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Engström, Viljam

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Social protection in the mandate of the IMF

Viljam Engström

Public International Law, Åbo Akademi University, Turku/Åbo, Finland

ABSTRACT

Social protection has arisen with remarkable speed on the global agenda. As part of this development many international organisations have adopted social protection policies to guide their policy-making. One of the most recent organisation to do so is the IMF, which in 2019 adopted a Strategy for Social Spending. Reception has been mixed. Whereas for some this indicates a long overdue sign of taking social responsibility seriously, for others this constitutes merely another attempt at whitewashing its neoliberal economic agenda. This article seeks to identify the notion of social spending as invoked by the IMF, and to contextualise it with reference to the mandate of the Fund. The article claims that the increasing engagement with social protection inevitably brings the IMF into a discourse on the concept and form of that protection. As social protection is strongly embedded in a rights-based approach, the article therefore asks to what extent IMF social protection engagement can be thought of as promotion of human rights.

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1. Introduction

The beginning of the twenty-first century has been a time of nearby-constant crisis. The global financial crisis was followed by the so-called refugee crisis, only to be followed by the Covid-19 pandemic. Combining this with future challenges long foreseen such as an ageing population, changing nature of work, and climate change, there is good reason to engage in a critical debate on future social policies. The capacity of the human rights regime to mitigate social effects is questioned, and there is frustration with the lack of delivery by international actors.[1] Amidst this critique, a discursive change can be witnessed, as ‘social protection’ is gradually growing into a vocabulary through which global socio-political concerns are addressed.[2]

There is a discerning ‘turn to social protection’ both on the domestic level as well as in global governance.[3] At the global level, this ‘turn’ has been particularly prominent among intergovernmental organisations. At the same time this development has only met with scarce academic interest.[4] There is a lack of knowledge of the range of the phenomenon at

CONTACT Viljam Engström viljam.engstrom@abo.fi; https://blogs2.abo.fi/vengstro/ https://blogs2.abo.fi/vulnerability/; https://reconnect-europe.eu/ Public International Law, Fänriksgatan 3 A, Turku/Åbo FI-20500, Finland

large, of the scope and compatibility of individual policies, as well as of the implications of this development. Moreover, there is an express lack of consensus on the meaning of social protection. Indicative of its ambiguity, social protection is manifested, among other things, as a pathway to development, as a way of protecting rights, and as a means for achieving macro-economic goals. Similar ambiguity attach to some of the core concepts at the heart of social protection policies, such as ‘protection of vulnerable groups’, and ‘protection floors’.[5]

It is probably not an exaggeration to claim that no international institutions exert greater influence over distributional issues than financial institutions, among them the IMF.[6] The gradual strengthening of social protection on the IMF policy-making agenda peaked in June 2019 with the adoption of the Strategy for IMF Engagement on Social Spending.[7] The strategy makes clear that social spending, defined as social protection, health and education spending, is a key policy lever for, *inter alia*, promoting inclusive growth, addressing inequality, and protecting vulnerable groups. Distributional objectives, in other words, are to be seen as compatible with economic growth.[8]

This development has met with mixed reactions. Whereas for some, this is a sign of the IMF taking social responsibility seriously, for others this constitutes merely another attempt at whitewashing its neoliberal economic agenda. As a question of (comparative) effectiveness of social protection initiatives, engagement in this debate is beyond the scope of the present article (not to mention that there is fundamental disagreement even on how to measure the impact of such policies).[9] The aim of the present article is far more modest. The article seeks to identify the notion of social protection in the IMF, as defined in the Social Spending Strategy, and to contextualise it with reference to the specific mandate of the Fund. This task, the article claims, is a precondition for assessing whether the multitude of social protection initiatives run parallel and are mutually supportive, or compete with one another. As the IMF has commonly refrained from endorsing human rights, the article will further ask whether its social protection engagement does in fact engage the IMF in the human rights discourse.

2. The rise of social protection on the global agenda

The ongoing ‘turn’ to social protection is a result of at least a two-decade long push for elevating social protection on the international agenda. In an attempt to reconfirm the capacity of the international politico-legal system to deliver justice, a variety of actors and institutions have engaged in a process of (re)confirming and re-invoking social protection as a core element of decision-making.

Although social protection figured in the 1990s in the vocabulary of some organisations, it was still not very popular, for example, in the view of those who pushed poverty to the core of the international development agenda.[10] However, the World Summit for Social Development, held in Copenhagen in 1995, stressed the importance of equity, participation, empowerment and solidarity, emphasising a more inclusive approach to social protection.[11] The UN Commission for Social Development in 1997 organised an Expert Workshop on Ways and Means to Enhance Social Protection and Reduce Vulnerability.[12] At its twenty-fourth special session, convened in Geneva in June 2000 to assess achievements and obstacles in the implementation of the Copenhagen commitments and to decide on further initiatives to accelerate social development for all, the General Assembly underscored the importance of establishing or improving social protection systems as well as sharing best practices in this field.[13] The same year the Economic and Social Council adopted the agenda 'Enhancing social protection and reducing vulnerability in a globalizing world', later to be endorsed also in a Report by the Secretary-General, with the purpose of launching a process of intergovernmental consideration of strategies for implementing initiatives on social protection.[14]

The global financial and economic crisis of 2008 reinforced this emerging interest in social protection. Global political support for the idea of minimum social protection crystallized in 2009, with the adoption of the UN Social Protection Floor Initiative, which set out to coordinate and improve the efficiency of the UN's development efforts in the area of social protection.[15] The initiative is led by the ILO and the WHO but involves many other UN agencies, including the World Bank and the IMF.[16]

The Sustainable Development Goals (SDG) similarly underline the extension of social protection and the establishment of national social protection floors as key to reducing and preventing poverty. Target 1.3 of SDG 1 on ending poverty guides states to: 'implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable'.[17] In all, social protection has come to be seen as critical for reaching out to large sections of the population.[18]

As part of this development, in the last 10 years or so, a vast amount of international organisations have engaged in social protection. This 'turn', some point out, occurs at a time when international actors are under pressure to show results.[19] Be that as it may, social protection has become part of the policy-making of intergovernmental organisations across regimes, through their adoption of social protection policies (among these the UN through actors such as ECOSOC, UNDP, WFP, UNICEF, UNAIDS, as well as ILO, FAO, World Bank, IMF, OECD, AFDB, ADB, AU, EU).[20]

3. Conceptual concerns

In the IMF endorsement, social protection is embraced as a question of social spending. One of the explicit reasons for adopting the Social Spending Strategy by the IMF, was the need to clarify the meaning of social spending. Social spending is in the strategy defined broadly, entailing social protection spending as well as education and health spending. Social protection, in this view, is one element in the complementary components of a social spending policy, and consists of social insurance (financed by contributions or payroll taxes) and social assistance programmes (financed by general government revenue).[21]

Social expenditure is generally used as an overall indicator of the costs (including administrative costs) of social protection programmes, and the distribution of funds among those programmes. ILO Social Protection Expenditure and Performance Reviews, for example, provide information about the structure and level of total social expenditure, and establish indicators of system performance with respect to its effectiveness, efficiency, population coverage and the adequacy of benefit levels. The OECD social spending database defines social expenditure as including all cash benefits, direct in-kind provision of goods and services, and tax breaks with social purposes,[22] whereas the OECD Social Protection System Review, examines social protection systems from the viewpoint of need, coverage, effectiveness, sustainability, and coherence.[23] The IMF Social Spending Strategy similarly establishes that a particular social spending issue should be considered, if that spending is not sustainable, adequate for inclusive growth and protecting the vulnerable, or efficient.[24]

The IMF definition of social protection as social insurance and social assistance programmes echoes how the notion is commonly used. In the words of the World Bank: 'Although there is no consensus on the content of the set of social protection instruments, there is … convergence on the need to expand coverage of both social assistance and social insurance programs, notably among the poorest'.[25] This echoes a rights-based approach to social protection, as embodied in the right to social security.[26]

Within this definition, there can however be variations in emphasis. In a narrow interpretation, social protection is more or less restricted to insurance schemes. In a broader interpretation social protection also encompasses social assistance for the poor through non-contributory schemes aimed at ensuring a minimum standard of dignity, by providing social services for the elderly, children and other vulnerable groups.[27] The fact that social protection allows for a number of constructions illustrates its function in any given society as a reflection of traditions, cultures and organisational and political structures and preferences.[28] Social policies, after all, are not apolitical.[29]

While social security is associated primarily with social insurance and social assistance systems of the developed world, the notion of social safety nets is associated more clearly with developing countries, implying a more limited range of interventions.[30] Social safety nets are non-contributory measures that support poor and vulnerable groups in particular. Confusingly, however, safety nets are also referred to as social assistance, or social transfers.[31] Safety nets, anyhow, are a subset of broader social protection systems.[32] In his 2018 report to the Human Rights Council, the UN Special Rapporteur on extreme poverty and human rights Philip Alston, explained that the main debate on the meaning of social protection centres around a 'social safety net' approach and a human rights or 'social citizenship' approach.[33] These two notions, in other words, can be used interchangeably, but can also be positioned as competing social protection approaches.[34]

The IMF Social Spending Strategy incorporates education and health as these, in addition to social protection spending, are regarded as significant drivers of inclusive growth.[35] Although growth is not strictly a goal of IMF policy-making, it in practice often falls within its scope given the extent to which growth (or lack of it) affects stability, upholding of which is the main purpose of the IMF, as defined in the Articles of Agreement.[36] A focus on education and healthcare, in other words, is considered to fall within the mandate the IMF. Provision of essential education and healthcare are also among the core obligations that state parties to the ICESCR have undertaken in respect of the right to social security.[37] They are also present in social protection policies of other international organisations, for example the World Bank stating that 'Social protection systems help the poor and vulnerable cope with crises and shocks, find jobs, invest in the health and education of their children, and protect the ageing population'.[38] The ILO social protection floor recommendation (no. 202), states that such floors

> … should comprise at least … : (a) access to a nationally defined set of goods and services, constituting essential health care … (b) basic income security for children, at least at a nationally defined minimum level, providing access to nutrition, education, care and any other necessary goods and services; (c) basic income security, … in particular in cases of sickness, unemployment, maternity and disability; and (d) basic income security, … for older persons.[39]

4. Determinants of IMF social protection engagement

Intergovernmental organisations are limited in all their tasks to the pursuit of their individual aims and purposes. This means that an organisation can only perform functions and exercise powers that are conferred upon it for pursuing those aims.[40] The main purposes of the IMF are to ensure the stability of the international monetary system (including exchange rates and international payments), and to facilitate the expansion and balanced growth of trade.[41] In pursuit of these purposes, the IMF performs three main tasks; surveillance, provides financial assistance, and capacity development (technical advice), in all of which social protection issues can arise.

The fact that social protection has entered IMF policy-making is in itself a result of the evolution of the functions of the IMF. While the powers of IMF 'are generally limited to those explicitly identified in the Articles', the Fund is authorised 'to adopt decisions of general applicability ("policies") to provide more specific content' to its powers. The 2010 review of the Fund mandate acknowledged that 'the Articles are sufficiently flexible to accommodate major reforms'.[42]

The IMF undertakes surveillance principally through 'Article IV' consultations with individual countries.[43] According to the Guidance Note for Surveillance, surveillance should cover all member states policies that affect economic stability. This always includes exchange rate, monetary, fiscal and financial sector policies. Other policies should be assessed if they are macro-critical, that is, if they affect the financial stability of the country.[44]

Surveillance addresses medium term challenges and can for that reason raise social issues, as long as they can be regarded as crucial from a macroeconomic perspective. Conceptually, this 'macro-criticality' threshold is an inherent part of the IMF mandate, and constitutes a defining feature of the conferral of powers to the Fund. Macro-criticality performs a dual function. On the one hand it enables adjustment of IMF functions over time to take into consideration changing circumstances.[45] The theory of macro-criticality this way justifies inclusion of an expanded range of issues, such as social protection, in IMF policy-making.[46]

On the other hand, macro-criticality can be seen as an embodiment of the more general safeguard clause that is to found in Article 4(3) of the Articles of Agreement of the IMF, which states that the IMF 'shall respect the domestic social and political policies of members'.[47] The conceptof macro-criticality, in other words, while enabling IMF action, also guards against undue mission creep, and serves to strike operational priorities.[48]

An issue has been deemed macro-critical if it affects, or has the potential to affect domestic or external stability (such as jobs and growth, infrastructure, labour markets, social safety nets public sector enterprises, governance, gender, and climate change).[49] Macro-critical social issues such as poverty reduction, economic inclusion, human capital development and macro-critical governance issues should receive particular attention.[50] The Strategy on Social Spending states that a particular social spending issue is considered macro-critical, if that spending is not sustainable, adequate for inclusive growth and protecting the vulnerable, or efficient.[51] A judgment that a condition is of critical importance 'means that if it was not implemented, it is expected that the goals [of the program] would not be achieved or that program monitoring would not be possible'.[52] On the other hand, staff must avoid setting conditions on measures 'that may be desirable, but that are not critical for achieving the program goals or for monitoring implementation of those goals'.[53] In effect, this prevents staff from setting conditions that would promote social protection, if such protection cannot be defined as crucial for the achievement of the stated economic goals. 'Criticality', in other words, is always defined with reference to the achievement of programme goals and the monitoring of programme implementation.[54]

The purpose of lending is to assist countries that face economic pressures through financial support. The IMF has various lending instruments at its use, tailored to different types of needs and country specific circumstances.[55] Following the 2009 reform of the Fund´s low-income country facilities, programmes should include a 'social and other priority spending' target, as a means to reach further progress in poverty reduction.[56] This includes minimum floors for social spending, and specific measures to protect vulnerable groups.[57] IMF statistics display a rising trend of including spending floors in country programmes.[58] These floors can include spending on health, education and social safety nets.[59] The more immediate the needs of a country, the more social protection becomes an issue of coping with the social impact of the adjustment measures included in the programme. In lending, vulnerability concerns therefore also enter as a way of mitigating the effect of other programme measures. The Conditionality Guidelines incorporates this explicitly by stating that: 'if feasible and appropriate, any adverse effects of program measures on the most vulnerable should be mitigated'.[60]

The responsibility is upon staff to determine the extent to which an issue is macro-critical and whether the IMF has the expertise to analyse it or provide policy advice. Country teams are instructed to take into account country circumstances, to make prioritisations, and to 'exercise judgment in selecting issues for in-depth coverage'.[61] Staff should also prioritise social spending with greatest impact on vulnerable groups, as well as to decide on the best means of protecting that group.[62] The Social Spending Strategy and the recently adopted Guidance Note are to assist staff in striking these decisions.[63]

5. Elements of IMF social protection engagement

5.1. Social spending on what?

The IMF Conditionality Guidelines assert as general guiding principles; the national ownership of programmes; that any assessment of a member ́s policies and IMF advice shall take into account the circumstances of that member state; take into account other objectives of the member state; and respect domestic and social policies.[64] States, in other words, have the prerogative to define what should be included in 'social and other priority spending', as long as it is in accordance with its poverty reduction and growth strategy.[65] This means that the focus of social spending will be subject to circumstances of individual countries, as well as their political and ideological preferences.[66] Domestic ownership of social spending seems well in line with a human rights-based approach. For example in respect of protection floors (discussed further below) both the CESCR and ILO Recommendation 202 depart from the idea that such floors are nationally defined.[67] The Spending Strategy acknowledges that the level of development of a country will also affect the scope of IMF advice. In this respect, basic education can for low-income developing countries include primary and secondary education, whereas 'basic health' would refer to a basic health care package. For advanced economies, 'basic' would reach beyond this definition.[68] As far as this expresses an idea of progressiveness, it also seems, at least in principle, in line with the approach of the ICESCR.

The Social Spending Strategy underlines engagement with social spending issues in two situations in particular. First of all, when engagement is macro-critical, and secondly, in order to mitigate adverse effects of adjustment. In-between these, the focus of social spending can be somewhat different. To start with the latter, mitigation of adverse effects of adjustment highlights the protection of vulnerable groups.[69] Although vulnerable groups are defined in a country-specific context, recent studies by the Independent Evaluation Office and the IMF reveal some commonly identified groups. These include in particular the poor, elderly, youth, and women.[70] Also the Social Spending Strategy, while avoiding lists of groups who should be given particular attention, does mention the elderly, women, and youth in the context of spending pressures, whereas mitigating programme impact on the poor and poverty reduction are core themes of the strategy at large.[71] All of these groups are also well acknowledged as potentially vulnerable groups in international human rights law.[72]

These groups can also be considered macro-critical, and can therefore warrant attention beyond mere mitigation. A focus on the poor enters first of all as a poverty reduction question for low-income countries.[73] The design of the pension system of any country and its financial viability is macro-critical because of the implications for allocation and the economy at large.[74] The link between gender equality and economic performance is by now also well established, some even calling the IMF a 'global leader' in highlighting inequality.[75] Gender issues have also been included in conditionality,[76] and the IMF displays a strong commitment to systematically include inequality concerns in policy advice'.[77] Also the consequences of youth unemployment on economic growth are recognised policy concerns. Apart from the social costs, high youth unemployment is noted to be detrimental to growth prospects and the sustainability of social spending. Long-term consequences for economic growth follow from the loss or degradation of human capital.[78]

These vulnerable groups are not the sole targets of IMF social spending. While some groups that are commonly considered vulnerable in a human rights perspective do have a hard time gaining attention as macro-critical in the IMF operational perspective,[79] for example children can benefit from a focus on education and health spending at large. Improving basic education was for example identified as one of the key reforms to reignite strong and inclusive growth in South-Africa, the linkage to growth creating a strong nexus to macro-criticality.[80] A common approach is also to focus social spending concerns on the broader concept of 'vulnerable households', the vulnerability in such cases referring to financial fragility.[81]

Case-studies prepared as background material for the Social Spending Strategy (covering both surveillance and lending programmes for a varied set of countries), demonstrate that IMF engagement covered all social spending topics (social protection programmes, including both social insurance and social assistance), as well as education and health issues. As the IMF focus on social spending ranges from fiscal sustainability, to spending adequacy, and spending efficiency, also the macro-criticality of social spending arises in various ways. Concerns of spending efficiency can take hold for example of the share of resources reaching the poor (Bolivia), and protection of the unemployed (Cyprus). Expansion of health services can be advised, as well as increasing spending for primary and secondary education (Ghana and Italy). However, macro-criticality often also relates to the fiscal sustainability of the spending for example on pension systems and health care, leading to advice on containing growth, improving efficiency, and reduction of spending (Japan).[82] The criteria by which social spending is assessed by the IMF (sustainability, adequacy, efficiency), in other words, can pull in different directions.

5.2. Social spending by what means?

The Strategy for Social Spending states that social spending

> strikes a balance between uniformity of treatment and the flexibility to tailor engagement and policy advice to country-specific circumstances, taking into consideration the full set of country-specific macro-critical issues, level of development, economic cycles, institutional capacity, social and political preferences, and other relevant socio-economic factors.[83]

The country-specific approach applies also to social spending in lending programmes, which leave the means to be determined by considerations such as the 'intensity of macro-fiscal pressure, the pace and size of adjustment needed, and long-term structural challenges'.[84] The Strategy leaves it to staff to prioritise between the urgency of an issue, other immediate policy priorities, depth of engagement, staffing and resources, and the policy agenda and capacity of authorities.[85]

In accordance with the ICESCR states are endowed with an immediate minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of all economic, social and cultural rights. These minimum essential levels are those, which are crucial to securing an adequate standard of living through basic subsistence, essential primary health care, basic shelter and housing, and basic forms of education.[86] These obligations are echoed in ILO Recommendation 202. The recommendation itself contains two main objectives, which are to guide States: establishing and maintaining social protection floors as a fundamental element of national social security; and implementing social protection floors within strategies for the extension of social security that progressively ensure higher levels of social security to as many people as possible. National social protection floors should comprise at least the following four social security guarantees: access to essential health care, including maternity care; basic income security for children, providing access to nutrition, education, care and any other necessary goods and services; basic income security for persons in active age who are unable to earn sufficient income, in particular in cases of sickness, unemployment, maternity and disability; and basic income security for older persons.[87]

According to the Spending Strategy, 'mitigating the adverse effects of adjustment on vulnerable groups and improving spending adequacy can usually be addressed by including quantitative conditionality – *social spending floors*'.[88] Such floors should prioritise vulnerable groups, and where relevant, consider structural measures to strengthen social safety nets and improve the quality and efficiency of social spending and outcomes in the medium-term.[89] One of the greatest merits with the protection floor idea is seen to derive from its capacity to transcend the assumed incompatibility between human rights norms and economic realities that an advocacy of the right to social security faces. The fact that the initiative is broadly embraced outside the human rights field is also seen to bring with it a capacity to bridge discourses and mobilise broad-based coalitions to promote its implementation.[90] The IMF Social Spending Strategy supports strengthening quantitative conditionality on social spending through the use of social spending floors.[91] By this, the Strategy addresses enduring critiques of (lack of) IMF social engagement, accusing it of systematically relegating social concerns to a secondary position, and that its emphasis on mitigation fails to consider underlying structural issues.[92]

In IMF review of country performance, focus is on key programme targets. These are defined as quantitative performance criteria or indicative targets.[93] The choice between the two is left to staff and country teams, depending on the criticality to programme objectives.[94] As 'social and other priority spending' are commonly defined as non-binding indicative targets, this creates a structural bias towards binding macroeconomic goals (defined as performance criteria).[95] In other words, although social spending targets appear in the conditionality tables of IMF loan reports, their non-binding character has meant that they lack impact on loan disbursements if not attained. Across all lending facilities, the Social Spending Strategy concludes that only 5 percent of social spending floors have been set as performance criteria (since 2012).[96]

A glance at country reports from 2019 to 2020 suggests that social spending still figures mostly in the list of indicative targets. Nevertheless, there are also multiple examples from recent years that illustrate the incorporation of social protection as performance criteria. In the largest loan in IMF history (Argentina 2018), a social assistance floor on government spending on social assistance programmes (*Asignación Universal para Protección Social)* was defined as a performance criteria.[97] In respect of Ecuador (2019) a floor on social assistance spending of the central government on a number of programmes was set as a quantitative performance criteria.[98] In the case of Tunisia (2019), the indicative target on social spending is converted into a quantitative performance criterion during the arrangement, with a social spending floor set for capital expenditures on education; health; social transfers to low-income families, employment training programmes (and university scholarships), *Union Tunisienne de Solidarité Sociale* indemnities; family allocation as well as development expenditures of the Ministries of Women and Family Affairs, Youth and Sports and Social Affairs; and all new targeted cash transfers in support of low-income households.[99]

As to the critique of lack of attention to structural concerns, it should be noted that the IMF moved away from structural performance criteria in 2009, as a reaction to criticismthat structural conditions erode country ownership.[100] This resulted in a decrease of total structural conditionality, and a closer focus of structural conditions on IMFs core areas of expertise.[101] The Guidance Note for Surveillance, however, states that surveillance should cover structural issues as long as they are macro-critical (affecting domestic, external, or global stability). This includes issues such as public financial management, tax policy and revenue administration, natural resource management, and reforms to energy subsidies, pensions and public health care. Fiscal sustainability also brings in issues of long-term spending pressures (health care, pensions and education), and threats to revenue collection (demographic trends, migration, growth outlook, and international tax arbitrage). While the Guidance Note states that potentially macro-critical structural issues cannot be exhaustively defined, it identifies by way of examples jobs and growth, infrastructure, labour markets, social safety nets, public sector enterprises, governance, gender, and climate change.[102] In low-income countries in particular, macro-critical social issues cover for example poverty reduction, economic inclusion, human capital development and macro-critical governance issues.[103]

The Social Spending Strategy makes explicit that, subject to being critical for the programme's success, programmes should consider structural measures to strengthen social safety nets, and in order to improve the quality and efficiency of social spending and outcomes in the medium-term.[104] A recent IMF working paper finds that while conditionality on specific elements of spending could help achieve a programme's short-term objectives, structural conditionality delivers lasting benefits, boosting long-term level of education, health, and public investment expenditures. In fact, the empirical analysis of the IMF working paper suggests that while spending floors may help programme countries achieve short-term protection objectives e.g. during economic adjustment, such floors might exert pressure on the rest of the budget and limit allocations to other expenditures (hence, indicating that they might affect the prospect of reaching the long-term objectives). The paper therefore suggests that programmes should be cognizant of the trade-off, and combine short-term conditionality (such as spending floors) with long-term structural conditionality covering public financial reforms.[105] This coincides with the approach of the ILO, which proclaims that protection floors are most effective if well-coordinated with employment, labour market, wage and tax policies. Social protection is also seen to facilitate structural change of the economy.[106]

6. Social spending as human rights promotion?

The IMF focus on social spending reveals a concern on fiscal space. As such it matches the approach of many other financial actors as a reflection of their mandate and tasks.[107] This has not prevented the Fund from endorsing the idea of protection floors, as well as underlining the protection of vulnerable groups. This raises the issue of whether the IMF is not in fact actually engaging in a rights-based discourse.

In terms of normative impact, IMF policy-making is unquestionably immensely important for social protection. Although the IMF surveillance tools are characteristically 'soft', both IMF members as well as its staff have been noted to be strongly committed to IMF by-laws.[108] Also the Memorandum of Understanding through which programme conditionality is constituted lacks a legally binding nature, as the memorandum is not formally a contract or agreement between the IMF and the lending state. Nevertheless, it is a normative instrument in the sense of providing the member with certain rights (above all, to make purchases subject to the conditions of the arrangement).[109] Furthermore, it has a direct impact on the political autonomy of the lending state, as loan disbursement is conditional upon meeting the programme goals.[110] This means that the IMF occupies a potentially strong position to monitor and implement social spending targets in lending programmes (especially when defined as performance criteria).

As the IMF is now making a forceful point about protecting vulnerable groups, promoting equity between men and women, and pushing for the inclusion of spending floors in its policy-making, the IMF is in practice engaged with rights-based concerns, albeit without explicitly adopting that vocabulary.[111] Also the inclusion of health and education in its social spending focus can be seen to correspond to a human rights-based approach.[112] The notion of 'progressive universalism' embraced in the Strategy seeks to dismiss a categorical preference of targeting as the only viable conception of social assistance transfers.[113] Against this background, the Fund seems to be on track of aligning ever closer with a rights-based approach.

At the same time it is apparent that the adoption of the Social Spending Strategy has not changed IMF practice overnight. The strategy itself acknowledges that there is still a long way to go, and that enduring attention to social concerns requires for example staff training and changes in organizational culture.[114] This also means that the critique of IMF practices is probably still warranted, and will be for some time. A 'safety net approach' certainly falls short of more comprehensive social protection goals; targeting of social protection can be at odds with the universal aspirations of a human rights-based approach; reforms may be insensitive to distributional impacts (leading to an emphasis on mitigation); and social protection goals may still in practice often find themselves secondary to (other) economic targets.[115] Even when the Fund does engage with particular social protection concerns, such as inequality, its endorsement can be criticised for being narrow (gender concerns commonly entering as a labour force participation question, or a question of access to finance).[116] Some studies also find significant gaps between the IMF's rhetoric and research findings on inequality, compared to its actions.[117]

Many of these shortcomings, critics claim, could be addressed by IMF endorsement of the human rights vocabulary. It is however uncertain whether a simple substitution of words would make a difference. Or as McBeth has put it; if human rights language is regarded as mere words, interchangeable with other labels, the emphasis on inherent human dignity potentially disappears.[118] There is also a question of competing conceptions of rights. To claim that human rights promoting organisations themselves would have a uniform conception of social protection is a serious overstatement. Rather, there is divergence among organisations how a right to social protection is perceived.[119] Even if the IMF would explicitly embrace the human rights vocabulary, there is no guarantee that this would change its operational policy-making, at least in the short run. A good example of this is the World Bank, which has explicitly endorsed a rights-based approach to social protection. This stands out in the endorsement of the ILO conception of universal protection schemes, as well as in its phrasing of social protection floors as a right.[120] Yet, there still seems to exist a notable difference between the World Bank and ILO conceptions of social protection. This difference can be noted for example in the conception of core labour standards, whereby the World Bank, facing a trade-off between human rights-related legitimacy demands and borrower countries' demands for flexibility in project implementation, has adopted a compromising approach.[121] Further, the adoption of a social protection framework has been characterised as a matter of 'risk management', adding macroeconomic concerns and financial market development to social protection programmes.[122] While some authors assert that risk management is 'broadly consistent' with a rights-based approach, others criticise such an approach for being overly growth and development oriented, and for supporting targeted interventions rather than universal social assistance.[123] A critique, in other words, very similar to that directed at the IMF.

Looking at IMF social protection engagement from another perspective, even if the Fund would not adhere to the vocabulary of rights, it is inevitably on track of becoming more and more engaged with issues that are also human rights concerns. The reinterpretation of macro-criticality has brought within the IMF operational focus issues that would earlier have been thought to fall outside its mandate. There is nothing in the IMF Articles of Agreement that inherently prevents the Fund from engaging even further. As a result of the intensifying social engagement, the Fund is on track of becoming a participant in the 'protection-practice'.

Susan Marks has noted that 'To refer to human rights in the twenty-first century is to refer to a worldwide social movement, area of governmental and intergovernmental activity, field of professional practice, and multidisciplinary terrain of academic enquiry'.[124] Human rights, in this light, are not one thing only, but a movement, a regime, a legal system, and an idea.[125] There are many reasons for upholding a legal approach to human rights before a 'social approach'.[126] Yet, the dominant position of the legal approach also leads to what has been called a 'footnote' phenomenon, whereby non-convention-based engagement is not considered comparable and compatible.[127]

Recognition of the variety of actors and practices engaging in human rights promotion, and a correspondent need for coordination, may be more visible in practice than in academic discourse, with initiatives such as the Social Protection Floor Initiative,[128] or the Social Protection Inter-Agency Cooperation Board (SPIAC-B),[129] providing mechanisms for sharing of information and coordination between actors for the promotion of a shared goal. Bothinitiatives bring together financial organisations, development organisations, and human rights-based organisations. From another angle, the social rights regime and the mandate of financial institutions also show convergence in that they are both premised on an expectation of economic growth. Adding to this the limits of social rights adjudication that have become all the more visible during the crises of the early twenty-first century, a case can be made that the discursive function of social rights should be rethought and made more inclusive.[130]

The point for present purposes is not to revisit the discussion on the pros and cons of international financial institutions implementing international human rights law,[131] but rather to underline that policy-making of international financial institutions, and the IMF in particular, has a profound impact on the enjoyment of rights. Whereas for long this question has almost exclusively been discussed through the negative impact of Fund policy-making, endorsement of social protection requires a reassessment of this relationship. The more interesting question becomes whether IMF social protection engagement can pursue human rights outcomes. In this respect, it has been noted that although the philosophy that underlies engagement will be different from that of the human rights regime, there need not always be a practical difference.[132]

7. Final remarks

The adoption of the Social Spending Strategy was a long-awaited response to criticism of the policy-making of the Fund. Although final verdict on whether the IMF has been 'born again' cannot be delivered yet, the Strategy institutionalises the means by which to pursue an ever deepening social protection engagement. At the same time, the decision-making of the IMF will always have to be considerate of its aims and purposes. Fiscal concerns will therefore always be part of its social protection engagement.[133]

For critics the IMF characterisation of human rights concerns as 'social issues' will fail to recognise the moral imperative and crucial role of human dignity at the heart of a rights-based approach.[134] There is a fear, as Mac Darrow puts it, of 'normative dilution through inappropriate or insincere operationalisation' of human rights principles by financial institutions.[135] There are certainly a number of differences between a rights-based approach and a 'social approach'. Engagement is optional, and up for staff to decide. Engagement can (and should) also strike prioritisation between social issues, as well as balance social considerations with macro-economic concerns.

Yet, an exclusive focus on social protection as a right to social security, fails to embrace the extent and ways in which human rights function as goals and mechanisms of political change.[136] Systemic change requires engagement of a range of actors. In this respect something of how social protection is constituted and promoted in global policy discourse seems to get lost if only the rights-based approach qualifies as 'true' protection work.[137] The IMF social protection engagement reflects many elements of a human rights-based approach, and practice demonstrates that IMF policy-making need not categorically downplaysocial concerns. As such, the Fund inevitably also becomes a participant in a human rights practice that consists of varying paradigms of enforcement or implementation.[138] There may even be advantages with this, as Fund engagement can increase the incentives for states to comply with their obligations. Given the politically powerful position of the IMF, this engagement will inevitably also make it an important participant in the discourse by which social protection (and social security) is defined.[139]

While something of the compelling character of rights may be lost when substituted for 'social concerns', the question is whether there is a way to turn back the clock. 'Social protection' has emerged as an amalgam of the languages of human rights and economics.[140] This vocabulary has brought together a range of organisations. It has also enabled organisations such as the World Bank to explicitly endorsea rights-based approach. It may not be there yet, but there is no reason to think that the social protection paradigm could not do so for the Fund as well.

Notes

1. Samuel Moyn, *Human Rights in an Unequal World* (Cambridge, Massachusetts: Harvard University Press, 2018); J. Linarelli, M.E. Salomon, and M. Sornarajah, *The Misery of*

International Law: Confrontations with Injustice in the Global Economy (Oxford: Oxford University Press, 2018).

2. Most recently in the context of the Covid pandemic, see Special Rapporteur on Extreme Poverty and Human Rights, *Looking back to look ahead: A rights-based approach to social protection in the post-COVID-19 economic recovery* (11 September 2020), https://www.ohchr.org/Documents/Issues/Poverty/covid19.pdf (accessed January 4, 2021).
3. Or as one author puts it, social protection has arisen with 'meteoric speed' on the international agenda, Arjen de Haan, 'The Rise of Social Protection in Development: Progress, Pitfalls and Politics', *European Journal of Development Research* 26, no. 3 (2014): 311–21, 311.
4. The few studies that do exist, approach social protection through specific substantive questions (J. Midgley, *Inequality, Social Protection and Social Justice* (Edvard Elgar Publishing, 2020)), or in a particular field (de Haan, 'The Rise'), or are merely content with claiming that there is a 'social turn' (United Nations Research Institute for Social Development, *Policy Innovations for Transformative Change: Implementing the 2030 Agenda for Sustainable Development* (UNRISD, 2016)); Also see e.g. Shriwise et al. whose study did not however include a qualitative analysis. Moreover, it only included material up until 2015, whereas many social protection policies have been adopted after that date. A. Shriwise, A.E. Kentikelenis, and D. Stuckler, 'Universal Social Protection: Is It Just Talk?', *Sociology of Development* 6, no. 1 (2020): 116–44. One study discussing the role of organizations in a related development is, L. Leisering, The global rise of social cash transfers: How states & international organizations constructed a new instrument for combatting poverty (Oxford University Press, 2019). The present article does not discuss social protection policies at the domestic level.
5. A development noted also separately for these embodiments, see e.g. A. Coyle, 'All of Us are Vulnerable, But Some are More Vulnerable Than Others: The Political Ambiguity of Vulnerability Studies', *Critical Horizons* (2016): 260–77; K. Brown, K. Ecclestone, and N. Emmel, 'The Many Faces of Vulnerability', *Social Policy & Society* 16, no. 3 (2017): 497–510.
6. The claim is made by Philip Alston, see Report of the Special Rapporteur on extreme poverty and human rights, on the *International Monetary Fund and its impact on social protection*, A/HRC/38/33 (8 May 2018): para. 2.
7. For an overview of IMF social protection engagement, see A. Abrams, *The IMF´s Role in Social Protection: Fund Policy and Guidance*, Background Document No. BD/17-01/01 (5 July 2017), Independent Evaluation Office; Independent Evaluation Office, *The IMF and Social Protection* (5 July 2017).
8. IMF, *A Strategy for IMF Engagement on Social Spending*, Policy Paper 19/016 (14 June 2019): 13 (hereafter *Social Spending Strategy*).
9. See e.g. S. Gupta, M. Schena, and S.R. Yousefi, 'Revisiting IMF Expenditure Conditionality', *Applied Economics* 51, no. 58 (2020): 6338–59 who by identifying a broad range of contradictory studies, demonstrate the difficulties with assessing impact on health and education spending.
10. De Haan, 'The Rise'.
11. https://www.un.org/development/desa/dspd/world-summit-for-social-development-1995.html (accessed December 15, 2020).
12. Commission for Social Development, *Background and Report of Expert Workshop on Ways and Means to Enhance Social Protection and Reduce Vulnerability*, E/CN.5/1998/5 (24 November 1997).
13. UN General Assembly, *Further initiatives for social development*, UN Doc. A/RES/S-42/2 (15 December 2000).
14. Economic and Social Council, *Enhancing social protection and reducing vulnerability in a globalizing world*, E/CN.5/2001/2 (8 December 2000).
15. M. Sepúlveda and C. Nyst, *The Human Rights Approach to Social Protection* (Ministry of Social Affairs of Finland, 2012), 7.

16. As well as bilateral partners, research institutes and international non-governmental organisations, see https://www.ilo.org/global/topics/dw4sd/themes/sp-floor/lang--en/index.htm (accessed March 6, 2019).
17. UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development*, UN Doc. A/RES/70/1 (21 October 2015).
18. On the domestic-level 'turn' in low and middle-income level countries, see UNRISD, *Policy Innovations*.
19. de Haan, 'The Rise'.
20. The list is not exhaustive, and there are so far only a couple of, what seems randomly and non-comprehensively compiled lists of social protection policies. See World Bank, *Resilience, Equity, and Opportunity: The World Bank's Social Protection and Labor Strategy 2012–2022* (2012), United Nations Development Programme, *Leave No One Behind: A Social Protection Primer for Practitioners* (2016), International Evaluation Office, *The IMF and Social Protection*, Annex I (2017), UNICEF, *UNICEF´s Global Social Protection Programme Framework* (2019), Annex I.
21. IMF, *Social Spending Strategy*, 8, box 1.
22. OECD (2020), Social spending (indicator). doi: 10.1787/7497563b-en (accessed December 14, 2020).
23. https://www.oecd.org/social/inclusivesocietiesanddevelopment/social-protection-system-review-spsr.htm (accessed December 14, 2020); OECD, *Glossary of Statistical Terms* (2007), https://www.oecd-ilibrary.org/social-issues-migration-health/social-spending/indicator/english_7497563b-en (accessed November 14, 2020), and K. Hagemejer, 'Social Protection Expenditure and Performance Reviews: Methodological Note on Definitions, Classifications and Performance Indicators', *Financial, Actuarial and Statistical Services International Labour Office*, https://www.ilo.org/legacy/english/protection/secsoc/downloads/spersmet.pdf (accessed November 14, 2020).
24. IMF, *Social Spending Strategy*, 23.
25. The World Bank, *Social Protection and Labor Strategy*. Also see Economic and Social Council, *Enhancing social protection*, para. 7e.
26. The right to social security is affirmed in Article 9 of the ICESCR and elaborated in CESCR, *General Comment No. 19, The right to social security (Art. 9)*, UN Doc E/C.12/GC/19 (4 February 2008), para. 4.
27. Economic and Social Council, *Enhancing Social Protection*, para. 8.
28. Recognised also in Economic and Social Council, *Enhancing Social Protection,* para. 6 and 7a. Or, as Standing puts it: 'social protection is not a fixed concept; it is an elastic notion that every user of the term can define differently', G. Standing, 'Social Protection', *Development in Practice* 17, no. 4–5 (2007): 511–22.
29. On the politics of social protection ideas in the context of low-income countries, T. Lavers and S. Hickey, 'Conceptualising the Politics of Social Protection Expansions in Low Income Countries: The Intersection of Transnational Ideas and Domestic Politics', *International Journal of Social Welfare* 25 (2016): 388–98.
30. A. Norton, T. Conway, and M. Foster, 'Social Protection: Defining the Field of Action and Policy', *Development Policy Review* 20, no. 5 (2002): 541–67, at 542–3.
31. World Bank, *The State of Social Safety Nets* (2015); Also see World Food Programme, *Two Minutes on Social Protection* (2015) which largely echoes this definition, and the IMF, *Fiscal Adjustment for Stability and Growth* (2006) emphasising social safety nets as a 'combination of measures aimed at protecting the poor from the adverse consequences of economic shocks and structural reforms, and helping them escape poverty'.
32. U. Gentilini and S. Omamo, 'Social Protection 2.0: Exploring Issues, Evidence and Debates in a Globalizing World', *Food Policy* 36, no. 3 (2011): 329–40.
33. Report of the Special Rapporteur, *The International Monetary Fund*, para. 35.
34. This can also have very concrete effects. See e.g. P. Minderhoud, 'The Other EU Security: Social Protection', *European Journal of Social Security* 8, no. 4 (2006): 361–80.
35. IMF, *Social Spending Strategy*, 13, Box 3.

36. IMF, *Guidance Note for Surveillance Under Article IV Consultations* (19 March 2015), 9; IMF, *Articles of Agreement*, Article I(ii); In 2007, the Fund's Executive Board formally interpreted 'a stable system of exchange rates' in Article IV, Section 1 to mean 'systemic stability', IMF, *Modernizing the Legal Framework for Surveillance: An Integrated Surveillance Decision*, Revised Proposed Decision (17 July 2012); Also see IMF, 'Jobs and Growth: Analytical and Operational Considerations for the Fund', IMF Policy Paper (Washington: International Monetary Fund, 2013).
37. CESCR, *General Comment No. 19*, para. 59(a): 'States parties have a core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights enunciated in the Covenant. This requires the State party: (a) To ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education'.
38. World Bank, *Social Protection and Labor Strategy*.
39. ILO, *R202 – Social Protection Floors Recommendation* (2012), Article II(5); ILO, *The Strategy of the International Labour Organization. Social security for all. Building social protection floors and comprehensive social security systems* (2012), 1. Also see e.g. UNICEF, *Global Social Protection*, and Economic and Social Council, *Enhancing Social Protection,* para. 7a.
40. *Legality of the Use by a State of Nuclear Weapons in Armed Conflict* (International Court of Justice, 1996), paras. 21–5.
41. IMF, *Articles of Agreement*, Article I(ii). In 2007, the Fund's Executive Board formally interpreted 'a stable system of exchange rates' in Article IV, Section 1 to mean 'systemic stability'. IMF, *Modernizing the Legal Framework for Surveillance: An Integrated Surveillance Decision*, Revised Proposed Decision (17 July 2012).
42. IMF, *The Fund's Mandate – An Overview*, Policy Paper (22 January 2010), www.imf.org/external/np/pp/eng/2010/012210a.pdf (accessed December 3, 2020).
43. IMF, *Articles of Agreement*, Article IV, Section 3(b).
44. IMF, *Guidance Note for Surveillance*, para. 75.a.
45. IMF, *The Fund's Mandate – The Legal Framework*, Policy Paper 5/2010 (22 January 2010), www.imf.org/external/np/pp/eng/2010/022210.pdf (accessed December 3, 2020).
46. Report of the Special Rapporteur, *The International Monetary Fund*, para. 6.
47. Also see IMF, *Decision on Bilateral and Multilateral Surveillance*, Decision No. 15203-(12/72) (18 July 2012), para. 15.
48. B. Clift and T.-A. Robles, 'The IMF, Tackling Inequality, and Post-Neoliberal 'Reglobalization': The Paradoxes of Political Legitimation within Economistic Parameters', *Globalizations* 18, no. 1 (2021).
49. IMF, *Guidance Note for Surveillance,* para. 75. See e.g. IMF, Country Report No. 17/181, *Norway, Selected Issues* (July 2017).
50. IMF, *Guidance Note for Surveillance*, para. 11.
51. IMF, *Social Spending Strategy,* 23.
52. IMF, *Revised Operational Guidelines to IMF Staff on the 2002 Conditionality Guidelines* (23 July 2014), 9.
53. Ibid., 10.
54. Abrams, *The IMF´s Role*.
55. The IMF provides loans at non-concessional interest rates and loans provided to poorer countries on concessional terms, with interest rates that are low or in some cases zero. Low-income countries may borrow on concessional terms through facilities available under the Poverty Reduction and Growth Trust (PRGT). The IMF's instruments for non-concessional loans are Stand-By Arrangements (SBA); the Flexible Credit Line (FCL); the Precautionary and Liquidity Line (PLL); for medium-term needs, the Extended Fund Facility (EFF); and for emergency assistance to members facing urgent balance of payments needs, the Rapid Financing Instrument (RFI). Out of these, Flexible Credit Line (FCL) does not have conditionality as it is only available for countries with a track record of implementing policy advice. Historically, for emerging and advanced market economies in crises,

the bulk of IMF assistance has been provided through Stand-By Arrangements (SBAs). See IMF Annual Report 2017, and IMF Factsheet: *IMF Lending*, March 2016.

56. IMF, The Fund's Facilities and Financing Framework for Low-Income Countries, (25 February 2009).
57. IMF, *A New Architecture of Facilities for Low-Income Countries*, IMF Policy Paper (26 June 2009); IMF, *Guidance Note on IMF Engagement on Social Safeguards in Low-Income Countries* (11 July 2018), 6. For example, Jamaica's 2013 EFF arrangement and 2016 SBA included floors on social spending, which were all met. In addition, programme documents discussed in detail the authorities' commitment to reduce the adverse impact of adjustment on vulnerable groups by improving the existing social protection framework. IMF, *2018 Review of Program Design and Conditionality*, Policy Paper No. 19/012 (20 May 2019).
58. S. Gupta, M. Schena, and S.R. Yousefi, *Expenditure Conditionality in IMF-Supported Programs*, IMF Working Paper WP/18/255 (7 December 2018), 22.
59. IMF, *Social Spending Strategy*, 8.
60. IMF, *Revised Operational Guidelines*, 3.
61. IMF, *Guidance Note for Surveillance*, para. 75, figure 3, 36, Box 1, and para. 76.
62. IMF, *Social Spending Strategy*, 33.
63. IMF, How to Operationalize IMF Engagement on Social Spending during and in the Aftermath of the COVID-19 Crisis, IMF How-to-Note No. 20/02 (13 September 2020).
64. IMF, *Decision on Bilateral and Multilateral Surveillance*.
65. IMF, *Social Safeguards and Program Design in PRGT and PSI-Supported Programs* (6 June 2017), 14. IMF, *Social Spending Strategy*, 21, note 26.
66. An aspect often ignored in social protection literature. For an illustration, see L. Luccisano and L. Macdonald, 'Mexico and Social Provision by the Federal Government and the Federal District: Obstacles and Openings to a Social Protection Floor', *Global Social Policy* 14, no. 3 (2014): 333–51.
67. The Committee on Economic, Social and Cultural Rights, *Social Protection Floors: An Essential Element of the Right to Social Security and of the Sustainable Development Goals*, UN Doc. E/C.12/2015/1 (15 April 2015), para. 1, and ILO, *R202*.
68. IMF, *Social Spending Strategy*, 8.
69. See IMF, *Social Spending Strategy*, 14.
70. See e.g. IMF, *Social Safeguards and Program Design*, 6.
71. IMF, *Social Spending Strategy*, 9.
72. See V. Engström, 'The IMF and Protection of Vulnerable Groups', *Nordic Journal of International Law* 89, no. 2 (2020), 209–43, https://doi.org/10.1163/15718107-08902001.
73. IMF, *Guidance Note for Surveillance*, para. 11.
74. P.S. Heller, *The IMF's Involvement with Pension Issues: 2006–2015*, Independent Evaluation Office, 1–2. Replacement rate is the percentage of a worker's pre-retirement income that is paid out by a pension programme upon retirement.
75. C. Mariotti, N. Galasso, and N. Daar, *Great Expectations: Is the IMF Turning Words into Action on Inequality?* (Oxfam International, 10 October 2017), 2.
76. International Monetary Fund, *How to Operationalize Gender Issues in Country Work*, Policy Paper (1 June 2018), 13.
77. IMF, *Fostering Inclusive Growth*, G20 Leaders' Summit, 7–8 July 2017, 29 https://www.imf.org/external/np/g20/pdf/2017/062617.pdf (accessed December 12, 2020). IMF, *A Proposed Strategy for Mainstreaming Gender at the IMF*, Consultation Concept Note (10 February 2022).
78. IMF, *Social Spending Strategy*, 9. A. Banerji et al., *Youth Unemployment in Advanced Economies in Europe: Searching for Solutions*, International Monetary Fund Staff Discussion Note (December 2014) 7; N. Shafik, 'Stolen Dreams', *Finance & Development* 49, no. 1 (2012): 18–19.
79. See Engström, 'The IMF'.
80. IMF, Country Report No. 18/246, South Africa, July 30, 2018.

81. Mindaugas Leika and Daniela Marchettini, *A Generalized Framework for the Assessment of Household Financial Vulnerability*, IMF Working Paper, WP/17/228 (7 November 2017).
82. IMF, *A Strategy for IMF Engagement on Social Spending – Case Studies*, Policy Paper No. 19/018 (14 June 2019).
83. IMF, *Social Spending Strategy*, 26.
84. Ibid., 31.
85. Ibid., 28–9.
86. Ibid.; CESCR, *General Comment No. 19*, para. 59.
87. ILO, *R202*, para 1(1), and para. 5; ILO, *C102 – Social Security (Minimum Standards) Convention*, (1952); E. Durojaye, 'The ILO Social Protection Floors Recommendation 202, and Poverty Reduction', *Development in Practice* 25, no. 2 (2015): 270.
88. IMF, *Social Spending Strategy*, 33.
89. Ibid., 29.
90. Report of the Special Rapporteur on extreme poverty and human rights, on the implementation of the right to social protection through the adoption of social protection floors, UN Doc. A/69/297 (11 August 2014), paras. 2–3.
91. IMF, *Social Spending Strategy*, 33.
92. Report of the Special Rapporteur, *The International Monetary Fund*, para. 36; A. Kentikelenis, T.H. Stubbs, and L.P. King, 'IMF Conditionality and Development Policy Space, 1985–2014', *Review of International Political Economy* 23, no. 4 (2016): 543–82, https://dx.doi.org/10.1080/09692290.2016.1174953; C. Mariotti, N. Galasso, and N. Daar, *Great Expectations*; The IMF approach is characterised as 'individualistic', diagnosing injustice as a result of market failure and vulnerability, failing to address root causes of poverty e.g. in S. Hickey, 'Relocating Social Protection within a Radical Project of Social Justice', *European Journal of Development Research* 26 (2014): 322–37, 324, https://doi.org/10.1057/ejdr.2014.9.
93. IMF, *Revised Operational Guidelines*.
94. IMF, *Social Spending Strategy*, 33.
95. A performance criterion (PC) specifies either a quantitative target to be met or a policy action to be implemented by an agreed date (or in some cases, continuously over a specified period) for the country to be able to continue to draw on the IMF's financing, IMF, *The Modalities of Conditionality – Further Considerations*, Policy Paper (8 January 2002), 17.
96. IMF, *Social Spending Strategy*, 34.
97. IMF, Country Report No. 18/297, *Argentina: First Review under the Stand-By Arrangement; Inflation Consultation; Financing Assurances Review; and Request for Rephasing, Augmentation, Waivers of Nonobservance and Applicability of Performance Criteria, and Modification of Performance Criteria-Press Release; Staff Report; and Staff Supplement* (26 October 2018), 77–8. The general programme included the sub-programmes: Asignación Universal por Hijo, Asignación por Embarazo, and Ayuda Escolar Annual; Asignaciones Familiares Activos, which includes the Asignación Prenatal, por Adopción, por Hijo, por Hijo Discapacitado, por Maternidad, por Matrimonio, por Nacimiento, and the Ayuda Escolar Annual; Asignaciones Familiares Pasivos, which includes the Asignación Prenatal, por Cónyuge, por Hijo, por Hijo Discapacitado, and the Ayuda Escolar Annual; Asignaciones Familiares Sector Público Nacional, which includes the Asignación Prenatal, por Hijo, por Hijo Discapacitado, por Maternidad, and the Ayuda Escolar Anual.
98. IMF, Article IV Consultation and Request for an Extended Arrangement Under the Extended Fund Facility, *Ecuador* (CR/19/79, 20 March 2019). This included the programmes: Bono de Desarrollo Humano; Bono de Desarrollo Humano Variable; Pensión Adultos Mayores; Pensión Mis Mejores Años; Pensión Para Personas Con Discapacidad; Bono Joaquín Gallegos Lara; Registro Social. Also see IMF, Country Report No. 19/379, Ecuador, Second and Third Reviews under the Extended Fund Facility (December 2019).
99. IMF, Country Report No. 19/223, Tunisia, Fifth Review under the Extended Fund Facility (July 2019), 76.

100. C. Andersen, *IMF Survey: New Rules of Engagement for IMF Loans* (13 April 2009). IMF, Press Release: *IMF Overhauls Lending Framework* (24 March 2009).
101. Independent Evaluation Office, *Structural Conditionality in IMF Supported Programs* (2018).
102. IMF, *Guidance Note for Surveillance,* para. 81 and note 55.
103. Ibid., para. 11.
104. IMF, *Social Spending Strategy*, 34.
105. Gupta, Schena, and Yousefi, *Expenditure Conditionality*, 7 and 15 in particular.
106. ILO, *World Social Protection Report 2017–19: Universal Social Protection to Achieve the Sustainable Development Goals* (29 November 2017), 23.
107. 'Social spending can be defined as government expenditure on social protection, education and health', M. Rodríguez-Vives and L. Kezbere, 'Social Spending, a Euro Area Cross-Country Comparison', *ECB Economic Bulletin*, Issue 5/2019. OECD, 'Social expenditure comprises cash benefits, direct in-kind provision of goods and services, and tax breaks with social purposes', https://doi.org/10.1787/7497563b-en. A focus on spending is not however constrained to economic/financial institutions. See e.g. I. Ortiz, M. Cummins and K. Karunanethy, Fiscal Space for Social Protection and the SDGs: Options to Expand Social Investments in 187 Countries, ESS Working Paper No. 48, International Labor Organization 2017.
108. D. Lombardi and N. Woods, 'The Politics of Influence: An Analysis of IMF Surveillance', *Review of International Political Economy* 15, no. 5 (2008): 711–39; Although the Articles of Agreement do entail a sanctioning mechanism, it has never been used. A. Feibelman, 'Law in the Global Order: The IMF and Financial Regulation', *International Law and Politics* 49, no. 3 (2017): 687–745.
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110. C. Joerges, 'Three Transformations of Europe and the Search for a Way Out of its Crisis', in *The European Crisis and the Transformation of Transnational Governance: Authoritarian Managerialism Versus Democratic Governance*, ed. C. Joerges and C. Glinski (Portland, Hart Publishing, 2014), 24-46.
111. As already claimed by F. Gianviti, *Economic, Social and Cultural Rights and the International Monetary Fund*, Doc. E/C.12/2001/WP.5, para. 51; also see Report of the Special Rapporteur, *The International Monetary Fund*, para. 30.
112. See note 38 above, and Mariotti, Galasso, and Daar, *Great Expectations*, 5.
113. IMF, *Social Spending Strategy*, 31.
114. Not to mention emancipation. See C.C. Walther, 'Compassion for Change. Nurturing the motivation of Staff in UN institutions dedicated to the promotion of human rights', in this special issue (*International Journal of Human Rights* 2022).
115. For one recent critique, see e.g. https://www.brettonwoodsproject.org/2020/04/un-committee-holds-pakistan-to-account-for-imf-programme-impacts-on-women/ (accessed December 3, 2020).
116. C. Deléchat et al., *What is Driving Women's Financial Inclusion Across Countries?* IMF Working Paper, WP/18/38 (March 2018). Report of the Special Rapporteur, *The International Monetary Fund*, paras 28–9. K. Donald and N. Lusiani, *The Gendered Costs of Austerity: Assessing the IMF's Role in Budget Cuts which Threaten Women's Rights* (Bretton Woods Project 2017).
117. Mariotti, Galasso, and Daar, *Great Expectations*, 7.
118. A. McBeth, 'A Right by Any Other Name: The Evasive Engagement of International Financial Institutions with Human Rights', *George Washington International Law Review* 40, no. 4 (2009): 1101–56.
119. World Bank, *Social Protection and Labor Strategy*, 98.

120. 'Beyond risk management and poverty reduction, social protection and labor policies and programs are increasingly recognized as a vehicle for implementing social contracts, securing people's rights, and fulfilling their obligations', World Bank, *Social Protection and Labor Strategy*, xiv.
121. C. Ormaza, M. Victoria, and F. Ebert, 'The World Bank, Human Rights, and Organizational Legitimacy Strategies: The Case of the 2016 Environmental and Social Framework', *Leiden Journal of International Law* 32, no. 3 (2019): 483–500, https://doi.org/10.1017/S0922156519000268; G. Jokubauskaite, 'The World Bank Environmental and Social Framework in a Wider Realm of Public International Law', *Leiden Journal of International Law* 32, no. 3 (2019): 457–63, 460, https://doi.org/10.1017/S092215651900027X.
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123. S. Jorgensen and P. Siegel, *Social Protection in an Era of Increasing Uncertainty and Disruption: Social Risk Management 2.0* (Washington, DC: World Bank, 2019), 30–1.
124. S. Marks, *A False Tree of Liberty: Human Rights in Radical Thought* (Oxford: Oxford University Press 2019), 3.
125. Marks, *A False Tree*, 16.
126. See e.g. McBeth, 'A Right by'.
127. S. Meckled-García and B. Çali, 'Lost in Translation. The Human Rights Ideal and International Human Rights Law', in *The Legalization of Human Rights: Multidisciplinary Perspectives on Human Rights and Human Rights Law*, ed. S. Meckled-García and B. Çali (Taylor & Francis, 2005). Some authors even claim that human rights needs saving by institutionalising it further, beyond the treaty system. Eric Posner, *The Twilight of Human Rights Law* (Oxford: Oxford University Press, 2014).
128. Social protection floor for a fair and inclusive globalisation, Report of the Advisory Group chaired by Michelle Bachelet Convened by the ILO with the collaboration of the WHO, ILO 2011. The initiative consists of lead agencies: ILO and WHO, and coalition members: Asian Development Bank, CEPAL, Concern, Education and Solidarity Network, ESCAP, European Commission, FAO, Finnish Ministry of Foreign Affairs, France, German Development Cooperation, GIP SPSI, HelpAge International, IMF, International Council of Social Welfare, Luxemburg, NGO Committee for Social Development, OECD, OHCHR, Save the Children, Swedish International Development Cooperation Agency (SIDA), the Netherlands, UN Habitat, UNAIDS, UNDESA, UNDP, UNESCO, UNFPA, UNHCR, UNICEF, UNODC, UNRWA, UNWOMEN, WFP, WMO and the World Bank.
129. SPIAC-B members include: ADB, IADB, IFAD, ILO, IMF, ISSA, FAO, OECD, UN DESA, UNDP, UNESCO, UN-HABITAT, UNICEF, UN Women, World Bank, WFP, WHO; Australia (DFAT), Belgium (MFA), European Commission (DEVCO; DG Employment), Finland (MFA), France (MAS), Germany (BMZ, GiZ, KfW), Ireland (Irish Aid), Italy (MFA); Sweden (SIDA), UK (DFID) and US (DOL).
130. Matthias Goldmann, 'Financial Institutions and Social Rights: From Foes to Friends?', in *Research Handbook on International Law and Social Rights*, ed. C. Binder, F. Piovesan, A. Úbeda de Torres, and J.A. Hofbauer (Edward Elgar, 2020) (forthcoming).
131. There is an excellent discussion on this between Ernst-Ulrich Petersmann and Philip Alston in the European Journal of International Law in 2002.
132. McBeth, 'A Right by'; Hans-Otto Sano, 'The Drivers of Human Rights Change in Development', H.-O. Sano, 'The Drivers of Human Rights Change in Development', in *Human Rights and Development in the New Millennium: Towards a Theory of Change*, ed. Paul Gready and Wouter Vandenhole (London: Routledge, 2013) underlines that human rights promotion can take place at different levels. As rights are promoted by different actors, they are also underpinned by different conceptual propositions.

133. Much to the dislike of the IMF´s critics, see e.g. Laura Merling, 'IMF Framework on Social Spending Out of Step with International Standards', https://www.brettonwoodsproject.org/2019/07/imf-framework-on-social-spending-out-of-step-with-international-standards/ (accessed December 3, 2020).
134. McBeth, 'A Right by', 1125. Christiana Ochoa, 'Advancing the Language of Human Rights in a Global Economic Order: An Analysis of a Discourse', *Boston College Third World Law Journal* 57, no. 23 (2003): 109.
135. Mac Darrow, *Between Light and Shadow, The World Bank, The International Monetary Fund and International Human Rights Law* (Oxford: Hart Publishing, 2003), 195.
136. Charles R. Beitz, *The Idea of Human Rights* (Oxford: Oxford University Press, 2009), 42–4. In this image of human rights there are several arenas of contestation (in addition to the legal rules), and a diverse set of participants, who all participate in the formulation and definition of rights. Ibid., 211–12. Also see, Anthony Woodiwiss, 'The Law Cannot be Enough. Human Rights and the Limits of Legalism', in *The Legalization of Human Rights: Multidisciplinary Perspectives on Human Rights and Human Rights Law*, ed. Saladin Meckled-García and Basak Çali (Taylor & Francis Group, 2005).
137. Law can assume different roles in relation to social change. Law leads and may trigger, facilitate, or speed up change, but law also follows change and codifies a change that has taken place. Wouter Vandenhole and Paul Gready, 'Failures and Successes of Human Rights-Based Approaches to Development: Towards a Change Perspective', *Nordic Journal of Human Rights* 32 (2014).
138. See Beitz, *The Idea*, 33–42.
139. For a similar argument in the context of humanitarian law, see Daniel D. Bradlow, 'Should the International Financial Institutions Play a Role in the Implementation and Enforcement of International Humanitarian Law', *University of Kansas Law Review* 50, no. 4 (2002): 695–730, 724–7.
140. Foreseen by Ochoa, 'Advancing'.

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Notes on contributor

Viljam Engström works as Senior Lecturer in public international law at Åbo Akademi University. He has in recent years done research on the IMF with the research project Vulnerability as Particularity – Towards Relativizing the Universality of Human Rights? (RELAY), which is funded by the Academy of Finland [grant number 311297] at Åbo Akademi University Institute for Human Rights. Related publications include for example, The IMF and Protection of Vulnerable Groups, in the Nordic Journal of International Law 89 (2020).