(Conference Draft)

"Macro Aid: Applying Microcredit's Group Liability Principle to Foreign Aid"

Martin Skladany*

2017 Law and Development Conference

Cape Town, South Africa
September 2017

* Penn State Dickinson Law

Macro Aid:
Applying Microcredit's Group Liability Principle to Foreign Aid

ABSTRACT

Microcredit programs are often structured to reduce defaults by grouping potential loan recipients together and lending only to one member of the group at a time in order to increase each member's oversight of the outstanding loan. Some programs go so far as to require repayment by the other members of the group if the individual who has received the loan cannot repay it. If such a high level of accountability is expected from the poor, it is reasonable that the same level of responsibility and oversight should also be applied to groups of elite politicians in developing countries.

Under the macro aid proposal in this article, developing countries that are aid recipients would be organized into groups and held collectively responsible for stolen or negligently wasted grants. If such abuse occurs, all developing countries in the group would no longer be eligible for any additional aid from the same funding source. Such shared responsibility would build powerfully constructive pressure among developing countries to use and not abuse aid. Moreover, the public nature of the program would enhance transparency, strengthen expectations, motivate citizens to demand that all group countries live up to the international attention, and shine a spotlight on aid agencies to prevent them from continuing to tolerate systemic corruption. Further, macro aid programs could be set up within developing countries at the regional or local governmental level. Finally, developing countries could voluntarily decide to establish macro aid groups to signal their resolve to reform to domestic and foreign investor

TABLE OF CONTENTS

INTRODUCTION

> *Good and evil, reward and punishment, are the only motives to a rational creature: these are the spur and reins whereby all mankind are set on work, and guided.*
>
> —John Locke

While health care gains are often a matter of life or death and educational and infrastructure progress frequently provide significant benefits to the poor, such improvements are not generated by corrupt, incompetent, or predatory public officials. Poor countries generally lack good health, education, and infrastructure[1] because such public goods not only require substantial finances but also politicians who will not pilfer such funds and who will demand that those providing such services do so efficiently.[2] Foreign aid can provide the first missing piece of this puzzle—the funds—yet to date donors have had little success attempting to tackle the other absent pieces—good governance, effective institutions, and the rule of law. Providing these are monumentally difficult, especially because corrupt or in competent public officials have little motivation to reform, given that they benefit from pilfering from the government and extorting citizens. Thus, vastly increasing foreign aid will not solve poverty because increased funds are no match for the politicians waiting to steal such aid.[3] Furthermore, while improving the health and education of developing country citizens can make the demands of development less challenging and save individuals' lives, such gains cannot solve the

---

[1] Lawrence O. Gostin, *Global Health: Meetings the Basic Survival Needs of the World's Least Healthy People*, 96 Geo. L.J. 331, 337 (2008) (citing an alarming World Bank report which stated that 10 million poor people died, in a single year, that would not have if the poorest populations died at the same rate as "the global rich."); Lawrence O. Gostin and Eric Friedman, *Towards a Framework Convention on Global Health: A Transformative Agenda for Global Health*, 13 YALE J. HEALTH POL'Y L. & ETHICS 1, 25 (2013) (noting that African countries were only able to increase spending in the healthcare sector from 8.2% to 9.4% of their budgets which was far short of their stated goals); and Eric Berger, *The Right to Education Under the South African Constitution,* 103 COLUM. L. REV. 614, 621-622 (2003) (noting the catastrophic failure rates in South African schools which was 80% in 1/6 of the country's schools in 1999).

[2] Gostin and Friedman, *supra*, at 45 (citing a World Bank survey of 22 developing nations which stated that the healthcare sector is particularly rampant with corruption especially "bribes and kickbacks, drug diversion from the public sector to the private market, informal payments to providers, accreditation and licensing bribes, and professional absenteeism.")

[3] *See generally* Bruce Winfield Bean, *Hyperbole, Hypocrisy, and Hubris in the Aid-Corruption Dialogue,* 41 GEO. J. INT'L L. 781 (2010). (noting the failure of foreign development aid and the extent of the grand corruption problem).

problem of good governance or be self-sustaining because such services are expensive, and the country needs a robust economy to fund social advancement over the long term.

Thus the fundamental restraints on developing countries include discrete failures such as poor contract enforcement,[4] disregard for property,[5] a lack of impartial judges and police,[6] insecure individual rights,[7] corruption,[8] and physical predation and discrimination by the state.[9] In essence, developing countries need the rule of law, quality institutions, and good governance—i.e. public servants who do not steal or take bribes, who uphold the law by impartially ruling on private disputes, and who run the affairs of state swiftly and with skill. Thus although good health and education are critical to individuals' well-being, the only way to provide them in a sustainable manner—through good governance, strong institutions, and the rule of law—is also the primary mechanism of encouraging sustained economic growth and hence the means to afford health and education for all citizens.

Furthermore, good governance, effective institutions, and the rule of law are not only the keys to social and economic development; they are in and of themselves the essence of civil and political development. They are civil and political liberties. They help to minimize the chances of a predatory state. They allow citizens' votes to be meaningful and for individual rights to be respected.

As Thoreau wrote, "There are a thousand hacking at the branches of evil to one who is striking at the root."[10] While international actors have saved lives by providing public services to citizens in developing countries,[11] they have spent fewer resources[12] on

---

[4] Michael Trebilcock and Paul-Erik Veel, *Property Rights and Development: The Contingent Case for Formalization*, 30 U. PA. J. INT'L L. 397, 401 (2008) (noting that there is a causal connection between enforced property and contractual rights and the development of a country).

[5] *Id.*

[6] Michael Faure, Morag Goodwin, & Franziska Weber, *Bucking the Kuznets Curve: Designing Effective Environmental Regulation in Developing Countries*, 51 Va. J. Int'l L. 95, 106 (2010) (noting that laws are "rendered toothless" when the investigative arm (police) and the enforcement arm (judiciary) are corrupted); Sam Rugege, *Judicial Independence in Rwanda*, 19 Pac. McGeorge Global Bus. & Dev. L.J. 411, 413 (2007) ("In many African and other developing countries, there has not always been respect for the rule of law and independence of the judiciary. Judges have been intimidated into giving rulings favorable to the government, forced to resign their positions, and in the worst cases, they have been killed").

[7] *See generally* MICHAEL IGNATIEFF, HUMAN RIGHTS AS POLITICS AND IDOLATRY (2001).

[8] Dawit Kiros Fantay, *Fighting Corruption And Embezzlement In Third World Countries,* JCL 68 (170) (2004) ("…corruption impedes the development of markets, drives away investment, increases costs of doing business, and stalls democracy-building efforts. It can be easily identified as one of the leading reasons for the ongoing failures of the developing economies").

[9] *See generally* JEAN-FRANÇOIS BAYART, STEPHEN ELLIS & BÉATRICE HIBOU, THE CRIMINALIZATION OF THE STATE IN AFRICA (1999).

[10] Henry David Thoreau, Walden Ch. 1 (1854).

[11] Jeffrey Sachs, *Foreign Aid Works-It Saves Lives,* GUARDIAN, May 30, 2012; Gabriel Demombynes and Sofia Karina Trommlerova, *What Has Driven the Decline of Infant Mortality in Kenya?*, World Bank, May 2012.

[12] Fran Quigley, *Growing Political Will from the Grassroots: How Social Movement Principles Can Reverse the Dismal Legacy of Rule of Law Interventions*, 41 Colum. Human Rights L. Rev. 13, 25 (2009) ("there is scant evidence that the expensive efforts in recent decades to implement the rule of law have succeeded in improving either the economic or political climates in the host countries."); Rebecca Stubbs, *The Millennium Challenge Account: Influencing Governance in Developing Countries Through*

and have had less success in encouraging developing countries to improve the rule of law and reduce corruption.[13] This is understandable because in order to do so the international actors have to alter the incentives of developing country public officials, a task that requires unorthodox policies. Developing countries themselves have found such an undertaking to be exceedingly difficult. Hence, billions continue to suffer in abject poverty.[14]

Numerous domestic rule of law and anticorruption strategies have been attempted in the past—including anticorruption task forces,[15] governmental procurement reforms,[16] whistleblower protections,[17] high-profile prosecutions,[18] and income and asset disclosure laws for politicians.[19] However, they have been unsuccessful in many countries because they are vulnerable to capture by the corrupt politicians and bureaucrats who establish and oversee them. Developing country elites have also derailed good governance

---

Performance-Based Foreign Aid, 42 Vand. J. Transnat'l L. 621, 630 (2009) (noting that USAID and other international aid programs were coordinated and disbursed on humanitarian grounds with little regard to good governance reform).

[13] *Id*., at 654. *See also* Martin Skladany, *Throwing Dough over Castle Walls: Improving the Rule of Law with Foreign Aid Challenge Commitments*, 23 TRANSNAT'L L. & CONTEMP. PROBS. 367, 369-70 (2014) ("Both the poor in developing countries and those who administer aid know of the corrupt exploits of many of the elite, yet most developed country actors have not substantially withdrawn or reallocated aid, nor have they seriously attempted to defeat the corrupt elite at their own game by establishing innovative methods to reduce corruption . . . [y]et the actors know that the developing country leaders have to simply agree to implement the reforms in order for aid flows to continue - developing country leaders often do not actually have to implement them.").

[14] Melanie Nakagawa, *Development Goals and Indicators: The Millennium Challenge Account: A Critical Look at the Newly Focused Development Approach and its Potential Impact on the U.S. Agency for International Development*, 6 SUSTAINABLE DEV. L. & POLICY 13, 14 (2005).

[15] India has a long, unsuccessful history with anti-corruption task forces dating back to 1941 with the creation of the Delhi Special Police Establishment. Jon S.T. Quah, *Curbing Corruption in India: An Impossible Dream?*, ASIAN J. OF POL. SCI., Dec. 2008, at 240, 241-42.

[16] C. Raj Kumar, *Corruption, Development, and Good Governance: Challenges for Promoting Access to Justice in Asia*, 16 Mich. St. J. Int'l L. 475, 537 (2008). (citing South Korea which rotates its public procurement officials in order to prevent established relationships from spawning favoritism in the procurement process.); Thomas Kelley, *Corruption as Institution Among Small Businesses in Africa*, 24 FLA. J. INT'L L. 1, 33 (2012) (noting that the primary source of fraud in Niger is the procurement process); *see generally* J.M. Migai Akech, *Development Partners and Governance of Public Procurement in Kenya: Enhancing Democracy in the Administration of Aid*, 37 N.Y.U. J. Int'l L. & Pol. 829 (2005); Anne Janet DeAses, *Developing Countries: Increasing Transparency and Other Methods of Eliminating Corruption in the Public Procurement Process*, 34 Pub. Cont. L.J. 553 (2005).

[17] Kumar, *supra*, at 545-46. (noting that India "does not have the necessary legal and institutional frameworks for whistleblower protection").

[18] "Prosecutions of ministers and influential individuals—the 'big fish'—are rarely successful. Only one minister, Hon. Mike Mukula, has ever been convicted at trial, and that conviction was overturned shortly thereafter. Instead, ministers are censured by parliament, lose their positions, are prosecuted and acquitted, and then are reappointed, in what one donor called "a game of musical chairs." (Internal citations omitted). "Letting the Big Fish Swim": Failure to Prosecute High Level Corruption in Uganda, Human Rights Watch (Jun. 30, 2017, 5:54 PM), https://www.hrw.org/report/2013/10/21/letting-big-fish-swim/failures-prosecute-high-level-corruption-uganda#a6c605.

[19] *See also* Jeffrey R. Boles, *Criminalizing the Problem of Unexplained Wealth: Illicit Enrichment Offenses and Human Rights Violations*, 17 N.Y.U. J. LEGIS. & PUB. POL'Y 835, 875-76 (2014).

programs promoted by international actors.[20] Traditional aid policies at times have even encouraged corruption, and, as Binyavanga Wainaina claims, can hinder the growth of autonomous problem-solving cultures in developing countries.[21] The Kenyan economist James Shikwati argues that stolen official development assistance (ODA) provides the political elite in developing countries with the resources to strangle the very economic and political reform that the aid was intended to bring about.[22]

This paper examines a novel foreign aid policy, macro aid, which would improve the rule of law, strengthen institutions, and reduce corruption by relying on incentives that are not vulnerable to capture.[23] The guiding principle behind this suggestion is that the international community could structure ODA to promote good governance and not create an expectation of handouts that discourage self-sufficiency and local problem solving. Developing countries that receive foreign aid would organize themselves into small macro aid groups. Foreign aid in the form of grants would be distributed simultaneously to all developing countries in the group. Developing countries would be held collectively accountable for stolen or negligently wasted foreign aid, regardless of where or how the aid went missing. In the first year of a macro aid program, the requirements to reduce corruption and improve governance would be imminently attainable—they would not require all corruption to end, simply a significant improvement. If the benchmark was not met, all developing countries in the group would have their eligibility for additional rounds of macro aid revoked. If the first benchmark was met, in each subsequent year the requirements for funding would become more demanding until a decade into the programs when little corruption would be tolerated. If at any point a yearly benchmark was not reached and the macro aid distributions were discontinued, donor agencies could set criteria for a second try. For example, countries could be reintroduced into a new macro aid group after a set number of years passed or another criteria was met, such as a change in leadership.

---

[20] Gathi, *supra*, at 178-79.

[21] Demas, at 326-27. (noting that Gabon, despite indigenous banana forests, imports the majority of its bananas from Cameroon because the 300,000 barrels of oil per day is more lucrative and attractive for foreign investment; Likewise, oil comprises 85% of public revenue in Angola and according to Human Rights Watch, "Angola's rulers have unique opportunities for self-enrichment and corruption, especially because there is not enough transparency or political space for the public to hold them accountable. There are enormous disincentives to relinquish political power because it is also a path to economic enrichment."); Frank Tenente, *Feeding the World One Seed at a Time: A Practical Alternative for Solving World Hunger*, 5 Nw. U. J. Int'l Hum. Rts. 298, 311-12 (2007) (noting Northern Uganda's culture of dependency on foreign food-aid which has stunted its agricultural production which is common across Africa where "[d]ue to the failure of foreign food aid in creating long-term solutions to fighting hunger, extreme hunger levels continue to grow within Africa and other developing countries."); Daniel H. Cole, *Climate Change, Adaptation, and Development*, 26 UCLA J. Envtl. L. & Pol'y 1, 11 (2007/2008) ("Despite receiving millions of dollars in foreign aid, per capita income in African countries has actually declined.")

[22] James Shikwati, *The Economic Progress and Development Aid in East Africa: The Case of Kenya*, Economy and Development Aid (2007).

[23] In this vein, see a recently published article that argues performance-based financial incentive programs could be established that would pay politicians and high-level bureaucrats substantial bonuses (ten to twenty times or more of their official yearly salaries) to reduce corruption within their developing countries. Martin Skladany, *Buying Our Way Out of Corruption: Performance-Based Incentive Bonuses for Developing Country Politicians and Bureaucrats*, 12 YALE HUM. RTS. & DEV. L.J. 160 (2009).

Macro aid groups could consist of developing countries or alternatively local or regional governments within one developing country. Also, developing countries could be allowed to select their own group members and to create their own monitoring structures within their own groups.

Macro aid would increase the transparency of leaders' actions and increase citizens' expectations and voice because of the highly visible and clearly delineated requirements of macro aid. Citizens would be curious to know which member groups were falling behind in the fight against corruption and why. They would want to understand what leaders from other group nations were doing to encourage their own politicians to improve the effectiveness of aid. Such shared responsibility would constructively motivate group members to pressure each other to improve their governance.

Since developing countries on their own initiative can voluntarily commit to macro aid programs, macro aid could be used as an invaluable signaling tool to international markets and domestic investors that such developing countries were serious about reform.[24]

Macro aid programs could also help aid agencies end their decades-long practice of continuing to give aid to those countries whose public officials steal it by enabling them to publicly commit to such initiatives while taking the decision, and possible criticism that might follow it, to deny future aid out of their hands by using external, independent data and evaluators.

Similar expectations have been placed on tens of millions of poor women in developing countries under the banner of microcredit, which lends small amounts of money to groups of poor individuals, mainly women. These poor women have been overwhelmingly successful in repaying their loans.[25] Surely we can ask for a similar level of accountability from elite developing country leaders who receive grants on behalf of the nations that they serve.

Such an incentive to do one's job cleanly would potentially be more powerful than the incentives built into traditional microcredit because unlike microcredit, where if one group member fails to pay back her loan the other group members could cover for her, macro aid programs that were grant based could not enable such covering because the condition for future aid grants would be reduced corruption, not the repayment of a loan.[26]

---

[24] DAMBISA MOYO, DEAD AID (2010). (Dambisa Moyo suggests collective borrowing but focuses on forcing governments to find money for development through financial markets. Moyo reasons that forcing developing nations to obtain private aid would force them to increase their credit ratings and thus be more transparent and prudent). In contrast to Moyo's theory, this proposal focuses around aid grants and possibly subsidized aid loans.

[25] Charlotte E. Lott, *Why Women Matter: The Story of Microcredit*, 27 J.L. & Com. 219, 225 (2009).

[26] If a macro aid program was loan based, one developing country could theoretically pay back the money another member country pilfered, which would create incredible tension that could also be a quite powerful agent for change. Macro aid in the form of loans instead of grants would have a unique twist—if a group of countries did not properly use the loans they would be barred from obtaining future loans, which would practically end their incentive to pay back their outstanding loans. This is not a flaw, rather a way in which macro aid loans would share similarities to macro aid grants.

Good governance, the rule of law, and low levels of corruption are invaluable assets for a developing country to possess in order to attain sustained economic development. However, the vast majority of current foreign aid is distributed without any meaningful incentives to ensure the aid is effectively utilized, yet alone designed to improve governance and reduce corruption within the developing country.[27] Microcredit aid programs aimed at private individuals in developing countries have over the past few decades incorporated the idea that incentives can sometimes improve performance, but this strategy has been largely absent with aid directed at the level of a nation. Why this absence persists is a mystery, but the reason is probably that aid donors have a reflexive instinct that a program such as macro aid cannot feasibly be expected to work.[28] Probably most individuals had similar thoughts about the prospects of lending money to groups of poor women when microcredit first began. Yet with microcredit, no bi- or multi-lateral donors were initially needed to test the idea. Large bilateral donors only began providing assistance after they saw women paying back their loans to small non-profits. While macro aid program would have the most impact if implemented by bi- and multi-lateral aid organizations, large foundations and nonprofits have the financial leverage to spearhead regional and local macro aid programs in order to provide proof of concept.[29] Further, developing countries themselves could take the lead with experimenting with macro aid initiatives within their borders.[30]

Section I briefly introduces microcredit, which serves as the model for macro aid programs in the sense of loaning some of its structural features. Section II discusses the benefits of macro aid. Section III considers how different aspects of macro aid programs could vary. Section IV considers possible risks associated with establishing macro aid programs. Section V concludes.

I. MICROCREDIT AS PRECEDENT

---

[27] Amy McFarlane, *Between Empire and Community: The United States and Multilateralism 2001-2003: A Mid-Term Assessment*, 21 Berkeley J. Int'l L. 521, 535-37 (2003) (describing President George W. Bush administration's foreign-aid program, the Millennium Challenge Account (MCA), which sought to distribute aid to states who committed to good governance reforms and curbing corruption; however, there was not effective enforcement coupled with MCA's goals.) *See also* Katherine P. Rosefsky, *Tied Aid Credits and the New OECD Agreement*, 14 U. Pa. J. Int'l. Bus. L. 437, 438 (1993) ("The United States has traditionally focused most of its foreign assistance on helping developing nations meet basic human needs."); Daniel C.K. Chow, *How China Uses International Trade to Promote its View of Human Rights*, 45 Geo. Wash. Int'l L. Rev. 681, 717-718 (noting China's increasing foreign-aid presence on the African continent and describing how Beijing's aid is "no strings attached" with no emphasis on curbing corruption or implementing governance reforms which undermines Western democracies attempt to reduce waste, fraud, and abuse in foreign development assistance.)

[28] Alternatively, donors might not want to risk infuriating or insulting developing country leaders.

[29] Gary W. Jenkins, *Soft Power, Strategic Security, and International Philanthropy*, 85 N.C.L. Rev. 773, 785 (2007) (noting that private and public foundations in the United States, who conservatively give $3 billion per year in official development assistance, give more than 16 of the top 22 government donors).

[30] Just as ASEAN member countries have done with their ASEAN Infrastructure Fund. ASEAN Infrastructure Fund (AIF), Asian Development Bank (Jun. 30, 2017, 5:38 PM), https://www.adb.org/site/aif/main.

The story of the rise of microcredit is well known.[31] In 1976, Muhammad Yunus began lending small amounts of money to indigents in Bangladesh.[32] The poor repaid their loans and Yunus established the Grameen Bank to expand the scope of lending.[33] Over time, the bank grew voraciously and the concept of microcredit spread throughout the world.[34] By the end of 2007, more than 100 million families had received micro loans from 3,500 lending institutions worldwide.[35]

Microcredit differs from traditional commercial loans in numerous ways. Lending to groups of women is a famous characteristic of microcredit although it is not a requirement of all programs. Many microcredit nonprofits also mandate that program participants attend regular meetings, at which groups make their payments and/or receive instruction in different areas like hygiene or basic business practices.[36] Microcredit initiatives also often desire to encourage entrepreneurship, frequently requiring that loans be channeled into small businesses.[37] Such instruction and emphasis on entrepreneurship, along with policies of only lending to females, are meant to empower women.[38] Thus, these program features are explicitly meant to advance a social agenda, unlike most commercial banks with shareholders that stress profitability in their loans.

Since there is no official definition of microcredit, programs offered by distinct organizations can vary widely from one another, but usually entail unique bundles of some of the above characteristics. For example, one microcredit program might require

---

[31] Katherine Esty, *Twenty-Seven Dollars and a Dream: How Muhammad Yunus Changed the World and What It Cost Him*; Katherine Driscoll, *Microcredit: Not Yet A Panacea to End Trafficking in Women*, 13 U. Pa. J. Bus. L. 275, 284 (2010) (noting that the "success" of microcredit and Yunus' Grameen Bank inspired countless similar programs).

[32] Alan M. White, *Credit and Human Welfare: Lessons from Microcredit in Developing Nations*, 69 Wash. & Lee L. Rev. 1093, 1113 (2012).

[33] *Id.* at 1113-14.

[34] Celia R. Taylor, *Microcredit as Model*: *A Critique of State/NGO Relations*, 29 SYRACUSE J. INT'L. L. & COM. 303, 323 (2002); *see also* Courtney L. Gould, *Grameencredit: One Solution for Poverty, But Maybe Not In Every Country*, 28 UCLA PAC. BASIN L.J. 1, 9 (2010) (stating that 300,000 members utilize group-lending loans similar to the Grameen Bank in Thailand, Vietnam, and Indonesia).

[35] Charlotte E. Lott, *Why Women Matter: The Story of Microcredit*, 27 J.L. & COM. 219, 229 (2009) (noting that 80% of recipients were women).

[36] Kenneth Anderson, *Microcredit: Fulfilling or Belying the Universalist Morality of Globalizing Markets?*, 5 YALE H.R. & DEV. L.J. 85, 97 n.37 (2002); Jay Lee, *Equity and Innovation: Using Traditional Islamic Banking Models to Reinvigorate Microlending in Urban America*, 16 IND. INT'L & COMP. L. REV. 523, 550 (2006).

[37] Zern-shun Adam Chen, *A Securitizing Microcredit: The Implications of Securitization for Microcredit Institutions' Human Rights Missions*, 39 COLUM. HUMAN RIGHTS L. REV. 757, 765 (2008); Rashmi Dyal-Chanda, *Reflection in a Distant Mirror: Why the West Has Misperceived the Grameen Bank's Vision of Microcredit*, 41 STAN. J. INT'L L. 217, 245 (2005) (noting that loan funds are sometimes diverted from small business entrepreneurship and into purchases of land and payments of dowries in violation of the loan agreements).

[38] Alan M. White, *Credit and Human Welfare: Lessons from Microcredit in Developing Nations*, 69 WASH. & LEE L. REV. 1093, 1099-1100 (2012) (noting that 82% of recipients of micro loans in the developing world were women by the end of 2009); *see also* Charlotte E. Lott, *Why Women Matter: The Story of Microcredit*, 27 J.L. & COM. 219, 226-27 (2009) (noting that Muhammad Yunus focused on lending money to women because they tend to reinvest their funds into the household, particularly on the children, whereas men are more likely to waste funds on selfish pursuits); Celia R. Taylor, *Microcredit as Model*: *A Critique of State/NGO Relations*, 29 SYRACUSE J. INT'L. L. & COM. 303, 319 (2002).

group meetings yet not dictate how loans are to be spent, while a second microcredit program could pursue the exact opposite policies, requiring loans to be put into businesses yet not demanding payments be made in the presence of one's group members.[39]

Arguably the most innovative feature of microcredit programs is that they often lend money to groups not individuals.[40] This can take two general forms. First, the loan can be extended to an individual in a credit group. If the individual fails to repay the loan, her group members need to pay off the loan for the individual if any member of the group desires to obtain a loan from the microcredit program in the future. Second, the micro-loan, and the requirement to repay, can technically be extended to the entire group. After receiving the loan, the individuals in the group can then decide whether to split the loan equally among its members, to give the entire loan to one member of the group, or some other variation. If the loan is not repaid, the group will not be eligible for a future extension of credit.

Involving a group has numerous benefits, like lowering the administrative costs of lending. The most advantageous aspect of group lending is that it attempts to use incentives to better align the interests of the lender and borrowers. If an individual receives a loan on her own from a traditional bank, her incentives to repay it rest on the legal ramifications for default, how quick and fair the courts are, how default will affect her ability to borrow in the future, whether her default will become publicly known, and how society will judge her if the news of her default disseminates.[41] While this list of incentives to pay back a traditional bank loan look formidable, they often prove rather toothless. Group lending has the same set of incentives as lending to individuals but it adds a new, significant incentive. This incentive is the opprobrium that an individual in the group will receive from the other group members if she fails to repay. This added incentive has been shown to be rather effective.[42] Its effectiveness lies in the fact that the individuals in the group can know and monitor each other better than a traditional bank can observe a borrower.

---

[39] Given that for-profit enterprises are also involved in microcredit, the above list of common microcredit program characteristics centers on non-profit microcredit lenders.

[40] Microcredit programs vary significantly. For example, some microcredit programs utilize peer group lending with public repayment and others use progressive lending with early and frequent repayment. See Lott, *supra* note 35.

[41] Katherine Hunt, *The Law and Economics of Microfinance*, 33 J.L. & COM. 1, 11-17 (borrower incentives for on time loan repayment are affected by the level of recourse available to banks…which is dependent on the legislation in the country and the nature of competition); *Id.* at 32. (microfinance loans harness the power of social pressure, especially in developing countries where a sense of community is often higher than in developed countries…individual loans are designed to harness social pressure because of a requirement for recommendations, if not joint liability, from other community members…community members stake their reputation on repayment. However, the trend is actually moving away from this model).

[42] Rashmi Dyal-Chand a, *Reflection in a Distant Mirror: Why the West has Misperceived the Grameen Bank's Vision of Microcredit*, 41 STAN. J INT'L L. 217 (2005) (noting that his concept of opprobrium or group pressure is more effective when group members are familiar with one another and less effective in groups were they do not).

II. BENEFITS

Before discussing the main benefits of macro aid, I will briefly mention limitations of microcredit that do not apply to macro aid.

First, many, if not most, microcredit programs require that borrowers pay back loans (a) on a strict schedule and (b) with repayment commencing almost immediately.[43] This limits poor individuals' interest in such programs as opposed to borrowing from traditional loan sharks, some of whom are more flexible about when repayment begins and the regularity of scheduled repayments.[44] Given that macro aid would most frequently entail grants, such loan considerations would be inapplicable.

Second, microcredit programs that require joint liability create an incentive for participating poor members to be risk averse with how they use their loans—e.g. deciding to sell food at a stand where funds can be quickly recouped instead of investing the loan in a start up with a higher possible ceiling but that will take more time to generate revenue—in order to increase the likelihood that loans can be repaid in full.[45] This possibly even occurs with microcredit programs that do not insist on joint liability because group expectations and social pressure can lead to the similar results.[46] Such built-in tendencies for risk aversion not only affect who ultimately decides to join a microcredit program but also lowers the chance that successful new businesses will evolve because Schumpeter has taught us that creative destruction requires firms that are capable of significant growth[47] not additional food vendors on the side of a dusty road.[48] This conservatism is actually a benefit, not a liability, for macro aid because reducing corruption associated with foreign aid distribution does not necessarily hinge on risk taking such as launching a start-up. Diminishing corruption and strengthening institutions entails components such as improving enforcement of the laws;[49] altering

---

[43] *See also*, Zern-shun Adam Chen, A Securitizing Microcredit: The Implications of Securitization for Microcredit Institutions' Human Rights Mission, 39 COLUM. HUMAN RIGHTS L. REV. 757, 769 (2008) (notes that some MCIs prefer to retain a level of flexibility. For example, BrancoSol allows some borrowers to repay weekly and others to repay monthly and Grameen Bank allows defaulters to reschedule repayments. Most successful MCIs, have adopted a policy by which they require some form of repayment each week but give flexibility in how small the repayment may be. This policy is supposed to cultivate a habit of repayment and avoid signals that delays will be tolerated.).

[44] However, some microcredit programs are beginning to be more flexible. *Id*.

[45] This structural design that encourages borrowers to be risk averse does not mean that all or even most borrowers follow this incentive, simply that it increase the general motivation for individuals to act in risk averse ways. For example, one case study demonstrated that as many as 24% percent of respondent borrowers did not use funds for the stated purposes in their loan proposals. *See* Muhammad Sayeedul Haque and Masahiro Yamao, *Can Microcredit Alleviate Rural Poverty? A Case Study of Bangladesh*, World Academy of Science, Engineering, and Technology 46 (2008).

[46] Hunt, *supra* note 41, at 32.

[47] Spencer Weber Waller & Matthew Sag, *Promoting Innovation*, 100 IOWA L. REV. 2223, 2226 (2015).

[48] Fifty-nine-year-old Angelina Vincent was able to start and manage four businesses in Malawi, thanks to the help of FINCA microfinance loans. Failing to meet the requirements of commercial banks, Edson Miugi couldn't get the capital he needed to buy sewing machines to start a manufacturing business. With one borrowed sewing machine, he approached FINCA in 2006. Now, his factory counts 67 sewing machines and more than 60 staff. FINCA, *Success Stories*, available at: http://www.finca.org/client/.

[49] Benjamin B. Wagner & Leslie Gielow Jacobs, *Retooling Law Enforcement to Investigate and Prosecute Entrenched Corruption: Key Criminal Procedure Reforms For Indonesia and Other Nations*, 30 U. PA. J.

cultural, social, and political norms;[50] and realigning incentives to make public officials more accountable.[51]

Now to the main advantages of macro aid.

A. Signaling Tool for Developing Country Reformers

Part of the difficulty of political reform in general is that no one—citizens, donors, or investors—believes that a poor, corrupt country will change until substantial progress has already been made.[52] This is in no way unique to developing countries, as the need for a proven track record of reform in order to establish credibility generally applies to many organizations and individuals,[53] yet this incredulity makes reform more difficult. Blanket announcements by politicians that they are dedicating themselves anew to good governance are greeted with a hearty dose of skepticism.[54] Such disbelief is usually warranted if such announcements are not coupled with policies with teeth.[55] This leaves genuine developing-country reformers with a need for credible ways to commit their countries to a path of reform that will help win over those in a position to accelerate development. These signaling or commitment mechanisms are few and far between; otherwise reformers would not face such difficulty.[56]

Macro aid is such a signaling tool because political reformers can establish macro aid groups on their own initiative to demonstrate their earnestness. Developing country politicians could voluntarily commit themselves to using foreign aid for regional or local macro aid programs. They could even use their own tax base to provide funding for such programs. Essentially, a developing country could distribute federal block grants to different groups of provinces within its borders with future grants contingent on institutional and governance progress. Alternatively, developing country politicians

---

INT'L L. 183, 187 (2008) (noting that "despite the fact that Indonesia ratified the UNCAC in 2006…many in law enforcement did not realize how changes to their antiquated criminal procedure code and other laws could boost their success rates in corruption cases").

[50] Philip M. Nichols, *The Fit Between Changes to the International Corruption Regime And Indigenous Perceptions of Corruption in Kazakhstan*, 22 U. PA. J. INT'L ECON. L. 863, 883 (2001).

[51] *See generally* Daniel C. Etsy, *Good Governance at the Supranational Scale: Globalizing Administrative Law*, 115 YALE L.J. 1490 (2006) (discussing how there is a lack of accountability for international power holders. The article suggests adopting strong administrative procedures in order to address the problem of accountability. The principles addressed in this article could be relevant in holding public officials more accountable).

[52] *See generally* Mitchell A. Seligson, *Political Support, Political Skepticism, and Political Stability in New Democracies: An Empirical Examination of Mass Support for Coups d'Etat in Peru*, Vol. 35, No.1 (2002), pp. 58-82 (noting that skepticism within new democracies can be so extreme that citizens are willing to accept military coups as an alternative).

[53] John P. Kotter, *Leading Change: Why Transformation Efforts Fail*, HARVARD BUSINESS REV., pg. 6 (1995) (noting that if people do not see positive results quickly, they will often give up on businesses).

[54] Paul G. Thomas, *Broken promises, public ignorance fuel political distrust*, Winnipeg Free Press (October 19, 2016).

[55] eNCA; Give AG more teeth: senior MP (Africa News Agency November 17, 2016) available at: https://www.enca.com/south-africa/senior-mp-wants-the-ag-to-have-more-powers. (News article describing the limited power of officials (specifically the Auditor General) in South Africa to implement policy and the resulting inefficiency and wasted expenditure).

[56] For another example, *see* Skladany, *supra* note 13.

could voluntarily and on their own initiative partner with other developing country leaders to create their own macro aid program on the international level. To do so would be an extraordinary commitment that would hopefully convince donors to channel more aid to those who would use it instead of steal it.

B. Enhance Transparency and Incentivize Poor Countries to Constrain Graft

Unlike traditional foreign aid that can unwittingly fuel corruption by providing a steady stream of funds to misappropriate, macro aid programs would reduce corruption by increasing transparency and strengthening civil society's voice in demanding accountability.[57] Macro aid would turn a prime source of corruption into a beneficial force.

As Emerson once quipped, "As gas-light is found to be the best nocturnal police, so the universe protects itself by pitiless publicity."[58] Macro aid has the potential to instill hope in citizens of developing countries and incentivize neighboring countries to care about what goes on next door—to build cross-border consciousness as to who is responsible for developing countries' continued plight. Macro aid's structure would attempt to reduce corruption and improve aid effectiveness by clearly assigning responsibility to properly shepherd ODA to a small group of well-known politicians and bureaucrats. By credibly publicizing in advance that no more aid will be forthcoming if a named group of high-ranking politicians do not commit to the aid being well spent, the spotlight is switched on.[59] Such public delineation of responsibility would hopefully raise the stakes for the public officials in charge to give it their best effort to ensure the money was not stolen or poorly spent because the country's citizens would know if they succeeded or failed.

Citizens would possibly be captivated by the make or break responsibility put on the public officials' shoulders. They would likely have differing views on the chances of success, but it would be fascinating to follow the story line to see if a second round of aid would be merited. If the macro aid program were properly announced, citizens would want to know not only what their own politicians were doing but also how politicians in other countries in their macro aid group were performing.[60] They would demand to be informed of where the aid was being allocated and for what projects.[61]

Neighboring politicians might be gripped by the same set of questions and desire to follow those in charge of aid flows in other countries in their group. The same interest

---

[57] Macro aid would not only reduce corruption generally, it would reduce the amount of foreign aid stolen and make foreign aid less costly in the long term because if a group of countries did not improve governance enough in a given period, they would be ineligible for macro aid in future years.

[58] Ralph Waldo Emerson, The Conduct of Life "Worship" (1860).

[59] *See also* Okezie Chukwumerije, *Peer Review and the Promotion of Good Governance in Africa*, 32 N.C.J. INT'L L. & COM. REG. 49, 72-73 & 74-75 (2006) (noting that public scrutiny is an effective tool to induce corrective measures and that corruption remains an intractable problem on the continent mostly because "lack of accountability of public officials").

[60] For this reason, donors should widely publicize the establishment of macro aid groups.

[61] Even if the public did not know of macro aid, there would still potentially be substantial pressure from public officials within the developing country and in member group countries.

in transparency could occur among politicians demanding to know where aid was being channeled domestically. Citizens, neighboring politicians, and domestic public servants would all suddenly be watching the equivalent of a penalty shoot out in the World Cup final or an engrossing opera unfold before their eyes. And they would potentially be vocal, airing grievances and protesting. Thus, the incentive of denying future aid would unleash demands for transparency and accountability.

Further, macro aid would exert pressure in a self-perpetuating manner.[62] The transparency and incentives for politicians to improve that macro aid would foment would ignite further demands for improved governance through the increased expectations of citizens[63] and political peers but also through macro aid's ever increasing thresholds requiring less corruption and better governance of aid funds for future aid disbursements to be released.[64]

Thus not only would the loss of aid incentivize politicians on its own because they would not want to be without such funds, but the push for transparency and accountability that macro aid unleashed would be another motivating incentive for politicians to clean up their act.

C. Provide Aid Agencies Motivation to Reform

Macro aid programs can also help reform bi- and multi-lateral aid agencies by pressuring them to stop tolerating the theft and mismanagement of aid by developing countries. Developed-country aid agencies and inter-governmental organizations routinely lecture developing countries about not misplacing aid and threaten to stop the flow of new funds, but such attempts are usually bluffs because aid agencies do not have the organizational structure nor external incentives to encourage follow through on their commitments.

The World Bank and other aid organizations' structures work against them making credible commitments to stop aid flows, but the situation can change. Currently, aid organizations have an institutional bias to spend all the money allocated to them in a fiscal year and to regularly request additional funds. These organizations fear, sometimes rightly so, that if they do not spend their entire budget, lawmakers will conclude that the aid organization cannot effectively spend all the money that it receives and reduce its funding. The same applies to asking for added funds each year—the aid agency believes it needs to give the appearance that it could do so much more good if only it were not constrained by its existing budget. This dynamic, which is found at the highest levels of many aid organizations, is also often found on each successive lower level of

---

[62] For another foreign aid proposal with a self-enforcing mechanism, see Skladany, *supra* note 23. Skladany states that "[u]nlike most official development assistance (ODA) projects, performance-based incentive programs for LDC public officials that target corruption would have a built-in self-enforcing momentum in that the programs would encourage eligible public officials to monitor corruption and pressure their peers, subordinates, and, at times, superiors to comply because incentive bonuses would be paid collectively based on nationwide, not individual, performance." *Id.* at 167.

[63] *See generally* ALBERT O. HIRSCHMAN, EXIT, VOICE, AND LOYALTY: RESPONSES TO DECLINE IN FIRMS, ORGANIZATIONS, AND STATES (1970).

[64] See section E below.

organization. For example, the environmental unit of a bilateral aid agency will fear that if it does not spend its entire annual budget, in the future it will lose funding relative to the education department of the same organization. This incentive goes down to the level of each individual employee entrusted with distributing loans or grants.

Macro aid programs can help alleviate this structural incentive to not stop aid flows even when the funds are largely pilfered. In combination with using data collected by external parties and independent evaluators, the public announcement of macro aid programs would be a way for aid agencies to commit themselves to real change through voluntarily removing any ability on their part to slip back to business as usual. Studies and history have shown that public commitments to act are more successful in getting individuals to commit to a particular course.[65] Using independent data on performance and having external evaluators of the data minimizes the donor's ability to back track while insulating the donor from any backlash from a harsh but unbiased decision to cut aid to countries whose officials choose misappropriation.[66]

Further, donors' organizational structure can be altered to commit more credibly to cutting off aid to recalcitrant macro aid groups. For example, if a macro aid group fails to qualify for a subsequent round of aid, the funding that was earmarked for the group could instead be distributed to all other macro aid groups on top of their usual funding. An independent, external committee could automatically transfer such funds. The redistributed, extra macro aid could go towards developing countries' general national budget, allowing it to be effectively used without having to plan out specific aid projects.[67] Redistributing the aid immediately would not only further incentivize successful macro aid groups to continue reforming, it would allow donor budgets to not decrease and hence immunizing the aid organization against criticism of being unable to use its funds.

III. PROGRAM VARIATIONS

This section discusses some potential structural variations to macro aid programs. For example, macro aid programs can vary who is held responsible to ensure aid is well spent.

A. Who Is Held Responsible—Group Composition

Macro aid can be implemented among a group of (a) developing countries, in effect, high-profile public servants in numerous developing countries representing their

[65] Stephanie Stern, *Cognitive Consistency: Theory Maintenance and Administrative Rule Making*, 63 U. PITT. L. REV. 589, 617-619 (2002) (discussing how individuals who make a commitment are likely to stand by that commitment so long as they are easily identifiable in order to avoid looking indecisive).
[66] The independent, external evaluators would be separate from both the aid agencies distributing the aid and the developing countries receiving the aid.
[67] The redistributed extra aid could also be used by the developing countries in the following year.

respective countries, or (b) politicians and bureaucrats within one developing country on behalf of particular regions or local municipalities.

Under the first option, the high-profile public officials would be held responsible for effectively using the ODA. If they failed, the group of developing countries would no longer be eligible for any additional aid from the same international funding source. If the macro aid was wasted, no new ODA would be forthcoming until some stringent requirement was met—e.g. all members of the group, which was responsible for the aid, left their official positions of power.

Aid agencies and foundations can implement macro aid at the regional or local level within developing countries in addition to or instead of at the international level. While such regional or local macro aid could be a powerful tool for a reformist head of state to motivate public servants away from the nation's capital, there is one potential concern not present with macro aid on the international level.

There could be apprehension that if the president of a developing country is corrupt he could force mismanagement on a group of regions and hence disqualify them for a second round of regional macro aid. While this is also true on the international macro aid level, that the president or prime minister has the most influence in complying with or disregarding macro aid programs, on the sub-national level this means that the regional and local governments might want to improve governance but be prevented from doing so.[68] This might only be an issue of concern if areas within a country were divided into numerous regional macro aid programs and such regions were deeply split on ethnic, religious, or other lines. For example, Nigeria is roughly divided on religious lines between the Muslim North and Christian South. Given that the president can come from either the North or South, the president could theoretically make it harder on regions she does not hail from to qualify for additional rounds of macro aid. This differs from macro aid on the international level because regional public officials cannot put as much pressure on a developing country leader as fellow prime ministers or presidents can put on each other.[69]

B. Allow Developing Countries to Select Their Own Partners

There appears to be no reason not to allow developing countries to select which nations to partner with in forming macro aid groups. Plus, there are some possible benefits to doing so. Providing such choice would bring developing country politicians into the fold to some extent—getting them to constructively engage with donors. Third, allowing developing countries to determine their own partners could lead to optional macro aid groups—groups where members were maximally motivated and pressured

[68] Of course, regional and local public servants and politicians would not be completely at the mercy of the President or Prime Minister, but resisting would bring challenges. *See Learning from Lagos*, ECONOMIST, July 2015. (noting that the central government in Lagos, Nigeria blocked reform efforts of Lagos' mayors).

[69] While the two most promising areas to implement macro aid are on the international level and on the regional level within countries, macro aid programs could possibly be designed for other groups of political entities. For example, macro aid could potentially be applied to different federal departments within one state. Alternatively, it could be implemented for similar regional departments—e.g. all the regional environmental agencies within a state.

each other to improve. This could occur because similarly situated developing countries in regards to income, culture, level of corruption, or desire to reform would likely seek each other out. It would also prevent archenemies from being paired together, who might sabotage each other or simply decrease the effectiveness of the group through routine bickering.

C. Macro Aid Groups Creating Their Own Monitoring Structures

Developing countries in macro aid groups could not only select their own partners but could also voluntarily establish their own organizational structures to encourage compliance. Such structures could be additional inter- or intra-governmental mechanisms. For example, each country could send macro aid ambassadors to other member countries within their macro aid group to monitor their neighbors. A similar idea has been rumored to have been used by the Italian mafia that allegedly dispatched overseers from "headquarters" to monitor branch operations.[70] The same flexibility should be allowed for local and regional governments participating in macro aid groups.

As with allowing developing countries to select their own partners, encouraging them to create their own monitoring structures or organizations could bring substantial positive benefits. For example, such choice would allow different groups to experiment with different channels of communication and monitoring so as to see which variations work best—just as the United States federal structure of governance is thought to allow states to be laboratories of experimentation.[71]

D. What Constitutes Effectively Spent Macro Aid

There are numerous ways to determine whether macro aid was effectively utilized. One broad option is to use different indices that monitor corruption or governance. For example, Transparency International's Corruption Perceptions Index (CPI)[72] and the World Bank's Worldwide Governance Indicators (WGI) are well regarded and established.[73] These indices generally measure one or more social phenomena in numerous ways using thousands of data points or numerous different aspects of a broad category such as governance for each country. While these indices are necessarily estimates, given the nature of what they track, they can be useful if margins of error are taken into account. Doing so will not guarantee that measurement mistakes are consistently properly taken into account. Yet such indices provide a practical option for determining what constitutes effectively spent aid. Furthermore, the alternatives to corruption or governance indices are not necessarily better, simply different. Finally,

---

[70] RAYMOND FISMAN & EDWARD MIGUEL, ECONOMIC GANGSTERS 43-44 (2008).
[71] For example, Elizabeth Weeks Leonard, *State Constitutionalism and the Right to Health Care*, 12 U. PA. J. CONST. L. 1325, 1343 n.73 (2010).
[72] Transparency international, *Corruption Perceptions Index*, *available at*: http://www.transparency.org/research/cpi/overview.
[73] World Bank, *Worldwide Governance Indicators*, *available at* http://info.worldbank.org/governance/wgi/#home.

policy makers and academics need to appreciate the benefits as well as the limits of measuring any social phenomena, especially corruption.[74]

An alternative option would be to have the aid agency in charge of a macro aid program engage an independent, external organization to make the decision as to what constitutes effectively spent macro aid using more data specific to the aid distributed. This would provide an added perception of independence.[75] The aid agency could instruct the independent organization as to what evaluation criteria to use or allow the outside entity to make its own determinations.[76] Finally, the most immediately available measurement procedure would be to perform annual audits on how the aid was spent. For example, financial auditors would assess whether schools that were scheduled to be built with foreign aid funds were actually constructed and whether the costs involved were reasonable given the cost of living in the developing country.

E. Incrementally Increase Requirements for Funding

Macro aid programs could, on the one hand, use the same criteria for determining what constitutes effectively spent aid each year—e.g. requiring that no more than five percent of aid goes missing each year of a macro aid program. Alternatively, the performance requirements for additional funding could increase over time using step performance thresholds. For example, the first round of macro aid would mandate that no more than 25% of macro aid could be stolen. The second round would require less than 20% be pilfered. The third round would cap theft at 15%, et cetera.[77] Another broader way to express a gradually increasing threshold would be to require developing countries to improve their Transparency International CPI score by an incremental amount each year, which would signify a perceived reduction in corruption.[78] Using step performance thresholds appears prudent because it is too unrealistic to expect those who are thoroughly corrupt to clean up their act over night. Also, having each new round of macro aid require participating countries to improve their governance over and above their previous year's records would be demanding but a more manageable policy given that reformist politicians will need time to manage non-reformist peers and public officials.

A third option would be to require a minimal performance level that is not too challenging to meet for any amount of aid to be distributed. Yet from this minimum threshold any additional improvement would be rewarded with more aid on a sliding

---

[74] Transparency International, Measuring Corruption, *available at* http://www.transparency.org.uk/corruption/measuring-corruption/.

[75] Yet it might create some incentive to give underperforming developing countries a pass to continue being able to charge fees to assess the countries next year—i.e. if countries were kicked out of macro aid programs, the independent agency would not be able to charge for monitoring such countries in the future. This could be solved through carefully structuring the independent organization's fee.

[76] Beyond examining levels of corruption in regards to aid distributions, criteria for added ODA could possibly include efforts to ensure accountability, improvements in transparency, and the prevention of white-elephant projects or needless bureaucracy.

[77] These figures are simply to illustrate how step thresholds could be structured.

[78] The improvement in a country's CPI score would have to take into account confidence intervals.

scale basis where a small improvement would trigger a small aid distribution, but larger improvements would warrant more aid.

F. Criteria For a Second Try

Reality and ethics often suggest a second chance. It might take years or even possibly decades, yet even after sovereign defaults lenders, at some point, often decide to provide new credit to such countries. Further, given the plethora of foreign aid donors and the likely fact that they will never perfectly coordinate their lending, giving countries a second try is practical under certain situations.

If ODA were misused beyond the allowance or threshold provided in a given year, the group of developing countries would all be banned from receiving further aid until a second-try benchmark was met. For example, a proscribed, standard aid ban of 5 or 10 years could be imposed on the macro aid group members. Alternatively, a new round of macro aid could be distributed once all leaders in a developing country who had participated in a macro aid group had left office. Another way for the developing countries to start to receive macro aid again could be if they collectively improved their governance by a predetermined standard—be it Transparency International's CPI or the World Bank's WGI. Fourth, aid could recommence if the average economic growth of the developing countries exceeded a set mark for a given time period. Yet such a standard would be less directly tied to governance improvements because a commodities boom could be the reason for years of robust growth amongst members of a macro aid group. Fifth, non-economic or non-governance based measures could be used such as sustained and robust increases in literacy or life expectancy. Such measures would indirectly suggest reductions in corruption or improvements in governance.

Aid donors could select one or more specific criteria for developing countries to meet in order to commence additional rounds of macro aid. For example, a developing country would have to toss out all of its bad leaders who were responsible for the first failed round of macro aid and increase its CPI score by a given step benchmark. Instead, donors could list three or four criteria but allow macro aid to flow again once any one of them was fulfilled.

The decision of which criteria to use would be based on how an aid agency evaluated the relative strengths of the mechanism or mechanisms that would allow a developing country to again participate in a macro aid program. For example, the criteria requiring all the original public officials to leave positions of government influence before allowing developing countries to resume macro aid participation might be deemed too strict and could either be modified—requiring 90% of such original officials to depart—or discarded.

G. Need to Coordinate Aid Policies Across Donors

Donor aid coordination would improve the effectiveness of ODA in general;[79] it would also increase the potency of macro aid. For example, macro aid programs would amplify the intent behind the U.S. Millennium Challenge Corporation and vice versa because both aid programs would put pressure on developing countries by providing them incentives to improve their governance.[80]

A limitation of many aid programs is that donors do not coordinate their grant-giving policies. This lack of coordination causes numerous problems,[81] and would matter less if there were only a handful of donors, but there are dozens of major bilateral and multilateral aid donors along with countless minor donors.[82] This leads us to the first challenge—developing countries have to manage relations with dozens of different aid agencies. Second, since many donors have divergent funding priorities, aid programs from different donors can be duplicative. Third, uncoordinated action by donors can cause disparate programs to essentially conflict in their purpose or results. Fourth, even if programs are not duplicative or conflicting, they can weaken each other's effectiveness. While this is true of foreign aid programs that do not rely on incentives, this last concern is especially relevant to incentive-based foreign aid programs. If one multilateral donor creates an incentive program for a developing country that ultimately fails to meet the program's requirements, the developing country can instead rely on aid from other donors that do not have the same stipulations.

Certainly, even without donor coordination, if most donors only offered incentive-based aid programs, this would still highly incentivize politicians to clean up their act. One donor could create a macro aid program, a second donor could implement a performance-based incentive program for poor country politicians and bureaucrats that provided year end bonuses that were ten to twenty times their annual salary if they reduced corruption,[83] while a third donor could realize a foreign aid challenge commitment program where aid would only be distributed if developing country elite would partially match the conditional foreign aid with their own donations.[84] Even if

---

[79] Benjamin Van Rooij & Pip Nicholson, *Inflammatory Trends in Law and Development*, 24 DUKE J. COMP. & INT'L L. 297, 336 (2014) (noting problems with competing donor agendas and a lack of coordination).

[80] Millennium Challenge Corporation, https://www.mcc.gov/about (discussing threshold programs and compacts which provide assistance to nations meeting certain criteria and who are firmly committed to improving their policy performance).

[81] Okezie Chukwumerije, *Peer Review and the Promotion of Good Governance in Africa*, 32 N.C.J. INT'L L. & COM. REG. 49, 69-70 (2006) ("African countries have been subjected to assessment methods and standards determined by bilateral and multilateral donor agencies, which, needless to say, kept shifting goal posts, or used different yardsticks, depending on their whims . . . these assessments often lacked credibility, consistency, and mutual accountability").

[82] Development Aid: Donors, available at: https://www.developmentaid.org/#!/donors (Development aid lists over one hundred donors and notes that the majority of development aid comes from bilateral donations).

[83] Skladany, *supra* note 23 (noting the ability of performance based incentive programs to utilize greed as a means of positive change and to help create a clean government).

[84] Skladany, *supra* note 13 (proposing that requiring the political elite to match conditional foreign aid would address the negative impact that corrupt elite have on the economy and would help to foster a sense of noblesse oblige in their addressing poverty through a selfless manner).

they were uncoordinated, all the different incentive based aid programs aimed to reduce corruption and improve governance could be effective.

If donors refuse to coordinate action and if only a handful implement incentive aid programs, poor country politicians' incentives to clean up their act will be increased but less dramatically so. For example, if only one donor, who gave out ten percent of all ODA, created a macro aid program, a loss of ten percent of a developing country's aid budget would be felt but would not be necessarily fatal to developing country politicians. If the developing country failed to obtain a second round of funding through the incentive based aid program, it could still likely rely on other donors who comprised the remaining 90% of distributed aid. In an uncoordinated aid environment, regional and local macro aid might provide sharper incentives than country level macro aid if the regions offered macro aid had significantly fewer sources of direct funding. Further, the idea of macro aid could potentially even be flipped and applied to donors.[85]

Again, a lack of coordination is a concern for all foreign aid, not just incentive-based aid or macro aid programs in particular. Incentive-based aid programs offer better prospects of encouraging aid to be well spent than aid in general because a loss of a substantial portion of a country's aid budget will be felt but also because, depending on an incentive program's design, it could spur other positive developments. For example, another benefit of macro aid is its prospects for starkly publicizing corruption, airing dirty laundry for the good. Another benefit of macro aid that has already been highlighted is that it will give reformers a tool to show how serious they are about reform because developing country leaders could always voluntarily join macro aid programs at the inter- or intra-governmental level.

No one policy can eliminate corruption. While macro aid can make improvements on its own, it and other possible programs it was paired with would all benefit from coordinating aid programs not only within one donor organization but also between different donors.

IV. Potential Concerns and Opposition

This section suggests potential risks associated with implementing macro aid programs. It goes on to discuss how while these risks cannot be totally eliminated, they can either be neutralized or are insubstantial relative to the problems caused or left unsolved by the structure of existing foreign aid.

A. Stamping Out Corruption Is Impossible

Countries are rarely if ever born with good governance and low levels of corruption. As Thomas Macaulay observed:

[85] If aid agencies were put into groups in order to improve the effectiveness of aid, an incentive system would have to discovered to motivate them to comply.

> Many politicians of our time are in the habit of laying it down as a self-evident proposition, that no people ought to be free till they are fit to use their freedom. The maxim is worthy of the fool in the old story, who resolved not to go into the water till he had learnt to swim. If men are to wait for liberty till they become wise and good in slavery, they may, indeed, wait forever.[86]

At worst, macro aid could fail to work—i.e. fail to reduce pervasive corruption by public officials. Yet such risk is smaller for macro aid than for traditional foreign aid because macro aid, unlike conventional aid, is designed to explicitly reduce corruption. Its design would also prevent failure from continuing —which is unfortunately too rarely a characteristic of most aid— because no additional rounds of macro aid would be forthcoming if aid was misused.

Further, neither macro aid, nor any policy, can stop all corruption and embezzlement of public funds. Thus success cannot be measured against the impossible. Also, macro aid is meant to be implemented with other reform initiatives—the problems of corruption, weak institutions, and poor governance are so vast that they need to be attacked from numerous angles.

B. Significant Conflicts within Groups

Surely macro aid would occasionally ruffle feathers. Spats between nations can deepen or even explode into violence over seemingly minor events. Infamously, Honduras and El Salvador went to war over the results of a football match between their respective national teams.[87] Tension is possibly unavoidable in life but is a purposefully designed component of macro aid. Relationships beget expectations. Macro aid benevolently encourages developing country leaders to raise their expectations of their fellow leaders by putting money that they previously took for granted—foreign aid—on the line.

C. Group Responsibility Is Unnecessary

It has been found that developing country women who are eligible for microcredit and are the most trustworthy and reliable credit risks, do not need collective lending.[88] In fact, they are slowed down by it because they occasionally have to cover other group members' loans or spend their time participating in mandatory training sessions and other

---

[86] Thomas Babington Macaulay, "Milton" 42 Edinburgh Review 304-46 (August 1825).

[87] Ryszard Kapuscinski, *The Soccer War (Excerpt),* https:libcom.org/library/soccer-war-1969-el-salvador-honduras-kapuscinski (accessed October 2, 2015).

[88] *See generally* Sugato Chakravarty, S. M. Zahid Iqbal, Abu Zafar M. Shahriar, *Are Women "Naturally" Better Credit Risks in Microcredit? Evidence from Field Experiments in Patriarchal and Matrilineal Societies in Bangladesh,* (Presented at the 2014 Annual Meeting of the American Economic Association).

events that largely convey information they already know.[89] This result is anything but unexpected, and it also holds little instructional value because the point of group lending is to alleviate the problem of identifying credit worthy borrowers without having costs spiral.[90] Lenders could not make a profit, or at least continue to function on a small loss that is subsidized by grants,[91] on the tiny sums they lend through microcredit programs if they had to thoroughly scrutinize each borrower. In the place of such vetting, the group of women serves to encourage each other to repay loans because of their collective responsibility to the lender.

The facts are different for overseas development aid as opposed to microcredit. Foreign aid amounts are large and bilateral and multilateral donors have a good idea about the credit worthiness and quality of governance of the countries they assist. Macro aid borrows the mechanism of micro aid, collective responsibility, not to ensure profitability through eliminating vetting but rather to motivate developing country politicians to encourage and pressure their neighbors not to steal.

Thus to criticize macro aid on the alleged grounds that group responsibility is unnecessary to ensure that foreign aid is not pilfered makes little sense if aid will continue to flow towards corrupt regimes—Alberto Alesina and Beatrice Weder have not found any indications that more corrupt developing countries receive less aid than less corrupt developing countries.[92] This criticism would hold if donors agreed to only provide aid to the cleanest handful of poor countries. The policy of only giving aid to a handful of the better governed developing countries would send a clear signal to corrupt regimes to clean up their act if they were to expect any foreign aid, as Robert Calderisi[93] and Nicolas van de Walle have separately argued.[94] Yet, giving aid to only well governed poor countries would immediately and drastically shrink the pool of aid recipients. While only providing unconditional aid to the four or five best-governed poor countries, instead of to hundreds of developing countries that currently receive assistance, is a potentially worthy proposal, macro aid could still be implemented for the rest of the poor countries with individuals in desperate need. This would provide poorly governed countries one last round of foreign aid to demonstrate that they should not be written off by donors.

D. Few Countries Might Qualify for Successive Rounds of Macro Aid

---

[89] *See generally* Katherine Hunt, *The Law and Economics of Microfinance*, 33 J.L. & COM. 1 (2014).

[90] R.H. Tipton III, *Microenterprise through Microfinance and Micro lending: The Missing Piece in the Overall Tribal Economic Development Puzzle*, 29 AM. INDIAN L. REV. 173, 180 (2004-2005) (group liability functions as a risk reducer by requiring group members to be accountable for other members).

[91] Jonathan Morduch, *The Role of Subsidies in Microfinance: Evidence from the Grameen Bank*, 60 J. DEV. ECO. 229, 230 (1999) ("…the most careful and comprehensive recent survey shows that the microfinance programs that target the poorest borrowers generate revenues sufficient to cover just 70% of their full costs.")

[92] *See generally* Alberto Alesina & Beatrice Weder, *Do Corrupt Governments Receive Less Foreign Aid?* 92 AMER. ECON. REV. 1126–37 (2002).

[93] ROBERT CALDERISI, THE TROUBLE WITH AFRICA: WHY FOREIGN AID ISN'T WORKING 209 (2006).

[94] Nicholas van de Walle, *Overcoming Stagnation in Aid-Dependent Countries, CGD Notes* (2005).

Another potential criticism is that only a handful of developing countries would appropriately allocate the macro aid they receive. This would leave the vast majority of poor countries ineligible for future rounds of macro aid assistance.

Qualifying for additional rounds of macro aid has to be put into perspective. Many microcredit programs boast 98% or higher repayment rates.[95] Part of this is because such organizations are often generous in accepting late payments and slow to designate a loan as being in default.[96] Furthermore, a study from Hyderabad, India, a city that has numerous, competing micro finance institutions, revealed, "the sign-up rate for any microcredit loan among families who were eligible to borrow was only 27 percent, and only 21 percent of those who had a small business had taken a microcredit loan."[97] I mention these relatively low sign up figures because they may impact the high repayment rate. If more individuals who were offered microcredit participated in such programs this could substantially drive down the repayment rate. A similar type of phenomena might be expected with macro aid if a vast majority of poor countries became participants but a notably lower percentage ended up qualifying for additional rounds of foreign aid.

If, as numerous commentators have alleged dating back at least as far as P. T. Bauer,[98] aid in its current form is harmful to poor countries, substantially reducing aid flows to developing countries for a certain period might be a positive development. By doing so, aid organizations would have their credibility strengthened and poor countries would have more incentives to improve their governance because doing so would signal to donors that they were serious about reform and hence should be considered for new rounds of macro aid. If aid does not deter developing countries partaking in corruption, it cannot help the poor if it never reaches them because it is stolen by public officials. Hence, cutting off aid to developing countries unwilling to improve their governance would not necessarily hurt the poor any further.[99]

Also, as mentioned above, each successive round of macro aid would require less graft and better governance from participating countries in order for them to qualify for the next round of aid. Such a system of incremental improvements would set a low bar for what developing countries would have to do with their first distribution of macro aid in order to warrant a second round of funds. Designing macro aid in such a manner recognizes the difficulty of reform and encourages more developing countries to decide to improve through setting realistic paces at which developing countries would need to progress.

---

[95] Jameel Jaffer, *Microfinance and the Mechanics of Solidarity Lending: Improving Access to Credit Through Innovations in Contract Structure*, 9 J. TRANSNAT'L L. & POL'Y 183, 184 (1999) (noting that PRIDE Africa, which has extended more than 60,000 loans of between $ 50 and $ 1000 in East Africa, reports repayment rates of 99% in Tanzania and 100% in Uganda).

[96] Lisa Avery, *Microcredit Extension in the Wake of Conflict: Rebuilding the Lives and Livelihoods of Women and Children Affected by War*, 12 GEO. J. POVERTY LAW & POL'Y 205, 238 (2005) (discussing how flexible repayment schedules can be tailored to changing regional conditions as deemed necessary).

[97] ABHIJIT V. BANERJEE & ESTHER DUFLO, POOR ECONOMICS: A RADICAL RETHINKING OF THE WAY TO FIGHT GLOBAL POVERTY 219 (2011).

[98] *See generally* P.T. BAUER, EQUALITY, THE THIRD WORLD, AND ECONOMIC DELUSION (1981).

[99] In such times, direct delivery of medicine and other supplies to citizens could be the remaining option, yet the distribution of such aid would have to be carefully monitored given it can also be stolen.

Finally, as also discussed above, macro aid programs could be designed to allow for a developing country to have a second chance if certain conditions were met.

E. Developing Country Elite Might Hesitate to Support the Program

As Upton Sinclair once quipped, "It is difficult to get a man to understand something when his salary depends upon his not understanding it."[100] Thus, most corrupt politicians will be hesitant to publicly endorse a policy that would require them to improve governance and reduce corruption. While developing country politicians have a significant voice in multilateral organizations and can lobby bilateral aid organizations, at the end of the day it is not the developing country politicians' choice to channel aid flows through a macro aid program. Donors can require compliance with the stick of withdrawing foreign aid from those who do not participate.

While there are few relatively well-governed poor countries, those that do exist never have to participate in macro aid programs because if they are improving governance on their own initiative, there may likely be no need to have their neighbors push them further. This is not to say that even fairly well governed poor countries could not benefit or at least assist other countries, it is simply to point out that donors could legitimately allow reasonably well-governed poor countries to opt out of participating in macro aid, unless a developing country voluntarily initiated such a program, for example on a local or regional basis, to signal their commitment to improve governance.

V. CONCLUSION

Few thought micro-credit could succeed, yet now the development community demands that poor women in groups pay back small loans without protestation. Millions of such loans are currently outstanding across scores of developing countries. It is long overdue that we demand the same performance from the political elite within developing countries as we expect from poor women. Many may be aghast at the suggestion that an idea that works with poor women could be expected to work on the international level between nation-states, which are complex creatures or between regions within a developing country. Yet, the existing system has often proven disastrous—distributing foreign aid to individual states that are not staffed by reform-minded public officials. Microcredit allowed poor women to monitor each other's progress and encourage each other to take repayment seriously. Macro aid can use the same collective power to improve governance, strengthen institutions, and reduce corruption.

[100] Upton Sinclair, quoted in Evan Esar, The Dictionary of Humorous Quotations (1949).