Cosmopolitanism: The Ultimate Paradigm of Global Integration and the Solution to IMF Conditionality

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SUMARIO

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Abstract

This paper argues that post-modern cosmopolitanism is a viable alternative to the co-existence of supranational institutions and the nation States. Using the IMF’s conditionality policies as an example, this paper suggests that overbroad mechanisms of integration ultimately jeopardize the subsistence of supranational institutions in the long-run. As explained, the key to the subsistence of these institutions is finding ways that permit the coexistence of a constellation of national perspectives with integrative policies, what the author terms a rainbow approach. With that view, the paper argues that cosmopolitanism emerges as a far superior alternative to other theories of global integration, like universalism and particularism, as it increases credibility, legitimization and accountability of supranational institutions vis-à-vis its national constituents.

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PALABRAS CLAVE: responsabilidad, condicionalidad, cosmopolitismo, derecho administrativo global, fondo monetario internacional, nuevo gobierno, particularismo, soberanía procesal, condicionalidad cuantitativa, condicionalidad estructural, supranacional, universalismo.

KEYWORDS: Accountability, Conditionality, Cosmopolitanism, Global Administrative Law, International Monetary Fund, New Governance, Particularism, Procedural Sovereignty, Quantitative Conditionality, Structural Conditionality, Supranational, Universalism
Introduction

Events taking place in the last fifty years have made manifestly clear the idea that we live in an interdependent globe. While it is true that we still do not live in a borderless world,¹ the proliferation of liberties regarding the international circulation of persons, goods, services and capital; the fall of the iron curtain; the surge of a variety of bilateral and multilateral trade liberalization agreements; the formation of economic blocs like the Nafta, the eu and Mercosur; the growth, surge and opening of Brazilian, Russian, Chinese and Indian economies to world trade; and the rapid advances in information and technology, are, at least, testimony of a globalized world.²

But perhaps most importantly, the globalization phenomenon experienced in the last fifty years has resulted in the fall of the classic Westphalian nation-state (a state capable of surviving independently within an anarchic environment),³ and made way to a post-national constellation formed by a variety of interdependent national networks.⁴

While modern economics teaches us that a globalized economy is a desired goal as, for example, consumers can purchase the best and least expensive goods the world has to offer;⁵ producers can offer their products in the world’s biggest markets; and investors can invest in the world’s most promising opportunities or obtain investment from pools located around the world;⁶ a fast-pace globalization agenda is seen by some economists with cautionary eyes.⁷

Most critics of globalization argue that opening the gates to western economies does not reduce but increases the economic differences between the wealthy and the poor.⁸ Further, they argue that globalization increases instability as crises in Asia can now be felt in countries located in Latin America; as fears of financial contagion are now a daily concern for both developed and developing governors; and as “capitalism” and “market” have taken over our lives overriding any alternative form of government.⁹ Also, critics accuse western economies of hypocrisy. They argue that western countries have driven the globalization agenda to its maximum ensuring that western-based institutions obtain a disproportionate share of benefits at the expense of the developing world.¹⁰

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4 Id. at 88.
7 Habermas, supra note 3, at 88.
8 Gokhale, supra note 6, at 2.
10 Id. at 7.
More theoretically though, critics argue that a fast-pace globalization should be avoided as it would create a global society incapable of mirroring essential elements that made the nation-state a force of democratic progress, such as, the security of the rule of law; the sovereignty of the territorial state; the collective identity of the members of a nation-state and the democratic legitimacy of its institutions.\(^{11}\)

As these risks suggest, postmodern governments face the conundrum of determining what level of economic integration is ultimately desired. As Habermars warns us, post-modern governments should be just as cautious with progressivist visions of opening as with regressive utopias of closure.\(^{12}\) The task is thus, finding the proper balance between an open society or a close knit society.

This paper aims at finding a theory capable of striking this proper balance. To do so, this paper uses as an example a major actor of global integration, the International Monetary Fund. It analyzes its policy-making activities to extrapolate a potential theory that would ultimately be welcomed at a global level. With that in mind, this paper is divided as follows:

Section II discusses the Fund’s conditionality policy using it as point of departure to determine if the approach taken so far by the Fund is desirable.

Section III explores alternative theories of integration, focusing on cosmopolitanism as the ultimate paradigm of global integration. This section shows why cosmopolitanism is preferable from other competitive theories of global integration like universalism and particularism.

Section IV illustrates the effects of adopting a cosmopolitan approach to conduct the Fund’s activities and shows how, in practice, the cosmopolitan approach would foster globalization without interrupting the democratic processes of the nation-state.

Section V presents a general conclusion.

I. IMF’s CONDITIONALITY

A. Raison d’être

The Fund is the world’s most recognized organization for international monetary cooperation.\(^{13}\) Created to solve the financial difficulties arising from the Great Depression and World War II, the Fund had as its primary purpose ensuring the stability of the international monetary system by providing short term balance of payment credits and stabilizing the post war financial system.\(^{14}\)

Today, the Fund is an organization in which almost all countries of the world rely.\(^{15}\) To carry out

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11 Habermas, supra note 3, at 67.

12 Habermas, supra note 3, at 88.


14 However the Fund’s original view has changed dramatically in the last half a century. In the post Bretton-Woods era the Fund and the World Bank helped create an international economic regime that struck a balance between national and economic policies and the rules of liberalized trade. This system was modified later on by a system of transnational liberalism. See Habermas, supra note 3, at 78.

its mandate, the Fund engages in a variety of activities. It provides advice to its 184 member countries by monitoring national, regional, and global financial developments and by promoting the adoption of policies that the Fund considers are in line with economic stability, so that future economic crises are avoided.\textsuperscript{16} It also serves as an economic forum where countries can engage in discussions to coordinate macro-economic policies and views.\textsuperscript{17} Most importantly, the Fund acts as a lender of last resort by financing member countries to help them address balance of payment problems.\textsuperscript{18}

Lending is often made by a variety of instruments including, \textit{Stand-by Arrangements} (designed to solve short-term balance of payment problems); \textit{Supplemental Reserve Facility Loans} (designed to solve short-term capital accounts crisis), \textit{Extended Fund Facility Loans} (designed to solve long-term balance of payment problems), and \textit{Poverty Reduction Loans} (designed exclusively to tackle poverty of IMF’s poorest member countries). Most of these loans are made with a set of \textit{loan conditions} that need to be fulfilled by the receiving country prior or during the term of the loan.\textsuperscript{19}

These loan conditions can be best understood as a means by which the Fund promises to do something (e.g. extending a loan) upon the compliance, by the receiving country, of a set of policies or measures dictated by the Fund.\textsuperscript{20} These loan conditions, or \textit{conditionality} as it is commonly known, are best understood as a set of policies or program measures a member country is expected to follow in order to secure access to the resources of the Fund.\textsuperscript{21}

In practice, conditionality ensures the actual existence of the Fund as it guarantees that the loans made by the Fund will follow a revolving pattern.\textsuperscript{22} As explained by the Fund’s \textit{Guidelines on Conditionality}, conditionality is intended to guarantee that resources provided by the Fund are used to solve the balance of payment problems of the member country in a manner consistent with the Fund’s Articles of Agreement.\textsuperscript{23} The idea is that the member country implements the necessary safeguards to use the Fund resources adequately.\textsuperscript{24} Conditionality is, therefore, the A-type mechanism that the Fund uses to assure itself that a loan made to a member country will be repaid over a defined period of time.\textsuperscript{25}

But how is this assurance achieved? It is achieved by the member country adopting certain corrective measures or policies, which in the judgment of the Fund, will allow it to restore the

\textsuperscript{16} See Article I, Purpose, Articles of Agreement of the International Monetary Fund, available at www.imf.org.

\textsuperscript{17} See International Monetary Fund, available at www.imf.org.

\textsuperscript{18} See Article I, Purpose, Articles of Agreement of the International Monetary Fund, available at www.imf.org.

\textsuperscript{19} Ariel Buira, An Analysis of IMF Conditionality, Paper Prepared for the XVI Technical Group Meeting of the Intergovernmental Group, at 24-25.

\textsuperscript{20} See Black’s Law Dictionary, 333 (7th ed. 1999).

\textsuperscript{21} Buira, supra note 19, at 3.

\textsuperscript{22} Id.

\textsuperscript{23} Id.

\textsuperscript{24} International Monetary Fund, Guidelines on Conditionality, September 25, 2002.

\textsuperscript{25} Buira, supra note 19, at 3.
balance of payments position and enable the member to repay the Fund, thereby assuring that the sources given to such member country will be available to support other members in the future.\textsuperscript{26}

\textbf{B. The Expansion of Conditionality}

Conditionality was not always part of the Fund’s operations.\textsuperscript{27} Nonetheless, the Fund (and some of its members) have always been interested in submitting the Fund’s loans to certain conditions. During the early stages of the Fund, the U.S. attempted to restrict the Fund’s payments to countries that flagrantly misbehaved from the guidelines set out by the Fund.\textsuperscript{28} While these restrictions were ultimately rejected during the Bretton-Woods conference,\textsuperscript{29} they opened the discussion on whether or not the Fund should condition its loans to the fulfillment of certain requirements. The idea was ultimately accepted, and the member countries agreed that several goals would have to be negotiated to secure the revolving character of the Fund’s resources. Yet, it was agreed that the borrowing country was ultimately free to decide how to achieve such goals.\textsuperscript{30}

Largely due to the incorporation of developing countries to the Fund during the 1950s and 1960s, the Fund decided, in 1969, to establish a formal practice of conditionality as part of the First Amendment to the Articles Agreement.\textsuperscript{31} For several decades the Fund’s conditionality practices centered on imposing limitations on the monetary, fiscal and exchange policies of its members (also known as quantitative conditionality).\textsuperscript{32} In the last couple of decades, however, the scope of the Fund conditionality expanded from a flexible quantitative conditionality to a more expansive structural conditionality,\textsuperscript{33} to encompass structural limitations in, inter-alia, the financial sector, the trade regime, the pricing and marketing policy, the liberalization of trade, capital markets or exchange rate systems; the restructuring and privatization of public entities; the agricultural sector; the energy sector, environmental policies, and recently, to issues of governance and corporate social responsibility (where the Fund has limited or no expertise).\textsuperscript{34}

\textbf{C. IMF’S Conditionality: The Debate}

In recent years, the Fund’s conditionality has been the center of intensive debate by economists and policy makers.\textsuperscript{35} The debate portrays

\begin{itemize}
\item \textsuperscript{26} Id.
\item \textsuperscript{28} Id.
\item \textsuperscript{29} Bretton Woods Project, IMF Conditionality High, Effectiveness Low, February 1, 2008 available at www.brettonwoodsproject.org/art-559953.
\item \textsuperscript{30} Dreher supra note 27, at 7.
\item \textsuperscript{31} Id. at 8.
\item \textsuperscript{32} Bretton Woods Project, supra note 29.
\item \textsuperscript{34} Buira, supra note 19, at 25.
\item \textsuperscript{35} See e.g. Stiglitz, supra note 9, at 20 (criticizing the imposition by the Fund of capital-market liberalization conditions on developing countries).
\end{itemize}
the Fund as a double-face entity that undertakes positive or negative activities depending on which side of the coin one sees it.\textsuperscript{36}

Those who criticize the Fund argue that the Fund’s conditionality is costly, coercive and intrusive. They argue that the Fund takes advantage of the low bargaining power of developing countries to impose conditions that are not always favorable to a country.\textsuperscript{37} This occurs particularly when the member country is experiencing financial trouble and comes to the Fund (as lender of last resort) to find solutions to its severe financial problems.\textsuperscript{38} Since at this instance, no private financial institution is willing to lend any resources to the developing country, when the developing country comes to the Fund, it has few (or in most cases) no bargaining power. The Fund, say its detractors, exploits this situation by imposing intrusive structural conditions that need to be complied by the borrowing country, which in turn, result in high costs for the democracy and freedom of a country.\textsuperscript{39}

Critics also argue that the imposition of substantial reforms as pre-conditions for the receipt of loans misleads investors as to the size of a country’s problem.\textsuperscript{40} Although it is true that many developing countries come to the Fund to solve balance of payment problems,\textsuperscript{41} these problems may arise from substantial financial problems that makes a country insolvent, or, as in most cases, by lack of liquidity. If the latter, the imposition of substantial structural conditions may create in the mind of investors the idea that the country is worse than it really is. This renders the repayment of the loan by the lending country more difficult and costly since the country will find it difficult to attract foreign investors.

Lastly, critics argue a lack of equal treatment among countries. The argument is that the Fund often asks for aggressive structural reforms to developing countries that it would not ask to industrialized countries. As the former Chairman of the U.S. Federal Reserve put it, “when the Fund consults with a poor and weak country, the country gets in line; when the Fund consults with a big country, the Fund gets in line”.\textsuperscript{42}

By contrast, there are those who see the Fund as a quintessential institution that ensures the stability of the international financial markets.\textsuperscript{43} In their perspective, the arguments against the Fund’s conditionality lack proper economic basis.\textsuperscript{44} Supporters of the Fund hold that conditionality is merely a form of paternalism under which a country is guided towards its own good, like a parent or a teacher would guide a child for

\textsuperscript{36} Cf. The IMF Assessed: A Good War, Economist, Sept. 19, 2009 at 37 (stating that the IMF has lost credibility due to the aggressive policies it has pushed forward in the past).

\textsuperscript{37} Id.

\textsuperscript{38} Goldstein, supra note 33, at 5.

\textsuperscript{39} Goldstein, supra note 33, at 6.

\textsuperscript{40} Id.

\textsuperscript{41} Id.

\textsuperscript{42} Id. at 7.

\textsuperscript{43} See William Tabb, Economic Governance in the Age of Globalization, 200 (Columbia University Press 2004 (stating that in the view of the Fund officials, conditionality is meant not only to raise expect repayments to the Fund but also to force the adoption of “good” policies to increase returns to private-sector banks who lend in tandem with such policies)).

\textsuperscript{44} Id.
his own best interest.\textsuperscript{45} In this sense, conditionality is not a form of intrusiveness or coerciveness but rather, a necessary evil that any other private financial institution would implement in order to guarantee the repayment of a loan.

Supporters also argue that conditionality ensures the possibility for the Fund to play its role as lender of last resort, a role that has re-emerged with the recent financial debacle\textsuperscript{46} and the Greek crises\textsuperscript{47} and which guarantees, at least in theoretical terms, the stability of the global financial system.\textsuperscript{48} Although the conditions established by the Fund are often demanding and may disrupt vested rights within a country’s democracy, emerging economies recognize that the Fund’s programs represent their best chance to fix the structural weakness that have led a country to its crisis and vulnerability.\textsuperscript{49} Conditionality allows the country to treat not only the symptoms of its crisis but also the root evils that led a country to request resources from the Fund.\textsuperscript{50}

Moreover, supporters say, imposing greater conditionality to developing countries than industrialized countries is not discriminatory but a true depiction of reality.\textsuperscript{51} Assume that you are the CEO of a private financial institution who wants to lend money to A (a prominent industrialist of the region) and to B (a venture capitalist who is on the verge of bankruptcy due to poor judgment in his investments). It would be natural for you to impose greater repayment conditions to B than to A because of the possibility that B will simply deplete the money lent. Similarly, it is natural for the Fund to impose greater conditionality to countries with a history of poor economic performance. This simply recognizes the true state of the world. As such, it should not be expected for a developing country that recurs to crisis over and over again to live by the same conditionality standards than a troubled industrial country.

D. Stepping Aside the Traditional Debate

Aside from the traditional debate summarized above, the Fund’s conditionality practices raise additional questions in other areas that should be taken into account by both detractors and defenders of the Fund when analyzing the future of these practices and the viability of the Fund in the long run. Indeed, when conditionality is analyzed under the magnifying glass of \textit{global administrative law} and \textit{new governance}, important questions of credibility, legitimacy, and accountability arise. These questions include, for example, the following:

1. Is conditionality compatible with democratic self-determination?

2. Should externally created economic decisions be taken outside the political and democratic process? Should such policies be transplanted into \textit{alien} jurisdictions?

\textsuperscript{45} Buira, supra note 19, at 5.

\textsuperscript{46} The International Monetary Fund: Back from the Dead, Economist, Sept. 19, 2009 at 52.

\textsuperscript{47} See Sticks and Bailouts, Economist, Apr. 17, 2010 at 29.

\textsuperscript{48} See Davies & Green, supra note 1, at 110.

\textsuperscript{49} Goldstein, supra note 33, at 11.

\textsuperscript{50} Id.

\textsuperscript{51} Id. at 12.
3. How does conditionality square with governance values like transparency, participation and accountability constantly promoted by the Fund?

4. Can a government be held accountable for the effects of policies imposed by an international financial institution?

5. Is the Fund’s conditionality synonymous to power without accountability?

6. Should the Fund be held accountable for the policies they impose? Is the Fund prepared? Are we prepared for a global administrative law?

7. What effects does an unsuccessful conditionality program have in the subsistence of the Fund?

The answer to each of these questions will ultimately determine if the Fund (and the policies it promotes) will be able to subsist in the long run. Yet, answering these questions is not a simple task, particularly in the context of a globalized economy where the nation-state occupies a secondary level of importance. In this context, Habermas’ vision on how to adjust supranational institutions to traditional national concerns is instrumental to find some answers. Indeed, as Habermas suggests:

"[G]lobalization shrinks the scope of action for national governments, insofar as the sovereign state must also open itself externally, in relation to international regimes. If this renewed closure is to come about without sociopathological side-effects, then politics has to catch up with globalized markets, and has to do so in institutional forms that do not regress below the legitimacy conditions for democratic self-determination (emphasis added)."

Habermas’ words are instructive in setting up the path to analyze the Fund’s conditionality and its effects in a globalized economy. The issue, as he eloquently puts it, is reduced to finding ways that permit the coexistence of a constellation of national perspectives with the Fund’s policies, what I have termed as a rainbow approach.

II. FINDING THE PROPER BALANCE: COSMOPOLITANISM AND THE RAINBOW APPROACH

Finding a balance that will permit the coexistence of a rainbow of national and economic perspectives and that does not deter economic integration is a difficult, yet not impossible. A useful place to start is to determine under what rubric to proceed. This paper suggests that the viability of the Fund and its policies can only be sustained if the Fund adheres to a cosmopolitan approach.

A. A Cosmopolitan View of Globalization

Cosmopolitanism departs from the idea that there are certain values and norms that are, and should be, universal just as there are other va-

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52 Habermas, supra note 3, at 84.

53 See Seyla Benhabib, Another Cosmopolitanism, 32 (Oxford University Press 2008) (stating how there are certain universal ethical norms that are intrinsically valid, and so in the long run, likely to be accepted by a variety of societies).
lues and norms that are, and should be, local.\textsuperscript{54} From this perspective, cosmopolitanism acquires a variety of connotations. Some define cosmopolitanism as an attitude of enlightened morality that places the “love of mankind” ahead of the “love of a country”.\textsuperscript{55} Others define cosmopolitanism as hybrid, recognizing that each human being has obligations to others, obligations that transcend national frontiers.\textsuperscript{56} By contrasts, post-modernist define cosmopolitanism as a normative philosophy for carrying the universalistic norms of discourse ethics beyond the boundaries of the nation-state.\textsuperscript{57}

This paper follows a post-modernist definition of cosmopolitanism. This definition derives but is not exactly conterminal with Emmanuel Kant’s idea of a cosmopolitan world order. Under Kant’s view, all human beings were to unite into a republican state of world citizens.\textsuperscript{58} To achieve this union, Kant prescribed a transition from an international to a cosmopolitan condition that required the creation of a \textit{single world republic} enjoying a monopoly of coercive state authority.\textsuperscript{59} In this sense, Kant saw cosmopolitanism as the transformation of international law (as law of states) into cosmopolitan law (as law of individuals).\textsuperscript{60}

While innovative, Kant’s view of cosmopolitanism was widely criticized by realists who considered that the establishment of a unique world authority or \textit{League of Nations} (as Kant termed it) was utopical.\textsuperscript{61} Kant’s idea served, however, as the foundation of post-modern cosmopolitanism. Post-modern cosmopolitans see the transition from the law of the nation-state to a \textit{cosmopolitan law}, which implies a constitutionalization of international relations but not, as Kant said, a logical continuation of the evolution of the state from a national to a global state.\textsuperscript{62}

Under this post-modern view, nation states share their power with global players like multinational corporations and non-governmental organizations which may pursue different agendas, pressured mostly by money or other kind of influence.\textsuperscript{63} Yet, only nation-states can draw on the resources of law and legitimate power.\textsuperscript{64} Nation spheres remain the primary site of democratic legitimation and the ultimate arbiters on the global political stage.\textsuperscript{65} As such, even if non-governmental actors can surpass the initial obstacles of legitimization by, for example, beco-


\textsuperscript{55} See Benhabib, supra note 53, at 18 (citing Martha Nussbaum’s theory of cosmopolitanism).

\textsuperscript{56} See Appiah supra note 54, at xiii.

\textsuperscript{57} Id. at 18.

\textsuperscript{58} See Jürgen Habermas, \textit{The Divided West}, 115 (Polity 2007).

\textsuperscript{59} Kant’s idea of the constitutionalization of international law in the form of world republic can be best understood in his own words: “[t]here is only one way that states…can leave the lawless condition…it is that…they give up their savage (lawless) freedom, accommodate themselves to public coercive laws, and so form a… state of nations that would finally encompass all the nations of the earth”. See Id. at 125.

\textsuperscript{60} Id. at 124.

\textsuperscript{61} See Id. at 120.

\textsuperscript{62} Id. at 132.

\textsuperscript{63} Id.

\textsuperscript{64} Id.

\textsuperscript{65} Id. at 176.
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Cosmopolitanism recognizes institutions recognized globally or by passing general policies of wide acceptance; their policies and recognition are meaningless if they are not implemented by nation-states.

B. The Benefits of a Cosmopolitan Paradigm

But, what are the benefits of adopting a cosmopolitan paradigm to address issues of global integration? What are the benefits of cosmopolitanism when compared to traditional theories like universalism and particularism that explain (or as argued in this paper, failed to explain) the ultimate goal of globalization?

This section will address both of these questions and conclude that cosmopolitanism should be taken as the ultimate paradigm of global integration.

1. Cosmopolitanism and Universalism

Cosmopolitanism is similar, but not conterminous, with universalism, it is far more concrete and specific. Universalism departs from the assumption that a value or norm can be extended all over the world, to human and polities, but also, beyond the political borders of the nation-state. Universalists argue that there are universal values and norms that are shared by all individuals, no matter the kith or kind, or even, the more formal ties of a shared citizenship. Under this understanding, universalism sees international law as more than a mere coordination or coexistence between nation-states. International law is seen as a body of law that influences all fields of life i.e. a common legal order for mankind as a whole.

Cosmopolitanism shares many values of universalism. As a matter of fact, cosmopolitanism may be seen as a subcategory of universalism. Yet, unlike cosmopolitanism, universalism fails to recognize differences among polities and individuals. If people in one region have different norms and values; different basic desires; and different interests from people in another region, universalists still consider that a general value, norm, or standard, however minimal, should govern and permeate all economic and legal orders. Under this perspective, international law presents itself as a vehicle to impose the view of what the majority (or in most cases, the strongest country) considers are the values and norms common to all.

2. Cosmopolitanism and Particularism

Cosmopolitanism also departs from particularism. For particularists, the only way to safeguard democracy within the process of globali-

66 See Appiah, supra note 54, at xi.
68 See Appiah, supra note 54, at xiii.
69 See Bogdandy & Dellavalle, supra note 67.
70 Id.
71 See Appiah, supra note 54, at 22.
72 See Bogdandy & Dellavalle, supra note 67.
zation is based on the paradigm that democracy can only be successfully realized within a nation state.\textsuperscript{73} Particularists resist globalization by condemning the transnationalisation of societal spheres and the empowering of international political decision-making.\textsuperscript{74} Translated in other terms, particularism considers mere coordination, rather than cooperation, as the appropriate way to determine the viability of supranational institutions. Furthermore, particularist reject the idea of formal supranational entities operating under legally binding instruments like the UN or the Fund, but welcome the idea of informal supranational institutions working without legally binding instruments, like the G8 or the OECD.\textsuperscript{75}

This is, of course, a very limited avenue to address issues of globalization, particularly those involving the permanence of the Fund as a viable international financial institution. A particularist approach implies the dismembering of formal supranational networks since no international norm should obstruct national democratic processes. The approach suggests a return to a Westphalian world and disregards successful efforts of global integration like those taken at the European level. It is a chimerical approach as it is clear that the nation-state will not regain back its former economic and political power. Further, it is based on a circular fallacy as it fails to explain how the world society is supposed to be divided back into pieces without the need of recurring to a global arbitrator which, right or wrong, particularists insists should have no power.

3. Cosmopolitanism as the Ultimate Paradigm of Global Integration

Despite their flaws, cosmopolitanism nourishes from both particularism and universalism to address issues of global integration. It takes from particularism the idea that nation states remain the ultimate judges of supranational policies. Indeed, cosmopolitans welcome the idea of democratic-self determination i.e. that supranational efforts of global integration should be shaped according to preferences and decisions find in the national democratic process.

Cosmopolitanism also follows the views of universalism. It welcomes the idea of global integration rejecting, as a chimera, the idea of a Westphalian nation-state. Moreover, cosmopolitanism agrees that nation-states can no longer secure the boundaries of their own state; cover the vital necessities of their citizens; or guarantee the existence of a society by their own efforts.\textsuperscript{76}

The hybrid approach followed by cosmopolitanism is beneficial for various reasons. First, it recognizes the political evolution of the world, i.e. that the unitary model of “nation-state” that bundled together citizens in one territory by subjecting them to a common bureaucratic administration and a common law is at an end.\textsuperscript{77}

Acknowledging the existence of the effects of

\textsuperscript{73} Id.

\textsuperscript{74} Id.

\textsuperscript{75} Id.

\textsuperscript{76} See Habermas, supra note 58 at 176.

\textsuperscript{77} See Benhabib, supra note 53, at 45.
global integration is simply acknowledging an inescapable reality, a \textit{sine qua non} for the existence of any political, economic or legal theory in our times.

Second, a cosmopolitan approach shields supranational institutions like the Fund from the problem of democratic self-legitimization.\footnote{See Bretton Woods Project supra note 29.} Law and policy making under contemporary international law is often considered unsatisfactory, at its best, and in need of a stronger democratic foundation.\footnote{See Bogdandy & Dellavalle supra note 67.} Those who oppose globalization, for example, argue that globalization jeopardizes the democratic self-determination of a country.\footnote{Id.} These dangers to democratic self-determination are even greater when globalization initiatives take place “behind the curtain”, for instance, when supranational institutions pass soft-law regulations and policies with an impact in a country’s economy and politics. By placing the nation-state back at the center stage of global politics, a cosmopolitan approach distills itself from the suspicion of global colonialism or imperialism, a recurrent concern of developing countries when approaching supranational institutions.

Third, cosmopolitanism sees nation-state sovereignty from an untraditional perspective. Rather than worrying for \textit{substantive sovereignty}, cosmopolitanism focuses in \textit{procedural sovereignty}.\footnote{See Habermas supra note 58 at ix.} Concepts like those of territory, national citizenship, national identity, are replaced by concepts interconnected with public procedures like democracy, communication, transparency, openness etc.\footnote{See Bogdandy & Dellavalle supra note 67.} The reshaping of nation-state sovereignty from substantive to procedural has two important effects for purposes of our discussion. On the one hand, it re-emphasizes the notion that the nation-state occupies a center role in global politics. Any measure taken outside the national political arena should be condemned, therefore, as illegitimate. On the other hand, it recognizes that what matters the most, at least at this stage of globalization, is not the traditional notions of nation-state, but instead, the recognition that national citizens (which are also global citizens under the cosmopolitan view) have rights and values (one of such being the recognition of democracy as a cornerstone of citizenry) that cannot be sidestepped by accelerated ideas of globalization.

Lastly, and perhaps more theoretically, cosmopolitanism allows for the rephrasing of globalization goals in unconventional terms.\footnote{Tabb, supra note 43 at 16.} For cosmopolitans, the task is not finding \textit{globalization rules} but, instead, finding \textit{rules for globalization}.\footnote{Tabb, supra note 43 at 5-18.} This simple rephrasing is instrumental in helping global politicians and policy makers understand that attempts of accelerated global integration through the imposition of arbitrary standards of conduct are not the best way to go. Instead, and as mandated by cosmopolitanism, global politicians and policy makers should aim at establi-
hing a piecemeal approach that reflects the different values recognized around the globe. Only by establishing clear rules to conduct globalization equally applicable to all countries, supranational institutions like the Fund will be able to achieve their goals of global standardization. As past experiences suggest, imposing hegemonic economical and political views is simply not the way to go.

III. IMF CONDITIONALITY IN A COSMOPOLITAN WORLD

So far, this paper has highlighted the benefits of a cosmopolitan paradigm of global integration vis-à-vis competitive theories like pluralism and universalism. The next step is establishing the benefits of adopting a cosmopolitan perspective as a desired paradigm to be followed by supranational institutions like the Fund.

This paper suggests that the implementation of a cosmopolitan paradigm to address issues of global integration will create long run benefits to the Fund. These benefits will be mostly felt in three areas, all of which have been the target of many of the Fund’s deterrents.

A. Cosmopolitanism and Credibility

As seen in Section II, the Fund’s conditionality policies have been widely criticized. Aside from the pure economic debate, the Fund’s approach to global integration has various problems that have affected its credibility in the global level.85 Its lack of credibility is mostly due to an aggressive imposition of a universalist approach when setting forth standards of global integration.

There are various examples of the negative effects resulting from the implementation of this aggressive practice. During the 1980’s and 1990’s the Fund tried to push capital market liberalization around the world under the belief that it would promote foreign direct investment and hence, economic growth.86 Since its inception, the program was broadly rejected by economic scholars who argued that the theory under which the program relied had not yet been tested.87 The implementation of this program was, nevertheless, done at a vast global scale thanks to structural conditionality and the help of the US Treasury department.88 The program had terrible consequences. The Fund’s program not only failed to achieve its goal but in many cases, it made the matters worse.89 It was mostly responsible for the financial crises experienced by East Asia after the abrupt fall of the Thai baht on July 2, 1997, and the subsequent crises of other developing countries in Latin America.90

Similarly, in 2003 the Fund and the World Bank urged developing countries to turn their water utilities to private companies. They did so, of course, through soft law and loan conditionality.

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85 George Soros, On Globalization, 62-63 (Public Affairs 2002)
86 See e.g. Stiglitz, supra note 9, at 20.
87 Id. at 21.
88 Id.
90 Id. at 89.
The idea was to raise water-supply standards to a higher level by delegating water supply to private entities capable of using modern technologies. Despite its theoretical benefits, the idea was not successful in practice. Private companies were forced to increase the costs of water supply to regain what they had spent in modernizing the supply system. The added costs resulting from modernization were reflected in the tariff charged to the public. The increase of the water supply tariffs made it impossible for some people to pay for the service which, in turn, resulted in the inability of more people to obtain access to potable water.

These are but two examples that highlight the failures of the approach taken by the Fund when implementing its policies. These failures could be easily fixed if the Fund decided to modify its perspective of global integration. Or as Stiglitz suggests, if the Fund changes its approach from pressuring countries to implement a given policy into working with countries on how to decide piecemeal and custom-made interventions that truly reflects the needs of a country.

What Stiglitz suggests can be achieved by adopting a cosmopolitan approach of global integration i.e. by tailoring the Fund’s policies. Recognizing the existence of a plurality of values and norms will be instrumental in helping the Fund’s policy makers understand that a one-size-fit-all policy is, perhaps, not the best way to go. Rather, the Fund should implement customized mechanisms targeted to each country that are sufficiently flexible so that they encompass any eventuality. This customized and flexible approach will have a positive impact in the overall credibility of the Fund. A customized approach will reduce the risk of non-compliance by the target country as each of the policies sketched by the Fund will specifically address the needs of the target country. Reducing this risk will have the effect that the overall reliability in the policies suggested by the Fund will increase as fast as the failing forecast will decrease.

In recent years, the Fund has taken the initial steps to tailor its policies to its member countries. The Guidelines on Conditionality adopted by the Fund in September 2002 recognized that tailoring was of central importance for the Fund. However, the Fund’s conditionality methods, continue in place. In 2008 the Independent Evaluation Office of the Fund (IEO) reported that tailoring was still lacking. In response to such report, the Fund undertook additional efforts to further streamline its conditionality practices. Yet a recent loan to Pakistan in November 2008 was conditioned on the increase of interest rates and electricity tariffs before the end of such year. The inability of the Pakistani government to coop with the Fund’s requirements obliged it to cut back in development expenditures and to limit its lending ca-


93 See e.g. Stiglitz, supra note 9, at 65.

94 Id.

95 In its web page, the Fund reports “that structural conditionality...is now sufficiently focused and adequately tailored to member countries’ different policies and economic starting point[s],” see www.imf.org.
capacity to 70 billion rupees rather than the promised amount of 200 billion rupees.\textsuperscript{96} Recent loans to Romania, Iceland, Latvia, Serbia and El Salvador follow the ancient pattern of conditionality which suggests that there is still much to be done.\textsuperscript{97}

Another way to increase the credibility of the Fund is to reduce its range of intervention. Most of the Fund’s problems have to do with the dissonance between the Fund’s current over-expansive objectives (e.g. water privatization, market liberalization) and the objectives for which it was originally incorporated i.e. macroeconomic and exchange rate policies.\textsuperscript{98} The departure by the Fund of its core policies has been the target of enormous criticism by academia and practitioners.\textsuperscript{99} Must critics argue that the Fund is not prepared to deal in areas where it is not competent.\textsuperscript{100} It lacks expertise and staff resources to produce timely and sound policy in areas as dissimilar as privatization, trade policy, corporate governance, environmental management, among others.\textsuperscript{101} This lack of expertise in areas alien to the Fund has led to poor crisis management that weakens the overall’s Fund reputation for analysis and advice with adverse spillovers to core policy areas where the Fund is adequately prepared of rendering appropriate advice.\textsuperscript{102}

Most of the Fund’s over-expansive practices have been performed through structural conditionality.\textsuperscript{103} As statistics suggests, the overall number of conditions increased exponentially since 1970s and reached its highest during the financial of East Asian crisis mentioned above. At its highest, the Fund’s loans contained 140 structural policy undertakings.\textsuperscript{104} After the reform of the Guidelines on Conditionality, the number of structural conditions experienced a much needed decrease. As reported by the IEO, by 2008 the average number of structural conditions was approximately 17.\textsuperscript{105} Yet, at least 1/3 of these conditions still continued to fall in non-core areas of the Fund.\textsuperscript{106}

How does cosmopolitanism solve the Fund’s over-expansive practice? It does so through what I have termed supranational checks-and-balances. As mentioned above, cosmopolitan perspective places the nation-states at the center stage of global political integration. Under this role, nation-states remain the ultimate arbiters of global politics.\textsuperscript{107} Nation-states are, therefore, equipped to provide the necessary checks-and-balances and limit the power enjoyed by

\begin{thebibliography}{99}
\item[] 96 See Will IMF Hurt the Poor this Time Around? available at http://www.brettonwoodsproject.org/art-563607
\item[] 97 Id.
\item[] 98 Stiglitz, supra note 89, at 230.
\item[] 99 Id.
\item[] 100 Id.
\item[] 101 Goldstein, supra note 33, at 8.
\item[] 102 Id. at 7.
\item[] 103 Id. at 6.
\item[] 104 Buira, supra note 19, at 9.
\item[] 105 See Independent Evaluation Office Report available at http://www.ieo-imf.org
\item[] 106 Id.
\item[] 107 See Habermas, supra note 58, at 176.
\end{thebibliography}
supranational institutions like the Fund. Any measure taken without the acquiescence of the nation-state will be condemned as illegitimate. As corollary, every measure taken with the acquiescence of the nation-state will be supported by the latter. Structural conditions that transcend the frontiers of the original role of the Fund will likely be condemned by this supranational checks-and-balances mechanism. The reduction of structural conditions will imply the increase of the Fund’s credibility as the Fund will focus its policies to what it does best: promoting global economic stability.

**B. Cosmopolitanism and Legitimacy**

Deterrents of the Fund criticize its lending strategies as a sort of colonialism on the part of the G-7 countries. They also argue that the Fund is an opportunistic institution that takes advantage of the weakest during crises situations to favor the strongest.

These critics raise a question as to what should be the appropriate level of empowerment of supranational institutions vis-à-vis the nation-states. This question does not have an easy answer. If too much power is given to supranational institutions like the Fund, then, arguments such as colonialism and opportunistic behavior will likely continue to be evoked by critics. However, if these institutions do not enjoy any sort of power, we will be deconstructing the efforts of globalization and going back to Westphalian times.

The issue is, thus, determining the proper balance between self-steering democracies i.e. those of the nation-states and shared democracy i.e. that of a globalized world. Finding this balance cannot be achieved by recurring to traditional forms of administrative governance. Even if the idea that societies are capable of self-control and self-determination has only been credibly realized in the context of the nation-states, if state sovereignty is no longer indivisible but shared with supranational institutions; if territorial boundaries are increasingly open and if the world we live in is more and more interconnected, explaining a globalized political theory in traditional terms becomes problematic.

Cosmopolitanism may, however, be able to find such balance. As mentioned earlier, cosmopolitans depart from the idea that nation-states are capable of coexisting with supranational institutions. Although national public spheres remain as the primary sites of democratic legitimation, their level of self-determination is, somehow shared with supranational institutions like the Fund. In this way, nation-states coexist with these institutions and learn to regard themselves as the members of a larger political community.

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109 See Tabb supra note 43, at 208 (arguing that the Fund takes financial crises to demand all kinds of structural changes).

110 See e.g. Nico Kirsch, The Pluralism of Global Administrative Law, European Journal of International Law, 17 The European Journal of Int’l Law, 247, 248-49 (2006) (arguing that the shape of global administrative law should be essentially different from that of the nation-state)

111 Habermas, supra note 3 at 61.

112 See Kirsh, supra note 110 at 250.

113 Habermas, supra note 58, at xi.

114 See Kirsh, supra note 110 at 250.
This coexistence is only achieved by what is called *procedural sovereignty* under which the legitimacy of the government at all levels (local, national and supranational) becomes a function on how legal norms are legitimated. This means that any decision taken by a supranational institution should be taken in coordination with each level of government i.e. local and national.

The process of coordination through *procedural sovereignty* not only fosters a proper balance between nation-states and supranational institutions, but also reshapes the notions of political legitimacy in these institutions. The reshaping of legitimacy has three important implications for an institution like the Fund.

First, policies adopted by the Fund will be covered by the veil of legitimacy as they will be backed by the democratic process at each level of government. This will allow the Fund to tailor its policies to the special needs of each country so as to foster a greater return of approval and hence, of legitimacy.

Second, loan conditionality will experience a dramatic reduction due to the greater fit between the Fund’s suggested policies and the country’s needs. Further, legitimacy will encourage the Fund to focus in the areas it has expertise and deter the Fund from advancing policies in areas where it is ill prepared.

Third, *procedural sovereignty* will foster compliance with the Fund’s policies as countries will have greater incentives to meet standards that actually make sense. The imposition of standards by the Fund will no longer be arbitrary but the result of a cohesive cooperation at all levels of government. This will legitimate the policy-making process and avoid the risk that the Fund pursues different agendas than those of its mandate.

### C. Cosmopolitanism and Accountability

Deterrents of the Fund often criticize the lack of accountability enjoyed by this institution. These critics are somewhat misleading as the fund, like other supranational institutions, is highly accountable to their constituents e.g. the G-7. In fact, most supranational institutions are so accountable that they actually enjoy little or no leeway to operate and are closely tied to the wishes of their constituents.

The problem with these institutions is not the lack of accountability, but rather, the lack of appropriate accountability. In other words, the Fund, and many supranational institutions, are accountable to the wrong constituents. The World Bank should not be accountable to the countries that fund it but rather to the countries that are subject to their measures; the UN Security Council should not be accountable to the countries that form it but to the places where it intervenes; and the Fund should not be accountable to the countries that fund it, but instead,

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115 See Habermas, supra note 58, at ix.

116 See e.g. Stiglitz, supra note 89, at 205.

117 See Kirsh, supra note 110 at 250.

118 Id.
should respond to the countries where it implements its conditionality policies.\textsuperscript{119}

Thus, the issue of accountability does not turn on how to make these institutions accountable, but rather, to whom and under what premises should these institutions be accountable. This paper suggests that supranational institutions, like the Fund, should be accountable to two types of constituencies. First, they should be accountable to the national constituents where they implement their policies. Second, they should be accountable to the international community as a whole.

This approach is facilitated by cosmopolitanism. As mentioned earlier,\textsuperscript{120} under the cosmopolitan perspective, nation-states remain as the ultimate arbiters of global democracy (first level of accountability).\textsuperscript{121} Cosmopolitans also see the nation-states as an interdependent entity that, at the global level, shares its democratic empowerment with supranational institutions like the Fund (second level of accountability).\textsuperscript{122}

These two levels of accountability have important benefits that secure the long term subsistence and relevance of the Fund. One obvious benefit is that the Fund will be responsible before the entire international community for the negative results arising from the implementation of its conditional policies. Further, the nation-state, where the policies are implemented, would be able to obtain direct redress from the Fund. While it is almost certain that the Fund will reject this idea, it is also certain that this is the best alternative that the Fund has to remain as a Type-A financial institution in a globalized economy. If the Fund does not foster a greater degree of accountability vis-à-vis its member countries, it will be relegated as a second-tier global institution.

Another benefit of this approach is that the Fund will be deterred from implementing structural conditionality as means of securing repayment. As seen in Section II, structural conditionality was not originally a policy of the Fund. However, over the years, the Fund expanded its range of operations implementing structural conditions that were not always properly tailored to the needs of the country. The increase of structural conditionality was mainly due to the poor levels of accountability that the Fund had vis-à-vis its member states. If the Fund’s range of motion had been limited by the potential threat of being accountable against its member states or against the international community as a whole, the Fund would not have expanded its operations to areas where it has little or no expertise, but instead, would have circumscribed its activities to areas where it is actually capable of rendering a fair and reasonable opinion. Accountability thus becomes the ultimate supranational checks-and-balances tool to solve the Fund’s over-expansive practice, reduce conditionality and increase the levels of reliability and credibility of the Fund.\textsuperscript{123}

\begin{itemize}
\item \textsuperscript{119} Stiglitz, supra note 89, at 206.
\item \textsuperscript{120} Id.
\item \textsuperscript{121} Id.
\item \textsuperscript{122} Id.
\item \textsuperscript{123} See Habermas, supra note 58, at 176.
\end{itemize}
Finally, the approach eliminates the risks of moral hazard, a central argument raised by particularist, for the dismantlement of supranational institutions. The Fund will not only be held accountable to the individual nation-states and the international community, but also, the nation-state itself will be held accountable before its constituents. This triple layer of accountability, cemented on the role of procedural sovereignty in the globalized world, will allow each cosmopolitan citizen to obtain redress for the local, national and supranational level whenever there is a failure in the implementation of globalized policies.

**IV. CONCLUSION**

As suggested throughout this paper, cosmopolitanism is the ultimate paradigm to address issues of global integration. It is far more superior to other theories of globalization like universalism and it is far more realistic than theories that seek at dismantling efforts of global integration as it is the case of particularism.

In the case of the Fund, a cosmopolitan approach will be capable of solving recurrent critics that affect the stability of this institution. First, it solves issues of credibility by establishing supranational mechanisms of checks-and-balances that allow the nation-state to recuperate the center stage of global politics as the ultimate arbiter of democratic legitimization.

Also, cosmopolitanism fosters legitimacy by recognizing procedural sovereignty. This sort of sovereignty allows local and national institutions to have a saying in the preparation and implementation of supranational policies. Their active participation in the decision-making process increases coherence in the implementation of policies and eliminates the risk of over-expansive structural conditionality.

Finally, cosmopolitanism increases accountability. Under the cosmopolitan view, supranational institutions like the Fund will be subject to a double, and in some cases, triple layer of accountability. The first layer of accountability is the accountability that the Fund will have vis-à-vis its constituents, which as explained, should be the individual member states. The second layer of accountability refers to the international community as a whole which enjoys an important role under the paradigm of cosmopolitanism. The third layer of accountability eliminates the risk of moral hazard by allowing each cosmopolitan citizen to claim, through procedural sovereignty, the appropriate redress for failing policies at the local, national and supranational levels.

As the paper ultimately suggests, supranational conditionality, like that implemented by the Fund, is not the way to go. Imposing arbitrary standards as the ultimate paradigm of global integration is not an appropriate solution. Instead, an approach that allows for the coexistence of supranational institutions and the nation-state; that favors local and national participation; and that recognizes the differences of a globalized world, should be the target in future years.

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124 See Tabb, supra note 43, at 205.
Again, the task is not finding globalization rules but, instead, finding rules for globalization. Cosmopolitanism turns as the only theory capable of recognizing this subtle difference and as the only theory reinforcing the idea that the Fund’s current conditionality policies are simply wrong.