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The International Monetary Fund and COVID-19: Old and New Challenges of a Post-World War II International Institution

O Fundo Monetário Internacional e a COVID-19: Velhos e Novos Desafios de uma Instituição Internacional Pós-Segunda Guerra Mundial

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Sumário

DOSSIÉ.....	14
EDITORIAL: INTERNATIONAL LAW AND DE-GLOBALIZATION	16
Ivette Esis, Jaime Tijmes e Juan Enrique Serrano	
EL RÉGIMEN JURÍDICO DE LA INVERSIÓN EXTRANJERA DIRECTA: ¿DE LA LIMITACIÓN A LA DES- GLOBALIZACIÓN?	19
Ivette Esis Villarroel e Yoselyn Bermúdez Abreu	
DESGLOBALIZAÇÃO, BREXIT E OS NOVOS ACORDOS ENTRE REINO UNIDO E UNIÃO EUROPEIA .	34
Angela Limongi Alvarenga Alves e Daniel Freire e Almeida	
FISCALIDAD Y DESGLOBALIZACIÓN EN UN MUNDO CRECIENTEMENTE UNILATERAL	53
Julio César Muñoz Pérez	
COVID, COVAX E O REFLUXO DA GOVERNANÇA GLOBAL	70
Salem Hikmat Nasser e Luiza Nogueira Papy	
THE INTERNATIONAL MONETARY FUND AND COVID-19: OLD AND NEW CHALLENGES OF A POST-WORLD WAR II INTERNATIONAL INSTITUTION	89
Virdzhiniya Petrova Georgieva	
ARTIGOS SOBRE OUTROS TEMAS	110
RULE OF LAW IN THE INTERNATIONAL ARENA: THE IMPORTANCE OF PRACTICES OF LEGALITY .	112
Angela Jank Calixto	
THE WITHDRAWAL OF MEMBER-STATES FROM HUMAN RIGHTS COURTS: IS THE JUDICIALIZATION OF MEGA-POLITICS A NECESSARY CONDITION?.....	132
Mikelli Marzzini Lucas Alves Ribeiro e Ernani Rodrigues de Carvalho Neto	

PRINCÍPIO DA PRECAUÇÃO E MUDANÇA CLIMÁTICA: UMA ANÁLISE DO ACORDO DE PARIS E DAS CONFERÊNCIAS DAS PARTES.....	150
Jamille Bergamaschine Mata Diz e Carolina Mendonça de Siqueira	
A INTERAÇÃO ENTRE OS ESPAÇOS CONSTITUCIONAIS NACIONAIS E INTERNACIONAIS E SEUS IMPACTOS NO SISTEMA DE FONTES DO DIREITO: AS LIÇÕES DA PROTEÇÃO COOPERATIVA DE DIREITOS HUMANOS E O CASO DA INTEGRAÇÃO EUROPEIA	173
Diego Fernandes Guimarães	
WTO'S ENGAGEMENT WITH NATIONAL LAW: THREE ILLUSTRATIONS FROM INDIA	193
Ravindra Pratap	
GESTÃO MIGRATÓRIA E INTEGRAÇÃO REGIONAL: UMA ANÁLISE SOBRE A REGULAMENTAÇÃO NORMATIVA DOS FLUXOS MIGRATÓRIOS IRREGULARES NA UNIÃO EUROPEIA À LUZ DO NOVO PACTO EUROPEU SOBRE MIGRAÇÃO E ASILO.....	212
João Mauricio Malta Cavalcante Filho e Eugênia Cristina Nilsen Ribeiro Barza	
THE AFRICAN REGIONAL HUMAN AND PEOPLES' RIGHTS SYSTEM: 40 YEARS OF PROGRESS AND CHALLENGES.....	232
Juan Bautista Cartes Rodríguez	
THE USMCA SUNSET CLAUSE	258
Jaime Tijmes-Ihl e Yvonne Georgina Tovar Silva	
REFLEXÕES SOBRE A UNIVERSALIDADE DO DIREITO INTERNACIONAL DOS DIREITOS HUMANOS A RESPEITO DA PROTEÇÃO ÀS MULHERES	273
Érica Rios de Carvalho	
A CRITICAL LEGAL ANALYSIS OF GENDER EQUALITY IN INTERNATIONAL TRADE AGREEMENTS...	287
Parul Shukla e Sheikh Sultan Aadil Huque	
FEMINICÍDIO, FEMICÍDIO E ÓDIO NA AGENDA: O ASSASSINATO DAS MULHERES NA AMÉRICA LATINA.....	309
Vinícius Ferreira Baptista	
LEGAL IDEOLOGY IN THE CONTEXT OF DEVELOPMENT OF THE LEGAL STATE AND FORMATION OF THE CIVIL SOCIETY IN UKRAINE	335
Rostyslav A. Kaliuzhnyj, Ivan L. Borodin, Viktoriya B. Cherevatiuk, Liudmyla A. Shapenko e Kseniia S. Tokarieva	

DIREITO INTERNACIONAL PÚBLICO NO ENTREGUERRAS (1919-39): A INSTITUCIONALIZAÇÃO DOS PROJETOS JURÍDICOS DE PAZ E MANEJO DOS POVOS NÃO SOBERANOS.....354

Hugo Luís Pena Ferreira

O CASO GOMES LUND (“GUERRILHA DO ARAGUAIA”) DEZ ANOS DEPOIS: DESAFIOS PARA O CUMPRIMENTO INTEGRAL PELO ESTADO BRASILEIRO372

João Gabriel Archegas, Felipe Klein Gussoli e Vivian Cristina Lima López Valle

DIÁLOGOS MUSEOLÓGICOS: O REGIME JURÍDICO BRASILEIRO E O CÓDIGO DE ÉTICA DO CONSELHO INTERNACIONAL DE MUSEUS390

Paula Gonçalves do Carmo, Emerson Gabardo e Daniel Wunder Hachem

The International Monetary Fund and COVID-19: Old and New Challenges of a Post-World War II International Institution*

O Fundo Monetário Internacional e a COVID-19: Velhos e Novos Desafios de uma Instituição Internacional Pós-Segunda Guerra Mundial

Virdzhiniya Petrova Georgieva**

Abstract

The global pandemic caused by the spread of the novel coronavirus COVID-19 put the attention on the International Monetary Fund's ability to promote the cooperation between states in the fight against its dramatic economic and financial effects. The measures adopted by the IMF after the declaration of the health emergency of international concern related to the global outbreak of COVID-19 reveal the intensification of some of the traditional structural challenges of this Post-World War II intergovernmental organization. In this sense, the COVID-19 pandemic has strengthened the critics against the lack of democratic legitimacy of the IMF and has reinforced the competition that the Fund faces from other international financial institutions. The characteristics of the lending programs adopted by the Fund in response to this global crisis manifest states' persisting concerns and hostility towards the IMF's conditionality. The economic and financial crisis caused by the COVID-19 outbreak has also created some new specific challenges for the efficient functioning of the Fund. It has highlighted that the IMF's work could not be separated from the respect of the human right to health and the protection of the environment, as existential prerequisites of sustainable economic development, monetary and financial stability, and social wellbeing.

Keywords: International Monetary Fund; international financial institutions; private capital markets; conditionality; social economic, and cultural rights; human right to health; environmental protection.

Resumo

A pandemia global causada pela disseminação do novo coronavírus COVID-19 chamou a atenção para a capacidade do Fundo Monetário Internacional de promover a cooperação entre os Estados na luta contra seus dramáticos efeitos econômicos e financeiros. As medidas adotadas pelo FMI após a declaração de emergência sanitária de interesse internacional relacionada ao surto global de COVID-19 revelam a intensificação de alguns

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dos tradicionais desafios estruturais dessa organização intergovernamental pós-Segunda Guerra Mundial. Nesse sentido, a pandemia do COVID-19 fortaleceu as críticas à falta de legitimidade democrática do FMI e reforçou a concorrência que o Fundo enfrenta de outras instituições financeiras internacionais. As características dos programas de empréstimos adotados pelo Fundo em resposta a esta crise global manifestam a persistente preocupação e hostilidade dos Estados em relação à condicionalidade do FMI. A crise econômica e financeira causada pelo surto de COVID-19 também criou alguns novos desafios específicos para o funcionamento eficiente do Fundo. Ressaltou que o trabalho do FMI não pode ser separado do respeito ao direito humano à saúde e à proteção do meio ambiente, como pré-requisitos existenciais do desenvolvimento econômico sustentável, estabilidade monetária e financeira e bem-estar social.

Palavras-chave: Fundo Monetário Internacional; instituições financeiras internacionais; mercados de capitais privados; condicionalidade; direitos socioeconômicos e culturais; direito humano à saúde; Proteção Ambiental.

1 Introduction

The economic and financial pillars of the international liberal order established after the end of the Second World War by the agreements achieved at the Monetary and Financial Conference of the United Nations in Bretton Woods sought to promote two global public goods. The first one enhanced the reconstruction of the devastated domestic economies of the states that took part in the conflict. To that end was created, in 1944, the International Bank for Reconstruction and Development, which, nowadays, is one of the organizations of the World Bank group. The second main objective of the economic and financial architecture of the international liberal order was to avoid disequilibrium in countries' balance of payments that would conduce them to adopt competitive devaluations of their currencies and, therefore, create nontariff barriers to international trade liberalization. The International Monetary Fund (IMF) was set up to provide financial assistance to states that face problems in their balance of payments and to coordinate their monetary and financial policies, as a way to avoid the development of unilateral

and predatory practices in these fields.¹ The IMF is an international intergovernmental organization inside the United Nations' system that assembles 188 member states from all around the world. Its headquarters are in Washington DC, near the United States' Capitol.

According to article 1 of the IMF's constitutive statute its purposes are: "(i) To promote international monetary cooperation through a permanent institution which provides the machinery for consultation and collaboration on international monetary problems. (ii) To facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as primary objectives of economic policy. (iii) To promote exchange stability, to maintain orderly exchange arrangements among members, and to avoid competitive exchange depreciation. (iv) To assist in the establishment of a multilateral system of payments in respect of current transactions between members and in the elimination of foreign exchange restrictions which hamper the growth of world trade. (v) To give confidence to members by making the general resources of the Fund temporarily available to them under adequate safeguards, thus providing them with opportunity to correct maladjustments in their balance of payments without resorting to measures destructive of national or international prosperity. (vi) In accordance with the above, to shorten the duration and lessen the degree of disequilibrium in the international balances of payments of members."

The evolution of the IMF can be divided in five phases. From 1947 to 1971, the international monetary and financial system, with the Fund in its center, knew a golden age, characterized by the stability of exchange rates and the free convertibility of its member states' currencies, as well as the success of the Fund's lending programs, following the institution of the Special Drawing Rights through the first modification of the IMF constitutive statute in 1969. From 1971 to 1978, the system entered in a period of crisis after the abandonment of the Bretton Woods par value system.² From

¹ KAPUR, Devesh. The IMF: A Cure or a Curse. *Foreign Policy*, v. 111, p. 115, 1998.

² The IMF's role in the prevention of economic and financial crisis was reinforced by the promotion of the stability of exchange rates, launched by a par-value system, where the currency of each member was expressed in terms of the US dollar's fixed parity *vis-à-vis*

1978 to 1990, a deep reconstruction and restructuration process took place within the IMF. It included the creation of new sources of financing for its lending programs, the adoption of important institutional reforms and the expansion of its financial and economic expertise. In 1982, the Fund intervened in the Debt Crisis of Mexico and other Latin American and developing countries. Since 1990, the Fund had to deal with the economic and financial crisis of Eastern European countries and assisted them in their painful transition from communism to market economies. In 1994, started the public international campaign *50 years is enough*, which criticized the overall negative impacts of IMF's politics on sustainable development, poverty reduction, environmental and human rights' protection. In 1994, the IMF reached another package deal with Mexico to rescue its economy from the Peso Crisis through one of the highest financial aids in its history. From 1997 to 1998, the Fund was involved in the Asian financial crisis, which sparked in Thailand and quickly spread to other countries, such as Malaysia, the Philippines, and South Korea. Some of the bitter lessons learnt from this crisis enhanced different proposals to reform the international monetary and financial architecture. The severe critics of the IMF's recipes to Asian countries seemed to threaten the legitimacy, the leadership and even the future existence of this Post-World War II international institution.³ The spread of the Global Financial Crisis (also known as the Great Recession) in 2008 meant a new beginning for the IMF. During the G20 meeting in 2009, the Fund received a renewed mandate to operate as a financial firefighter of first resort; additionally, in 2013, its resources were incremented to the record sum of 1 billion dollars in 2013.⁴

The cicatrices of the 2008 crisis can still be observed in the domestic economies of many developed and developing countries. The crisis expanded to unprecedented levels the unemployment rates in Europe and the United States (especially, regarding no qualified

workers) and slowed the economic growth of China, which caused imbalances in the global markets of goods, capital, and labor.⁵ The crisis produced important social costs and negatively affected the wellbeing of millions of people around the world. In this context, at the end of 2019, began a new global crisis that had its origins in the outbreak of a communicable disease, caused by the novel coronavirus COVID-19. On January 30, 2020, the current Director-General of the World Health Organization, Tedros Adhanom, declared that the events related to the international spread of COVID-19 constituted a public health emergency of international concern.⁶

The global pandemic of COVID-19 represented a dramatic external shock for the domestic economies of both developed and developing states. In the first place, this shock produced disequilibrium in the balance of payments of many countries which were unable to pay their external debt and/or to cover the prices of their essential imports, such as food or medicines. The crisis triggered by the outbreak of COVID-19 also raised financial and fiscal concerns at the domestic and international level regarding the devaluation or depreciation of national currencies, the solvency and liquidity disposition of financial institutions, and the increases of fiscal deficits and public debt levels. One of the immediate results of the COVID-19 pandemic was the deceleration of economic growth worldwide, huge job losses (especially, informal and no qualified jobs), massive business closures and the accentuation of the preexistent inequalities in all countries. Many developing states faced drastic capital outflows, imbalances in international trade, particularly regarding the prices of raw materials, tourism decline, diminution of remittances, and generally, higher negative pressure on all the sectors of their domestic economies. The long-term effects of the COVID-19 crisis are expected to bring down the foreign direct investment flows, erode physical and human capitals and, consequently, diminish labor productivity, plunge international trade, and reshape the supply chains integration.⁷ In Latin Ameri-

the gold (35 gold ounces per dollar). This system triggered a period of balanced international monetary transactions that benefited the development of the global transborder movements of trade and investment flows. However, it was finally abandoned and replaced by a new model that permitted the flexibilization of the exchange rates of the Fund's member states' currencies.

³ GUTNER, Tamar. *International Organizations in World's Politics*. SAGE, 2017. p. 151-152.

⁴ GUTNER, Tamar. *International Organizations in World's Politics*. SAGE, 2017. p. 151-152.

⁵ GUTNER, Tamar. *International Organizations in World's Politics*. SAGE, 2017. p. 151-152.

⁶ PAN AMERICAN HEALTH ORGANIZATION. *WHO declares Public Health Emergency on Novel Coronavirus*. 2020. Available in: WHO declares Public Health Emergency on novel coronavirus - PAHO/WHO | Pan American Health Organization.

⁷ UNCTAD. *Impact of the COVID-19 Pandemic on Trade and Development*. 2020. Available in: <https://unctad.org/system/files/official->

ca, for example, the crisis provoked unexpected levels of GDP contractions, which, in 2020, wavered around 7,5%. This contraction cannot be compared to the one experienced by the countries from the region during the Spanish flu pandemic in 1918 (-5,1%), the Great Depression in 1931 (-5,2%), the Oil Crisis in 1982 (-2,4%) or the Great Recession in 2008 (-1,9%). The public debt of Latin American Countries raised 10% in only one year, representing, in 2020, approximately 79% of their GDP. Even if a rapid recovery is expected, 2015-2025 might be another lost decade for the region.⁸

The global shock caused by the COVID-19 crisis has provoked a common urgent need for many developing countries to receive financial aid from international multilateral institutions. This aid is crucial for ensuring the liquidity disposition, necessary for the efficient functioning of domestic health systems, correct maladjustments in the balance of payments, provide incentives for the business, and support infrastructural and/or productive projects that would shorten the duration and lessen the burdens of the adaptations required for the future economic recovery.

Therefore, the global pandemic caused by the spread of the novel coronavirus COVID-19 justified the intervention of the IMF and put the attention on its ability to promote the cooperation between states in the fight against its dramatic economic and financial effects. In this sense, this article's main objective will be to analyze the measures adopted by the IMF after the declaration of the health emergency of international concern related to the global outbreak of COVID-19. These measures reveal the intensification of some of the traditional structural challenges of this Post-World War II inter-governmental organization. The first part of the article will argue that the COVID-19 pandemic has strengthened the critics against the lack of democratic legitimacy of the IMF and has reinforced the competition that the Fund faces from other international financial institutions. The second part of the article will demonstrate that the characteristics of the lending programs adopted by the Fund in the fight against this global crisis manifest states' persisting concerns and hostility towards the IMF's conditionality. The economic and financial crisis caused by the COVID-19 outbreak has also crea-

ted some new specific challenges for the efficient functioning of the Fund. The fourth and fifth part of the research will show that this crisis has highlighted that the IMF's work could not be separated from the respect of the human right to health and the protection of the environment, as existential prerequisites of sustainable economic development, monetary and financial stability, and social wellbeing.

2 The competition of other international financial Institutions

The IMF has adopted many measures in response to the COVID-19 crisis. In the first place, it put on the disposal of its member states 250 billion dollars through its mechanisms of emergency financial assistance.⁹ All the lending programs of the Fund were kept open and were indeed used by many of its developing member states after the declaration of the health emergency of international concern provoked by the spread of the novel coronavirus. 98 of its 188 member states requested the Fund's financial assistance. 16 of them are from Latin America and 127 billion dollars of the total amount of the Fund's credit lines were attributed to Latin American countries.¹⁰ Thus, for example, Peru celebrated a two-year 11 billion dollars Flexible Credit Line arrangement with the Fund.¹¹ The IMF Executive Board approved a two-year 23, 93 billion dollars Flexible Credit Line arrangement for Chile¹² and Mexico renewed its Flexible Credit Line with the Fund for 61 billion dollars.¹³ In march 2021, the IMF Executive Board approved a 36-month 1.778 billion dollars extended arrangement under the Extended Fund Facility for

document/osg2020d1_en.pdf.

⁸ IMF. *Latin America and Caribbean's Winding Road to Recovery*. 2021. Available in: <https://blogs.imf.org/2021/02/08/latin-america-and-caribbeans-winding-road-to-recovery/>.

⁹ IMF. *The IMF and COVID-19*. 2021. Available in: <https://www.imf.org/en/Topics/imf-and-covid19>.

¹⁰ IMF. *The IMF and COVID-19*. 2021. Available in: <https://www.imf.org/en/Topics/imf-and-covid19>.

¹¹ IMF. *IMF Executive Board Approves Two-Year US\$11 Billion Flexible Credit Line Arrangement for Peru*. 2020. Available in: <https://www.imf.org/en/News/Articles/2020/05/28/pr20224-peru-imf-executive-board-approves-2yr-us-11b-flexible-credit-line-arrangement>.

¹² IMF. *Executive Board Approves Two-Year US\$23.93 Billion Flexible Credit Line Arrangement for Chile*. 2020. Available in: [mf.org/en/News/Articles/2020/05/29/pr20227-imf-executive-board-approves-two-year-flexible-credit-line-arrangement](https://www.imf.org/en/News/Articles/2020/05/29/pr20227-imf-executive-board-approves-two-year-flexible-credit-line-arrangement).

¹³ IMF. *Executive Board Completes Review of Mexico's Performance under the Flexible Credit Line Arrangement*. 2020. Available in: <https://www.imf.org/en/News/Articles/2020/11/20/pr20348-mexico-imf-executive-board-completes-review-of-performance-under-the-fcl-arrangement>.

Costa Rica¹⁴ and a 2.7 billion dollars Precautionary and Liquidity Line for Panama to address the COVID-19 pandemic¹⁵. Argentina is currently negotiating rescue package arrangements with the Fund.

In addition, the IMF and the World Bank proposed a debt relief for the most poor and vulnerable countries under the Catastrophe Containment and Relief Trust and expanded its provisions to cover exceptional balance of payment needs arising from COVID-19.¹⁶ They also urged G20 countries to establish the Debt Service Suspension Initiative to help states fighting the pandemic. Since it took effect on May 1, 2020, the initiative has delivered more than 5 billion dollars in debt relief for more than 40 countries. The G20 called on private creditors to participate in this debt relief initiative. Its suspension period has been recently extended to December 2021.¹⁷

The IMF also created a new emergency credit line, very similar in its functioning to the Flexible Credit Line: the Short-term Liquidity Line (SLL) “to further strengthen the global financial safety net and to improve renewable backstop for member countries with very strong policies and fundamentals in need of short-term moderate balance of payments support.”¹⁸ The Fund has oriented its policy advice and capacity development to recommend measures needed to overcome the COVID-19 crisis and to prepare states for economic recovery. The IMF has provided such advice to over 160 countries on urgent matters, such as cash management, financial supervision, cybersecurity, and economic governance.¹⁹

¹⁴ IMF. *Executive Board Approves a 36-month US\$ 1.778 Billion Extended Arrangement under the Extended Fund Facility for Costa Rica and Concludes 2021 Article IV Consultation*. 2021. Available in: <https://www.imf.org/en/News/Articles/2021/03/01/pr2153-costa-rica-imf-exec-board-approves-36-mo-ext-arr-eff-concludes-2021-art-iv-consultation>.

¹⁵ IMF. *IMF Executive Board Approves US\$2.7 billion Precautionary and Liquidity Line for Panama to Address COVID-19 Pandemic*. 2021. <https://www.imf.org/en/News/Articles/2021/01/20/pr2119-imf-executive-board-approves-billion-precautionary-and-liquidity-line-for-panama>.

¹⁶ MF. *The IMF's Response to COVID-19*. 2021. Available in: <https://www.imf.org/en/About/FAQ/imf-response-to-covid-19>.

¹⁷ WORLD BANK. *COVID 19: Debt Service Suspension Initiative*. 2021. Available in: <https://www.worldbank.org/en/topic/debt/brief/covid-19-debt-service-suspension-initiative>.

¹⁸ IMF. *The IMF's Response to COVID-19*. 2021. Available in: <https://www.imf.org/en/About/FAQ/imf-response-to-covid-19>.

¹⁹ IMF. *The IMF's Response to COVID-19*. 2021. Available in: <https://www.imf.org/en/About/FAQ/imf-response-to-covid-19>.

The IMF's response to the global economic and financial crisis provoked by the COVID-19 outbreak is very influenced by the competition of other international institutions that have similar tasks and functions.

The creation of some of them is an acknowledgement of the perceived lack of democratic legitimacy of the IMF. In fact, the legal and institutional design of the Fund is the result of the consensus reached during the Bretton Woods Conference in 1944. The Bretton Woods system and the Post-World War II international liberal order were built upon the historical, political, cultural, and even linguistic affinity between countries from the so-called “West” (essentially, Western Europe and the United States). The end of the Second World War and the end of the Cold War sealed the victory of western values over other “civilizational” options, such as the envisaged by Germany, Japan and the Soviet Union and permitted the consolidation of the Euro-Atlantic leadership over international community's destiny.²⁰ At the same time, the international liberal order is vertical and hegemonic, in its nature. The United States' privileged position after the end of World War II allowed this country to become the main architect of the legal and political design of all the international institutions created in this period. The main objective of this institution building process was to create a global environment where American hegemony and super-power (military, economic and political) could flourish and be maintained. Consequently, the rules governing the functioning of all the Post-World War II international interstate organizations recognize exorbitant privileges to the United States. For example, this country has a veto power in the UN Security Council, NATO is dependent on the American military (super) power and the United States is the principal contributor to the budget of most of these organizations, including the World Health Organization, other UN specialized agencies and the UN itself. The United States also participates actively in the nomination and election of the members of the organizations' driving organs and holds a leadership in their decision-making processes. This is particularly true at the two Bretton Woods institutions. The United States has special voting rights in both organizations, and, in the same sense, the Director of the World Bank has always been an American citizen. In exchange, the

²⁰ IKENBERRY, John, *Liberal Leviathan: The Origins, Crisis, and Transformation of the American World Order*. Princeton University Press, 2012

other member states of the international liberal order's intergovernmental institutions have received some important benefits, such as the right to be heard by the hegemon, the access to financial assistance at low interest rates, free trade and investment, security, etc.²¹

However, the geopolitical foundations of the Post World War II international institutions have, nowadays, moved shapely from their original design. New no Western (and no democratic) power poles have appeared and put pressure on the traditional functioning of the interstate international organizations. Countries, such as Russia, China, and India, want their voice to be heard at these institutions and to play a new role in their decision-making mechanisms. The principal consequence of this shift in the distribution of power within the global order is the crisis of multilateralism in interstate cooperation. The (re)emergence of competing power poles with their own spheres of influence around the world, is maybe leading to the end of the American hegemony and to the reappearance of a bi (or multi) polar order at the international scale.

The effects of the changing nature of the post-World War II international liberal order are particularly visible within the IMF. According to the Fund's constitutive statute, even if every country has the right to vote in its two principal organs, the Board of Governors and the Executive Board, the attribution of voting rights is based on members' quota shares. The number of votes of every country is 750, plus an additional vote for every 100.000 Special Drawing Rights, in proportionality with the amount of the quota shares. All modifications of the quota shares and all amendments to the IMF's constitutive statute must be approved by the vote of 85% of the IMF member states.²² All the important decisions of the Fund (for example, those concerning the approval of lending programs or their interest rates) must count with the approval of 70% of the voting members. Because of its quota shares of approximately 16,14%, the United States enjoys a veto power in the decision-making processes of the IMF.²³ In addition, the United States contributes the most to

the IMF budget; consequently, all institutional reforms of the IMF must first be approved by the US Congress, as they potentially bring modifications to the United States' federal budget.²⁴ Therefore, the ponderation of the voting rights at the IMF is the result of a no democratic system that expressly favors the United States and developed countries and hampers the representation of developing nations. The over representation of industrialized countries at the IMF has eroded the legitimacy of its decision-making process and has been considered by poor countries and emergent markets as an instrument for neocolonial domination. In the opinion of these countries, the Fund's programs do not take into consideration their opinion and interests, but only translate into policies the economic, political, and geopolitical interests of the United States and its allies.²⁵ The industrialized nations have responded to these accusations, stating that their financial contributions to the IMF's budget are essential for the functioning of this institution. Hence, they have the right to decide the directionality of the Fund's resources.²⁶

An important reform in 2016 was achieved to give more voice to the developing countries in the decision-making processes of the IMF. The reform increased the voting rights of these countries and brought four emerging markets (Russia, China, Brazil and India) to the top ten of countries with the mayor number of quota shares at the IMF (being the other six: the United States, Japan, Germany, Italy and the United Kingdom).²⁷ However, even if the number of the voting rights was modified, these changes did not let to substantial alterations of states' voting power. The United States and

²¹ IKENBERRY, John, *Liberal Leviathan: The Origins, Crisis, and Transformation of the American World Order*. Princeton University Press, 2012.

²² IMF. *IMF Quotas*. 2020. Available in: <https://www.imf.org/en/About/Factsheets/Sheets/2016/07/14/12/21/IMF-Quotas>.

²³ IMF. *IMF Quotas*. 2020. Available in: <https://www.imf.org/en/About/Factsheets/Sheets/2016/07/14/12/21/IMF-Quotas>.

²⁴ LEECH, Dennis. Transparency and Democracy in the Governance of the International Monetary Fund and Reforms in Progress: A Voting Power Analysis. In: SCISO, Elena (ed.). *Accountability, Transparency and Democracy in the Functioning of the Bretton Woods Institutions*. Springer, 2017. p. 4.

²⁵ PARIGI, Giuseppe; PATERNO, Francesco. The Evolution of the International Monetary Fund in Response to the Global Financial Crisis. In: SCISO, Elena (ed.). *Accountability, Transparency and Democracy in the Functioning of the Bretton Woods Institutions*. Springer, 2017. p. 21.

²⁶ LEECH, Dennis. Transparency and Democracy in the Governance of the International Monetary Fund and Reforms in Progress: A Voting Power Analysis. In: SCISO, Elena (ed.). *Accountability, Transparency and Democracy in the Functioning of the Bretton Woods Institutions*. Springer, 2017. p. 5.

²⁷ LEECH, Dennis. Transparency and Democracy in the Governance of the International Monetary Fund and Reforms in Progress: A Voting Power Analysis. In: SCISO, Elena (ed.). *Accountability, Transparency and Democracy in the Functioning of the Bretton Woods Institutions*. Springer, 2017. p. 5.

other industrialized countries only lost approximately 0,5-1% of their voting power and their over-representation in the IMF's decision-making mechanisms was not radically affected.²⁸ Another important step in favor of the emergent markets' economies and China, in particular, was the IMF's decision to include the Chinese renminbi in the list of currencies, used to determine the value of the Special Drawing Rights. The political objective of this decision was to give more weight to China in the IMF. It was also considered as an intent to give response to China's participation in the creation of new international financial institutions outside the Bretton Woods system, such as the Chiang Mai Initiative or the New Development Bank.

In fact, one of the main peer competitors of the IMF is the Chiang Mai initiative, established by the Finance Ministers of the ASEAN member states, plus China, South Korea, and Japan (ASEAN+ 3), to strengthen the cooperation between them regarding regional financial activities. Member states of the Chiang Mai initiative can receive financial assistance from the forum and borrow from its resources. At the beginning, 10% of the requested liquidity was delivered by the Chiang Mai currency pool and the other 90% by the IMF, through a stand-by arrangement and/or an emergency credit line with the borrowing country. Progressively, the amount of the lending untied to the IMF's funds was increased to 20% and, in 2007, the initial swaps agreement mechanism was transformed into a multilateral borrowing system (Chiang Mai Initiative Multilateralization).²⁹ In 2010, during the Taskent Summit, the member states of the Chiang Mai Initiative established its surveillance mechanism, with the objective to detect and provide quick responses to financial and monetary crisis occurring in their territories.³⁰ The total amount of the response facilities was fixed to 120 billion dollars, provided by China and South Korea (80% of the total) and the other ASEAN state parties (20% of the total). In 2014, the Chiang Mai Initiative Multilateralization was amen-

ded. It doubled the amount of its funds to 240 billion dollars, increased the IMF de-linked portion from 20% to 30%, and introduced a new "Precautionary Line", which is completely independent from the IMF.³¹ The internal surveillance mechanism of the Chiang Mai Initiative was reinforced by the creation, in 2010, of the Macroeconomic Research Office (MRO) with the aim to promote and secure the macroeconomic stability in the ASEAN+ 3 countries, provide technical assistance to their governments and support the implementation of the Chiang Mai Initiative Multilateralization. In 2013, MRO was transformed into an international intergovernmental organization, endowed with international legal personality and independent functioning *vis-à-vis* other international regional or global financial institutions, such as the IMF. The headquarters of the organization are in Singapore, and it became operational in 2016.³² In September 2020, in relation with the COVID-19 pandemic, the Initiative's member states decided to increment the de-linked portion of its resources with the IMF to 40%. They also opted to increment the use of local currencies instead of the US dollar in the financial operations of the organization to enhance the flexibility of its lending programs.³³ In the future, if the Chiang Mai Initiative Multilateralization's resources and rules become completely de-linked from the IMF, this mechanism would have the potential to become a real Asian Monetary Fund, capable to respond to economic and financial crisis within its member states and meet their financial assistance needs without any further intervention of the IMF.

During the COVID-19 crisis, the Chiang Mai Initiative adopted many important actions. In September 2020, its leaders informed that they have authorized extraordinary measures including fiscal and monetary assistance to member states, as well as support to households and businesses and to the liquidity disposition of domestic financial sectors.³⁴ The 3 main objectives

²⁸ LEECH, Dennis. Transparency and Democracy in the Governance of the International Monetary Fund and Reforms in Progress: A Voting Power Analysis. In: SCISO, Elena (ed.). *Accountability, Transparency and Democracy in the Functioning of the Bretton Woods Institutions*. Springer, 2017. p. 10-11.

²⁹ GILI, Alessandro. China, and the IMF: A Troubled Relationship. In: SCISO, Elena (ed.). *Accountability, Transparency and Democracy in the Functioning of the Bretton Woods Institutions*. Springer, 2017. p. 33.

³⁰ GILI, Alessandro. China, and the IMF: A Troubled Relationship. In: SCISO, Elena (ed.). *Accountability, Transparency and Democracy in the Functioning of the Bretton Woods Institutions*. Springer, 2017. p. 33.

³¹ GILI, Alessandro. China, and the IMF: A Troubled Relationship. In: SCISO, Elena (ed.). *Accountability, Transparency and Democracy in the Functioning of the Bretton Woods Institutions*. Springer, 2017. p. 35.

³² GILI, Alessandro. China, and the IMF: A Troubled Relationship. In: SCISO, Elena (ed.). *Accountability, Transparency and Democracy in the Functioning of the Bretton Woods Institutions*. Springer, 2017. p. 36.

³³ OKAMURA, Kenji Nguyen Thi Hong; TOSHINORI, Doi. "Boosting ASEAN+3's economic resilience and recovery during COVID-19". *Nikkei Asia*, Oct. 12, 2020. Available in: <https://asia.nikkei.com/Opinion/Boosting-ASEAN-3-s-economic-resilience-and-recovery-during-COVID-19>.

³⁴ ASO, Taro; LE, Minh Hung. "Forging a stronger post-pandemic

of the actions undertaken by the Initiative in the fight against COVID-19 are to maintain the domestic markets open to trade and foreign investment flows, to reinforce their capacity of economic recovery and to create new mechanisms for the prevention and monitoring of future crisis.³⁵ According to the first objective states should abstain themselves from the introduction of measures that would cause unnecessary restrictions on the import and export of essential goods, such as food or medicines and medical supplies, or negatively affect the foreign investment flows that are contributing to their economic recovery. On the second place, state members are exhorted to cooperate on a multilateral basis with MRO in the implementation of programs and initiatives that would strengthen the preparedness of domestic systems to unexpected health or health security crisis and other event, such as natural catastrophes.³⁶

Another international financial institution that could be considered as a competitor of the IMF is the New Development Bank of the BRICS. BRICS is an acronym used for the first time in 2007 to name Brazil, Russia, India, China, and South Africa- the world's mayor emerging economies. These countries have tried to act as an alternative to the pro-Western G20 and counterbalance the leadership of United States and European countries, as well as the preeminence of the US dollar in the global economic and financial governance.³⁷ The fulfilment of the Bank's mission is based on the respect of the principles of equality, democracy, transparency, inclusion (and no selectivity) for all of its member states.³⁸ According to article 13- e) of its constitutive statute "The Bank, its officers and employees shall not interfere in the political affairs of any member, nor shall they be influenced in their decisions by the po-

litical character of the member or members concerned. Only economic considerations shall be relevant to their decisions, and these considerations shall be weighed impartially in order to achieve the purpose and functions stated in Articles 2 and 3."

The New Development Bank was created in 2012 during the BRICS Summit in Durban (South Africa) with the objective to mobilize resources for infrastructure and sustainable development projects in BRICS and other emerging economies and "supplement the efforts of multilateral and regional financial institutions for global development".³⁹ The aim is to direct the resources of the Bank towards the finance assistance needs of developing countries and emerging economies that are not well satisfied by the existing international financial institutions. One of the most ambitious initiatives of the Bank is the creation of a currency exchange market and the establishment of a convertibility between the Brazilian real from, the Chinese renminbi, the South African rand, the Russian ruble and the Indian rupee and the diversification of its currencies pool.⁴⁰ The creation of the BRICS's New Development Bank is also considered as a response to the critics that denounce the lack of democratic legitimacy of the IMF. As mentioned above, after the 2008 crisis, the United States and other G20 members decided to reform some rules concerning the functioning of the IMF and the design of the international financial architecture. However, the new reforms did not produce the expected results and did not significantly alter the role of the BRICS within the IMF. Consequently, these countries decided to create the New Development Bank.

The Bank reassembles 42% of the population of the world, 1/4 part of its territory and 26% of the global GDP.⁴¹ The capital of the NDB is 50 billion dollars

Asean+3 economy". *The Asset*, Oct. 8, 2020. Available in: <https://www.theasset.com/treasury/41886/forging-a-stronger-post-pandemic-asean3-economy>.

³⁵ ASEAN. ASEAN +3, "ASEAN plus three plan of action on mitigating the economic impact of the Covid-19 pandemic". 2020. <https://asean.org/storage/2020/08/ASEAN-Plus-Three-Plan-of-Action-on-COVID19-FINAL.pdf>.

³⁶ ASEAN. ASEAN +3, "ASEAN plus three plan of action on mitigating the economic impact of the Covid-19 pandemic". 2020. <https://asean.org/storage/2020/08/ASEAN-Plus-Three-Plan-of-Action-on-COVID19-FINAL.pdf>.

³⁷ LATINO, Agustina. The New Development Bank: Another BRICS in the Wall? In: SCISO, Elena. *Accountability, Transparency and Democracy in the Functioning of Bretton Woods Institutions*. Springer, 2017. p. 48.

³⁸ NEW DEVELOPMENT BANK. *Essence, Mission and Values*. 2021. <https://www.ndb.int/about-us/essence/mission-values/>.

³⁹ According to article 1 of its constitutive treaty: "The Bank shall mobilize resources for infrastructure and sustainable development projects in BRICS and other emerging economies and developing countries, complementing the existing efforts of multilateral and regional financial institutions for global growth and development. To fulfill its purpose, the Bank shall support public or private projects through loans, guarantees, equity participation and other financial instruments. It shall also cooperate with international organizations and other financial entities and provide technical assistance for projects to be supported by the Bank."

⁴⁰ EL BANCO de Desarrollo de los BRICS: Por qué el Banco Global debe aportar una agenda a favor de los pobres. Available in: https://www-cdn.oxfam.org/s3fs-public/file_attachments/the_brics_development_bank_execsummary_sp_0.pdf. p. 1.

⁴¹ LATINO, Agustina. The New Development Bank: Another

and its lending capacity to face financial crisis and short-term liquidity crisis could ascend to 100 million dollars through the Contingent Reserve Arrangement. China's contribution is set at 41 million dollars. Brazil, Russia, and India should afford, each one, 18 million dollars and Indonesia- 4 million dollars. It is worthy to mention that Chinese and Russian's quotas at the NDB double their participation in the IMF's capital.⁴² According to article 2 of NDB's constitutive treaty, the "voting power of each member shall equal its subscribed shares in the capital stock of the Bank."⁴³ Article 6 of the statute establishes that "in the event of any member failing to pay any part of the amount due in respect of its obligations (...), such member shall be unable, for so long as such failure continues, to exercise that percentage of its voting power which corresponds to the percentage which the amount due but unpaid bears to the total amount of paid-in shares subscribed to by that member in the capital stock of the Bank." In January 2021, all parties maintained 100 000 voting rights, except Brazil which has 84 415.⁴⁴

By virtue of article 8, it is impossible to increase "the voting power of a non-founding member country above 7 (seven) per cent of total voting power." This permits to the BRICS countries to maintain an almost absolute control on the Bank's functioning and renders it unattractive for other developing countries. Therefore, the preponderance of BRICS countries, especially China and Russia, in the decision-making of the NDB replicates the institutional design of IMF regarding the role of the United States and other developing countries.

During the unprecedented economic and financial crisis provoked by the COVID-19 pandemic, the NDB has adopted some important measures to assist financially its member states. It approved two loans of 1 billion dollars to South Africa to support it "in its efforts to contain the economic fallout of the pandemic and

start economic recovery".⁴⁵ Another 1 billion dollars loan was attributed to Russia "to finance its healthcare response to the COVID-19 pandemic (the Program), as a "part of a larger governmental plan to fight COVID-19."⁴⁶ The NDB also approved two loans of 7 billion dollars to China to "contribute to mitigating the adverse impacts of COVID-19 on Chinese economy, particularly for the restoration of economic activities and production that will generate employment in the near term."⁴⁷ Two loans of 1 billion dollars were also destined to promote India's economic recovery and "support the government's initiative to generate employment and enhance natural resources management in rural areas."⁴⁸ The Bank approved 1 billion dollars loan to Brazil as an Emergency Assistance Program in Combating COVID-19 to contribute "to Brazil's ongoing efforts to contain the spread of the virus, to slow the rate of COVID-19 infection, and to minimize the negative social and economic consequences of the social distancing measures related to the COVID-19 outbreak."⁴⁹ The total amount of the lending for COVID-19 emergency response of the NDB is 20 billion dollars. It is worthy to mention that this amount is not comparable to the financial assistance offered by the IMF to its member states during the COVID-19 pandemic. Additionally, some of NDB's members requested financial assistance from the IMF as well. South Africa, for example, received more funding from the IMF (4.3 billion dollars) than from the Bank.⁵⁰ However, it is very

BRICS in the Wall? In: SCISO, Elena. *Accountability, Transparency and Democracy in the Functioning of Bretton Woods Institutions*. Springer, 2017. p. 54.

⁴² LATINO, Agostina. The New Development Bank: Another BRICS in the Wall? In: SCISO, Elena. *Accountability, Transparency and Democracy in the Functioning of Bretton Woods Institutions*. Springer, 2017. p. 54.

⁴³ NEW DEVELOPMENT BANK. *Agreement on the New Development Bank*, 2021. Available in: <https://www.ndb.int/wp-content/themes/ndb/pdf/Agreement-on-the-New-Development-Bank.pdf>.

⁴⁴ NEW DEVELOPMENT BANK. Organization. 2021. Available in: <https://www.ndb.int/about-us/organisation/members/>.

⁴⁵ The Program focuses "on creation of employment opportunities in South Africa, in particular about 700,000 jobs in the first phase of the PES, together with social protection measures for active labor market participants that temporarily lost their jobs, in order to help them remain on the labor market." Available in: <https://www.ndb.int/covid-19-emergency-program-loan-for-supporting-south-africas-economic-recovery-from-covid-19/><https://www.ndb.int/covid-19-emergency-program-sa/>.

⁴⁶ New Development Bank (2021), *Emergency Program Loan for Supporting Russia's Healthcare Response*, <https://www.ndb.int/covid-19-emergency-program-loan-for-supporting-russias-healthcare-response/>

⁴⁷ NEW DEVELOPMENT BANK. *Emergency Program Loan for Supporting Russia's Healthcare Response*. 2021. <https://www.ndb.int/covid-19-emergency-program-loan-for-supporting-russias-healthcare-response/>.

⁴⁸ NEW DEVELOPMENT BANK. *COVID-19 Emergency Program Loan for Supporting India's Economic Recovery*. 2021. Available in: <https://www.ndb.int/covid-19-emergency-program-loan-for-supporting-indias-economic-recovery/>.

⁴⁹ NEW DEVELOPMENT BANK. *Emergency Assistance Program in Combating COVID-19 in Brazil*. 2021. Available in: <https://www.ndb.int/emergency-assistance-program-in-combating-covid-19-brazil/>.

⁵⁰ IMF. *IMF Executive Board Approves US\$4.3 Billion in Emergency Sup-*

significant that Brazil, China, India, and Russia received lending from the NDB and did not requested any financial aid from the IMF.

Finally, since 1970, the international private capital markets, such as the Eurobond and Eurocurrency markets, started to compete with the IMF and other public financial institutions in their ability to provide financial aid to states that struggle with domestic and global crisis. The international capital markets have the same function as their domestic counterparts: transfer capital and funds from savers (or investors) to borrowers. Their success is due to the free convertibility of currencies, the liberalization of capital flows and the lack of state controls. As an example of the importance of capital markets, it is possible to compare the importance of private banks' funds with the global GDP. In 1990 it represented 1.3% of the global GDP and in 1997- 37%.⁵¹ This comparison does not measure the entire quantity of money circulating in the international capital markets.⁵² At present, the funds available in the international capital markets surpass the cumulated resources of the IMF, the NDB, the Chiang Mai Initiative and all the other public international financial institutions. As of August 2020, the International Capital Market Association estimates that the overall size of the global bond markets in terms of US dollars in equivalent notional outstanding, is approximately 128.3 trillion dollars.⁵³ Consequently, nowadays, most countries obtain international financial aid from these markets to overcome disequilibrium in their balance of payments or to promote productive projects for their economic development.⁵⁴ The main problem arising from the privatization of the international financial assistance comes from the deregulation of capital markets in international law.⁵⁵ Thus,

port to South Africa to Address the COVID-19 Pandemic. 2020. Available in: <https://www.imf.org/en/News/Articles/2020/07/27/pr20271-south-africa-imf-executive-board-approves-us-billion-emergency-support-covid-19-pandemic>

⁵¹ BINGHAM, Gavin. International Financial Architecture: Foundations and Framework. In: FINANCIAL Globalization and the Emerging Economies. CEPAL. p. 63.

⁵² BINGHAM, Gavin. International Financial Architecture: Foundations and Framework. In: FINANCIAL Globalization and the Emerging Economies. CEPAL. p. 63.

⁵³ INTERNATIONAL Capital Market Association. *Bond Market Size*. Available in: <https://www.icmagroup.org/Regulatory-Policy-and-Market-Practice/Secondary-Markets/bond-market-size/>.

⁵⁴ BINGHAM, Gavin. International Financial Architecture: Foundations and Framework. In: FINANCIAL Globalization and the Emerging Economies. CEPAL. p. 70.

⁵⁵ SWOBODA, Alexander. *Beyond Bretton Woods*: What International

all the international public financial institutions and the IMF itself are very unwell prepared, legally and institutionally, to control or supervise the lending mechanisms of the global capital markets.

It is difficult to obtain information regarding states borrowing from the international capital markets during the COVID-19 pandemic. In 2021, Mexico, for example, carried an international bond transaction issuing two bonds worth a total of 1.8 billion euros and using those funds to repurchase euro-denominated debt maturing in April 2023.⁵⁶ In November 2020, Russia placed 750 million euros (885.60 million dollars) in a seven-year euro-denominated Eurobond.⁵⁷ In April 2021, Pakistan issued a new Eurobond debt of 2.5 billion dollars, only days after the IMF announced the suspension of its 6 billion dollars lending program to the country.⁵⁸ The COVID-19 pandemic has also precipitated the default of loans of some countries, such as Zambia, in the repayment of their Eurobonds.⁵⁹

The global economic and financial crisis provoked by the COVID-19 pandemic is demonstrating that the competition faced by the IMF from public international financial institutions and the international private capital markets is increasing. Some of the reasons for member states of the international community to seek international financial assistance elsewhere are due to the conditionality of the IMF's lending programs.

3 The conditionality of the IMF's lending programs

The Fund is frequently compared to private bank regarding the reimbursement of its financial aid. To en-

Monetary and Financial System for the 21st Century. Available in: Financial globalization and the emerging economies (cepal.org). p. 124.

⁵⁶ Reuters (2021), UPDATE 1-Mexico issues 1.8 bln euros in bonds, reduces maturities by 36% for 2023, <https://www.reuters.com/article/mexico-debt-idUSL1N2JQ2EJ>

⁵⁷ REUTERS. Russia taps global debt market for first time in 2020 with Eurobond deal, sources say. 2020. Available in: <https://www.reuters.com/article/us-russia-eurobond-yield/russia-taps-global-debt-market-for-first-time-in-2020-with-eurobond-deal-sources-say-idUKKBN27S13Y>.

⁵⁸ DAWN. *Eurobond transaction*. 2021. Available in: <https://www.dawn.com/news/1615945>.

⁵⁹ CNBC. Zambia becomes Africa's first coronavirus-era default: What happens now? 2020. Available in: <https://www.cnbc.com/2020/11/23/zambia-becomes-africas-first-coronavirus-era-default-what-happens-now.html>.

sure that borrowing countries will be able to pay their debt, the institution has traditionally imposed strict conditions on its lending programs. The conditionality measures seek to contribute to the effectivity of these programs and to preserve the Fund's own resources, while helping borrowing countries to overcome the problems that led them to request international financial assistance. This conditionality is established in a stand-by arrangement between the IMF and the borrowing state. The country's specific commitments are stated in a letter of intent, attached to the stand-by arrangement, which generally includes a memorandum of the suggested economic and financial adjustment measures.

The conditionality of the Fund has been subject to many critics since its implementation in 1950. A shared view by many developing countries considers that it has caused more prejudices than good to borrowing states for being too intrusive with their internal margin of appreciation or for being too homogenous and not well adapted to the specific characteristics and needs of every country. Some views also find that it has aggravated many of the crisis it was supposed to resolve.⁶⁰

The traditional conditionality of the Fund consisted in the implementation of measures promoting the macroeconomic stability through the adoption of monetary and fiscal policies to control the aggregate demand. It was considered that a state incurs in a balance of payment disequilibrium because of an excessive internal demand. The solution, therefore, was to limit this demand by fiscal measures (tax collection/public spending) or monetary measures (exchange rates, interest rates). The conditionality that the Fund implemented became very extensive in 1980-2000 because of its intervention during the Debt Crisis in 1992 or the Asian Crisis in 1998. During the Asian Crisis, for example, the Fund's stand-by arrangements with borrowing countries included more than 50-80 conditions per each state.⁶¹ Since 1980, the conditionality measures were based on the so-called Washington consensus, whose macroeconomic stabilization measures embraced a reduction on governmental spending, deregulation of economic activities, privatization of public owned companies, higher taxes, policies to reduce inflation, elimination of capital controls and, generally, a more open

domestic economy. These conditions caused austerity in the borrowing states, including cuts in governmental spending, restrictions on social programs that on some occasions brought increased unemployment, poverty, malnutrition, and disrespect for human rights. Thus, for example, the conditionality for Mexico during the Debt Crisis encompassed a drastic reduction on public spending, including the suppression of governmental subsidies on basic consume goods, tax increases and policies to reduce the inflation. During the Asian Crisis, the Fund recommended mayor openness of Asian economies through the promotion of the competition in domestic financial sectors, foreign direct investments in state-owned companies, and private bank closures. Many commentators observed that the IMF's conditionality recipes in the Asian Crisis had nothing to deal with the crisis' origins in the excessive speculation in financial markets. Some of the measures proposed by the Fund, such as the increases if interest rates, weakened even more the domestic economies affected by the crisis.⁶²

Even if developing states often use the Fund as a scapegoat for all their economic suffering,⁶³ some of them have started to see it as a painful dentist. Fearing its conditionality, they would only request its financial assistance when it is too late to achieve the recovery of their economic health. In response, the Fund has traditionally sustained that it might be using bitter and painful medicines, but the cause of states' economic diseases are always bad governmental decisions and not the IMF. When a country decides to request the financial assistance of the Fund, it has generally exhausted all other possible remedies, thus, its situation would be worst without the IMF's aid than with it.⁶⁴ However, even if it is very difficult to calculate the success of the Fund's conditionality measures, the IMF does not borrow any responsibility for their failures and none of its experts has ever been hired for bad counsels.⁶⁵

These precedents explain why many states have been unwilling to request the Fund's financial assistance during the COVID-19 crisis. This is also why many coun-

⁶⁰ GUTNER, Tamar. *International Organizations in World's Politics*. SAGE, 2017. p. 133.

⁶¹ GUTNER, Tamar. *International Organizations in World's Politics*. SAGE, 2017. p. 134-136.

⁶² GUTNER, Tamar. *International Organizations in World's Politics*. SAGE, 2017. p. 146.

⁶³ GUTNER, Tamar. *International Organizations in World's Politics*. SAGE, 2017. p. 136-138.

⁶⁴ GUTNER, Tamar. *International Organizations in World's Politics*. SAGE, 2017. p. 147.

⁶⁵ GUTNER, Tamar. *International Organizations in World's Politics*. SAGE, 2017. p. 147.

tries sought financial aid through the Fund's new credit lines, such as the Flexible Credit Line that does not include any conditionality. According to the IMF's Managing Director, Kristalina Georgieva, disbursements of the amounts authorized through this credit line "are not phased nor conditioned on compliance with policy targets as in traditional IMF-supported programs. This large, upfront access with no ongoing conditions is justified by the very strong track records of countries that qualify for the FCL, which gives confidence that their economic policies will remain strong."⁶⁶ As mentioned above, Chile and Peru, for example, reached Flexible Credit Lines with the IMF to fight the COVID-19 pandemic.⁶⁷ In the same sense, Mexico and Colombia renewed their already existing Flexible Credit Lines with the IMF.⁶⁸

From 98 states that have requested lending from the IMF to address the COVID-19 pandemic only two countries have concluded a traditional stand-by arrangement with the Fund: Ukraine and Egypt.⁶⁹ The conditionality of Egypt's stand-by arrangement "aims to maintain Egypt's macroeconomic stability with priorities to: (i) protect necessary social and health spending while avoiding an excessive build-up of public debt; (ii) anchor inflation expectation and safeguard financial stability while maintaining a flexible exchange rate; and (iii) implement key structural reforms to strengthen transparency, governance, and competition."⁷⁰ The conditionality of Ukraine's stand-by arrangement with the Fund "will focus on four priorities: (i) mitigating the economic impact of the crisis, including by supporting households and businesses; (ii) ensuring continued central bank independence and a flexible exchange rate; (iii) safeguarding financial stability while recovering the

costs from bank resolutions; and (iv) moving forward with key governance and anti-corruption measures to preserve and deepen recent gains."⁷¹

47 states opted for lending programs with the IMF through the Rapid Credit Facility which was created under the Poverty Reduction and Growth Trust (PRGT) and provides financial assistance with very limited conditionality.⁷² The resting countries used the Rapid Financing Instrument alone or together with the Rapid Credit Facility and/or the Extended Credit Facility.⁷³ The Rapid Financing Instrument is very similar in its functioning to the Rapid Credit Facility and has very limited conditionality, as it was "designed for situations where a full-fledged economic program is either not necessary (...) or not feasible."⁷⁴ The Extended Credit Facility's conditionality is streamlined and focused "on the country's own development strategy and aim to safeguard social objectives."⁷⁵

This shows that developing countries' ongoing concerns about the conditionality of the IMF's lending programs is limiting the Fund's capacity to financially assist them during the COVID-19 crisis. The efforts of the IMF to demonstrate the positive effects of its renewed conditionality were not able to erase the stigmatizing legacy of the Washington consensus and the reminiscences of its failures to promote sustainable conditions for economic growth, human rights protection, and social well-being in the borrowing countries.

4 The respect of the human right to health in IMF's policies

International Human Rights Law guarantees different categories of human rights. Originally, it hi-

⁶⁶ IMF. *Executive Board Approves Two-Year US\$23.93 Billion Flexible Credit Line Arrangement for Chile*. 2020. Available in: [mf.org/en/News/Articles/2020/05/29/pr20227-imf-executive-board-approves-two-year-flexible-credit-line-arrangement](https://www.imf.org/en/News/Articles/2020/05/29/pr20227-imf-executive-board-approves-two-year-flexible-credit-line-arrangement).

⁶⁷ IMF. *IMF Executive Board Approves Two-Year US\$11 Billion Flexible Credit Line Arrangement for Peru*. 2020. Available in: <https://www.imf.org/en/News/Articles/2020/05/28/pr20224-peru-imf-executive-board-approves-2yr-us-11b-flexible-credit-line-arrangement>.

⁶⁸ IMF. *Colombia Draws on IMF Flexible Credit Line to Address the COVID-19 Pandemic*. 2020. Available in: <https://www.imf.org/en/News/Articles/2020/12/03/pr20363-colombia-colombia-draws-on-imf-flexible-credit-line-to-address-the-covid-19-pandemic>.

⁶⁹ IMF. *COVID Lending Tracker*. 2021. Available in: <https://www.imf.org/en/Topics/imf-and-covid19/COVID-Lending-Tracker#APD>.

⁷⁰ IMF. *IMF Executive Board Approves 12-month US\$5.2 Billion Stand-By Arrangement for Egypt*. 2020. Available in: <https://www.imf.org/en/News/Articles/2020/06/26/pr20248-egypt-imf-executive-board-approves-12-month-us-5-2billion-stand-by-arrangement>.

⁷¹ IMF. *IMF Executive Board Approves 18-month US\$5 Billion Stand-By Arrangement for Ukraine*. 2020. Available in: <https://www.imf.org/en/News/Articles/2020/06/09/pr20239-ukraine-imf-executive-board-approves-18-month-us-5-billion-stand-by-arrangement>.

⁷² IMF. *Rapid Credit Facility*. 2021. Available in: <https://www.imf.org/en/About/Factsheets/Sheets/2016/08/02/21/08/Rapid-Credit-Facility>.

⁷³ IMF. *COVID Lending Tracker*. 2021. Available in: <https://www.imf.org/en/Topics/imf-and-covid19/COVID-Lending-Tracker#APD>.

⁷⁴ IMF. *Rapid Credit Facility*. 2021. Available in: <https://www.imf.org/en/About/Factsheets/Sheets/2016/08/02/21/08/Rapid-Credit-Facility>.

⁷⁵ IMF. *IMF Extended Credit Facility (ECF)*. 2021. Available in: <https://www.imf.org/en/About/Factsheets/Sheets/2016/08/02/21/04/Extended-Credit-Facility>.

ghlighted the protection of civil and political rights. Progressively, a shared view appeared on the need to reinforce the preservation of economic, social, and cultural rights. These rights were firstly established in the Universal Declaration of Human Rights.⁷⁶

The human right to health is recognized in the Constitution of the World Health Organization. However, its meaning and concrete scope within the organization's normative framework is still unclear and surrounded by controversies. The Constitution's Preamble only provides a general statement on the human right to health⁷⁷, but does not define its components, nor establish the different contexts of its application (in peaceful conditions, during armed conflicts, during pandemics of communicable diseases, etc.) or its relationship with other rights (the right to free movement of persons and goods, the right to non-discrimination, the right to a healthy environment, etc.). World Health Organization's binding International Health Regulations only include a summary recognition of states' duty not to violate the human right to health of the persons, submitted to

restrictive sanitary measures.⁷⁸ However, the regulations do not encompass the correlative obligations of states to guarantee the human right to health of the patients affected by infectious diseases.

The human right to health is established in similar terms in other international instruments,⁷⁹ such as article 12 of the International Covenant on Economic, Social and Cultural Rights.⁸⁰ The UN Committee on Economic, Social and Cultural Rights adopted, in 2000, the General Comment 14, which clarifies the contours of the human right to health.⁸¹ By virtue of this commentary, in order to guarantee the right to health, states have to provide "functioning public health and health-care facilities that have to be available in sufficient quantity within the State."⁸² States also shares the duty to ensure

⁷⁶ According to article 24 of the Declaration: "Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment. Everyone, without any discrimination, has the right to equal pay for equal work. Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. Everyone has the right to form and to join trade unions for the protection of his interests." Article 25 of the Declaration states: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection." By virtue of its article 26: "Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

^{Education} shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. Parents have a prior right to choose the kind of education that shall be given to their children."

⁷⁷ By virtue of the WHO's Constitution's Preamble: "The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition."

⁷⁸ According to article 32 of the International Health Regulations: "In implementing health measures under these Regulations, States Parties shall treat travellers with respect for their dignity, human rights and fundamental freedoms and minimize any discomfort or distress associated with such measures."

⁷⁹ For example, in article 5 (e) (iv) of the International Convention on the Elimination of All Forms of Racial Discrimination of 1965, in articles 11.1 (f) and 12 of the Convention on the Elimination of All Forms of Discrimination against Women of 1979 and in article 24 of the Convention on the Rights of the Child of 1989. The right to health is also recognized in the European Social Charter of 1961 as revised (art. 11), the African Charter on Human and Peoples' Rights of 1981 (art. 16) and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights of 1988 (art. 10).

⁸⁰ According to this provision: "1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. 2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; (b) The improvement of all aspects of environmental and industrial hygiene; (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness."

⁸¹ The commentary states: "3. The right to health is closely related to and dependent upon the realization of other human rights, as contained in the International Bill of Rights, including the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition against torture, privacy, access to information, and the freedoms of association, assembly and movement. These and other rights and freedoms address integral components of the right to health." In also "acknowledges that the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment."

⁸² In this sense, the document provides: "The precise nature of the facilities, goods and services will vary depending on numerous

the existence of health facilities, “accessible to everyone without discrimination”, “respectful of medical ethics and culturally appropriate”, “scientifically and medically appropriate and of good quality”.⁸³ This commentary is not endowed with binding legal force.

IMF’s statute does not encompass the protection of human rights and the aims and objectives of this international financial institution might seem very distant from the preservation of economic, social, and cultural rights. The norms and institutions of International Economic Law developed after the Second World War, in general, did not contain provisions on the interplay between the liberalization of trade and investment flows or the regulation of states’ monetary and financial policies and the protection of human rights. Therefore, for example, international investment agreements do not establish any duties on behalf of foreign investors to respect the human (social, economic or cultural) rights of people that might be affected by their investment projects on the territory of host countries.⁸⁴ In parallel, there are a lot of precedents where multinational companies, acting as foreign investors, committed gross vio-

factors, including the State party’s developmental level. They will include, however, the underlying determinants of health, such as safe and potable drinking water and adequate sanitation facilities, hospitals, clinics and other health-related buildings, trained medical and professional personnel receiving domestically competitive salaries, and essential drugs, as defined by the WHO Action Programme on Essential Drugs.”

⁸³ By virtue of the commentary: “Accessibility has four overlapping dimensions: Non-discrimination: health facilities, goods and services must be accessible to all, especially the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination on any of the prohibited grounds; Physical accessibility: health facilities, goods and services must be within safe physical reach for all sections of the population, especially vulnerable or marginalized groups (...); Economic accessibility (affordability): health facilities, goods and services must be affordable for all. Payment for health-care services, as well as services related to the underlying determinants of health, has to be based on the principle of equity (...) and “information accessibility: accessibility includes the right to seek, receive and impart information and ideas concerning health issues.”

⁸⁴ Traditional international investment agreements did not include provisions on corporate social responsibility. In general, multinational companies are not endowed with international legal personality and have no binding duties arising from the norms and principles of international law. There have been many attempts to adopt binding instruments on transnational corporations and other business enterprises with respect to human rights. The last example is the ongoing negotiation of a UN Treaty on Business and Human Rights. However, the consensus necessary for its adoption has not been achieved yet.

lations of human rights without assuming any negative legal consequences for their unlawful behavior.

The same is true regarding the impact of IMF’s projects. As mentioned above, the Washington consensus’ macroeconomic conditionality embraced a reduction on governmental spending, deregulation of economic activities, privatization of public owned companies, higher taxes, policies to reduce inflation, elimination of capital controls and, generally, a more open domestic economy.⁸⁵ The traditional conditionality of the IMF’s lending programs obliged states to reduce substantially their public spending and to re-equilibrate their budgets. The budget cuts and the increase in the austerity provoked the cancelation of many social programs that negatively affected the benefits and welfare of the poorest and most vulnerable. From a general standpoint, the retreat of the state from the organization and regulation of domestic economy and its openness to private capitals logically lead to violations of social, economic, and cultural rights. States (and not private companies) are, in principle, responsible for guaranteeing these rights by developing health and health security programs, housing, and nutrition assistance for needy families, gender inclusive employment policies, quality education programs, for example.⁸⁶

Recent studies have shown the negative impacts of IMF’s conditionality and politics on the protection of social rights, particularly on the human right to health. As mentioned above, the access to free water and sanitation are important determinants for its protection. Since 1990, the IMF and the World Bank promoted the privatization of water services and the abolition of governmental subsidies on water prices. The Bretton Woods institutions argued that the shortage of the vital resource and its bad administration by developing countries are an obstacle for its integral management. In this sense, the privatization of water services was expected to bring a more efficient access to water and sanitation for the population of developing countries. Hence, 12 stand-by arrangements signed in 2000 with Angola, Benin, Guinea Bissau, Honduras, Nicaragua, Nigeria, Panama, Rwanda, Santo Tomás y Príncipe, Se-

⁸⁵ GUTNER, Tamar. *International Organizations in World’s Politics*. SAGE, 2017. p. 139- 141

⁸⁶ ABOUHARB, Rouhan; CINGRANELLI, David. The Human Rights Effects of Participation in Program Lending Versus the CE-SCR. In: SCISO, Elena. *Accountability, Transparency and Democracy in the Functioning of the Bretton Woods Institutions*. Springer, 2017. p. 213.

negal, Tanzania, and Yemen included provisions related to the privatization of water services.⁸⁷ The consequences for the protection of the human right to health have been disastrous. In most of these developing countries the prices of water services increased more than 100% and many people started to use alternative water sources with no sanitation, which brought the growth of new diseases. After receiving strong critics, the IMF and the World Bank recommended the implementation of public-private partnerships in the management of water services. However, both institutions kept insisting on the suppression of water subsidies.⁸⁸

In the present fight against COVID-19, many member states of the international community have repeatedly violated the human right to health of the patients infected by the virus. Many of them do not have access to health care and facilities.⁸⁹ Additionally, some COVID-19 patients have been subject to discrimination practices that are incompatible with the objectives of the human right to health. In addition, the global spread of COVID-19 has also shown that the no definition of the precise contours of the human right to health in the normative framework of many post-World War II international institutions has (pre)determined the capacity of states to implement some of the recommendations of the World Health Organization in the fight against the pandemic. The World Health Organization has constantly recommended washing hands and maintaining hygienic habits, as the best mean of protection against the infection from COVID-19. Nevertheless, millions of people around the world do not have access to fresh water and sanitation and are not able to wash their hands on a regular basis, which makes them particularly vulnerable to infections from all type of virus, including coronavirus. As mentioned before, this situation is partly the result of the water privatization policies implemented by the IMF and the World Bank.

It is worthy to mention that the Bretton Woods system was originally established with the aim to promote sustainable development, distribute equitably its rents, achieve full employment, and ameliorate life conditions. The economic openness was conceived as the key to economic development and poverty elimination all around the world. At the same time, the system supported a strong governmental intervention in domestic economy through monetary, fiscal, and financial policies to stimulate economic growth and resolve market problems. This conception known as embedded liberalism seek to balance free market and state interventionism to guarantee social protection and wellbeing in midst of an external economic openness. The progressive improvement of life conditions in the West demonstrated the success of this model. However, the original design of the Bretton Woods system has gone through some mutations since the decade of the 1990.⁹⁰ It started to consider the economic growth as the only road to poverty reduction and development. This growth is numerically measured by countries' GDP. The GDP has been the main macroeconomic indicator considered for the design and implementation of IMF's programs and initiatives. However, as indicated in Resolution 65/309 of the UN General Assembly the economic growth does not guarantee *per se* social wellbeing and respect for human rights; consequently, states should adopt a more holistic approach to social wellbeing that takes into consideration community values and interests, education and, particularly, health.⁹¹ The IMF itself has recognized that economic growth, macroeconomic stability and a well-functioning international monetary system are not enough to eliminate poverty, raise living standards and protect social, economic and cultural rights. However, they can contribute to an environment that support the achievement of these objectives. Only taken together, human rights and economic development can "hold the key to a better world for all".⁹²

⁸⁷ ABOUHARB, Rouhan; CINGRANELLI, David. The Human Rights Effects of Participation in Program Lending Versus the CE-SCR. In: SCISO, Elena. *Accountability, Transparency and Democracy in the Functioning of the Bretton Woods Institutions*. Springer, 2017. p. 216.

⁸⁸ ABOUHARB, Rouhan; CINGRANELLI, David. The Human Rights Effects of Participation in Program Lending Versus the CE-SCR. In: SCISO, Elena. *Accountability, Transparency and Democracy in the Functioning of the Bretton Woods Institutions*. Springer, 2017. p. 216.

⁸⁹ HUMAN RIGHTS WATCH. *Human Rights Dimensions of COVID-19 Response*, 2020. Available in: <https://www.hrw.org/news/2020/03/19/human-rights-dimensions-covid-19-response>.

⁹⁰ DE MARTINO, Gianludovico and LEPORE, Giada, Bretton Woods: The Pursuit of Happiness? in Sciso, Elena, *Accountability, Transparency and Democracy in the Functioning of the Bretton Woods Institutions*, ed. Springer, 2017. p. 241.

⁹¹ DE MARTINO, Gianludovico and LEPORE, Giada, Bretton Woods: The Pursuit of Happiness? in Sciso, Elena, *Accountability, Transparency and Democracy in the Functioning of the Bretton Woods Institutions*, ed. Springer, 2017. p. 241.

⁹² LEITE, Sergio Pereira. *Human Rights, and the IMF*. Available in: <https://www.imf.org/external/pubs/ft/fandd/2001/12/leite.htm>.

In this sense, in recent years, the IMF has adopted many reforms and programs that seek to mitigate the negative impacts of its lending politics on the protection of economic and social rights, such as the human right to health. It has proposed more calibrated macroeconomic (especially fiscal) adjustments with a gradual schedule of implementations adapted to the characteristics of the domestic economy of each state. The joint Initiative of the IMF and the World Bank in favor of the Heavily Indebted Poor Countries was adopted since 1996, with the aim to guarantee that the debt relief of these countries from international financial institutions is invested in social programs in favor of the most vulnerable. In fact, one of the conditions for the participation in this initiative is the adoption of Poverty Reduction Strategy to “preserve national ownership of the poverty reduction strategy process”.⁹³

The creation of the Poverty Reduction and Growth Facility in 1999 emphasized the importance of the poverty reduction strategies as the main objective of the IMF supported programs in favor of low-income countries. The adoption of the Debt Relief Under the Heavily Indebted Poor Countries Initiative in 1996 was complemented by the establishment of the Multilateral Debt Relief Initiative in 2005. Both programs were to help low-income countries to implement the UN Agenda 2030 objectives in their internal policies.⁹⁴ According to the IMF: “Before the HIPC Initiative, eligible countries were, on average, spending slightly more on debt service than on health and education combined. Now, they have increased markedly their expenditures on health, education, and other social services. On average, such spending is about five times the sum of debt-service payments.”⁹⁵ Recent studies show that these politics have produced positive outcomes in the development of social policies and in the respect of economic, social and cultural rights within low-income states’ domestic economies.⁹⁶

⁹³ IMF. *IMF Support for Low-Income Countries*. 2021. Available in: <https://www.imf.org/en/About/Factsheets/IMF-Support-for-Low-Income-Countries>.

⁹⁴ BASSANETTI, Antonio. IMF Conditionality and Socio-Economic Impact. In: SCISO, Elena. *Accountability, Transparency and Democracy in the Functioning of the Bretton Woods Institutions*. Springer, 2017. p. 196.

⁹⁵ Debt Relief Under the Heavily Indebted Poor Countries (HIPC) Initiative, <https://www.imf.org/en/About/Factsheets/Sheets/2016/08/01/16/11/Debt-Relief-Under-the-Heavily-Indebted-Poor-Countries-Initiative>

⁹⁶ BASSANETTI, Antonio. IMF Conditionality and Socio-Eco-

The economic and financial crisis provoked by the COVID-19 pandemic has demonstrated that these efforts must be maintained and reinforced. A renewed agenda for the IMF on the protection of the human right to health is central for the fulfilling of its other aims and objectives. The IMF’s work should not be alienated from the real needs of the communities affected by the outspread of deadly virus or the progressive degradation of the environment.

5 The IMF and the protection of the environment

The health emergency of international concern originated by the propagation of COVID-19 has also demonstrated the strong relationship between health and environmental protection. Since 2000, the World Health Organization has declared five health emergencies of international concern: the spread of the ZIKA virus in 2016, the epidemic of the Ebola virus in 2014, the international dissemination of poliovirus in 2014 and the outbreak of the AH1N1 virus. Most of those emergencies have been provoked by zootomic diseases: the ZIKA virus is spread by mosquitos, the AH1N1 virus or swine flu is present in pigs, and the Ebola and COVID-19 virus are present in bats. Scientists have suggested that pangolins served as the intermediate host for the novel coronavirus before its crossover to humans.⁹⁷

In this sense, the COVID-19 and other zootomic virus’ outbreaks are closely related to the illicit traffic of wild-life species. In international law, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) aims to ban this traffic, by limiting the global demand for endangered species and avoiding their over-exploitation. The CITES subjects the international trade of certain species to strict controls and includes them in three Appendices.⁹⁸ Ac-

nomic Impact. In: SCISO, Elena. *Accountability, Transparency and Democracy in the Functioning of the Bretton Woods Institutions*. Springer, 2017. p. 196-197.

⁹⁷ TAO, Tsang *et al.* Probable Pangolin Origin of SARS-CoV-2 Associated with the COVID-19 Outbreak. *Current Biology*, v. 30, p. 1346–1351, 2020. p. 1346–1351.

⁹⁸ CITES’ Appendices 1 includes 600 animal and 300 plant species, whose traffic is prohibited with very few exceptions. Appendices 2 covers 48000 animal and 30 000 plant species, whose traffic is permitted but subject to strict controls, and Appendices 3 lists 135 animal and 15 plant species, the traffic of which is permitted under

cording to the Convention, the pangolin is a much-endangered species, included in its Appendices I. The international traffic of this animal is banned by the treaty; consequently, its importation and exportation are prohibited in international law. Bats are also an animal species covered by the CITES agreement. Unfortunately, one of the negative consequences of the regulation of the licit traffic of endangered wild-life species was the development of an onerous illicit market and one of the current challenges of the CITES is precisely the lack of binding obligations, upon states, regarding the domestic trade and exploitation of animal and plant species, within countries' own borders. This treaty does not encompass the real determinants of wild-life species' consume by local populations (for traditional medicines, exotic food, pets, luxury jewels and articles, for example) and the determinants of this consume in their culture, traditions and customs.⁹⁹ In the case of the spread of COVID-19, the alimentary and cultural traditions of Chinese people and the development of a black market of wild-life species, such as bats and pangolins, in this country, have been important factors for the internal and international propagation of the novel coronavirus. This proves that international law should include a normative regulation on the interplay between the international protection of wildlife species and the fight against the propagation of zootomic communicable diseases.

The IMF might not seem a perfect forum to negotiate and/or celebrate binding legal instruments on the relationship between health and environmental protection. These subjects seem to fall outside its mandate and area of expertise. However, the pandemic provoked by COVID-19 has showed that they represent huge risks for the functioning of states economies and finances and even for the subsistence of humankind, as a specie. The Fund's projects cannot enhance macroeconomic, monetary, and financial stability, growth, or poverty reduction without considering their health and environmental determinants.

Recently, the IMF started to consider environmental issues in the development of its projects and initiatives. Since 1990, the Fund reviewed its work in the environment area and concluded that some of its policies had

some control.

⁹⁹ CHALLENGER, Daniel *et al.* Towards Informed and Multi-faceted Wildlife Trade Interventions. *Global Ecology and Conservation*, v. 3, p. 129- 148, 2015.

positive incomes for the protection of the environment. Most of its work has been focuses on climate change, as one of the biggest global environmental challenges. In a speech pronounced in 2021, the Managing Director of the Fund, Kristalina Georgieva stated that: "the right policies can make a significant difference in accelerating the transition to the new climate economy. First, a robust price on carbon. Second, green taxonomy and standardized reporting of climate related financial risks. The third area is financial support to developing countries. (...) We will play our part, integrating climate change into our annual economic health checks of countries and financial systems and actively promoting low carbon and climate resilient growth paths."¹⁰⁰

There is much more that the IMF could do to promote environmental protection, not only regarding climate change, but also in other fields, such as the protection of biodiversity, marine environment, and the regulation of hazardous waste. In the first place, not only climate change, but other environmental concerns could be included in the analysis of IMF's Article IV reports on countries' economic health, as suggested by Kristalina Georgieva. In the second place, the IMF's lending programs could start to include not only macroeconomic, but also environmental conditionality. Thus, for example, the Fund could recommend the implementation of fiscal measures, including green taxes in member states.¹⁰¹

The environmental implications of its traditional conditionality must be better scrutinized. Sometimes, even neutrally looking recommendations in areas such as tax or infrastructure had brought more dependence on fossil fuels, for example, that are contributing to climate change.¹⁰² The IMF could also publish some important data and statistics, such as the environmental spending in government's budgets that could put

¹⁰⁰ IMF. *IMF Managing Director's intervention at the Leaders Summit on Climate*. Session 2: Investing in Climate Solutions. 2021. Available in: <https://www.imf.org/en/News/Articles/2021/04/22/sp042221-md-remarks-at-the-leaders-summit-on-climate>.

¹⁰¹ DURBIN, Andrea. *Greening the Bretton Woods Institutions*. Institute for Policies Studies, 2005. Available in: https://ips-dc.org/greening_the_bretton_woods_institutions/.

¹⁰² BLOOMBERG. *The IMF has a Blueprint for Helping the Climate Without Hurting Economic Growth*. 2020. Available in: <https://www.bloomberg.com/news/articles/2020-10-16/the-imf-has-a-blueprint-for-helping-the-climate-without-hurting-economic-growth-kgc30gjv>.

pressure on states and encourage them to increase this spending.¹⁰³

In consequence, one of the most important lessons from the outbreak of the new coronavirus for the future of the IMF is related to the need to strengthen the organization's action in the field of environmental protection.

6 Conclusion

The global economic and financial crisis originated by the pandemic of COVID-19 has exposed some old and new challenges of the IMF in its capacity to lead the international response to this type of emergencies.

The unprecedented crisis related to the outbreak of COVID-19 shows that the competition faced by the IMF from other public international financial institutions and from the private capital markets is increasing. The systemic character of this crisis has triggered the adoption of bold measures by the IMF and by its public competitors. The funds available at the IMF are still larger than those offered by other organisms, such as the NDB or the Chiang Mai Initiative. However, the conditionality of the adjustments programs of the IMF seems to be a stigma for developing countries and its lack of legitimacy a strong incentive for founding financial assistance elsewhere. The privatization of the financial aid mechanisms has characterized the fight against COVID-19 and seems not only to supplement the Post-World War II international financial institutions but also to re-empower them in their role of financial firefighters. The IMF must accept the competition of these institutions and establish more institutional channels of cooperation with them. The Fund could also benefit from its expertise and know-how in the implementation of shared lending programs for the successful recovery from the global COVID-19 crisis.

The reticence of the IMF's member states towards the conditionality of its lending programs has predetermined the responses of this institution to the crisis provoked by the COVID-19 pandemic. The mayor part of the lending programs authorized by the Fund since

the declaration by the World Health Organization of a public health emergency of international concern have little or no conditionality at all because countries have lost confidence in the IMF's ability to promote, through its stand-by arrangements, sustainable conditions for economic growth in their domestic economies. The negative perception of the IMF's conditionality and the persisting doubts about the good intentions of its rescuing packages is hampering the efficiency of its actions in the fight against COVID-19.

The global spread of COVID-19 has demonstrated that IMF's efforts to take into consideration the impact of its work on social, economic, and cultural rights must be continued and become bolder. It had demonstrated that globalization, economic neoliberalism, macroeconomic and monetary stability had not promoted the human right to health for all people. On the contrary, they seem to have catalyzed the degradation of the living standards and health conditions in many developing and low-income countries. Economic growth and macroeconomic stability promoted by the IMF could never again be separated from the respect of the human right to health as an existential prerequisite of sustainable development and social wellbeing.

Finally, the IMF should do more to promote a green and inclusive recovery from the COVID-19 pandemic. The pandemic has demonstrated that the environmental and health protection are not only extremely related one to another, but that those two objectives must be enhanced and supported by all the specialized branches of international law and by all the existing intergovernmental international organizations. Therefore, the IMF must put all its expertise and know-how in their favor and must place these two priorities in the axiological center of its work.

The global crisis of multilateralism is favoring the emergence of conflicts and confrontations between the IMF's member states and is impeding the achievement of any global consensus on the fight against the complex economic and financial effects of the COVID-19 pandemic. The IMF and all the other Post-World War II international institutions are placed in the middle of geopolitical rivalries between its developed and developing state members. They have become a spectator of the clashes between these competing political poles. The conflict between the United States and other powerful states, such as the BRICS countries will pro-

¹⁰³ DURBIN, Andrea. *Greening the Bretton Woods Institutions*. Institute for Policies Studies, 2005. Available in: https://ips-dc.org/greening_the_bretton_woods_institutions/.

bably continue to disrupt cooperation within the IMF and, consequently, provoke more reticence regarding the programs and recommendations, adopted under the organization's auspices. The end of the American leadership over the IMF and over the international liberal order could also provoke the eclipse of this interstate organization and the deepening of its old and new challenges.

In this sense, the COVID-19 outbreak might have wounded not only millions of people around the globe and the economic and political domestic systems of almost all states. The global outspread of the novel coronavirus could also mark the beginning of the swan song of the Post World War II international liberal order. If a new global order emerges and if it is still based on legal norms and institutions, the UN, and its specialized agencies, including the IMF, will need to be reformed (and/or suppressed) according to the new power balances and the new constitutional moment within the order. Will the IMF show the resilience and readjustment needed to endure this period of tension and continue to play a significant role in the global economic and financial governance? Perhaps yes, but only future can tell.

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