REFORMING THE WORLD BANK TO TRANSFORM INDIA

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The World Bank and India can change their relationship by adopting the "Reform to Transform India" approach. In this paper I will focus on the World Bank's conditional aspect of loans and voting power in relation to India. In addition, this will help other developing economies. In this paper I will focus on these two aspects because the aspects of conditionality and voting share can be legally reformed for better and successful governance of the World Bank in relation to developing economies especially India. The Reform to Transform approach encompasses altering lending conditions imposed on countries and governance changes. In this paper I will seek to alter the conditions imposed on India through World Bank loans. Additionally, in the Reform to Transform approach I will seek to alter voting power in the World Bank structure to allow borrowing countries such as India with more leverage in negotiating loan terms. In this paper I will examine the historical function of the World Bank, how the World Bank has affected the Indian economy since independence, the legality of loan conditions and governance structures among World Bank members, and provides recommendations for how the World Bank should engage developing countries like India in the future.

I. INTRODUCTION

The World Bank should change the way it works to reflect the needs of emerging economies.[1] Currently, the World Bank places several conditions on loans given to emerging economies and does not fairly allocate voting power governing World Bank affairs.[2] However, emerging markets and developing economies (EMDEs), as a whole, has outperformed advanced economies

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1 Kimberly Amadeo, *What are Emerging Markets? 5 Defining Characteristics,* The Balance, July 14, 2017, available at https://www.thebalance.com/what-are-emerging-markets-3305927 (Last visited on August 3, 2017). (Emerging markets, also known as emerging economies or developing countries, are nations that are investing in more productive capacity. They are moving away from their traditional economies that have relied on agriculture and the export of raw materials. Leaders of developing countries want to create a better quality of lifefor their people. Therefore, they are rapidly industrializing and adopting a free market or mixed economy.); Victor Mallet &and James Crabtree, *India's Raghuram Rajan urges IMF and World Bank reforms,* Financial Times, October 7, 2015, available at https://www.ft.com/content/0e299960-6ca8-11e5-8171-ba1968cf791a?mhq5j=e6 (Last visited on August 3, 2017).

2 *See generally, International Monetary Funds,* Scribd, accessed on August 3, 2017, available at https://www.scribd.com/document/355159494/Imf (Last visited on August 3, 2017).

for several years; for example, India's GPD grew by a robust 7.6% in 2015.[3] Emerging and developing countries, particularly India, have significantly increased their weight in global GDP and in global economic growth.[4]

The World Bank has supported India with financial aid packages even before its independence in 1947.[5] In fact, India is the largest recipient of loans from the World Bank, amounting to $102.1 billion, between 1945 and 2015 (as on July 21, 2015), according to the Bank's lending reports.[6] However, even as the world's second most populous nation and largest recipient of funds from the World Bank, India's sway in the World Bank is far below its stature.[7] The World Bank is facing a shift in demand for their traditional services from emerging economic actors and must reform their leadership and execution processes to create fair and innovative financing solutions.[8] If the World Bank is going to survive, it must reform the manner in which it interacts with EMDEs, especially India, to allow greater flexibility in its lending practices and governing structures.

The World Bank and India can change their relationship by adopting the "Reform to Transform India" approach, which encompasses altering lending conditions imposed on countries and governance changes.[9] The Reform to Transform approach seeks to alter the harsh conditions imposed on India through World Bank loans[10] for reaching structural reforms to foster strong

[3] Arun Jaitley, Governor of the Fund and the Bank for India, *Statement at the International Monetary Fund World Bank Group,* Annual Meeting 2016, (October 7, 2016) available at https://www.imf.org/external/am/2016/speeches/pr18e.pdf (Last visited on August 3, 2017).

[4] Stephany Griffith-Jones, *A BRICS Development Bank: A Dream Coming True?* United Nation, (United Nations Conference on Trade and Development Discussion Papers, Paper No. 215, at 15, March 2014) available at http://www.stephanygj.net/papers/BRICSBankUNWorkingPaper2014.pdf (Last visited on August 3, 2017).

[5] Subho Mukherjee, *Role of World Bank in India,* Economics discussion, available at http://www.economicsdiscussion.net/world-bank/role-of-world-bank-in-india/10821 (Last visited on October 22, 2016).

[6] Chaitanya Mallapur, *India Received the Most Loans from World Bank in the Past 70 Years*, Scroll.in, updated January 14, 2016, available at http://scroll.in/article/801808/india-received-the-most-loans-from-world-bank-loans-in-the-past-70-years (Last visited on August 3, 2017).

[7] *See generally*, Chaitanya Mallapur, *India Largest Recipient of Loans from World Bank for 70 years, says Lending Report,* Firstpost, Jan 13, 2016, available at http://www.firstpost.com/world/india-largest-recipient-of-loans-from-world-bank-for-70-years-says-lending-report-2581900.html (Last visited on August 3, 2017).

[8] PTI, *India Looking for Increased Capital Support from World Bank: Arun Jaitley,* The Economic Times, October 6, 2016, available at http://economictimes.indiatimes.com/news/economy/policy/india-looking-for-increased-capital-support-from-world-bank-arun-jaitley/articleshow/54720736.cms (Last visited on August 3, 2017).

[9] *See Generally*, Arun Jaitley, Minister of Finance, Corporate Affairs and Information & Broadcasting, India, Statement at the Thirty Third Meeting of International Monetary and Financial Committee, *by Arun Jaitley, Minister of Finance, Corporate Affairs and Information & Broadcasting, India,* IMF, 2, (April 16, 2016) available at https://www.imf.org/External/spring/2016/imfc/statement/eng/ind.pdf (Last visited on August 3, 2017).

[10] *What are the Main Concerns and Criticism About the World Bank and IMF?* Bretton Woods Project, August 23, 2005, available at http://www.brettonwoodsproject.org/2005/08/art-320869/ (Last visited on August 3, 2017).

and sustainable growth.[11] For example, Often the conditions are attached without due regard for the borrowing countries' individual circumstances and the prescriptive recommendations by the World Bank fail to resolve the economic problems within a country.[12] Additionally, the Reform to Transform approach seeks to alter voting power in the World Bank structure to allow borrowing countries more leverage in negotiating loan terms.

The World Bank and IMF combined represent 186 countries.[13] However, just a small number of economically powerful countries run each organization.[14] These countries choose the leadership and senior management, and their interests dominate, despite the fact that the main borrowers from the World Bank and IMF are developing countries.[15] Professor Ngaire Woods at University of Oxford from the Department of Politics and International Relations recommends shifting the focus from the needs of the USA and European countries to those of developing countries by reforming the voting structure.[16] By 2010, revisions to voting powers at the IMF and the World Bank increased the voice of developing countries, notably China, Brazil, India, South Korea, and Mexico.[17] In this paper I will focus on the World Bank's conditional aspect of loans and voting power in relation to India. In addition, this will help other developing economies. In this paper I will focus on these two aspects because the aspects of conditionality and voting share can be legally reformed for better and successful governance of the World Bank in relation to developing economies especially India.

In this paper I argue, that emerging economies now account for more than half of global growth.[18] In addition, the most powerful among these economies need a bigger say in international institutions.[19] It is better to enlarge the current body to include the world's biggest economies such as India.[20] In Part II, I will be discussing financial institutions and the World Bank and the impact after the World War II. In this Part, I will give an overview of International Financial Institutions, especially the World Bank and identifies its mission. I analyse the major factors affecting the growth of the Indian economy

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[11] PTI*, India's Mantra is 'Reform to Transform': Arun Jaitley to IMF,* The Indian Express, updated April 17, 2016, available at http://indianexpress.com/article/business/economy/indias-mantra-is-reform-to-transform-arun-jaitley-to-imf/ (Last visited on August 3, 2017).

[12] *What are the Main Concerns and Criticism about the World Bank and IMF*, *supra* note 10.

[13] *Reforming the IMF and the World Bank,* University of Oxford, available at http://www.ox.ac.uk/research/research-impact/reforming-imf-and-world-bank (Last visited on August 3, 2017).

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] *Id.*

[18] John Head, *Supplementary Materials for the Course on Public International Law,* 75 (2014); *See What a way to Run the World,* The Economist, (2008), available at http://www.economist.com/node/11670305 (Last visited on August 3, 2017).

[19] Head, *Id.*

[20] Head, *Id.*

after independence. In Part III, I will discuss the impacts of the World Bank's loan policy on India. I will argue for two World Bank reforms that will transform the Indian economy) placing fewer conditions on loans from the World Bank to India, and ii) India gaining greater voting power in World Bank affairs. Further, I will discuss India's position on these two reforms. In Part IV, I will examine the consequences of not reforming the World Bank and increasing significance of banks partnered by India. Additionally, I will provide analysis to why and how such changes need to take affect and suggestions to reform the World Bank.

II. THE INTERNATIONAL FINANCIAL INSTITUTIONS AND THE WORLD BANK IN A NUTSHELL

In this section I will give an overview of International Financial Institutions, especially the World Bank and identify its mission. Identifying its mission will help in concluding if the World Bank, and its supportive branches, successfully meet its objectives and whether there is a need for reform in the structure of governance. As World War II ended, the Bretton Woods Conference of 1944 was the culmination of almost three years of planning for the postwar reconstruction by the Treasuries of the U.S. and the U.K.[21] The aim was to develop a system of international payments that would allow the conducting of trade without the risk of sudden currency depreciation or wild fluctuation of exchange rates, which had nearly paralyzed the world economy during the Great Depression.[22] Out of many the U.S. and the U.K., discussions and negotiations emerged proposals for the IMF and the World Bank.[23] The IMF's creation was to provide short-term financial assistance to developing nations, while the World Bank's creation was to provide long-term development loans.[24] As developing nations gained nominal political independence, (nominal because their economic dependence on their colonial masters restrained their political independence) they began to take loans from Bretton Woods Institutions, often with destructive terms and conditions.[25]

Originally, the World Bank was to provide financial assistance for reconstruction and infrastructure development through long and medium term loans to countries affected by the destruction of World War II.[26] The World

[21] Junji Nakagawa, *Reconstructing Global Monetary/Financial Governance Beyond the Bretton Woods System,*53 Japanese Y. B. Int'l L. 103 (2010).

[22] *Id.*

[23] John Head, *Managing the World Economy,* Institute for International Economics, 11 (1994).

[24] Victor Dike, *The Bretton Woods Institutions and the Third World,* Nigeria World, available at http://www.nigeriaworld.com/feature/publication/dike/bretton.html (Last visited on October 31, 2016).

[25] *Id.*

[26] Mukherjee, *supra* note 5.

Bank was especially concerned with the development of under-developed countries, because basic infrastructure was lacking in these countries.[27] Once a country could meet basic infrastructure needs through World Bank loans, the World Bank turned its attention to the broader economic development of the world's non-industrialized countries, with the goal of lifting the world out of poverty.[28]

The World Bank organization is much like a cooperative, whose shareholders are the same 184 countries that make up IMF's membership.[29] Countries have to be members of the IMF in order to be members of the World Bank.[30] A Board of Governors represents the shareholding countries, which is the Bank's ultimate policymaking body.[31] As a rule, the governors are a member countries' minister of finance or development.[32] This shows that the objective of the World Bank has changed from providing loans form basic infrastructure of under-developed countries to the broader economic development of the world's non-industrialized countries, to lift the world form the poverty. Since its creation, the World Bank has continually changed and adapted to support effective and efficient operations.[33]

The World Bank divides its lending operations between the International Bank for Reconstruction and Development (IBRD) and International Development Association (IDA).[34] The basic "finance co-operative" model of the World Bank was also followed in the creation of the four major regional development banks - the Inter-American Development Bank, the African Development Bank, the Asian Development Bank, and the European Bank for Reconstruction and Development - as well as in a number of sub-regional development banks such as the Andean Development Corporation.[35] However, regional and sub-regional development banks tend to have more autonomy to decide how to lend money to countries than individual countries do in the World Bank.[36]

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27 *Id.*

28 Vinay Bhargava, *The Role of the International Financial Institutions in Addressing Global Issues* in Global Issues for Citizens, 396 (2006), available at http://siteresources.worldbank.org/EXTABOUTUS/Resources/Chapter20.pdf (Last visited on August 3, 2017).

29 *Id.*

30 Stephany Griffith-Jones, *Governance of the World Bank,* 10, available at, https://www.ids.ac.uk/files/GovernanceWorldBank.pdf (Last visited on October 31, 2016).

31 Bhargava, *supra* note 28.

32 *Id.*

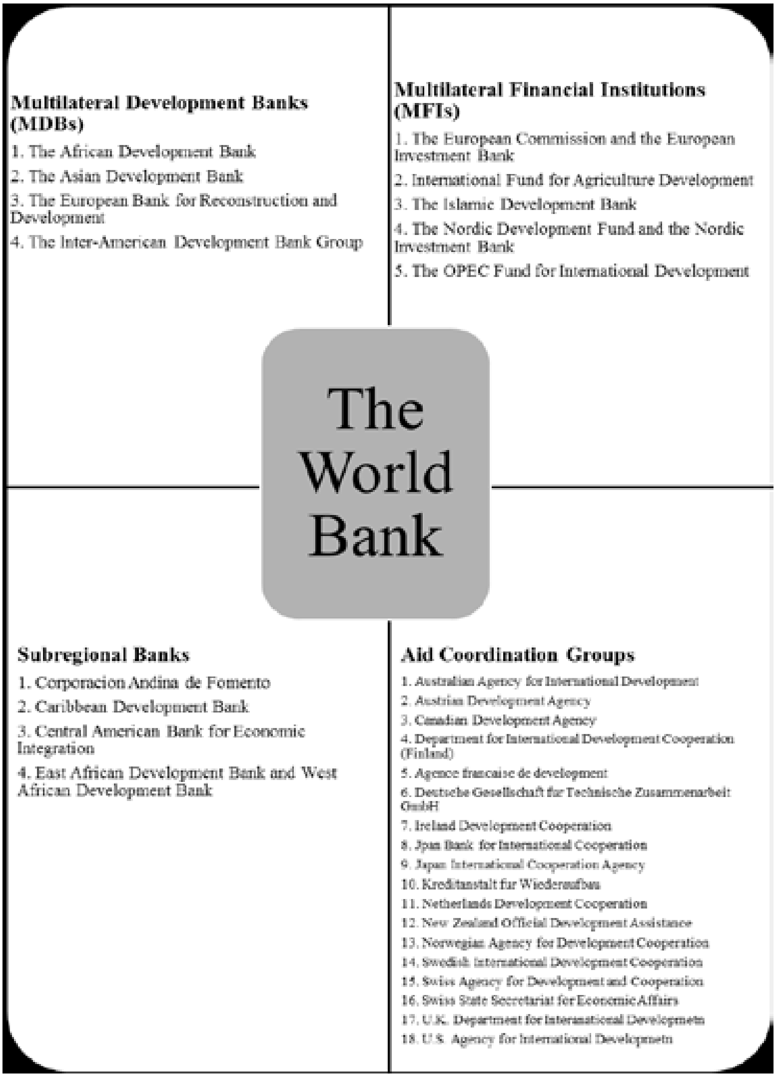
33 David Dodge, *The Changing World Economy: What It Means for Canada,* Bank of Canada, June 16, 2004, available at http://www.bankofcanada.ca/2004/06/changing-world-economy/ (Last visited on August 3, 2017).

34 Committee on Foreign Relations, *The International Financial Institutions: A Call for Change, A Report to the Committee on Foreign Relations United States Senate*, 54 (March 10, 2010). U.S. Government Printing Office Washington.

35 Griffith-Jones, *supra* note 30.

36 *Id.*

Multilateral Development Banks (MDBs) are international financial intermediaries whose shareholders include both developing countries (borrower) and developed countries (donor).[37] MDBs include the World Bank (IBRD & IDA), along with a number of regionally based lending institutions, such as the Inter-American Development Bank (IADB), the Asian Development Bank (ADB), and a number of smaller sub-regional institutions such as the Andean Development Corporation (CAF).[38] The following provides a structural representation of the World Bank and its branches below.



[37] Griffith-Jones, *supra* note 30, 6.
[38] *Id*.,

III. INDIAN ECONOMY

In this section I will analyzes the major factors affecting the growth of the Indian economy since independence. In addition, this section supports the conclusion that India should have more voting shares and fewer conditions on lending from the World Bank. To better understand India's economic growth, its economic history should be divided into two phases; the first 45 years following independence in 1947 and the last twenty years as a free market economy.[39]

During the 45 years following independence from Britain, India's economy divided into distinct public and private sectors.[40] Soon after India's political independence, a wide public discussion revolved around the type of economic system that is best to be adopted and implemented.[41] Three economic proposals emerged to meet India's needs: the Gandhian model, based on village economics and trusteeship; the Bombay Plan, which meant that the economy could not grow without government intervention and regulation, especially in capital-goods production; and the Nehruvian model, based on a socialistic pattern of society and rejected every possible way to expand private enterprise.[42]

Ultimately, the Nehruvian model succeeded, and for the next 45 years, India tried to develop a mixed economy.[43] In the process of following the Nehruvian system, the government controlled the entry and expansion of private enterprises, often without understanding the effects of these policies.[44]

During the early 1990s, India's economy began to decline and faced growing inflation, unemployment, poverty, and historically low foreign exchange reserves.[45] The collapse of the Soviet Union significantly affected Indian's economy because the Soviets were India's major trading partner and a key supplier of low cost oil.[46] As a result, India had to buy oil from the free market.[47] Consequently, India's foreign exchange reserve fell to a low of $240 million, just enough to support only two weeks of imports.[48] Ultimately, the government ran out of options and recognized it had to change its closed-door economic policies in 1991.[49] The International Monetary Fund (IMF) and the

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39 Dushyant Gosal, *History of Economic Growth in India,* International Policy Digest (April 24, 2013) available at http://intpolicydigest.org/2013/04/24/history-of-economic-growth-in-india/ (Last visited on August 3, 2017).

40 *Id.*

41 *Id.*

42 *Id.*

43 *Id.*

44 *Id.*

45 Gosal, *supra* note 39.

46 *Id.*

47 *Id.*

48 *Id.*

49 *Id.*

World Bank offered help to India in exchange for economic reforms.[50] After the events of the early 1990s, the Indian economy transformed into major economic power.

India has emerged as one of the fastest growing economies in the world with its GDP projected to grow annually at the rate 7.6 – 7.7 percent in 2015.[51] India in recent decades begun to return as a global economic power, and this process has accelerated over the last few years.[52] After1991, India has been in the top 10% globally in terms of economic growth.[53] While many challenges remain, reducing poverty remains a priority.[54] The primary challenge for India is to sustain this growth while diversifying and growing its eco. This requires constant reforms and policies that sustain continuous growth in India at a steady rate.[55]

With 1.2 billion people, and the world's fourth-largest economy, India's recent growth and development has been one of the most significant achievements of our times.[56] Over the six and half decades since independence, the country has brought about a landmark agricultural revolution that has transformed the nation from chronic dependence on grain imports into a global agricultural powerhouse that is now a net exporter of food.[57] Life expectancy has more than doubled, literacy rates have quadrupled, health conditions have improved, and a sizeable middle class has emerged.[58] India is now home to globally recognized companies in pharmaceuticals, steel, information and space technologies, and a growing voice on the international stage that is more in keeping with its enormous size and potential.[59] India is uniquely in its placement to drive global poverty reduction.[60] The country is home to the largest number of poor people in the world, as well as the largest number of people

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[50] *Id.*

[51] Aseem Chawla et al, *The Year in Review: India an Annual Publication of the ABA/ Section of International Law,* 50 Int'l Law. International Legal Developments Year in Review 620, (2016).

[52] Grewal, Malhotra & Ahmed, *Inclusive Growth in India: Past Performance and Future Prospects,* The Indian Economy Review (January 3, 2011) available at http://www.theindiaeconomyreview.org/article.aspx?aid=76&mid=4 (Last visited on August 3, 2017).

[53] *Id.*

[54] *Id.*

[55] *Growth in India,* The World Bank, available at http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/SOUTHASIAEXT/EXTSARREGTOPMACECOGRO/0,,contentMDK:20592481~pagePK:34004173~piPK:34003707~theSitePK:579398,00.html (Last visited on May 12, 2012).

[56] *Overview,* The World Bank, available at https://www.worldbank.org/en/country/india/overview (Last visited on October 31, 2016).

[57] *Id.*

[58] *Id.*

[59] *Id.*

[60] Onno Ruhl and Ana Revenga, *Five Key Drivers of Reducing Poverty in India,* The World Bank in India (July 2016) available at http://documents.worldbank.org/curated/en/885611471338948590/pdf/107845-NEWS-PUBLIC-WBNewsletterJulyLR.pdf (Last visited on August 3, 2017).

who have recently escaped poverty.[61] Despite an emerging middle class, many of India's people are still vulnerable to falling back into poverty.[62]

However, the GDP value of India represents 3.34 percent of the world economy.[63] India has made significant progress in the last two decades and is now counted amongst the world's leading emerging markets.[64] The first set of reforms implemented in the early 1990s marked India's arrival on the global economic map and made India a key destination for international investors and companies.[65] This growth has led to a rise in India's global standing and has radically improved the country's socio-economic indicators.[66] To spur economic growth, India increased focus on exports, non-factor and labor services.[67] This translated into increased capital inflows and foreign direct investment (FDI).[68] Foreign investment in India increased from a meagre $132 million in 1991 to a peak of $43 billion in 2008.[69] The country was lauded internationally for its reduction and rationalization of tariffs and removal of non-tariff barriers.[70] The average tariff on consumer goods was reduced from 153 percent in 1990 to 25 percent in 1997.[71] These reforms led to deeper integration of the Indian economy with the global economy.[72] The share of merchandise trade has risen since 1991 and a dramatic transformation of services trade has occurred.[73] India emerged as one of the most attractive destinations for FDI, as well as an important source of FDI outflows.[74] Looking to the future, India will continue to achieve constant economic growth with the significant effects on the world economy.

A. ROLE OF WORLD BANK IN INDIA

In this section will concentrate on the impacts of the World Bank's loan policy on India. India joined the World Bank in 1944 and sits among its oldest members.[75] The World Bank has supported India since independence by

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61 *Id.*
62 *Id.*
63 *India GDP,* Trading Economics, available at http://www.tradingeconomics.com/india/gdp (Last visited on November 2, 2016) (GDP is reported by the World Bank).
64 Husain Haqqani, *India and the Global Economy,* Hudson Institute, 4 (July 2014) https://www.hudson.org/content/researchattachments/attachment/1420/indiaandthe_global_economy_hudson.pdf.
65 *Id.*
66 *Id.*
67 *Id.,* 2.
68 *Id.*
69 *Id.*
70 *Id.*
71 *Id.*
72 *Id.*
73 *Id.*
74 *Id.*
75 *India and the World Bank Group,* (2016) available at http://www.indiaonestop.com/worldbank.htm (Last visited on on October 31, 2016).

giving large loans to India for economic development.[76] As mentioned above, India is the largest recipient of loans from the World Bank, amounting to $102.1 billion, between 1945 and 2015 (as on July 21, 2015).[77] The International Bank for Reconstruction and Development, a part of the World Bank group, has lent India $52.7 billion, and the International Development Association, a multilateral concessional lender of the World Bank, has loaned $49.4 billion to India over the last 70 years.[78] In a statement released by the Indian Embassy, Indian Finance Minister Arun Jaitley stated that he appreciated the support of the World Bank for the many significant achievements India has made in its development process.[79] He gave special mention to the assistance World Bank has given to India in the development of infrastructure such as electric power, transport, communication, irrigation projects, and the Indian steel industry.[80]

At present in India, the World Bank works in close partnership with the Central and State Governments.[81] The World Bank also works with other development partners: bilateral and multilateral donor organizations, non-governmental organizations (NGOs), the private sector, and the public including academics, scientists, economists, journalists, and local people involved in development projects.[82] India's Finance Minister Arun Jaitley, in his meeting with World Bank President Jim Yong Kim, acknowledged the long-standing and mutually beneficial relationship between the World Bank Group and India since its inception, and called on the Bank to work together with the member countries to explore innovative financing solutions.[83] The Country Strategy lays out the World Bank's work plan in India.[84] The Country Strategy for India is closely aligned with India's own development priorities and describes what kind of support and how much can be provided to the country over a period of approximately four years from the World Bank.[85] For example, the Country Strategy for India for 2009-2012 aligned with the government's Eleventh Five Year Plan,[86] focusing on helping the country fast track the development of much-needed infrastructure, support the seven poorest states, and respond to the 2009 financial crisis.[87] The World Bank Group's Partnership Strategy for

76 Mukherjee, *supra* note 5.

77 Mallapur, *supra* note 7.

78 *Id.*

79 PTI, *India ready to take larger share in World Bank: Jaitley,* The Times of India, October 6, 2016, available at http://timesofindia.indiatimes.com/business/india-business/India-ready-to-take-larger-share-in-World-Bank-Jaitley/articleshow/54711765.cms (Last visited on August 3, 2017).

80 Mukherjee, *supra* note 5.

81 Charles Kellering, *Economic Development in India and Role of World Bank,* UK Essays, March 23, 2015, available at https://www.ukessays.com/essays/economics/economic-development-in-india-and-role-of-world-bank-economics-essay.php (Last visited on August 3, 2017).

82 *Id.*

83 PTI, *India Ready to Take Larger Share in World Bank: Jaitley, supra* note 79.

84 Kellering, *supra* note 81

85 *Id.*

86 *Id.*

87 *Id.*

India (2013-17) will help India lay the foundations for achieving "faster, sustainable, and more inclusive growth" as outlined in the government's 12th Five Year Plan.[88] The World Bank Group will support India with an integrated package of financing, advisory services, and knowledge.[89] During the World Bank financial year (July 2013-June 2014), funding for India was $5.2 billion ($2.0 billion in International Bank for Reconstruction and Development (IBRD), $3.1 billion in International Development Association and $0.1 billion in Clean Technology Funds across 16projects.[90] The World Bank has been lending funds to India for rural and urban development projects related to transport, water and irrigation, health, power, and agriculture.[91] Water, sanitation, and flood projects in India received the most World Bank funding (27%), followed by finance (19%), transportation (18%), education (11%), public administration and law (10%), agriculture (8%), health and social service (4%), information and communication (2%), and energy and mining (1%).[92]

India now stands at a critical juncture.[93] It needs massive investments to create the jobs, housing, and infrastructure to meet its people's soaring aspirations.[94] Growth that lifts all boats will be key, for more than 400 million of its people–or one-third of the world's poor–still live in poverty.[95] Also, many of those who have recently escaped the direst deprivation remain vulnerable to falling back.[96] For example, support to the nutrition program of India's children - whose well-being will determine the extent of India's much-awaited demographic dividend – will call for concerted attention.[97] The World Bank Group is a vital source of financial and technical assistance to the Indian development and in transforming Indian economy into a robust economy; therefore, it important for the World Bank to provide more assistance for the better results.

B. REFORMING OF THE WORLD BANK TO TRANSFORM INDIA

As of 2017, India is the world's fastest growing major economy.[98] However, to stay ahead of its peers and to remain on a high growth trajectory on

88 *Projects & Programs,* THE WORLD BANK available at http://www.worldbank.org/en/country/india/projects (Last visited on October 31, 2016).
89 *Id.*
90 *Id.*
91 MALLAPUR, *supra* note 7.
92 *Id.*
93 *The World Bank in India,* THE WORLD BANK, available at accessed on August 3, 2017, http://www.worldbank.org/en/country/india/overview (Last visited on August 3, 2017).
94 *Id.*
95 *Id.*
96 *Id.*
97 *Id.*
98 Sunil Kanoria, *India: Transforming through Radical Reforms,* EY, February 2017, available at http://www.ey.com/Publication/vwLUAssets/ey-india-transforming-through-radical

a sustainable basis, incremental and reactive reforms are not enough.[99] There is a need to reform international institutions such as the World Bank to support India's economic growth. Two World Bank reforms will transform the Indian economy; placing fewer conditions on loans from the World Bank to India and India gaining greater voting power in World Bank affairs. These reforms will improve the business environment; liberalize FDI; boost both public and private investment in infrastructure; quickly resolve corporate disputes; simplify taxation, and lower corporate taxes in India.[100] In addition, these reforms will reinforce the credibility, effectiveness, and legitimacy of the World Bank.[101]

1. World Bank Loan Conditionality

The World Bank receives oversight on its lending projects at regular intervals by the IFI.[102] Over many decades, the World Bank has been a leader in providing financial assistance to developing countries, especially since the 1960s.[103] However, the World Bank's traditional lending strategy is outdated; now is the time for the World Bank to take the lead in raising grant money, setting priorities for collective action, and deploying resources to address global public needs.[104] The World Bank should change its lending strategy, from one of condition-based aid to one of development partnerships.[105] The general criticism of the conditions policy imposed by the World Bank is that the conditions interfere too much in the economic management of developing countries.[106] The World Bank often attaches loan conditions based on what is termed the 'Washington Consensus,' focusing on liberalization—of trade, investment and the financial sector—, deregulation and privatization of nationalized industries.[107] Often the conditions are attached without due regard for the borrowing

-reforms/$FILE/ey-india-transforming-through-radical-reforms.pdf (Last visited on August 3, 2017).

99 *Id.*

100 *While India's Economy has Turned the Corner, Wider Reforms are Needed to Boost Economic Growth,* The World Bank, April 28, 2015, available at http://www.worldbank.org/en/news/feature/2015/04/28/india-economy-turned-corner-wider-reforms-needed-boost-economic-growth (Last visited on August 3, 2017).

101 Varghese George, *India gets more voting rights in IMF Reforms*, The Hindu, updated September 23, 2016, available at http://www.thehindu.com/business/India-gets-more-voting-rights-in-IMF-reforms/article14024758.ece (Last visited on August 3, 2017).

102 David Gartner, *Uncovering Bretton Woods: Conditional Transparency, the World Bank, and the International Monetary Fund,* 45 Geo. Wash. Int'l L. Rev. 138 (2013).

103 Nancy Birdsall & Scott Morris, *Repurposing the World Bank and the MDBs to Meet 21*st *Century Challenges,* Center for Global Development, October 6, 2016, available at http://www.cgdev.org/blog/repurposing-world-bank-and-mdbs-meet-21st-century-challenges (Last visited on August 3, 2017).

104 *Id.*

105 Head, *supra* note 23, 412.

106 *Id.*

107 Bretton Woods Project, *supra* note 10.

countries' individual circumstances and the prescriptive recommendations by the World Bank fail to resolve the economic problems within a country.[108]

Each of the World Bank Group organizations operates according to procedures established by its articles of agreement, or an equivalent governing document.[109] These documents outline the conditions of membership and the general principles of organization, management, and operations.[110] However, the World Bank's Articles of Agreement neither specifically provide for conditions in its lending policies nor define conditionality in the Bank's operational policies or legal framework.[111] Rather, the World Bank imposes lending conditions through "structural adjustment" programs.[112] Structural adjustment is "the process by which the IMF and the World Bank base their lending to underdeveloped economies on certain conditions, pre-determined by these institutions."[113] The pre-conditions concern the drafting and implementation of economic policies that are acceptable to the institutions themselves.[114] For example, the World Bank granted a loan to Bolivia in 2004 – 2005 on the condition that they privatize some of their water and sanitation services.[115] Bolivia sold the water and sanitation industries to a private consortium, financed by the IFC, a branch of the WorldBank.[116] When the people of Bolivia started complaining about sharp price increases due to privatization, the country was forced to turn to the ICSID (a branch of the World Bank) to dispute the situation.[117] This is a common scenario; the World Bank dictates the conditions of the loan to a country; demands certain economic policies be enacted (i.e. privatization of certain services); and governs the dispute settlement process.[118] Critics argue that these type of conditions have not worked and sometimes have done more harm than good.[119] Some also argue that loan conditions are merely an attempt to impose Western free-market policies on developing countries where they are neither appropriate nor desired.[120]

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108 *Id.*

109 Article of Agreement, The World Bank, available at, http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/ORGANIZATION/BODEXT/0,,contentMDK:50004943~menuPK:64020045~pagePK:64020054~piPK:64020408~theSitePK:278036,00.html (Last visited on November 5, 2016).

110 *Id.*

111 Diane Desierto, Public Policy in International Economic Law, (2015).

112 *Id.*

113 *Id.*

114 *Id.*

115 Mark Wolff, *Failure of the International Monetary Fund & World Bank to Achieve Integral Development: A Critical Historical Assessment of Bretton Woods Institutions Policies, Structures & Governance,*41 Syracuse J. Int'l L & Com. 90 (2013-14).

116 *Id.*

117 *Id.*

118 *Id.*

119 Bhargava, *supra* note 28, 406.

120 *Id.*

All conditions that have attracted criticism of the World Bank's operations are in the actual loan agreements instead of the articles of agreement.[121] Those agreements are binding on both parties, and although enforcement in cases of nonperformance can be problematic, there is no question that their provisions constitute treaty commitments.[122] Treaties create legal rights and duties, and it is this obligatory aspect that makes them part of international law.[123] The basic principle regarding the observance of treaties *pacta sunt servanda*, finds its place in the Vienna Convention: "Every treaty in force is binding upon the parties to it and must be performed by them in good faith."[124] No country is required to take a loan from the World Bank (IBRD or IDA), in that respect loan conditions are not binding on the World Bank members – but once they accept them in the form of a loan agreement, then they do become binding. The articles do not indicate that member countries are required to take certain actions merely by their membership in the organization(s) but that does not, speak to conditionality of the sort that is widely discussed in the literature and in popular discourse.

In addition, imposing conditions on the rights of member countries to borrow money from MDB's, the MDBs violate the sovereignty of those member countries, and in particular, the principle of self-determination.[125] Conditionality is often seen as infringing on the sovereignty of borrowing countries because the World Bank force countries to adopt policies that are not in their best interests.[126] In addition, there are concerns that agreements on conditionality are reached in nontransparent discussions between small groups of government officials and World Bank representatives without due consideration and participation by stakeholders, including civil society.[127] Multiyear and multi-tranche operations have been used to demonstrate country commitment and to lock in reforms through conditionality covering future actions.[128] It is largely this type of ex ante conditionality that has given rise to corrosion of sovereignty.[129]

In doing so, the MDBs themselves act inconsistently with settled principle of international law- for example, the principle of state sovereignty enshrined in Article 2(1) of the U.N. Charter and the principle of

121 *See generally*, John Head, *Evolution of the Governing Law for Loan Agreements of the World Bank and Other Multilateral Development Banks,* American Journal of International Law, Vol. 90, No. (2) (April 1996).

122 *Id.*

123 Mark Janis, *International Law,* 9 (2012).

124 *Id.*,28.

125 John Head, The Future of the Global Economic Organization, 114 (2005).

126 Stefan Koeberle et al, *Conditionality Revisited,* The World Bank, 59, 2005, available at http://siteresources.worldbank.org/PROJECTS/Resources/40940-1114615847489/Conditionalityrevisedpublication.pdf (Last visited on August 3, 2017).

127 *Id.*

128 *Id.*, 72.

129 *Id.*

self-determination of people, set forth in (among other places) Article 1 of the International Covenant on Civil and Political Rights.[130] Moreover, to the extent that loan conditions imposed by MDBs require a government to adopt economic and financial policies, contrary to those adopted by the people of that country, the MDBs encourage governments to act inconsistently with the principles of participatory governance reflected in Article 25 of the ICCPR.[131]

The World Bank's direct impact on developing countries manifests not only through the conditions imposed on loans, but the World Bank also exerts tremendous influence over other donors who accept their assessments and criteria for allocation of aid to other developing countries such as India.[132] For example, many donors stopped fresh aid packages to India, and indicated they would not support any Indian proposal to borrow from lenders such as the IMF and World Bank because of India's nuclear tests in 1998 and the Gujarat Riots of 2002.[133] In response, Indian Finance Minister Jaswant Singh decided to stop accepting assistance from several countries in 2002 because of the overt influence of the World Bank.[134] The Indian government announced it would repay bilateral credit to 15 countries aggregating $1.6 billion. Additionally, in 2008 India dropped a proposal to borrow from the World Bank after China objected to a Rs. 11,000 crore loan to strengthen electricity distribution and transmission in Arunachal Pradesh and Sikkim.[135] As just these few examples demonstrate, evaluating the experiences of recipient countries in adhering to these prescriptive recommendations form the influence from the donor countries can detrimentally affect developing countries in significant ways and are not an appropriate approach to strengthening the economies of developing countries.[136] The use of financial advantage is not a substitute for weak domestic institutions or feeble political will.[137] What is necessary is a more radical approach in which the World Bank cedes developing countries greater control over the use of aid, within the framework of democratic ownership.[138]

Unfortunately, the World Bank does not seem to be undertaking necessary reforms at a desirable pace.[139] In fact, as a signatory to the Paris Declaration (2005) on aid effectiveness, the World Bank committed to in-

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130 Head, *supra* note 23.

131 *Id.*

132 *The World Bank and Aid Conditionality: The Need for Change, The Reality of Aid*, Reality Check, 4 (October 2012), available at http://www.realityofaid.org/wp-content/uploads/2013/02/RealityCheck_OCT2012.pdf (Last visited on August 3, 2017).

133 Shaji Vikraman, *In fact: India's dealings with World Bank, IMF conditions*, The Indian Express, November 4, 2015, available at http://indianexpress.com/article/explained/in-fact-indias-dealings-with-world-bank-imf-conditions/ (Last visited on August 3, 2017).

134 *Id.*

135 *Id.*

136 Reality Check, *supra* note 132.

137 *Id.*

138 *Id.*

139 *Id.*, 5.

crease recipient countries' ownership of development aid as well as align and harmonize aid flows under recipient countries' leadership.[140] The Bank has renewed this commitment by signing the Accra Agenda for Action (2008) and endorsing the Busan Partnership (2011) which built on the principle of democratic ownership.[141]

They have not only failed to fulfil the commitments they made in Paris and Accra, they have even failed to follow through on their very own guidelines of democratic ownership.[142] A 2009 'review of the World Bank's development policy lending and poverty and social impact analysis' has failed to erase misgivings over the Bank's imposed conditionalities, casting legitimate doubts as to their willingness and sincerity.[143] The World Bank has the capacity to lead this thinking among IFIs and initiate concrete reforms. While these changes may not appear too difficult, implementing them requires political will.[144]

Most observers agree that conditionality related to procurement, financial bookkeeping, auditing, environmental issues, resettlement, and organizational change is necessary if development projects are to have effectively implementation.[145] In fact, such conditionality has always been a part of development assistance, and some conditionality is in response to advocacy by NGOs with respect to environmental issues and indigenous peoples' rights.[146] IFIs generally agree that policy and institutional conditionality is most effective when it supports reforms on which the country is already taking the lead and that it is ineffective when there is little or no political will to undertake the reforms.[147] At the same time, IFIs face the challenge of assessing whether a country's proposed reforms really address the key policy distortions hampering equitable (pro-poor) growth and whether the borrower is genuinely committed to reform.[148] Without such reform the development objectives supported by the lending cannot be achieved—hence the conditionality.[149] India recently opposed conditions on environmental and social standards sought by the World Bank for lending, because such provisions would end up increasing the cost of doing business with the World Bank.[150] In a Statement by Indian Minister of Finance Arun Jaitley said:

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140 *Id.*
141 *Id.*
142 *Id.*
143 *Id.*
144 *Id.*
145 Bhargava, *supra* note 28, 406.
146 *Id.*
147 *Id.*
148 *Id.*
149 *Id.*
150 Shaji Vikraman, *supra* note 133.

> *"the present Government is following the approach of 'Reform to Transform India' through far reaching structural reforms to foster strong and sustainable growth. Measures, inter alia, to enhance infrastructure investment, incorporation of Bankruptcy law, improve business climate and significant tax reforms such as GST are being pushed forward. The Government is taking steps to reform institutions, simplify procedures and repeal obsolete laws. A progressive and non-adversarial tax regime incorporating best international practices is being put in place. Initiatives such as Make-in-India, Startup India - Standup India, Mudra bank and Skill India are focused at encouraging innovations, entrepreneurship and job creation. At the same time, novel welfare/ social security schemes have been implemented to improve social outcomes. A new crop insurance scheme with attractive premium charge has 6 been launched to protect farmers from income losses due to crop failures. The scheme protects farmers from losses due to crop failures. The Government is leveraging digital technology to ensure that all eligible persons are included under the direct benefit transfer program. Accordingly, the AADHAAR (unique identification) system with statutory backing will form the backbone for targeted delivery of financial and other subsidies, benefits and services."*[151]

According to advanced estimates, GDP growth in 2015-16 attained level of 7.6 per cent, higher than 7.2 per cent in 2014-15.[152] According to the Economic Survey 2016– 17, economic growth has been pegged between 6.75% and 7.50% for FY18.[153] The Gross Fiscal Deficit (GFD) of the central government at 3.9 per cent in 2015-16 was met by recovering higher tax and non-tax revenues without reducing planned spending or reducing allocation for pro-poor schemes, thereby underpinning the quality of fiscal consolidation.[154] Despite the additional burden of pay and pensions on account of 7th central pay commission and defense pensions, the government attained GFD target of 3.5 per cent in 2016-17 as per the medium term fiscal framework. Gains from low commodity prices, mainly oil, the current account deficit (CAD) was contained at 1.3 per cent of GDP in 2014-15 and remained stable 1.4 per cent by end of

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151 *Statement by Arun* Jaitley, *supra* note 10.

152 *Reform to Transform India is The New Approach: Arun Jaitley to IMF,* NDTV, April 17, 2016, available at http://www.ndtv.com/india-news/reform-to-transform-india-is-the-new-approach-arun-jaitley-to-imf-1396352 (Last visited on August 3, 2017).

153 *India: Transforming through Radical Reforms,* Assocham India, at 5, February 2017, available at http://www.ey.com/Publication/vwLUAssets/ey-india-transforming-through-radical-reforms/$FILE/ey-india-transforming-through-radical-reforms.pdf (Last visited on August 3, 2017).

154 NDTV, *supra* note 152.

2015-16.[155] India is also poised to become a digital economy with the "Digital India" initiative, targeting to create digitally empowered citizens.[156] For this in July 2017, a key tax reform "Goods and Services Tax" (GST) is implemented.[157] Also, India climbed to rank 130 in Ease of Doing Business 2016 from 142 in 2014.[158]

This shows that India is genuinely committed to reform and development, encompassing many of the conditions the World Bank seeks to impose. Therefore, there should be a balance with no more conditions than are necessary for the development India is already moving in the right direction.

2. Voting Power Changes

The allocation of votes (and subscriptions) in the IBRD and the IDA reflect mainly political and economic considerations. The capital structure and voting rights at the World Bank have shifted over the years, but the basic pattern of dominance by the developed countries generally, and the US specifically, remains in place.[159] Voting share is based on the shares a given country holds, which is in turn based (loosely) on economic size.[160] The World Bank employs a dynamic formula, using economic weight (based on GDP) and development impact, to determine countries' shareholding and thus voting power in the Bank.[161]

A closer look shows developed countries will continue to overwhelmingly dominated the World Bank.[162] For example, traditionally the appointment of the World Bank and IMF chiefs are from the U.S. and Europe respectively, while Japan appoints the head of the Asian Development Bank, reflecting the dominance of industrialized countries in the funding and voting rights of the institutions.[163] Non-borrowing, high-income members currently control 62 percent of the votes at the World Bank.[164] Yet developing countries represent over 80 percent of the world's population and the Bank's membership; are where almost all of the Bank's activities take place; and, through loan

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[155] *Id.*

[156] Assocham India, *supra* note 153.

[157] *Id.*

[158] *Id.*

[159] Griffith-Jones, *supra* note 30, 4.

[160] David Bosco, *A Primer on World Bank Voting Procedures,* Foreign Policy, March 28, 2012, available at http://foreignpolicy.com/2012/03/28/a-primer-on-world-bank-voting-procedures/ (Last visited on August 3, 2017).

[161] PTI, *supra* note 79.

[162] *Analysis of World Bank Voting Reforms,* Bretton Woods Project, April 30, 2010, available at http://www.brettonwoodsproject.org/2010/04/art-566281/ (Last visited on August 3, 2017).

[163] Victor Mallet & James Crabtree, *supra* note 1; *India's Raghuram Rajan urges IMF and World Bank Reforms,* Financial Times, October 31, 2015, https://www.ft.com/content/0e299960-6ca8-11e5-8171-ba1968cf791a

[164] Griffith-Jones, *supra* note 30, 4.

repayments, are the main financial contributors to the Bank.[165] High-income countries are set to hold onto over 60 percent of voting power across the World Bank Group for at least the next five years.[166] Middle-income countries – including global powers such as India, China, and Brazil – are stuck to controlling roughly 33 percent of the votes. Low-income countries languish on just 6 percent of the vote across the different institutions of the World Bank.[167] There are unknown legal grounds that India could use – based, for instance, on charter provisions or on general rules of international law – in an attempt to force the IBRD or the IDA to grant more voting shares to India. However, some of the grounds are discussed below in the paper. However, it is clear inadequate reform stunts the Bank's legitimacy, limits its capacity to serve the interests of developing countries, and violates democratic principles.[168]

India's Finance Minister, Arun Jaitley, has indicated India is ready to take on a larger share of World Bank governance based on its economic expansion.[169] Increasing the power of developing countries in World Bank governance would increase their ownership of the policies advocated by the Bank, as well as the relevance and impact of the Bank's policies to development.[170] Developing countries clearly support the role of the World Bank in global development and increasing their role in World Bank governance would increase its' importance.[171]

Pressing for more changes favorable to developing countries will perpetuate their involvement and engagement in international organizations.[172] Encouraging developing countries to participate in international organizations give their views and concerns a voice, scarified by retrenching and withdrawing.[173] This notion of having an international voice warrants some elaboration.[174] The charters of the World Bank and IMF have provisions ensuring representation of member countries in the key decision-making institutions of the organizations, especially when decisions directly affect member states.[175] Beyond that, the World Bank and IMF have organizations in which the vast majority of participants are developing countries.[176] Even though the power in the World Bank and IMF remains predominantly within developed countries, the voice of developing countries in these bodies is growing quite loud.[177] However, even

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165 Bretton Woods Project, *supra* note 10.
166 *Id.*
167 *Id.*
168 *Id.*
169 PTI, *supra* note 79.
170 Griffith-Jones, *supra* note 30, 1.
171 *Id.,* 2.
172 Head, *supra* note 23, 32.
173 *Id.*
174 *Id.*
175 *Id.*
176 *Id.*
177 *Id.*

with its faults, the World Bank and IMF give developing countries a forum to express their concerns and frustrations on an international level, which undoubtedly would go unheard if these institutions did not exist.[178] The increasing significance of developing countries on international trade and finance would seem to argue in favor of broadening their influence, particularly India because of its growing economy and population.

3. India's Position on Reforming the World Bank

India continually believes that by redressing the World Bank architecture, may achieve a lot.[179] In April 2017, Indian Finance Minister Arun Jaitley said:

> *"We support Selective Capital Increase (SCI) to bring about voice reform to ensure higher representation to the under-represented and support the use of the dynamic formula based allocation. A minimum 50 per cent increase in historical average of $24 billion per annum in the case of the IBRD and a 100 per cent increase in case of IFC (International Finance Corp) would be quite necessary to make the World Bank deliver a commitment level of $100 billion a year to make it play a meaningful and leadership role in global development landscape."*[180]

For this to happen, India has demanded a fundamental reform of voting structure, an absolute necessity for the credibility and legitimacy of the World Bank.[181]

In addition, India wishes that the U.N. takes lead in the coordination of economic and trade matters with the IMF and the World Bank close cooperation, and remains valid in its suggestion on the reform of IMF and the World Bank.[182] By reinforcing the importance of the U.N. in these matters, India has obviously addressed the problem of democratic deficit in the financial architectures and has tried to ensure that the U.N. decision-making, which

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[178] *Id.*

[179] Bimal Patel, India and International law, Vol. Volume 2, 68, (2008).

[180] IANS, *Arun Jaitley Calls for Urgent World Bank, IMF Quota Reforms,* The Economic Times, available at http://economictimes.indiatimes.com/news/economy/policy/arun-jaitley-calls-for-urgent-world-bank-imf-quota-reforms/articleshow/58328367.cms (Last visited on August 3, 2017).

[181] Patel, *supra* note 179.

[182] *Id.*, 71 (This is because the relationship between the World Bank and the United Nations is governed by the agreement entered into by the two organizations in 1947. This agreement made the World Bank a specialized agency of the United Nations, while recognizing it as an independent international organization); *See* The World Bank Group and the United Nations, *UN*, available at accessed on June 2017 http://www.un.org/esa/ffd/ffd3/wp-content/uploads/sites/2/WBG-UN-Brochure.pdf (Last visited in June 2017).)

is based on sovereign equality of members (against weighted voting of IMF and the World Bank), guides these institutions.[183] By doing so, the Indian position has been ensuring that the letter and spirit of the relationship agreements between the U.N. and the World Bank, especially, upheld by the respective memberships.[184]

Moreover, India recently opposed conditions on environmental and social standards sought by the Bank for lending.[185] In the reckoning of the Ministry of Finance, such provisions would end up increasing the cost of doing business with the Bank.[186] The overall environmental and social safeguard processes both for the World Bank and the International Finance Corporation are excessively complicated.[187] These proposals, echoed by several other developing countries, face stiff opposition from industrialized countries and it may not be an exaggeration to anticipate that there will hardly be any improvements in this regard.[188]

4. Consequences of not Reforming the World Bank and Increasing Significance of the Banks Partnered by India

There has always been an excuse for putting off reform.[189] For a long time, it was the Cold War, more recently "the unipolar moment" convinced neoconservatives that America could run things alone, but now calls for change are constant and fast.[190] Not reforming the World Bank has led to the creation of some regional banks such as the New Development Bank (NDB), created in mid-2014 by the governments of Brazil, Russia, India, China and South Africa (BRICS).[191] It will have a large capital contribution – initially of US$50 billion – from BRICS countries and can grow up to $100 billion with contributions from other countries.[192] India will chip in with $18 billion.[193]

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[183] *Id.*

[184] *Id.*

[185] Vikraman, *supra* note 133.

[186] *Id.*

[187] *Review and update of the World Bank's Environmental and Social Safeguard Policies,* World Bank Group, available at https://consultations.worldbank.org/Data/hub/files/meetings/Safeguards_Consultations_SUMMARY_Online_feedback_Oct_2012_April_2013.pdf (Last visited on August 7, 2017).

[188] Patel, *supra* note 179.

[189] Head, *supra* note 23, 75.

[190] *Id.*

[191] Stephany Griffith Jones, *Financing Global Development: The BRICS New Development Bank*, German Development, 2015, available at http://www.stephanygj.net/papers/financing-global-development-brics.pdf (Last visited on August 3, 2017).

[192] *Id.*

[193] Anil Sasi, *$100-bn Forex Pool Pact Inked, India's Share at $18 billion,* The Indian Express, July 9, 2015, available at http://indianexpress.com/article/business/business-others/100-bn-forex-pool-pact-inked-indias-share-at-18-billion/ (Last visited on August 3, 2017).

The NDB will fund investments in infrastructure and sustainable development on a significant scale.[194] The NDB will provide a valuable addition to the existing network of multilateral, regional, and national development banks. More localized institutions seem to perform far better in supporting productive development through infrastructure investment because they closely interact with national development banks, which have far greater local knowledge.[195] Similarly, national development banks can operate better if they have the financial and technical support of multilateral banks – the kind of support that the NDB will offer.[196] The NDB's existences clearly strengthens the voice of developing and emerging economies in the development finance architecture, as well as provide much needed additional finance.[197] As the NDB continues to grow and operate, the World Bank will have to take notice of its global economic success and should reward these countries by granting them greater share in the World Bank.

Globalization's increasingly unfettered flow of information, technology, capital, goods, services, and people has helped spread opportunity and influence everywhere.[198] Globalization has also had other interesting effects: 2011 empirical analysis found BRICS countries allocate aid to developing countries with weak institutions and governance, which the World Bank perceived as too risky to finance.[199] BRICS Bank would be a complement, not a substitute, for existing financial institutions in both the public and the private sector.[200] The BRICS Bank existence would also strengthen the voice of developing and emerging economies in the development finance architecture.[201]

ADB supports India's vision of faster, more inclusive, and sustainable growth and has been a partner in its development efforts. India is now the top borrower of ADB's loans from Ordinary Capital Resources.[202] ADB assistance also supports the Indian government's India's evolving priorities through its partnership strategy, backing India's Twelfth Five-Year Plan priorities of "faster, more inclusive, and sustainable growth."[203] In line with the guid-

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194 Griffith Jones, *supra* note 30.

195 *Id.*

196 *Id.*

197 Griffith-Jones, *supra* note 30, 1.

198 *Wrestling for Influence,* The Economist, July 3, 2008, available at http://www.economist.com/node/11664289 (Last visited on August 3, 2017).

199 Diego Hernandez, *Are "New Donors Challenging World Bank Conditionality?* Aid Data, 3, available at http://aiddata.org/sites/default/files/wps19_are_new_donors_challenging_world_bank_conditionality.pdf (Last visited on August 3, 2017).

200 Griffith-Jones, *supra* note 30, 15.

201 *Id.*

202 *India: Development Effectiveness Brief,* Asian Development Bank, available at https://www.adb.org/publications/india-development-effectiveness-brief (Last visited on November 3, 2016).

203 *India and ADB,* Asian Development Bank, available at https://www.adb.org/countries/india/main (Last visited on November 3, 2016).

ing principle that multilateral development partners add value beyond tangible investments, ADB builds in innovations and best practices in project design and implementation.[204] In its Asian Development Outlook 2015, the Manila-based multilateral lender predicts India's gross domestic product will expand 7.8% in the fiscal year that starts next month.[205] That is well above the ASB's expectation of 7.2% GDP growth in China this calendar year.[206]

The increasing significance of the BRICS Bank and ADB countries to international trade & finance would see to augur in favor of broadening the influence that India has in the operations of all the global economic organizations such as the World Bank. For example, Emerging and developing countries have significantly increased their weight in global GDP and especially in global economic growth; in particular, they have been responsible for most of the growth in the world economy since the 2007–2008 crisis.[207] Perhaps most important in the context of this paper, some emerging and developing economies have accumulated very large long-term foreign exchange assets, which they have typically placed in Sovereign Wealth Funds.[208] The share in the world total, as well as the absolute level of foreign exchange reserves that emerging and developing countries have accumulated, has also grown remarkably in the last decade.[209] However, a large part of these resources are invested in developed countries, with relatively low yields.[210] This shows these countries are capable of handling the World Bank funds in a better way, if right balance of conditions and more share are given.

5. India as a Donor

The emergence of developing-developing cooperation has undoubtedly changed the development landscape, with former aid recipients like China and India now increasingly assuming donor roles.[211] India is considered, together with China, as one of the two "heavyweights" among the new donors and their lending activities are rapidly expanding.[212] For instance, India recently gave a $1 billion loan to Bangladesh for infrastructure development[213] and in

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[204] *Id.*

[205] Eric Bellman, *The Asian Development Bank Agrees, India is Outpacing China,* The Wall Street Journal, March 25, 2015, available at http://blogs.wsj.com/indiarealtime/2015/03/25/the-asian-development-bank-agrees-india-is-outpacing-china/ (Last visited on August 3, 2017).

[206] *Id.*

[207] Griffith-Jones, *supra* note 30, 15.

[208] *Id.*

[209] *Id.*

[210] *Id.*

[211] Balendushekhar Mangalmurty, Sagarika Chowdhary & Anil Singh, *Conditionalities Relating to Aid: A Case Study of India,* 1, available at http://sansad.org.in/pdf/Revised_RoA_article_on_conditionalities_and_Aid_Indias_case-study.pdf (Last visited on November 4, 2016).

[212] Hernandez, *supra* note 199, 9.

[213] Mangalmurty, Chowdhary & Singh, *supra* note 211.

2003; India's foreign exchange reserves had topped $100 billion.[214] Additionally, India repaid $3 billion ahead of schedule to the World Bank and IMF in 2002-03, and then became an IMF creditor, signaling India was aspiring to be a global player.[215] The Indian government also insisted that negotiations for new loans to India take place in New Delhi rather than in Washington.[216]

Between 2003-2004 and 2010-2011, India provided $5.1 billion in lines of credit, of which $3.3 billion went to Africa, $1.8 billion to South Asia, and $131 million to Caribbean countries.[217] In May 2011, India announced it would lend an additional: $5 billion in new low-interest loans over the next three years to African states; $1 billion for education, railways, and peacekeeping efforts, a huge increase from the $2.1 billion to its South Asian neighbors in grants and loans; and $346 million to other developing countries.[218] India has been among the top five donors to Afghanistan: it donated $1 billion from 2002 to 2010 and announced another $500 million donation in 2011.[219] This low or no conditionality approach is to a great extent risk free for new donors because they tend to resort to other means, instead of credit conditions, to secure credit repayments.[220] They often demand borrowers to award investment contracts to companies from their own countries or accept natural resources as collateral for their loans rather than insisting on fiscal rectitude.[221] It could ask for less reform to remain competitive in the international loan market. The increasing significance of India as a donor to the other countries would see to augur in favor of broadening the influence that India has in the operations of all the global economic organizations. By becoming a donor India understands how to use the funds and what conditions are necessary for the proper use of funds received form the World Bank. Because India as donor also lends money for with the right balance of conditions.

6. Suggestions

The World Bank has a mandate from its shareholders to provide both sophisticated analysis and effective financing to address global issues such as those discussed in this paper.[222] Successful reform of the World Bank will go a long way toward improving its capacity to address global issues of development. The following suggested reforms are for the World Bank:

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214 Vikraman, *supra* note 133.
215 *Id.*
216 *Id.*
217 Waheguru Pal Sidhu, Pratap Mehta, & Bruce Jones, Shaping the Emerging World: India and the Multilateral Order, 245 (2013).
218 *Id.*
219 *Id.*
220 Hernandez, *supra* note 199, 9.
221 *Id.*
222 Bhargava, *supra* note 28, 407.

a. Conditions Placed on World Bank Loans Need to Modification Because:

India has always intended to bring reforms with in the country by having strong polices and committed to improving its economy. The World Bank interferes in the policymaking regarding the development of the countries. As I discussed above, this leads to the violation principle of state sovereignty enshrined in Article 2(1) of the U.N. Charter and the principle of self-determination of people, set forth in (among other places) Article 1 of the International Covenant on Civil and Political Rights. India has experienced one of the fastest growing GDP rates globally for the last 20 years. These changes are permissible under the constitution of the World Bank. The World Bank conditions are not binding under the article of agreement. However, the World Bank imposes conditions under the loan agreements and these conditions should be eased out.

b. Developing Countries should be given More Voting Power in World Bank Affairs Because:

"The change in voting-power helps us better reflect the realities of a new multi-polar global economy where developing countries are now key global players. In a period when multilateral agreements between developed and developing countries have proved elusive, this accord is all the more significant."[223] India's economy and population are among the largest in the world. India provides strong arguments because of increasing significance of BRICS Bank. India is also becoming a donor to the other countries.

c. The World Bank and Member Countries Can Achieve These Governing Changings by Implementing:

Under the dynamic formula impact, to determine countries shareholding and thus voting in the World Bank. By using an alternative formula to calculate voting share for example, increasing the power of developing countries in World Bank governance would increase their ownership of the policies advocated by the Bank, as well as the relevance and impact of the Bank's policies to development. By appointing chiefs from the developing countries. By recognizing the contribution made by the developing countries to the world economy.

223 Sameer Vasta, *World Bank gets Capital Increase and Reforms Voting Power,* The World Bank, April 4, 2010, available at http://blogs.worldbank.org/voices/world-bank-gets-capital-increase-and-reforms-voting-power (Last visited on August 3, 2017).

IV. CONCLUSION

Economics has changed the world order.[224] Emerging economies now account for more than half of global growth.[225] The most powerful among them need to a bigger say in international institutions.[226] It is better to enlarge the current body to include the world's biggest dozen economies.[227] A G12, expanded version of G 8, world bring India, Brazil, China and Spain into the club while allowing Canada (just) to stay in.[228] Including India in G12, who did constantly best in GDP growth in last 20 years, could be one of the potential shaper of the 21st century. The shift in 21st-century economic power alone is justification for rebalancing influence in the top economic institutions.[229] However, it will be difficult to figure out which bits of the global architecture need mere tweaking, which need retooling or replacing—, and who should have the right to decide.[230]

In this paper I argued that it is better to enlarge the current body to include the world's biggest economies such as India.[231] I gave an overview of International Financial Institutions, especially the World Bank and identifies its mission. In this paper I analyzed the major factors affecting the growth of the Indian economy after independence. In this paper I discussed the impacts of the World Bank's loan policy on India. I argued for two World Bank reforms that will transform the Indian economy 1) placing fewer conditions on loans from the World Bank to India, and 2) India gaining greater voting power in World Bank affairs. I also, discussed why it is necessary to undertake such a transformation. I analyzed as to why and how such reform needs to be affected. Further in this paper I analyzed India's position on these two reforms. Additionally, in the paper I examined the consequences of not reforming the World Bank and increasing significance of banks partnered by India. Finally, I provided suggestions to reform the World Bank.

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224 Head, *supra* note 23, 75.
225 *Id.*
226 *Id.*
227 *Id.*
228 *Id.*
229 *Wrestling for Influence, supra* note 198.
230 *Id.*
231 Head, *supra* note 23, 75.