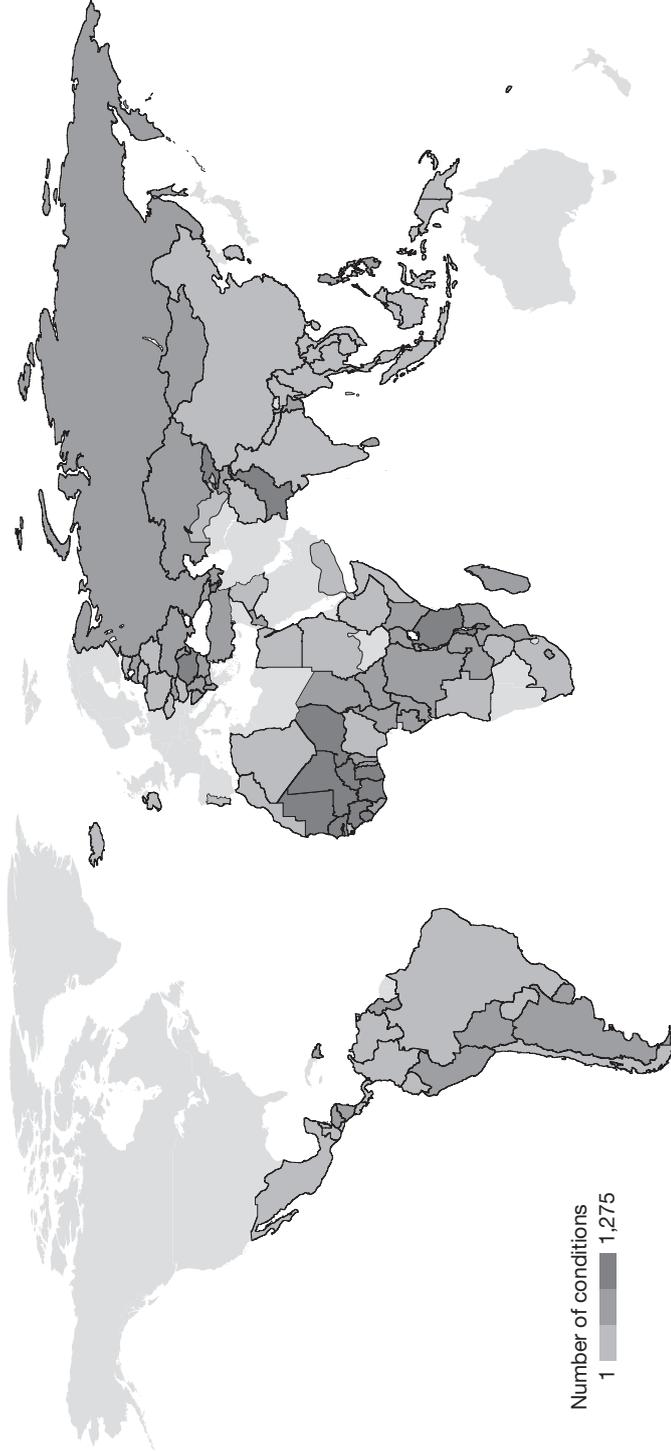
<sup>21</sup> Scott Greer, 'Structural Adjustment Comes to Europe: Lessons for the Eurozone from the Conditionality Debates' (2014) 14 *Global Social Policy* 51; Alexander Kentikelenis, 'Structural Adjustment and Health: A Conceptual Framework and Evidence on Pathways' (2017) 187 *Social Science & Medicine* 296.

<sup>22</sup> Babb and Carruthers (n 17); Greer (n 21); Kentikelenis et al (n 1); Pfeiffer and Chapman (n 7).

<sup>23</sup> Kentikelenis et al (n 1).

<sup>24</sup> Nitsan Chorev, Sarah Babb, 'The Crisis of Neoliberalism and the Future of International Institutions: A Comparison of the IMF and the WTO' (2009) 38 *Theory and Society* 459.

<sup>25</sup> Teri Caraway, Stephanie Rickard, Mark Anner, 'International Negotiations and Domestic Politics: The Case of IMF Labor Market Conditionality' (2012) 66 *International Organization* 27; Mark Copelovitch, 'Master or Servant? Common Agency and the Political Economy of IMF Lending' (2010) 54 *International Studies Quarterly* 49; Axel Dreher, Jan-Egbert Sturm, James Vreeland, 'Politics and IMF Conditionality' (2015) 59 *Journal of Conflict Resolution* 120; Terrence Chapman et al, 'Mixed Signals: IMF Lending and Capital Markets' (2017) 47 *British Journal of Political Science* 329; Thomas Stubbs et al, 'The Impact of IMF Conditionality on Government Health Expenditure: A Cross-National Analysis of 16 West African Nations' (2017) 174 *Social Science & Medicine* 220.



**Figure 19.1** Total conditions, 1980–2014

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

staple lending facility—with eleven conditions attached between 1982 and 1983. Laos held the median number of conditions out of countries that had at least one, at 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 19.1 indicates how IMF conditionality has evolved between 1980 and 2014. The median number of conditions in IMF programmes gradually increased from twelve per calendar year in the early 1980s to about forty-two 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 more than 140 conditions for Russia in 1998 and Ukraine in 1999. An abrupt decline in the median number of conditions applicable can then be observed in the immediate aftermath of the global financial crisis, falling to about thirty-three conditions per year, even though it remained considerably higher than in the 1980s and early 1990s. Since 2008, heavy conditionality burdens have been experienced by Cameroon, Moldova, Cote d'Ivoire, Ghana, Haiti,

**Table 19.1** Descriptive statistics on conditionality

	Mean	Median	Programmes	Highest conditionality in ...
1980	12.1	12	34	Bolivia (28 conditions), Turkey (25), Congo Dem. Rep. (21)
1981	11.7	12	42	Madagascar (27), Turkey (22), Jamaica (21)
1982	11.9	12	37	Jamaica (27), Uganda (23), Cote d'Ivoire (20)
1983	14.8	15.5	54	Dominican Republic (33), Argentina (30), Turkey & Jamaica (28)
1984	18.7	18.5	42	Jamaica (50), Brazil (49), Cote d'Ivoire (32)
1985	20.9	23	36	Jamaica (46), Argentina (36), Ghana (32)
1986	20.9	17	43	Morocco (65), Zambia (63), Congo Dem. Rep. (40)
1987	27.3	28	35	Tanzania (49), Niger (42), Gabon, Senegal & Tunisia (40)
1988	25.3	24	46	Tanzania (57), Togo (56), Tunisia (49)
1989	28.8	30	50	Pakistan (87), Nepal (56), Tunisia (52)
1990	26.7	25.5	50	Pakistan (61), Tanzania (59), Gabon (54)
1991	26.9	25	53	Tunisia (52), Rwanda & Senegal (46)
1992	29.7	29	54	India (62), Gabon (56), Pakistan (54)
1993	28.4	28	48	Mauritania (73), Egypt (56), Burkina Faso (53)
1994	36.5	36.5	60	Mauritania (76), Kyrgyz Republic (70), Albania (66)
1995	36.3	37	67	Mauritania (88), Ukraine (78), Armenia (72)
1996	43.9	42.5	68	Azerbaijan (93), Russian Federation (87), Georgia (70)
1997	42.9	42	60	Kazakhstan (99), Bulgaria (89), Azerbaijan (88)
1998	43.2	43.5	60	Russian Federation (143), Ukraine (103), Indonesia (77)

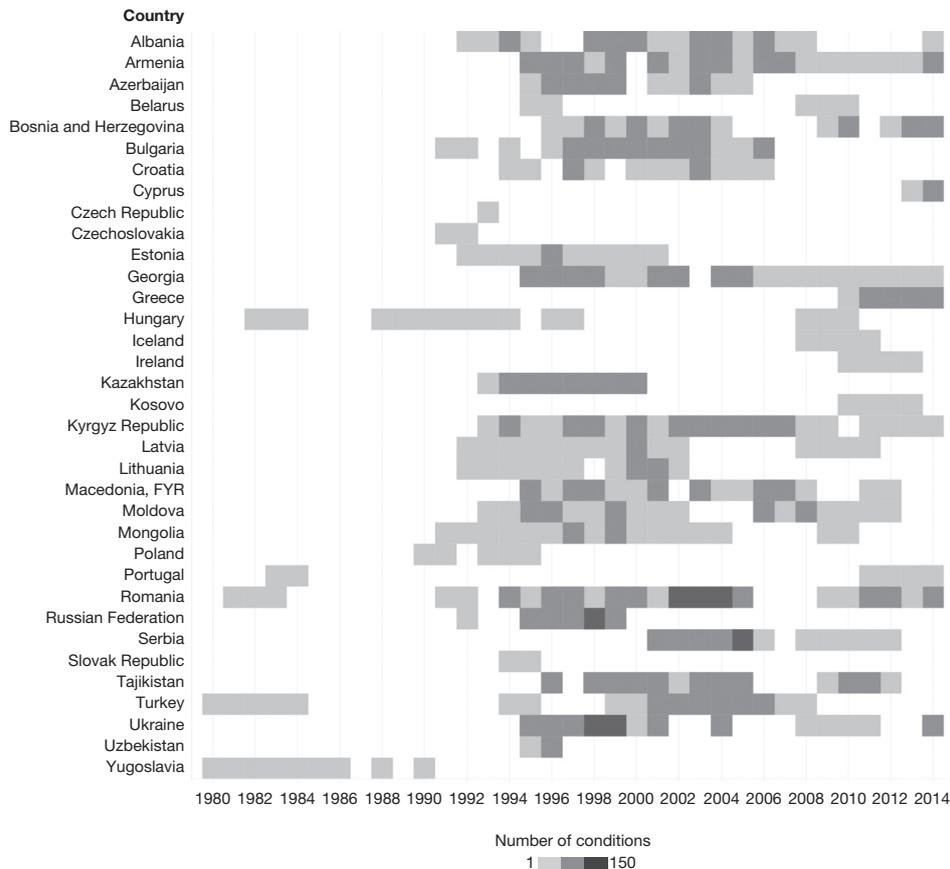
Table 19.1 Continued

	Mean	Median	Programmes	Highest conditionality in ...
1999	44.3	41	62	Ukraine (148), Bulgaria (99), Moldova (89)
2000	40.8	42.5	64	Kyrgyz Republic (97), Bulgaria (87), Romania (79)
2001	41.8	40	66	Pakistan (105), Ukraine, Rwanda & Armenia (72)
2002	43.1	40.5	58	Romania (114), Pakistan (98), Turkey (86)
2003	45.3	45	57	Romania (114), Pakistan (87), FYR Macedonia (80)
2004	43.5	47	57	Romania (126), Serbia (87), Nicaragua (74)
2005	44.5	43	47	Serbia (122), Romania (100), Senegal (83)
2006	39.7	41	43	Cameroon (79), FYR Macedonia & Congo Rep. (65)
2007	40.4	40	37	Cameroon (84), Dominican Republic (77), FYR Macedonia (67)
2008	30.4	33	46	Cameroon (75), Moldova (62), Haiti (60)
2009	31.8	33	53	Cote d'Ivoire (70), Afghanistan (53), Central African Republic (51)
2010	32.9	34	60	Ghana & Cote d'Ivoire (60), Tajikistan (58)
2011	31.7	32	50	Haiti (60), Tajikistan (58), Ghana (54)
2012	32.5	35	45	Greece (62), Afghanistan (60), Cote d'Ivoire (59)
2013	33.7	34.5	40	Bosnia-Herzegovina (85), Bangladesh (69), Cote d'Ivoire (68)
2014	38.7	44	35	Bosnia-Herzegovina (92), Ukraine (64), Jamaica (63)
Total	33.2	32		Romania (1271), Pakistan (1166), Mauritania (1080)

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

Greece, Afghanistan, Bosnia, Bangladesh, Ukraine, and Jamaica, all of which carried sixty or more conditions at least once. In 2014 the median number of conditions rose sharply, to forty-four, which was the third highest such figure recorded (after forty-seven in 2004 and forty-five in 2003).

Figure 19.2 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 programmes but high conditionality burdens in each for the 1995–9 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 fifty 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 and virtually uninterrupted programmes since around 1995.



**Figure 19.2** Conditionality in Europe and Central Asia, 1980–2014

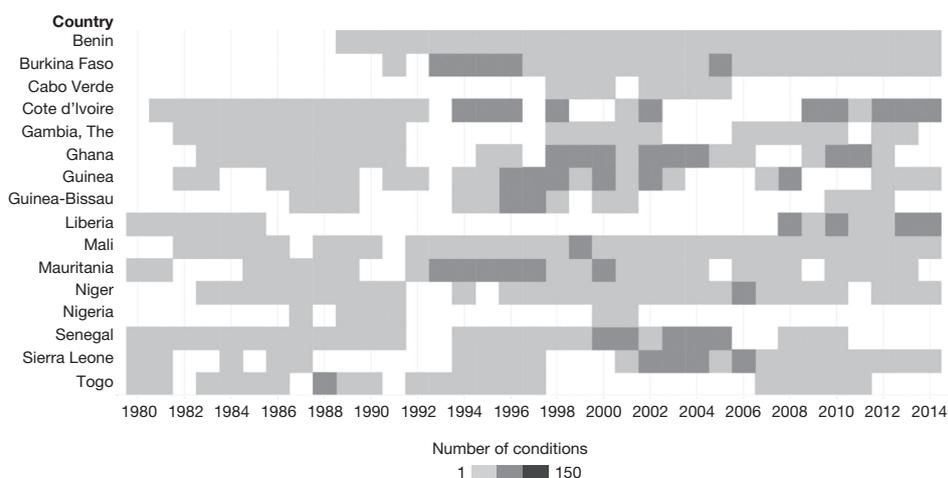
Source: Authors, drawing on data available via <<http://imfmonitor.org/downloads.html>>.

In Figure 19.3, we offer the same information for the sixteen countries in West Africa, another region with heavy IMF involvement. It shows IMF recidivism is a prominent feature of the region. With the exception of Cabo Verde, Guinea-Bissau, Liberia, and Nigeria, each of these countries spent the majority of the 1980–2014 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 upon to implement seventy-three IMF conditions. More recently, Cote d'Ivoire had to implement more than fifty conditions for five of the six years since 2009.

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.<sup>26</sup> In Table 19.2, we report the policy areas of IMF conditions for the period 1980–2014, classified into mutually exclusive categories. Following conventions in the literature, these are separated into core and non-core policy areas.<sup>27</sup> Core policy areas include the following: external debt issues; financial sector, monetary policy, and Central

<sup>26</sup> Randall Stone, 'The Scope of IMF Conditionality' (2008) 62 *International Organization* 589; Graham Bird, 'Reforming IMF Conditionality: From "Streamlining" to "Major Overhaul"' (2009) 10 *World Economics* 81.

<sup>27</sup> IEO, *Structural Conditionality in IMF-Supported Programs: Background Documents* (2007); Kentikelenis et al (n 15).



**Figure 19.3** Conditionality in West Africa, 1980–2014

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

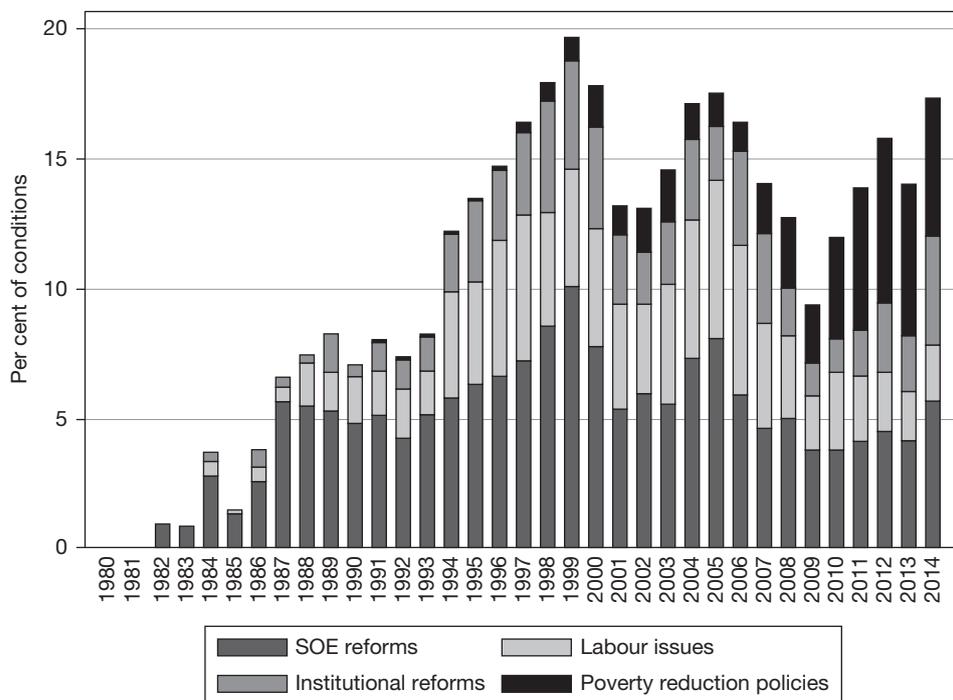
**Table 19.2** Categorization of policy areas

	Policy area description	Number of conditions
Core policy areas	External debt issues <i>Debt management and external arrears</i>	16,571
	Financial sector, monetary policy, and Central Bank issues <i>Financial institution regulation, financial SOE privatization, treasury bills, interest rates, Central Bank regulation, money supply, and domestic credit</i>	15,229
	Fiscal issues, revenues, and taxation <i>Expenditure administration, fiscal transparency, audits, budget preparation, domestic arrears, and fiscal balance, customs administration, tax policy, tax administration, and audits of private enterprises</i>	13,952
	External sector (trade and exchange system) <i>Foreign reserves, trade liberalization, exchange rate policy, capital account liberalization, and foreign direct investment</i>	5,142
	Non-core policy areas	3,336
	State-owned enterprise privatization, reform and pricing <i>Non-financial SOE privatization (incl. liquidation and bankruptcy proceedings), SOE restructuring, subsidies, price liberalization, audits, marketing boards, and corporatization and rationalization</i>	3,336
	Labour issues (public and private sector) <i>Wage and employment limits, pensions, and social security institutions</i>	1,991
	Institutional reforms <i>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</i>	1,360
	Poverty reduction policies <i>Poverty Reduction Strategy Paper development, increases in social sector spending, and implementation of social safety nets</i>	825
	Total number of conditions	58,406

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

Bank issues; fiscal issues, revenues, and taxation; and external sector (trade and exchange system).<sup>28</sup> Together, core policies account for nearly 87 per cent of the total number of conditions included in IMF programmes.

To investigate whether the policy mix of conditions in Fund programmes changed, Figure 19.4 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 privatizations (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 conditions stipulating reforms to state-owned enterprises, labour policy, and institutional environments still accounted for more than 12 per cent of all conditions. What could be interpreted as a narrowing scope of conditionality is, in part, explained by the amount of time a country has spent under IMF programmes.<sup>29</sup> Repeat borrowers have already implemented extensive conditionality, so there is less 'need' for the IMF to introduce such conditions in recent programmes.



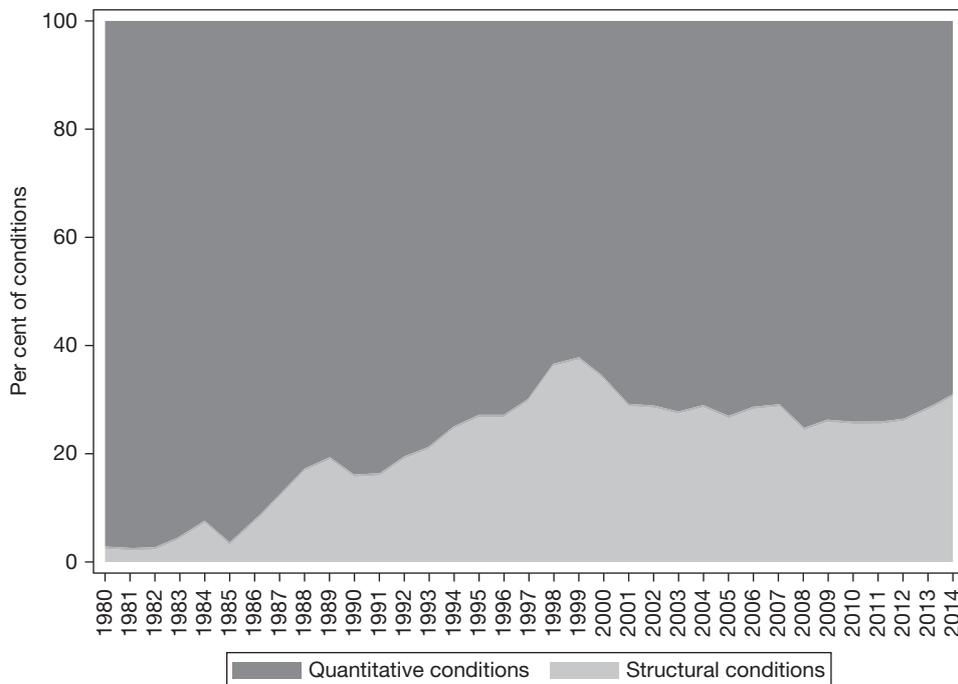
**Figure 19.4** Conditionality in non-core areas, 1980–2014

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

<sup>28</sup> Kentikelenis et al (n 15).

<sup>29</sup> Ibid.

The technical apparatus of conditionality has also evolved over time. IMF lending programmes employ two types of conditions: quantitative and structural.<sup>30</sup> 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, such as by privatizing state-owned enterprises, legislating central bank independence, deregulating labour markets, or restructuring tax systems. Figure 19.5 shows how structural conditionality started from very low levels in the mid-1980s, but within a decade the use of such policies expanded rapidly, peaking at about 38 per cent of all conditions by the late 1990s. Structural conditionality then flattened out, before a subsequent upsurge leading up to the present time. In 2014, structural conditions encompassed 31 per cent of all conditions. Overall, these trends highlight that structural adjustment remains as relevant as ever in the contemporary era.



**Figure 19.5** Structural conditionality

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

## 19.4 The Effects of Conditionality on Human Rights

This section 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.

<sup>30</sup> IMF, *IMF Conditionality* (IMF Factsheet, 2015). Available at: <<http://www.imf.org/external/np/exr/facts/conditio.htm>>.

### 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.<sup>31</sup> Rather than a minimalist agenda encompassing health interventions for the most vulnerable, the right to health care 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 health care, as well as those indirectly related to health, such as access to food, water, employment, and education.<sup>32</sup> The ICESCR and the General Comment also enshrines these rights as national and international obligations, with the latter related to development cooperation for health.<sup>33</sup> Although the IMF and World Bank have long claimed that they are concerned about the health consequences of their policy advice,<sup>34</sup> 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 *directly* impact upon the fulfilment of the right to health in several ways.<sup>35</sup> In particular, poverty reduction, fiscal, institutional, and labour conditions can prompt changes to the volume and quality of services provided (such as health facilities and medical supplies). On the one hand, in order 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.<sup>36</sup> Indeed, the past decade has seen a rapid rise in the inclusion of poverty reduction conditions (see Figure 19.4). While they comprised fewer than 1 per cent of conditions annually up to 1998, since then the use of these instruments has grown extensively, reaching almost 5 per cent 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 Latin American countries.<sup>37</sup> Archival evidence on IMF programmes in 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.<sup>38</sup>

<sup>31</sup> CESCR, 'General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)', UN Doc E/C.12/2000/4 (11 August 2000).

<sup>32</sup> Gorik Ooms, Rachel Hammonds, 'Global Constitutionalism, Applied to Global Health Governance: Uncovering Legitimacy Deficits and Suggesting Remedies' (2016) 12 *Globalization and Health* 84.

<sup>33</sup> *Ibid.*

<sup>34</sup> Kentikelenis et al (n 1); Devi Sridhar, *The Battle Against Hunger: Choice, Circumstance, and the World Bank* (Oxford University Press 2008).

<sup>35</sup> Kentikelenis (n 21).

<sup>36</sup> Sanjeev Gupta et al, *Social Issues in IMF-Supported Programs*, Occasional Paper No 191 (IMF 2000) 191; Sanjeev Gupta, 'Can a Causal Link Be Drawn? A Commentary on "the Impact of IMF Conditionality on Government Health Expenditure: A Cross-National Analysis of 16 West African Nations"' (2017) 181 *Social Science & Medicine* 199; Sanjeev Gupta, 'Response of the International Monetary Fund to Its Critics' (2010) 40 *International Journal of Health Services* 323; IMF, 'Protecting the Most Vulnerable under IMF-Supported Programs' (*IMF Factsheet*, 2015). Available at: <<http://www.imf.org/external/np/exr/facts/protect.htm>>.

<sup>37</sup> Alexander Kentikelenis, Thomas Stubbs, Lawrence King, 'Structural Adjustment and Public Spending on Health: Evidence from IMF Programs in Low-Income Countries' (2015) 126 *Social Science & Medicine* 169; Irfan Nooruddin, Joel W Simmons, 'The Politics of Hard Choices: IMF Programs and Government Spending' (2006) 60 *International Organization* 1001; Shiri Noy, 'New Contexts, Different Patterns? A Comparative Analysis of Social Spending and Government Health Expenditure in Latin America and the OECD' (2011) 52 *International Journal of Comparative Sociology* 215.

<sup>38</sup> Stubbs et al (n 25); Thomas Stubbs et al, 'The IMF and Government Health Expenditure: A Response to Sanjeev Gupta' (2017) 181 *Social Science & Medicine* 202.

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.<sup>39</sup> Furthermore, research shows that priority spending targets were observed only about half of the time, even though fiscal deficit conditions were almost always met.<sup>40</sup> 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 health care.<sup>41</sup>

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.<sup>42</sup> A recent study focusing on West African countries also found that each additional IMF condition reduces government health expenditure per capita by 0.25 per cent.<sup>43</sup> Consequently, countries experience medical supply shortages and see defunded health services replaced by ineffective traditional programmes.<sup>44</sup> Empirical studies assessing the effect of health expenditures or government spending more broadly find a significant and detrimental relationship with infant mortality, under-five mortality, and several other health outcomes.<sup>45</sup> 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 hospital-bed numbers, and increased waiting times for medical procedures.<sup>46</sup>

Aside from fiscal conditions affecting government spending on health, institutional conditions included in structural adjustment programmes can limit the accessibility and affordability of health care. One common measure has been the introduction of user fees for access to health care and co-payments for medicines or services.<sup>47</sup> The rationale for applying such fees was generating additional resources, improving efficiency, and increasing access.<sup>48</sup> In practice, they have undermined the right to health for poor and vulnerable

<sup>39</sup> Thomas Stubbs, Alexander Kentikelenis, 'Targeted Social Safeguards in the Age of Universal Social Protection: The IMF and Health Systems of Low-Income Countries' (2018) 28 *Critical Public Health* 132.

<sup>40</sup> Kentikelenis et al (n 1); Alexander Kentikelenis et al, 'The International Monetary Fund and the Ebola Outbreak' (2015) 3 *The Lancet Global Health* e69; Stubbs et al (n 25).

<sup>41</sup> Devi Sridhar, Ngaire Woods, 'Are There Simple Conclusions on How to Channel Health Funding?' (2010) 375 *The Lancet* 1326; Stubbs et al (n 25); Aaron Reeves et al, 'The Political Economy of Austerity and Healthcare: Cross-National Analysis of Expenditure Changes in 27 European Nations 1995–2011' (2014) 115 *Health Policy* 1; Kentikelenis et al (n 1); David Stuckler, Lawrence King, Sanjay Basu, 'International Monetary Fund Programs and Tuberculosis Outcomes in Post-Communist Countries' (2008) 5 *PLoS Medicine* 1079; Pfeiffer and Chapman (n 7); Michael Thomson, Alexander Kentikelenis, Thomas Stubbs, 'Structural Adjustment Programmes Adversely Affect Vulnerable Populations: A Systematic-Narrative Review of Their Effect on Child and Maternal Health' (2017) *Public Health Reviews* 13.

<sup>42</sup> Kentikelenis et al (n 37); Nooruddin and Simmons (n 37).

<sup>43</sup> Stubbs et al (n 25); Stubbs et al (n 38).

<sup>44</sup> Pfeiffer and Chapman (n 7); Thomson et al (n 41).

<sup>45</sup> Thomson et al (n 41), John C Anyanwu, Andrew EO Erhijakpor, 'Health Expenditures and Health Outcomes in Africa' (2009) 21 *African Development Review* 400; Marco A Palma-Solís et al, 'State Downsizing as a Determinants of Infant Mortality and Achievement of Millennium Development Goal 4' (2009) 39 *International Journal of Health Services* 389.

<sup>46</sup> UNGA, 'Report of the Independent Expert on the Effects of Foreign Debt and Other Related International Financial Obligations of States on the Full Enjoyment of All Human Rights, Particularly Economic, Social and Cultural Rights', UN Doc A/HRC/34/57/Add.1 (28 December 2016).

<sup>47</sup> Sarah Thomson, *Economic Crisis, Health Systems and Health in Europe: Impact and Implications for Policy* (Open University Press 2015); Kasturi Sen, Meri Koivusalo, 'Health Care Reforms and Developing Countries—A Critical Overview' (1998) 13 *International Journal of Health Planning and Management* 199.

<sup>48</sup> John Akin, Nancy Birdsall, David de Ferranti, *Financing Health Services in Developing Countries: An Agenda for Reform* (World Bank Publications 1987).

people, both in terms of reducing their use of such services due to prohibitive costs and through impoverishment due to the effects of unavoidable health expenses.<sup>49</sup> A design simulation model of twenty African countries employing user fees for health concluded that abolition of fees could prevent an estimated 233,000 under-five deaths annually, or 6.3 per cent of such deaths in this setting.<sup>50</sup> 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.<sup>51</sup>

Institutional conditions calling for deregulation of the health sector have also enhanced the private sector's role in health care provision.<sup>52</sup> While those able to afford it can obtain access to a broader bundle of services, this can be coupled with austerity-driven rollbacks 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.<sup>53</sup> Furthermore, structural adjustment programmes are linked to health system decentralization, that is, transferring fiscal and operational responsibilities to the subnational level.<sup>54</sup> In principle, decentralization can make health systems more responsive to local needs, but in practice it often creates governance problems and exacerbates local institutional weaknesses that undermine the right to health, especially when managing nationwide disease outbreaks.<sup>55</sup>

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.<sup>56</sup> In West Africa alone, almost half of all years between 1995 and 2014 involving IMF programmes included conditions stipulating layoffs or caps on public

<sup>49</sup> Robert Yates, 'Universal Health Care and the Removal of User Fees' (2009) 373 *The Lancet* 2078; Roberto De Vogli, Gretchen L Birbeck, 'Potential Impact of Adjustment Policies on Vulnerability of Women and Children to HIV/AIDS in Sub-Saharan Africa' (2005) 23 *Journal of Health, Population and Nutrition* 105; Chris James et al, 'Impact on Child Mortality of Removing User Fees: Simulation Model' (2005) 331 *British Medical Journal* 747.

<sup>50</sup> Yates, *ibid.*

<sup>51</sup> Thomson et al (n 41); UN Doc A/HRC/34/57/Add.1 (n 46); M Karanikolos, A Kentikelenis, 'Health Inequalities after Austerity in Greece' (2016) 15 *International Journal for Equity in Health* 83; A Kentikelenis, 'Bailouts, Austerity and the Erosion of Health Coverage in Southern Europe and Ireland' (2015) 25 *European Journal of Public Health* 365; A Kentikelenis et al, 'Health Effects of Financial Crisis: Omens of a Greek Tragedy' (2011) 378 *The Lancet* 1457; Alexander Kentikelenis et al, 'Greece's Health Crisis: From Austerity to Denialism' (2014) 383 *The Lancet* 748; Alexander Kentikelenis et al, 'Health and the Financial Crisis in Greece—Authors' Reply' (2014) 379 *The Lancet* 1002; Alexander Kentikelenis et al, 'Effects of Greek Economic Crisis on Health Are Real' (2012) 345 *BMJ* e8602.

<sup>52</sup> Núria Homedes, Antonio Ugalde, 'Why Neoliberal Health Reforms Have Failed in Latin America' (2005) 71 *Health Policy* 83.

<sup>53</sup> Pfeiffer and Chapman (n 7); Rene Loewenson, 'Structural Adjustment and Health Policy in Africa' (1995) 23 *International Journal of Health Services* 717; Alexander Kentikelenis, Amanda Shriwise, 'International Organizations and Migrant Health in Europe' (2016) 37 *Public Health Reviews* 19; Sridhar and Woods (n 41); James Pfeiffer, 'International NGOs and Primary Health Care in Mozambique: The Need for a New Model of Collaboration' (2003) 56 *Social Science & Medicine* 725; Sundari TK Ravindran, 'Privatisation in Reproductive Health Services in Pakistan: Three Case Studies' (2010) 18 *Reproductive Health Matters* 13.

<sup>54</sup> Kentikelenis et al (n 40); Stubbs et al (n 25); Homedes and Ugalde (n 52).

<sup>55</sup> Stubbs et al (n 25); Kentikelenis et al (n 40); Mamuka Djibuti et al, '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.

<sup>56</sup> Akanksha A Marphatia et al, 'Confronting the Contradictions: The IMF, Wage Bill Caps and the Case for Teachers' (Actionaid 2007); Kentikelenis et al (n 40); Stubbs et al (n 25); David Stuckler, 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.

sector recruitment and limits to the wage bill.<sup>57</sup> 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 health care workers migrate in search of better employment opportunities.<sup>58</sup> The IMF reports that such wage caps have been discontinued in their programmes,<sup>59</sup> but recent evidence shows they are still incorporated into some.<sup>60</sup>

Notwithstanding these direct effects of IMF and World Bank conditionality, the right to health can also be *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.<sup>61</sup> Secondly, 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 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 a greater amount of public revenues could be invested in health.<sup>62</sup> Thirdly, privatization of state-owned enterprises—designed to raise funds for cash-strapped governments—can in the medium and long run result in losses in reliable public revenue sources for the state to fund health; and where state-owned enterprises provide health coverage to employees, these benefits may be withdrawn post-privatization, resulting in the loss of access to health care.<sup>63</sup> Fourthly, conditionality may be interpreted by donors as a firm commitment to reform, rewarded by increases in aid that could offset lost revenues for health elsewhere; even so, evidence suggests that aid substitutes for—rather than complements—government spending on health, and that aid flows increase for general budget support and debt relief but not for health.<sup>64</sup>

Shifting further down the causal chain to the 'social determinants' of health,<sup>65</sup> fifthly, conditions attached to structural adjustment programmes are 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.<sup>66</sup> For instance, wage caps and privatization can result in job losses, which are linked to increases in alcoholism and suicide; exchange

<sup>57</sup> Stubbs et al (n 25).

<sup>58</sup> Karen McColl, 'Fighting the Brain Drain' (2008) 337 *British Medical Journal* 958; Saliwe M Kawewe, Robert Dibie, 'The Impact of Economic Structural Adjustment Programs [ESAPs] on Women and Children: Implications for Social Welfare in Zimbabwe' (2000) 27 *Journal of Sociology & Social Welfare* 79.

<sup>59</sup> Sanjeev Gupta, 'Response to "The International Monetary Fund and the Ebola Outbreak"' (2015) 3 *The Lancet Global Health* e78.

<sup>60</sup> Kentikelenis et al (n 1).

<sup>61</sup> Jacques van der Gaag, Tania Barham, 'Health and Health Expenditures in Adjusting and Non-Adjusting Countries' (1998) 46 *Social Science & Medicine* 995.

<sup>62</sup> Benedict Clements, Sanjeev Gupta, Masahiro Nozaki, 'What Happens to Social Spending in IMF-Supported Programmes?' (2013) 48 *Applied Economics* 4022; Ernesto Crivelli, Sanjeev Gupta, *Does Conditionality in IMF-Supported Programs Promote Revenue Reform?* IMF Working Paper WP/14/206 (2014).

<sup>63</sup> Lawrence King, Patrick Hamm, David Stuckler, 'Rapid Large-Scale Privatization and Death Rates in Ex-Communist Countries: An Analysis of Stress-Related and Health System Mechanisms' (2009) 39 *International Journal of Health Services* 461; David Stuckler, Sanjay Basu, *The Body Economic: Why Austerity Kills* (Basic Books 2013); David Stuckler, Lawrence King, Martin McKee, 'Mass Privatisation and the Post-Communist Mortality Crisis: A Cross-National Analysis' (2009) 373 *The Lancet* 399; John W Peabody, 'Economic Reform and Health Sector Policy: Lessons from Structural Adjustment Programs' (1996) 43 *Social Science & Medicine* 823.

<sup>64</sup> Stubbs et al (n 15); David Stuckler, Sanjay Basu, Martin McKee, 'International Monetary Fund and Aid Displacement' (2011) 41 *International Journal of Health Services* 67; Chunling Lu et al, 'Public Financing of Health in Developing Countries: A Cross-National Systematic Analysis' (2010) 375 *The Lancet* 1375.

<sup>65</sup> Michael Marmot, 'Health in an Unequal World' (2006) 368 *The Lancet* 2081.

<sup>66</sup> James Vreeland, 'The Effect of IMF Programs on Labor' (2002) 30 *World Development* 121; Doris Oberdabernig, 'Revisiting the Effects of IMF Programs on Poverty and Inequality' (2013) 46 *World Development* 113; Kate E Pickett, Richard G Wilkinson, 'Income Inequality and Health: A Causal Review' (2015) 128 *Social Science & Medicine* 316; UN Doc A/HRC/34/57/Add.1 (n 46).

rate liberalization can increase food prices, which is tied to deterioration in children's nutrition; and the introduction of regressive forms of taxation can reduce poor households' incomes and thus their ability to afford health care or lead healthy lives.<sup>67</sup> Sixthly, 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 decreases the protective effect of parents' education on child health.<sup>68</sup> Finally, conditions on environmental policies—typically including deregulation or privatization of water and sanitation, agriculture, energy, and other natural resources—are linked to environmental degradation, which in turn affects population health.<sup>69</sup>

#### 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 Organization (ILO) and the 1998 ILO Declaration on Fundamental Principles and Rights at Work.<sup>70</sup> 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 adopt policies aimed at reducing their unemployment rate.<sup>71</sup> The Committee also stresses that IFIs, such as the IMF and World Bank, must pay attention to protection of 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 via 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.'<sup>72</sup> 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.

<sup>67</sup> Stuckler et al (n 63); David Stuckler et al, 'The Public Health Effect of Economic Crises and Alternative Policy Responses in Europe: An Empirical Analysis' (2009) 374 *The Lancet* 315; Sudhanshu Handa, Damien King, 'Adjustment with a Human Face? Evidence from Jamaica' (2003) 31 *World Development* 1125; Frances Stewart, 'The Many Faces of Adjustment' (1991) 19 *World Development* 1847.

<sup>68</sup> Sarah Babb, 'The Social Consequences of Structural Adjustment: Recent Evidence and Current Debates' (2005) 31 *Annual Review of Sociology* 199; Adel Daoud et al, 'Impact of International Monetary Fund Programs on Child Health' (2017) 114 *Proceedings of the National Academy of Sciences* 6492; Kentikelenis (n 21).

<sup>69</sup> John Shandra, Eran Shor, Bruce London, 'Debt, Structural Adjustment, and Organic Water Pollution' (2008) 21 *Organization and Environment* 38; Carrie L Shandra, John M Shandra, Bruce London, 'World Bank Structural Adjustment, Water, and Sanitation: A Cross-National Analysis of Child Mortality in Sub-Saharan Africa' (2011) 24 *Organization and Environment* 107; Pablo Pacheco, 'Agricultural Expansion and Deforestation in Lowland Bolivia: The Import Substitution versus the Structural Adjustment Model' (2006) 23 *Land Use Policy* 205.

<sup>70</sup> ILO, *ILO Declaration on Fundamental Principles and Rights at Work and Its Follow-Up* (2010).

<sup>71</sup> CESCR, 'General Comment No 18: The Right to Work' UN Doc E/C.12/GC/18 (2 February 2006).

<sup>72</sup> IMF, *Romania: Staff Report for the 2006 Article IV Consultation. Country Report No. 06/168* (2006) 29.

However, critics argue that the IMF and World Bank neglect the human rights implications of reducing labour market rigidities.<sup>73</sup> 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.<sup>74</sup> A study examining 131 countries for the period 1981 to 2003 also found that the longer a country was subjected to structural adjustment programmes, the lower was the level of labour rights protection.<sup>75</sup> 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.<sup>76</sup>

Labour conditions have been a consistent feature of structural adjustment programmes since the mid-1990s, at about 5 per cent of all conditions annually between 1994 and 2006 and then dropping to around 2 per cent of all conditions in 2014 (see Figure 19.4). The majority of these conditions 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.<sup>77</sup> 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 towards higher expenditure on public sector wages once the programme ended.<sup>78</sup> Similarly, the labour share in relation to gross domestic product (GDP) declined in recent adjustment programmes in eurozone countries, especially Greece.<sup>79</sup>

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.<sup>80</sup> 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.<sup>81</sup> 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.<sup>82</sup>

<sup>73</sup> Rodwan M Abouharb, David L Cingranelli, *Human Rights and Structural Adjustment* (Cambridge University Press 2007); Caraway et al (n 25); Robert G Blanton, Shannon Lindsey Blanton, Dursun Peksen, 'The Impact of IMF and World Bank Programs on Labor Rights' (2015) 68 *Political Research Quarterly* 324; Robert G Blanton, Dursun Peksen, 'Economic Liberalisation, Market Institutions and Labour Rights' (2016) 55 *European Journal of Political Research* 474.

<sup>74</sup> UN Doc A/HRC/34/57/Add 1 (n 46).

<sup>75</sup> Abouharb and Cingranelli (n 73).

<sup>76</sup> Blanton, Blanton, and Peksen (n 73).

<sup>77</sup> Vreeland (n 66).

<sup>78</sup> Stephanie Rickard, Teri Caraway, 'International Demands for Austerity: Examining the Impact of the IMF on the Public Sector' (2018) *Review of International Organizations*. Available at: <<https://doi.org/10.1007/s11558-017-9295-y>>.

<sup>79</sup> George Magoulios, Dimitris Kydros, Stergios Athianos, 'The Economic Crisis (2008) and Effects on Income. The Case of Greece' (2015) 19 *Procedia Economics and Finance* 27.

<sup>80</sup> IMF, *Republic of Moldova: Letter of Intent, Memorandum of Economic and Financial Policies, and Technical Memorandum of Understanding* (IMF 2010) 7.

<sup>81</sup> See UN Doc A/HRC/34/57/Add.1 (n 46).

<sup>82</sup> Nathan Martin, David Brady, 'Workers of the Less Developed World Unite? A Multilevel Analysis of Unionization in Less Developed Countries' (2007) 72 *American Sociological Review* 562; Vreeland (n 66); see UN Doc A/HRC/34/57 (27 December 2016) 'Report of the Independent Expert on the Effects of Foreign Debt and Other Related International Financial Obligations of States on the Full Enjoyment of All Human Rights, Particularly Economic, Social and Cultural Rights'; Kenneth Roberts, 'Social Inequalities without Class Cleavages in Latin America's Neoliberal Era' (2002) 36 *Studies in Comparative International Development* 3.

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 periods, remove barriers to firing workers, reduce employee entitlements, and dismantle rights to form and join labour unions and to collectively bargain with employees.<sup>83</sup> 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 to flexible labour market regulation.<sup>84</sup>

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.<sup>85</sup> Romania's 2010 IMF programme targeted pensions, with a 15 per cent cut and a condition stipulating parliamentary approval of pension reform legislation, which included further payout reductions and increases in the retirement age.<sup>86</sup> 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.<sup>87</sup> 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 with the private sector rules and terminating tenure.<sup>88</sup> Furthermore, most Latin American governments have made changes to their laws governing hiring, dismissal, and work hours in the past twenty years as a result of IMF pressure.<sup>89</sup>

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 underpins many of the economic problems that see countries turn to these institutions for loans.<sup>90</sup> 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.'<sup>91</sup> In Pakistan, privatization of state-owned enterprises led to the

<sup>83</sup> Caraway et al (n 25); Abouharb and Cingranelli (n 73); Blanton, Blanton, and Peksen (n 73); UN Doc A/HRC/34/57 (n 82); Katrina Burgess, 'Global Pressures, National Policies, and Labor Rights in Latin America' (2010) 45 *Studies in Comparative International Development* 198; Peter Bakvis, 'The World Bank's Doing Business Report: A Last Fling for the Washington Consensus?' (2009) 15 *Transfer: European Review of Labour and Research* 419.

<sup>84</sup> Mark Anner, Teri Caraway, 'International Institutions and Workers' Rights: Between Labor Standards and Market Flexibility' (2010) 45 *Studies in Comparative International Development* 151.

<sup>85</sup> UN Doc A/HRC/34/57 (n 82).

<sup>86</sup> Kentikelenis et al (n 1).

<sup>87</sup> Ibid; Alexander Kentikelenis, 'The Social Aftermath of Economic Disaster: Karl Polanyi, Countermovements in Action, and the Greek Crisis' (2018) 16 *Socio-Economic Review* 39.

<sup>88</sup> Kentikelenis et al (n 1).

<sup>89</sup> Burgess (n 83).

<sup>90</sup> John Waterbury, 'The Heart of the Matter? Public Enterprise and the Adjustment Process' in Stephan Haggard and Robert Kaufman (eds), *The Politics of Economic Adjustment: International Constraints, Distributive Conflicts and the State* (Princeton University Press 1992) 182.

<sup>91</sup> IMF, *Mongolia: Staff Report for the 1993 Article IV Consultation and Request for Arrangements under the Enhanced Structural Adjustment Facility. Doc EBS/93/79* (IMF 1993) 62.

replacement of stable jobs with precarious jobs involving sub-contractors, which were not fully subject to the labour law provisions.<sup>92</sup>

Finally, several conditions can *indirectly* affect the protection of labour rights. Those related to the trade and exchange system frequently call for the liberalization of trade, which prompts a race to the bottom with respect to labour rights as domestic producers pressure policymakers to drive down labour costs in order to withstand global competition.<sup>93</sup> Furthermore, financial sector conditions that mandate a restrictive monetary policy may convince policymakers to remove worker entitlements, such as a minimum wage, since higher wage levels tend to be inflationary.<sup>94</sup>

### 19.4.3 Civil and political rights

The state's responsibility with respect to 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.<sup>95</sup> 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 breaches 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 liberalization and austerity.<sup>96</sup>

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.<sup>97</sup> The protection of civil rights, for example, requires government expenditures for properly trained and adequately compensated judges, police, and military, and for institutions to monitor the activities of the latter enforcement entities.<sup>98</sup> One recent study has also shown that IMF programmes are linked to deteriorating levels of respect for women's rights because they undermine governments' ability

<sup>92</sup> Kamal A Munir, Natalya Naqvi, Adaner Usmani, 'The Abject Condition of Labor in Pakistan' (2015) 87 *International Labor and Working-Class History* 174.

<sup>93</sup> Layna Mosley, Saika Uno, 'Racing to the Bottom or Climbing to the Top? Economic Globalization and Collective Labor Rights' (2007) 40 *Comparative Political Studies* 923; Robert G Blanton, Shannon Lindsey Blanton, Dursun Peksen, 'Financial Crises and Labor: Does Tight Money Loosen Labor Rights?' (2015) 76 *World Development* 1; Blanton, Blanton, and Peksen (n 73); Abouharb and Cingranelli (n 73); Martin and Brady (n 82); Blanton, Blanton and Peksen (n 73); Nita Rudra, *Globalization and the Race to the Bottom in Developing Countries: Who Really Gets Hurt?* (Cambridge University Press 2008).

<sup>94</sup> Blanton, Blanton and Peksen (n 73).

<sup>95</sup> Abouharb and Cingranelli (n 73).

<sup>96</sup> Rodwan M Abouharb, David L Cingranelli, 'The Human Rights Effects of World Bank Structural Adjustment, 1981–2000' (2006) 50 *International Studies Quarterly* 233; Rodwan M Abouharb, David L Cingranelli, 'IMF Programs and Human Rights, 1981–2003' (2009) 4 *Review of International Organizations* 47.

<sup>97</sup> Nicole Detraz, Dursun Peksen, 'The Effect of IMF Programs on Women's Economic and Political Rights' (2016) 42 *International Interactions* 81; Abouharb and Cingranelli (n 73); Abouharb and Cingranelli, 'The Human Rights Effects of World Bank Structural Adjustment, 1981–2000' (n 96); Abouharb and Cingranelli, 'IMF Programs and Human Rights, 1981–2003' (n 96); Jack Donnelly, *Universal Human Rights in Theory and Practice* (3rd edn, Cornell University Press 2013); Neil A Englehart, 'State Capacity, State Failure, and Human Rights' (2009) 46 *Journal of Peace Research* 163.

<sup>98</sup> Abouharb and Cingranelli, 'IMF Programs and Human Rights, 1981–2003' (n 97).

and willingness to protect such rights.<sup>99</sup> In addition, cross-national studies find evidence that participation in structural adjustment programmes is associated with reductions in aggregated scores on borrowers' levels of democracy.<sup>100</sup> However, recent research contradicts these studies, observing a modest but positive effect of IMF programme participation on democracy.<sup>101</sup> 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, they are also—paradoxically—associated with some democratic reforms, including freer and fairer elections, greater freedom to form and join organizations, and greater freedom of speech and of the press.<sup>102</sup>

Second, an indirect pathway suggests that the infringement of health and labour rights entailed by conditionality results in increased 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.<sup>103</sup> The pattern of events in Bolivia typifies this argument.<sup>104</sup> Limited progress under a fifteen-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 privatization of the city of Cochabamba's water system, and 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 the removal of price controls and subsidies for essential commodities. Various studies have also documented how the hardships caused by these policies lead to protests and conflict, and several episodes illustrate this point.<sup>105</sup> 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 had dissolved parliament and suspended civilian political institutions.<sup>106</sup> Cross-national empirical studies also support the notion that structural adjustment programmes are associated

<sup>99</sup> Detraz and Peksen (n 97).

<sup>100</sup> Robert Barro, Jong-Wha Lee, 'IMF Programs: Who Is Chosen and What Are the Effects?' (2005) 52 *Journal of Monetary Economics* 1245; Chelsea Brown, 'Democracy's Friend or Foe? The Effects of Recent IMF Conditional Lending in Latin America' (2009) 30 *International Political Science Review* 431.

<sup>101</sup> Stephen Nelson, Geoffrey PR Wallace, 'Are IMF Lending Programs Good or Bad for Democracy?' (2017) 12 *Review of International Organizations* 523.

<sup>102</sup> Abouharb and Cingranelli (n 74).

<sup>103</sup> *Ibid*; Abouharb and Cingranelli, 'The Human Rights Effects of World Bank Structural Adjustment, 1981–2000' (n 97); Abouharb and Cingranelli, 'IMF Programs and Human Rights, 1981–2003' (n 97); James Franklin, 'IMF Conditionality, Threat Perception, and Political Repression: A Cross-National Analysis' (1997) 30 *Comparative Political Studies* 576.

<sup>104</sup> Abouharb and Cingranelli (n 74).

<sup>105</sup> John Walton, David Seddon, *Free Markets and Food Riots: The Politics of Global Adjustment* (Blackwell 1994); Andy Storey, 'Economics and Ethnic Conflict: Structural Adjustment in Rwanda' (1999) 17 *Development Policy Review* 43; Regine Andersen, 'How Multilateral Development Assistance Triggered the Conflict in Rwanda' (2000) 21 *Third World Quarterly* 441; Javier Auyero, 'Glocal Riots' (2001) 16 *International Sociology* 33; Christian Morrisson, Jean-Dominique Lafay, Sebastien Dessus, 'The Political Conditions of Adjustment in Africa 1980–90' in Rolph van der Hoeven and Fred van der Kraaij (eds), *Structural Adjustment and Beyond in Sub-Saharan Africa: Research and Policy Issues* (Heinemann 1994) 126.

<sup>106</sup> Nelson and Wallace (n 101) 523.

with increases in social and political instability, including incidents of mass demonstrations, strikes, riots, conflict, and coups d'état.<sup>107</sup> Finally, structural adjustment programmes are linked to declines in economic growth,<sup>108</sup> which are in turn associated with reduced respect for human rights.<sup>109</sup>

## 19.5 Ways Forward

By 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 organizations have made ongoing attempts to overhaul the underlying institutions of borrowing countries, particularly via austerity, liberalization, deregulation, and privatization conditions. In delving into the exact policy content of these programmes, our overview revealed that conditionality elicits mostly perverse implications for the enjoyment of health, labour, and civil and political rights.

In 2001, responding to criticism that the IFIs were ignoring 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'.<sup>110</sup> Indeed, it appears these organizations try to avoid human rights parlance altogether. According to a speechwriter for the IMF's current managing director, Christine Lagarde, 'You cannot put human rights in a speech, [or] it'll be taken out'.<sup>111</sup> But with the highly salient human rights violations of Greece's structural adjustment programmes in recent memory,<sup>112</sup> 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'.<sup>113</sup> Since it is a legal responsibility of the IMF and World Bank to uphold

<sup>107</sup> Caroline A Hartzell, Matthew Hoddie, Molly Bauer, 'Economic Liberalization via IMF Structural Adjustment: Sowing the Seeds of Civil War?' (2010) 64 *International Organization* 339; Brett A Casper, 'IMF Programs and the Risk of a Coup D'état' (2017) 61 *Journal of Conflict Resolution* 964; John Walton, Charles Ragin, 'Global and National Sources of Political Protest: Third World Responses to the Debt Crisis' (1990) 55 *American Sociological Review* 876; Juha Y Auvinen, 'IMF Intervention and Political Protest in the Third World: A Conventional Wisdom Refined' (1996) 17 *Third World Quarterly* 377; Axel Dreher, Martin Gassebner, 'Do IMF and World Bank Programs Induce Government Crises? An Empirical Analysis' (2012) 66 *International Organization* 329.

<sup>108</sup> Barro and Lee (n 100); Axel Dreher, 'IMF and Economic Growth: The Effects of Programs, Loans, and Compliance with Conditionality' (2006) 34 *World Development* 769; Adam Przeworski, James Vreeland, 'The Effect of IMF Programs on Economic Growth' (2000) 62 *Journal of Development Economics* 385; James Vreeland, *The IMF and Economic Development* (Cambridge University Press 2003).

<sup>109</sup> Abouharb and Cingranelli (n 74); Christian Davenport, David A Armstrong, 'Democracy and the Violation of Human Rights: A Statistical Analysis from 1976 to 1996' (2004) 48 *American Journal of Political Science* 538; Steven C Poe, C Neal Tate, 'Repression of Human Rights to Personal Integrity in the 1980s: A Global Analysis' (1994) 88 *American Political Science Review* 853; Steven C Poe, C Neal Tate, Linda Camp Keith, 'Repression of the Human Right to Personal Integrity Revisited: A Global Cross-National Study Covering the Years 1976–1993' (1999) 43 *International Studies Quarterly* 291.

<sup>110</sup> Gustavo Capdevila, *IMF Not Taking into Account Human Rights Issues* (Global Policy Forum, 13 August 2001). Available at: <<https://www.globalpolicy.org/component/content/article/209/42944.html>>.

<sup>111</sup> Theresa Reinold, 'The Path of Least Resistance: Mainstreaming "Social Issues" in the International Monetary Fund' (2017) 31 *Global Society* 392.

<sup>112</sup> Olivier de Schutter, Paul Dermine, *The Two Constitutions of Europe: Integrating Social Rights in the New Economic Architecture of the Union* (2016) CRIDHO Working Paper.

<sup>113</sup> CESCR, *Public Debt, Austerity Measures and the International Covenant on Economic, Social and Cultural Rights*, UN Doc E/C.12/2016/1 (24 June 2016).

human rights obligations,<sup>114</sup> the question remains as to how the lending practices of these organizations might be revamped in ways that ensure they do so.

Looking forward, the mechanisms identified in this overview should serve as a guide for recalibrating structural adjustment programmes in ways that protect and respect 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 also 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, such as the IFIs, is to do no harm. It is time this prescription is taken seriously.<sup>115</sup>

<sup>114</sup> For an overview of the complex issue of the human rights obligations of IFIs, see Ilias Bantekas, Lutz Oette, *International Human Rights Law and Practice* (2nd edn, Cambridge University Press 2016) chapter 18.

<sup>115</sup> This chapter has drawn on Thomas Stubbs, Alexander Kentikelenis, 'International Financial Institutions and Human Rights: Implications for Public Health' (2017) 38 *Public Health Reviews* 27.