The authors begin with a general outline of the principles of good governance, settling on five principles to provide the framework for their analysis. These five are: transparency, accountability, participation, rule of law, and human rights. The authors closely examine the published documentation from the IMF-Iceland programme as well as supplementary information from the Icelandic government, the Icelandic Parliament, the Special Investigation Commission of the Iceland Parliament and the Icelandic media in order to assess the programme in light of the five criteria.

The authors also draw attention to three issues that are only alluded to in the documentation but are crucial to Iceland's economic stability: the Icesave matter, natural renewable energy resources, and the individual transferable quotas in the fishing industry. This indicates that discussions on these (and possibly other) highly sensitive issues between the IMF and Icelandic representatives were withheld from the published documents. The authors' main conclusions are that what appears in the documents indicates that good governance was broadly exercised, but that concerns remain about what is not in the documents at all. On the other hand, the IMF programme encouraged improvements in domestic transparency and accountability, while at the same time the IMF respected the democratic institutions and decisions of the Icelandic people.

I INTRODUCTION

In the Fall of 2008, the Icelandic economy plummeted when the three biggest banks in the country crashed. Following this dramatic turn of events, the Icelandic Government sought assistance from the International Monetary Fund (IMF). The aim of this paper is to evaluate the degree to which good governance was exercised in the IMF-Iceland programme 2008-2011. Good governance is interpreted for this purpose in light of the various

definitions offered by a number of international institutions (including the IMF) and relevant secondary literature. To aid organisation and clarity of analysis, the authors decided to distinguish between the process and the substance of the IMF programme in Iceland and discuss them separately. Obviously there is not always a clear distinction between process and substance, however in this paper the process generally relates to direct communication between Icelandic authorities and the IMF such as discussions and negotiations leading up to formal written exchanges and reviews, whereas the substance refers to the content of the exchanges and, to a limited extent as the focus remains primarily on the international dimension, domestic implementation.

The paper starts with a brief history of events (part II) followed by an explanation for the authors' definition of good governance that provides the framework for the main part of this paper (part III). This is based on five overlapping criteria: transparency; accountability; participation; rule of Law; and human rights. In part IV and V, the IMF-Iceland programme is then reviewed according to these criteria, first in respect of the process and thereafter on substance. In part VI, the paper addresses some major issues that are conspicuously absent in the official documents relating to the IMF programme in Iceland but which the authors find very unlikely to have gone unnoticed by the IMF. Part VII concludes the paper by reviewing the key findings and conclusions along with some inferences that the authors make based on their research.

In this paper the analysis of Good Governance in the IMF programme in Iceland is based on information and documents made available by the IMF, information made available by the Icelandic Government, material from the Icelandic Parliament (Alþingi), material form Volume 8 of the April 2010 Report by Rannsóknarnefnd Alþingis (Alþingi's Special Investigation Commission) (SIC Repor) which was established to investigate the processes that led to the collapse of the Icelandic banking system, mass and social media, and a personal communication with a member of a group of concerned citizens.

II BRIEF HISTORY OF EVENTS[1]

In August 2008, the IMF concluded that 'stress tests suggest that the [banking] system is resilient' and although they identified room for improvement to enhance corporate transparency and accountability, held that the FME had 'sufficient legal powers to perform its prudential tasks.'[2] Within two months, the three leading Icelandic banks had collapsed and been nationalised; counter-terror legislation had been applied by the United Kingdom government against Kaupþing; emergency legislation altered the priority of creditor claims on the banks, protecting first and foremost domestic deposits; strict foreign exchange controls were implemented; and the Icelandic administration was in crisis.[3] The IMF was called to advise and offer a stand-by loan, followed by a regular package of loans, with the first formal application (letter of intent) dated 15th November 2008 and the seventh and final letter of intent dated 16th August 2011.[4] As Prime Minister Geir Haarde concluded his famous 'God Bless Iceland' speech,[5] protestors were taking to the streets where they remained until – and in some instances beyond – the resignation of the ruling administration on 27th January 2009. A minority administration governed with informal support from a third, smaller party, until elections were held on 25th April 2009 following which a new majority government was formed. Political stability was not, however, assured as the President sent to referenda two highly controversial Parliamentary Bills on the repayment of the Icesave debt to the British and Dutch authorities.[6] The first was rejected by an overwhelming 93% majority; the second more narrowly by 60%.[7] The Icesave repayment has yet to be resolved and pends resolution before an international tribunal.[8]

III DEFINING GOOD GOVERNANCE

The term 'good governance' is used widely in development literature, official statements of international organisations and policy documents of domestic governments. However, notwithstanding its ubiquity, the term's precise meaning is chimerical. In order, therefore, to assess the extent to which good governance is upheld in the interactions between Iceland and the IMF between 2008 and 2011, it is necessary to determine the contents of good governance, and provide working definitions.

To this end, the authors have reviewed the official definitions of good governance provided by a number of international organisations, including the IMF, national departments of international development (e.g. in Canada, Iceland and the United Kingdom) as well as relevant secondary literature. The IMF's own criteria can be briefly summarised as: accountability, transparency, rule of law, limited government and anti-corruption.[9] While these remain important, by the IMF's own admission, they concern only 'economic aspects of governance.'[10] The authors do not share the view of the World Bank and the IMF that a good government is necessarily a small government, a government that 'manages less but manages better'[11] because of the extensive obligations of due diligence that States bear to ensure that non-State actors exercise good governance: State institutions may require to be larger and stronger to guarantee good governance in the corporate sector, a feature that the IMF considers to have been woefully lacking in Iceland with disastrous consequences. The OECD extends good governance to include market efficiency and effectiveness; the authors accept that efficiency is a value but do not incorporate it as a key factor in good governance as it places excessive emphasis on 'lowest cost' at the expense of other values, including labour standards and environmental protection. The OECD also includes a rather vague element called 'forward vision,' something close to planning ahead, which is likewise excluded by the present authors as a distinct criterion.[12] Twenty-first century readings of good governance introduce a human rights component and the authors agree that governance that violates accepted human rights standards cannot be good.[13]

In sum, the authors select the following five overlapping and interdependent criteria on which to assess good governance: transparency; accountability; participation; rule of law; and respect for human rights.

1. **Transparency**

Transparency is identified as a value in all the schema of good governance that the present authors reviewed and requires freedom of information throughout the decision-making process.[14] While legal rights to obtain information (e.g. freedom of information and disclosure laws) are one aspect, genuine transparency requires that processes are open to public scrutiny automatically, i.e. people are given information; they need not actively seek it. In the present review, the authors found that transparency in the corporate sector, in particular, banking, was at least as important as transparency in State procedures. The State bears the ultimate responsibility to facilitate transparency, for example, by implementing corporate disclosure requirements and standardised reporting procedures for the private sector to facilitate informed analyses and comparisons. Transparency is in many ways the starting point of good governance as none of the other four criteria can be fully effective without it. In this paper ***transparency* is evaluated according to the ease of accessing information, its quality, and the timeliness of disclosure**.

2. Accountability

An accountable government, according to the OECD, is a government that is: 'able and willing to show the extent to which its actions and decisions are consistent with clearly-defined and agreed-upon objectives,'[15] a definition that seems to owe much to transparency – that is, ease of access to information about how decisions are made. Likewise, the IMF links accountability and transparency, recognising that the former cannot exist without the latter.[16] The present authors, however, would argue for a deeper understanding of accountability under which it is clear which State organ or individual bears responsibility for any decision, can be held personally to answer for that decision, and the decision itself can be challenged on the basis that it substantively violates an individual's vested rights or that it was taken ultra vires. As for transparency, corporate accountability is in practice as important as public sector accountability and should be ensured by the adoption of adequate corporate regulation and supervision: the State must exercise due diligence in this regard to ensure that private market agents are accountable for their conduct. In this paper, ***accountability* means having clear lines of authority and responsibility for decision-**

making and institutional supervision of public and private processes.

3. Participation

The IMF does not address participation per se, on the basis that it is not an economic matter and hence beyond the IMF's mandate and expertise. Other interpretations of participation as an aspect of good governance do not always make clear who should be entitled to participate. The United Nations use of participation alongside equity indicates that all humans should be involved while the UNDP conflation of good governance with democratic governance further supports this view.[17] The World Bank talks of 'civil society' which will include non-natural legal persons as well as interested human-beings;[18] other accounts seem to focus primarily on the participation of market agents, possibly substituting universal human participation.[19] The OECD, though not using the term participation, includes 'responsiveness' which the present authors incorporate into the sense of democratic participation:[20] political freedoms, such as expression or association become meaningful only when they can have a substantive impact on policy. Participation requires consultation, which requires outreach by decision-makers to seek the views of those affected; it is not a passive responsibility of government simply to wait until stakeholders come to them. The latter approach excludes the most vulnerable and distorts participation in favour of those with the political clout to secure government and media attention.[21] In this paper, ***participation*** **means effective consultation with stakeholders, primarily human stakeholders, public discussion and Parliamentary review of policies and programmes before final decisions are taken**. Assessing democratic participation in the IMF-Iceland cooperation includes, inter alia, a review of the extent to which the contents of the agreements were debated in Alþingi. Like accountability, true democratic participation requires transparency.

4. Rule of Law

The rule of law is a broad concept that can be used to conceal a multitude of different ideas[22] but the authors have subsumed within it the following notions: **publicity and clarity of legal regulations (legal certainty); government according to law; equality before the law; protection of vested rights; and non-retrospective law-making**.[23] Access to remedies is also a factor in the rule of law, though in this paper, it is incorporated under the head of accountability. The rule of law facilitates predictability and stability equally for institutional investors as for natural persons. Anti-corruption is sometimes considered as a distinct goal, but here we subsume it within the rule of law as defined above, in particular, the concepts of equality before the law, government according to law and legal certainty, as well as in light of transparency. Transparency again rears its head in terms of knowledge of the law and open legal processes so that justice is not only done, but seen to be done; and many aspects of the rule of law are universally recognised human rights.[24]

5. Human Rights

Inspired by 21st century approaches to good governance[25] and as an implicit extension to the rule of law, the present authors consider that governance cannot be good if it is not compatible with the

two principal international human rights treaties, to which Iceland has been party since 1979: namely, the International Covenant on Economic Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR).[26] Besides the fact that development is hollow in the absence of human rights,[27] States that have ratified these Covenants owe an obligation under international law both to their own residents as well as to other States to respect, protect and fulfil the rights therein.[28] Therefore, their application is also an aspect of the rule of law (government according to law). The substantive content of contemporary international human rights law goes well beyond these two Covenants[29] but to save this paper from deviating too far from the core of good governance, the authors

interpret human **rights as relevant provisions of the ICESCR and the ICCPR** and assess the IMF-Iceland interaction in light of these two core treaties. The ICCPR includes many of the values already discussed: the right to a remedy, non-retrospectivity of law, equality before the law, open justice, and the right to democratic participation.[30] The ICESCR by contrast, as its name indicates, emphasises quality of life issues, including rights to work, social security, education, standard of living, the highest attainable standard of health, and to participation in cultural life.[31] These issues were pertinent to the substance of the agreements (less so the process) as public provision in all these fields was under sustained attack in order to meet the fiscal targets of the IMF programme.

IV THE PROCESS BY WHICH THE IMF-ICELAND PACKAGE WAS AGREED

1. Transparency in the Process

A key feature in guaranteeing democratic participation is transparency. The IMF has a policy of 'voluntary but presumed' consent which means that publication of documents is voluntary but the consent is presumed and members are encouraged to consent to publication.[32] The IMF website has a very comprehensive chronological account of its communications with Iceland. These include IMF Staff Reports, Icelandic Letters of Intent (LOIs), transcripts of Press Conferences, Press Briefings and Conference Calls and Press Releases.[33] The Icelandic government has no dedicated site where IMF related information is stored although most of it was published on various Icelandic Government websites. Staff Reports include the times of meetings and the names of participants.[34] Contrary to what one might assume, the LOI is not submitted by the government to the IMF for consideration but must be produced in consultation with the IMF: despite the superficial appearance that the staff reports are a response by the IMF to the LOIs, they are routinely to be found dated the

same day or on immediately consecutive days.[35]

According to information on the IMF website, an outline loan agreement had been reached before 24th October 2008 based on an economic programme presented by the Icelandic Government.[36] This matter was neither presented to nor debated in Alþingi until after the fact.[37]

On the 17th October, at 06:02, the Icelandic Newspaper *DV* published an article on its website under the heading: 'IMF: The Document We Are Not Allowed to See,' in which it announced that it had acquired the first LOI and was going to publish it at 17:00 that same day.[38] For some reason DV decided to go ahead and publish the LOI at 10:00 that same morning.[39] Shortly after that a resolution to grant permission to the Government to finalise the IMF proceedings was proposed by Prime Minister Geir Haarde.[40]

The resolution is very short but the first LOI is annexed in Icelandic. The notes to the proposal are also very short but they state that the process has been ongoing for quite some time and that the plan for restoring economic stability was sent to the IMF on 3 November 2008. According to the first LOI as it appears in the resolution, the Icelandic Government authorizes the publication of the LOI, its attachments and the Staff Report.[41]

During the discussions in Alþingi on the resolution proposal, the minority expressed concerns, both in speeches and in written opinions from the committees that were consulted, that the whole process was nothing but an attempt to rubberstamp a process after it had already been completed, and that is was non-transparent and what little information they had to work with came from the IMF, not the Icelandic Government.[42] The Government leaders on the other hand put the blame for lack of transparency squarely on

the IMF and stated that all information that could be made available was made available as soon as IMF rules allowed; Prime Minister Haarde further claimed that opposition leaders had been given access to some confidential information.[43] Since other members of Alþingi and committee members did not have access to this information, they had very little information to go by.

The want of transparency at the outset of the programme encouraged speculation that the IMF was going beyond an advisory role and making substantive demands on the Icelandic government without any democratic oversight.[44] Aside from the fact that publication followed the agreement and implementation, there are still no publicly available minutes or other reports on what transpired inside the meetings. According to Volume 8 of the SIC Report, prepared by a specialist working group on ethics, this lack of transparency and reluctance to make minutes during meetings had long been characteristic for the Icelandic administration where the preference was for informal, 'friendly' discussion, rather than as a formalised part of public administration.[45] It is therefore quite possible that no minutes were ever taken, at least from the side of the Icelandic government. As a result, there is no way of knowing who promoted or protested any particular measures or if there was any pressure from the IMF on issues that do not appear in the final documents.

This arrangement and lack of transparency allows for passing the blame for what goes wrong and taking credit for what goes well and works well for both parties. The IMF can take credit for the relative success the programme has enjoyed in Iceland, even though it may be mostly down to policy decisions made on the Government level, and the Government can make claims that it withstood pressure from the IMF to make more cuts, even though such claims may be highly exaggerated. There is in fact no way of knowing what the truth is based on the limited available information. This in turn raises issues of accountability, which will be addressed further in the next sub-section. A good example of this is a recent claim made by Katrín Jakobsdóttir, Iceland's Minister of Culture and Education, that the IMF had suggested that State-run cultural institutions should be closed temporarily, a claim that was categorically denied by Franek Rozwadowski of the IMF who stated that IMF policy was that

it was up to the Government to make decisions on where and how to cut expenses and raise taxes.[46]

A prerequisite for having an informed opinion is that one has access to the relevant information in a language one understands thus it is pertinent to review the extent of information available in Icelandic.[47] Three of the LOIs were translated into Icelandic and published on accessible Government websites[48] in addition to two IMF Country Reports and two IMF Press Releases.[49] Considering the volume of material that is available in English on the IMF programme in Iceland this seems limited. However, the most important documents are translated, being the first LOI which lays the land for the whole programme, the second LOI which states the new Government's methods and changes in approach, and the first two Staff Reports which are essential to understanding the IMF's approach and understanding of the Icelandic situation and how to address the economic restructuring of the country. Finally, the last LOI gives a good account of how the programme has proceeded, accomplishments and ongoing challenges.

It can be concluded that although the finished documents were made available, there is no access to working documents or minutes produced in the process, which makes it impossible to verify claims made by either party, on what actually transpired during the meetings. This fuelled fears that it was in fact the IMF that was calling the shots, not the Icelandic Government. In any case the apparent absence of any discussion of at least three crucial issues: the Icesave issue, the management of natural energy resources; and the fishing quotas, indicates that not everything that was on the table made its way into the published documentation.[50]

2. **Accountability in the Process**

In volume 8 of the SIC report, lack of accountability and clear lines of responsibility in Icelandic governance are identified as key factors contributing to the fall of the banks.[51] It is therefore not surprising that members of the opposition parties in Iceland in Fall 2008 expressed concern about who was driving the negotiations. Within Iceland, Ingibjörg Sólrún Gísladóttir claimed that the government and the CBI devised the programme in partnership with the IMF and that the Government was responsible and accountable.[52]

The IMF is accountable to its member governments but not directly accountable to the States to which they lend nor their peoples.[53] In recognition of this, the IMF maintains that it refrains from interference in domestic affairs.[54] Public statements on behalf of the IMF in its negotiations with Iceland support this claim.[55] However, the limits to transparency as noted above, in particular, the complete absence of published minutes, leaves scope for much speculation as to what passed behind closed doors. A degree of doubt remains which cannot be confirmed or refuted as to the extent of the IMF's influence on domestic government policy with the only clear conclusion being that whatever the IMF may or may not have recommended, it is not accountable to the Icelandic people for it.

3. Participation in the Process

Again, owing to incomplete transparency in the negotiations and development of the IMF-Iceland agreements, it is very difficult to confirm the extent of participation of any actors other than the IMF and Icelandic government. As a constitutional matter, it should be expected that the Icelandic government represents all its domestic interests and therefore participation would be more likely found between the Icelandic authorities and civil society, rather than directly between non-State actors and the IMF. There is evidence of this in the first LOI which confirms that: 'Social partners recognize the need to enter an agreement that is commensurate with the severity of the situation.'[56] A stability pact was later agreed with the Unions and this obtains support from the IMF.[57]

As the two previous sections clearly indicate, there was very little democratic participation in the process leading up to the first LOI and the IMF agreement. The relevant Parliamentary committees were ignored and it is only when Resolution 1/136 is proposed that Alþingi is first involved, this after finalisation of the programme with no material impact.[58]

Direct access to the IMF was facilitated through press conferences and conference calls which must be viewed as information sessions (pertaining more to transparency) than as opportunities to influence the process.[59] Nevertheless, there are indications that indirect participation and influence may have had some impact. One concerned citizen and spokesperson for a group called Opinn borgarfundur (Open Civil Meetings, OCM), Gunnar Sigurðsson, expressed his personal view that their efforts to influence the IMF had some some impact.[60]

On behalf of OCM, Sigurðsson wrote to Dominique Strauss-Kahn voicing concerns about the IMF programme in Iceland along the following lines: the programme did not have Iceland's best interests as a priority; it would indebt Iceland heavily to protect foreign investors; and that the IMF had unjustly sided with the UK and Holland in the Icesave dispute.[61] Strauss-Kahn was invited to participate in one of the civil meetings. Although he did not personally attend, he replied in writing with an open letter to Sigurðsson.[62] Following some further attempts to correspond directly with Strauss-Kahn, the group were invited to meet twice with Franek Rozwadowski, the IMF's resident representative in Iceland. They also joined a Central Bank meeting, attended by Rozwadowski and the IMF's Iceland mission chief, Mark Flanagan as well as the Central Bank's Governor and Chief Economist.[63]

Although only anecdotal, it remains worth reporting that Sigurðsson found it surprisingly

easy to get access to the relevant actors and that he felt that OCM's points of view were heard and discussed in an animated manner. Sigurðsson further suggested that he thought the reason for this relatively easy access to IMF representatives and their efforts to answer the groups questions and to hear their points of view, related to the small size of the Icelandic population and the country's strong democratic tradition. He concluded that the loud protests and doubts raised by OCM and others regarding the IMF's presence in Iceland, in addition to the meetings and correspondence with IMF representatives, contributed to the IMF conducting its business differently in Iceland than its reputation might have suggested.[64]

Public participation is more apparent and more significant in the context of the substantive changes that emanated from the IMF programme and the process of internal consultation will be reviewed in that context.[65]

4. Rule of Law in the Process

The IMF has clear rules of procedure on when and how to render assistence to members and a few different methods of doing so.[66] The programme which Iceland went through is called a Stand-By Arrangement and there is nothing to suggest that the IMF did not follow its own rules of procedure in the process.[67] As established by previous chapters each step of the programme was published on the IMF website and criteria of publicity and clarity were clearly met. One of the fundamental principles of operation of the IMF is the principle of uniformity of treatment which means that 'treatment of members must remain equal and comparable, allowing for no preferences in favour of any country or group of countries.'[68] The comparison needed to ascertain whether Iceland was treated in a comparable manner to other members is outside the scope of this paper.

On the Icelandic side, lack of participation from Alþingi and its Committees is cause for concern and the lawfulness of the executive's engagment with the IMF appears to rest on what might be viewed as a technicality. In May 2008, Alþingi had granted the Government authority to borrow up to 500 billion kronur.[69] The Government's position was that this authority granted by Alþingi in May 2008 meant that they did not need to seek any further authority from Alþingi, a claim contested by Steingrímur J Sigfússon.[70] That does not change the fact that the IMF programme was not something that anyone had foreseen when the authority to borrow 500 billion kronur was granted nor were the terms of that loan something that had been taken into account.

5. Human Rights in the Process

Human rights as such do not really enter into the picture during the process itself, especially in light of the IMF's policy of not involving itself in sovereign matters.[71] Issues of human rights, to the extent that they might be addressed, fall under the substantive aspect of the programme and the implementation by the Icelandic Government and are considered in that light below.

V THE SUBSTANCE OF THE IMF-ICELAND PACKAGE

1. Transparency in the Substance

Even prior to the collapse of the Icelandic economy, the IMF expressed concerns about corporate transparency in Iceland, although transparency in the public sector is rarely discussed[72] Recurring motifs include complex ownership structures, e.g., extensive use of holding companies of financial institutions making it difficult to identify beneficial ownership; cross ownership; and excessive related party lending (itself facilitated and concealed by the difficulty of establishing the relations between the creditor and debtor parties).[73] Lack of standardised reporting rendered meaningful comparisons between competing financial institutions impossible.[74] Throughout the lifetime of the programme, Iceland proposes and the IMF supports reforms to increase the disclosure requirements on financial institutions and mandate more regular, thorough, and standardised reporting to the FME (this latter element pertaining also to corporate and State accountability).[75] The regulatory framework of the financial sector is constantly under review and notwithstanding some reforms, remains so at the close of the programme.[76] The word 'corruption' is not used, but the measures proposed to enhance transparency would reduce the risk. While considering the relationships between various financial institutions and their governing personnel, absent from the discussion is any review of the close relations and possible shared interests between the financial institutions and members of the Icelandic executive both leading up to the crash in 2008 and in its aftermath.[77] In other words, the IMF does not draw attention to the possibility that the proximity of business and politics may have contributed to the crash.

2. Accountability in the Substance

Accountability takes different shapes depending on the institution concerned. The Executive is accountable to the Parliament; and Parliament to the electorate. Private financial institutions are accountable first and foremost to their shareholders, but when the leading shareholder becomes the State, then the entire population are stakeholders.

The directors of the three collapsed private banks are quickly replaced by the FME.[78] The governors of the Central Bank, however, only lost their positions following the change in government and the passing of a new law which renders them unqualified.[79] The two key politicians went on sick leave and a number of members of the administration did not stand for re-election in April 2009. The establishment of the Special Prosecutor's office[80] to investigate potential wrong-doing and the Special Investigative Commission[81] to analyse the principal causes of the crash and by so doing identify key participants, also point to accountability although the work of the Special Prosecutor has been slow. The former Prime Minister Haarde, stands at the time of writing before a special Court established by Alþingi accused of dereliction of duty, although no other member of the Executive has been indicted.[82]

Through the life of the programme, accountability was enhanced by improved supervisory processes of the FME[83] and higher standards for directors of financial institutions.[84]

One institution remains above accountability in terms of the substance of the discussions and that is the IMF itself: to whom is it accountable? The IMF stated in August 2008 that: 'stress tests suggest that the [banking] system is resilient' and that: 'Iceland has strengthened its legal framework for effective banking supervision and enhanced the FME's capacity to supervise credit institutions. All the issues raised in the BCP assessment of 2003 have been addressed and the legal framework for banking supervision provides the FME with sufficient legal powers to perform its prudential tasks'[85] concluding that Iceland's long-term prospects were 'enviable.'[86] This might be viewed as a failure of due diligence on the part of the IMF itself, yet no explanation has been forthcoming, let alone an apology or sanction.

3. Participation in the Substance

Participation has been a key element in the analysis of the process of the IMF-Iceland agreements but inside Iceland, the implementation of the agreement by the Icelandic authorities also requires meaningful participation by those affected by reforms. On the one hand, creditors and other market agents are involved in negotiations (e.g. on compensation for bank nationalisation).[87] On the other hand, social partners (primarily trade unions) are in regular consultation, agreeing, for example, to wage restraints or even cuts, and the IMF encourages Iceland to maintain the stability pact with the unions.[88] On the other hand, there is little evidence of the participation of stakeholders in the capital controls policy (see next section) and information appears to flow very much in one direction: from Iceland to the owners of reserves who are advised of the situation but do not appear to influence it.

Democratic participation is ensured by the election in Spring 2009 and two referenda on Icesave, about which the IMF pointedly does not intervene or express a public opinion.[89] Alþingi as the principal democratic forum of the Icelandic State is repeatedly involved in legislative reforms, although it is not always clear how much genuine discussion and influence it has, and how much they act as a rubber-stamp for executive led policy.[90]

Well organised domestic constituencies secured the ear of government[91] and a working group was established on home loans with representatives of debtors and industry[92] but the IMF repeatedly presses Iceland not to succumb to pressure to offer further assistance to some groups owing to the likelihood that the costs would be borne by the more vulnerable.[93] This might be viewed as an interference with democratic participation and a pressure to remain inflexible in the face of domestic opposition; on the other hand, the justifications of the Icelandic administration and the IMF in this regard are substantively valid. In other areas, consultation with less well organised groups has been less convincing.[94]

In some cases, democratic participation in implementing radical cost-saving measures came at the cost of transparency and accountability, as targets were passed down from on-high to local authority or administrative centres so that it became unclear who made the decisions to cut what and on what basis.[95]

4. Rule of Law in the Substance

The rule of law is held in high regard and 'fair and equitable' treatment of creditors and non-discrimination on the basis of nationality are core values throughout.[96] By far the most challenging issue pertaining to the rule of law is the foreign exchange controls. The controls are accepted by the IMF as they are 'temporary and non-discriminatory' notwithstanding their retrospective effects (money has been invested on the assumption it can be easily withdrawn) and a significant shortage of legal certainty since even at the end of the programme, no time-line for liberalising these is released.[97] Equality before the law is gradually enhanced over the programme as loopholes are reduced and oversight enhanced.[98] Although Iceland is the only IMF country to have introduced foreign exchange controls (introduced before the official involvement of the IMF), and the IMF is initially wary, by the end of the programme, it is the IMF entreating Iceland not to rush to reduce these and to remain prepared to modify their plans to liberalise in light of changing circumstances.[99] In sum, the IMF credits the stability of the Icelandic kronur to the capital controls.[100]

Litigation risks are a concern of the IMF as challenges to laws bode ill for the fiscal planning and in this regard the Supreme Court ruling on foreign currency loans is cited, though legal certainty in this particular matter is swiftly resolved through Alþingi legislation and a supplementary ruling.[101] A deluge of Court cases (e.g. bankruptcy proceedings and challenges to validity of debt contracts) also threatens the efficiency of the Court system

and with this in mind, additional judges are appointed.[102]

5. Human Rights in the Substance

In economic crisis, extensive cuts to public services have impacts on human rights and Iceland is no different, witnessing substantial decreases in education, social security and health-care budgets as well as cuts in the legal system and to policing.[103]

The IMF addresses unemployment which, in light of the ICESCR, is a matter of human rights, although they approach this from a macroeconomic standpoint, rather than as a human rights issue.[104]

A change in emphasis is apparent between the first letter of intent in November 2008 and the later interactions of the Icelandic government with the IMF which corresponds with the change in government. This shift may not be wholly attributable to the change in government as the panic of the Fall of 2008 left a number matters off the agenda; but the new administration is certainly keen to take credit for it.[105] The move is from guaranteeing the vested rights of creditors to a conscious attempt to maintain the 'Nordic welfare model,' defending public services and protecting the most vulnerable members of the population.[106] On the one hand, the IMF recognises that choices of where to direct spending are a sovereign matter and certainly observes rather than leads this priority; but on the other hand, the IMF 'welcomes' Iceland's efforts to preserve 'key features of the social safety net'[107] and expresses concern that further public absorption of private sector losses would likely translate into further cuts affecting the most vulnerable.[108]

As well as attempting to preserve the economic and social rights of the most vulnerable, the Icelandic administration establishes the Debtor's Ombudsman which primarily assists the 'new poor' – those formerly comfortable families who are caught in an unsustainable debt trap and the Ombudsman not only responds to requests for support but actively contacts families threatened with home dispossession.[109]

Nevertheless, it should be clear that the approach is very much one of preserving welfare rather than a defence of human rights and at no point is the term human rights adopted in relation to these issues.[110]

VI HERE BE ELEPHANTS

Some doubts about the genuine extent of transparency are encouraged by the scant attention paid in the published documents pertaining to a number of key economic issues. They include the matters of Icesave and renewable natural resources (fish and energy). In each case, the IMF can rightly conclude that it is a matter of domestic concern but the IMF, concerned primarily with the ability of Iceland to repay its debts and to prevent another crash, must acknowledge the macro-economic uncertainty that attaches to these issues.

A. Icesave

Possibly the most politicised aspect of the entire crisis and resulting national debt is the

repayment of the Icesave compensation. The Icesave issue revolved around on-line savings accounts launched by Landsbanki in the United Kingdom (Fall 2006) and the Netherlands (Spring 2008) under the brand 'Icesave'.[111] After the collapse of the Icelandic banks, the deposits held in Icelandic branches were transferred to a new State owned bank, which meant that domestic depositors in Landbanki had full access to their accounts whereas deposits in the foreign based Icesave accounts were frozen.[112] The British and Dutch governments compensated their own Icesave depositors, then demanded repayment based on the view that Iceland had violated the Agreement on the European Economic Area[113] by not compensating Icesave depositors, a view supported by the European Free Trade Association Surveillance Agency (ESA).[114] Eventually, the Icelandic government agreed to a political solution, rather than a legal one, and negotiations for a loan agreement commenced. Despite two separate agreements being reached both of which were passed in Alþingi, the Icelandic people rejected the agreements in two separate referenda invoked by the President under article 26 of the Icelandic Constitution, the first on 6 March 2010,[115] and the second on 9 April 2011.[116] It is interesting how much attention was paid to the Icesave issue considering that already in October 2008, the assets of Landsbanki were expected to cover the Icesave deposits,[117] and recent estimates indicate that they will cover the debt in full.[118] To put it into perspective, the government debt level at the end of 2010 was expected to be 130% of GDP including the Icesave debt of approximately 15% GDP, assuming a recovery rate of only 88%.[119]

Domestically, speculation was rife that the United Kingdom and the Netherland would veto a rescue package for Iceland in the absence of a blanket promise of repayment and Iceland's response to the ESA in May 2011 bemoans this alleged strong-arming by the United Kingdom and the Netherlands of Iceland through the IMF.[120] The IMF twice denies this in response to inquiries from the public.[121] Within the IMF-Iceland agreements, Icesave is only discussed when the IMF believes it to be a done deal, the second agreement having been approved by Alþingi and not yet sent to referendum.[122] Following this second referendum, the IMF nonchalantly reclassifies it as a 'contingent liability' and an additional risk and carries on.[123] It remains a 'large risk' when the programme draws to a close in August 2011. The only clue we have as to the IMF's interest in Icesave, is in a conference call in June 2011 in which a representative from the IMF described it as:

one of the key issues that we assessed when we visited Iceland in late April, early May. We wanted to try to get a better picture of what the possible implications of the Icesave referendum could be on the investment climate, on the authorities' ability to tap international capital markets and our assessment was that there may be some effects but these effects at the moment appear to be relatively minimal.[124]

However, yet again, the lack of published meeting records makes it impossible to assess the IMF's policy on Icesave, if indeed, they had one at all. On the other hand, the fact that the IMF has been and gone, notwithstanding the Icesave dispute and the fact that it remains the subject of international litigation suggests the implausibility of the view that the IMF-Iceland programme pivoted on the matter. Nevertheless, improved and timely transparency would have mitigated many of the domestic concerns.

B. Natural energy resources

The IMF regards Iceland's 'bountiful renewable natural resources'[125] as a core strength underlying the economy, a resource that might be 'tapped' to boost foreign exchange earnings and repay foreign creditors.[126] Following the change of government, the IMF recognises the domestic controversy regarding exploitation and foreign investment[127] and reiterates in its public statements that it is a matter of 'national sovereignty' and that foreign direct investment in energy resources is 'not a condition' of IMF assistance.[128] At the same time, the IMF appears to view domestic restrictions on foreign investment in the energy sector as 'regulatory hurdles' and sees these 'barriers' as a threat to growth;[129] elsewhere the approach seems to be that exploitation to support energy-intensive industry is inevitable, subject only to 'delays'[130] rather than acknowledging that a democratic government may never permit exploitation if there is sufficient domestic opposition. Iceland seeks technical assistance from the IMF in the form of a research paper exploring the possibilities for taxation of natural resources and this is published in May 2011; it is not,

however, a formal part of the programme but rather provides analysis on which the Icelandic administration can make sovereign decisions.[131] It would not be true, then, to say that natural energy resources are never mentioned but references are so scant and devoid of substance that again, it would be enlightening to review meeting records either to confirm or disprove that the IMF had a policy in this regard.

C. Fishing quotas

Most astonishing of all is the paucity of reference to the fishing industry and the controversial individual transferable quotas (ITQs), introduced in 1984.[132] A 1997 law that permitted them to be used as collateral against borrowing provided the injection of cash on which the Icelandic 'miracle' was founded.[133] The vast majority of funds raised were invested in unrelated industries and this was encouraged by the administration of the time and its many cheerleaders.[134] By 2000, it had become apparent that the quotas were too highly leveraged; and by 2008 the nominal value of the quotas amounted to approximately 50 times the annual profits of the entire industry.[135] Reflecting opposed political values and spurred on by the 2007 View of the United Nations Human Rights Committee that the system is unlawfully discriminatory,[136] the current administration is attempting to reform the system and re-nationalise the fishing quotas. Unsurprisingly, these attempts are facing intense opposition from the vested interests of the quota holders, the banks and related sectors.[137] Any sudden renationalisation would create an enormous black hole in the balance sheets of the Icelandic banks which accepted the ITQs as collateral and would likely precipitate a repeat of the 2008 crash. Even gradual recapture for redistribution seriously threatens their collateral value and creates exactly the kind of uncertainty that can lead to a run.[138]

Buried in a table in the August 2008 report of the IMF, the extensive debts of the fishing industry are acknowledged[139] and in April 2010, the IMF includes a graph of foreign exchange debt exposure which includes the fishing industry,[140] so there can be no doubt that

the IMF is well aware of the extent of the problem. Nevertheless, despite these two minor references, it is never discussed in the text and there are no other substantive references to the leveraging issue. Since minutes of the meetings between the IMF and Icelandic authorities are not available, one cannot begin to speculate as to what passed on the matter but it is inconceivable that the issue was never raised.

VI KEY FINDINGS AND CONCLUSIONS

Based on the information available, it can be concluded that on the whole, good governance was broadly exercised in the IMF-Iceland relations 2008-2011. However, it is precisely the information that is not available that is needed to fully evaluate the programme, highlighting the limitations that arise when transparency is wanting. This review confirms one key feature of most theoretical accounts of good governance: namely, that transparency underlies all of good governance and that lack of transparency has negative repercussions for its other dimensions. The lack of transparency, most notable in the early months but continuing through the programme in the absence of published minutes and publication of policies only after they had been agreed, made it difficult to evaluate other aspects of the process and impacted also on the review of the domestic implementation of the programme.

The fact that the IMF is not accountable to the Icelandic people compounds the lack of information especially considering the constitutional role of the Alþingi as the proper legislative forum. The Alþingi had been already reduced in status to de facto subsidiary of the executive branch in the years leading up to the crisis. In that light, the ‘elephants in the

room' – Icesave and management of natural resources – which are barely mentioned in the published documentation but must have been subjects of IMF interest, encourage speculation that the IMF was steering domestic law and policy in these areas.

On the other hand, at domestic level, the IMF encourages improvements in corporate transparency and accountability and the Alþingi establishes the SIC and the Special Prosecutor in attempts to hold accountable those public officials deemed in some way culpable for the crisis. Policy decisions are 'sovereign' matters which leaves the accountability for the tax and spend decisions ostensibly in executive and legislative hands (as opposed to the IMF) where it is most suited as it is these domestic institutions that bear responsibility.

Limited availability of material in Icelandic is perhaps forgivable given the cost of translation and the urgent financial pressures on government budgets, especially in a country where the majority of the population have reading competency in English. Nevertheless, it would have cost nothing to have established a single website to collate all the material pertaining to the IMF programme as it is one of the most significant international agreements that Iceland has ever entered into with direct and indirect impacts on current and future generations of Icelandic residents. The IMF has a country specific page for Iceland; but what Icelandic material the authors collected was obtained from various, scattered Icelandic government websites.

Participation by stakeholders on all sides was limited in the IMF-Icelandic negotiations which is perhaps understandable as the Icelandic executive represents domestic interests in international affairs; on the other hand, at the substantive level of implementation, concerted efforts were made to include creditors, employers' organisations, trade unions, and non-governmental organisations. Where participation is most lacking, at least as regards effectiveness, is in the biggest rule of law challenge under the programme: the

capital controls. Stakeholders were informed rather than consulted and the controls remain in place at the time of writing. Democratic participation is defended to the full by virtue of one general election and two referenda: this was no time to save on costs by not holding these plebiscites. At no time does the IMF express any concerns about the results of these elections and accepts the expressed democratic will on the second Icesave, notwithstanding that they had eagerly welcomed the agreement. Thus can the IMF be said to have respected elements of participation, rule of law and human rights (civil and political rights). The change of government also coincided with an increased attention to welfare matters, without, however, employing the language of human rights. This is clearly a matter of domestic policy into which the IMF does not appear to intervene, but nonetheless, the IMF speaks positively of the government's efforts to protect those who are most vulnerable in the downturn.

Scope for further research is wide; for example, to what extent did the IMF-Iceland relationship and the IMF's emphasis on governance translate into domestic law and policy more generally? Were there substantive improvements domestically following the programme beyond the financial sector? How does the IMF's approach in Iceland compare with its work elsewhere? Does it truly exercise 'an even-handed treatment of governance issues in all member countries'?[141] Nevertheless, the authors hope that within its paradigms and on the basis of the limited available material, this review provides insight into the principles of good governance in the IMF-Iceland relationship between 2008 and 2011.

APPENDIX I
CHRONOLOGY OF EVENTS

DATE	ACTION
4th July 2008	IMF Article IV consultation on Iceland.

19th Aug. 2008	IMF Financial System Stability Report on Iceland.
15th Sep. 2008	Lehman brothers bankruptcy.
29th Sep. 08	FME takes over Glitnir.
1st Oct. 2008	2009 Budget proposal presented to Alþingi
6th Oct. 2008	Trading suspended in Icelandic exchance; 'God Bless Iceland' speech (Haarde).
7th Oct. 2008	Landsbanki & Glitnir nationalised; boards dismissed & FME takes control.
8th Oct. 2008	UK 'counter-terrorism' legislation invoked; Kaupþing nationalised.
27th Oct. 2008 – 12th Jan. 2009	Open Civil Meetings held and group of interested citizens in communication with IMF
15th Nov, 2008	1st letter of intent
17th Nov. 2008	DV publishes part of 1st Letter of intent; Resolution 1/136 proposed in Alþingi.
25th Nov. 2008	IMF Staff report on Iceland's 1st Letter of Intent.
11th Dec. 2008	Revised Budget presented to Budget Committee of the Alþingi.
15th Dec. 2008	Second discussion on 2009 Budget and the new amendments.
22nd Dec. 2008	2009 Budget passed in Alþingi.
24th Dec. 2008	IMF interim review of Iceland package released.
22nd Jan. 2009	Teargas used against protesters in Reykjavík.
23rd Jan. 2009	Prime Minister Geir Haarde resigns on grounds of ill-health.
27th Jan. 2009	Minority administration, led by Jóhanna Sigurðardóttir (Samfylgin/Vinstri-Græni, assisted by Framsóknaflokkurinn).

25th April 2009	Icelandic general election; Samfylgin/Vinstri-Græni majority.
1st Oct. 2009	2010 Budget proposal presented to Alþingi.
20th Oct. 2009	2nd letter of intent.
20th Oct. 2009	IMF staff report on 2nd letter of intent.
22nd Dec. 2009	2010 Budget passed in Alþingi.
6th Mar. 2010	Icesave I referendum (93% against).
7th April 2010	3rd letter of intent.
8th April 2010	IMF staff report on 3rd letter of intent.
14th April 2010	Eyjafjallajökull erupts.
13th Sep. 2010	4th letter of intent.
13th Sep. 2010	IMF staff report on 4th letter of intent.
22nd Dec. 2010	5th letter of intent
22nd Dec. 2010	IMF staff report on 5th letter of intent.
9th April 2011	Icesave II referendum (60% against).
19th May 2011	6th letter of intent; staff report same day.
19th May 2011	IMF staff report on 6th letter of intent.
21st May 2011	Grímsvötn erupts.
16th Aug. 2011	7th letter of intent.
16th Aug. 2011	IMF staff report on 7th letter of intent.

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[41] LOI1 (n. 4).

[42] Vefútgáfa Alþingistíðinda, 161. mál, 32. fundur, Steingrímur J. Sigfússon, speech November 20, 2008 at 11:29, slóð: <http://www.althingi.is/altext/raeda/136/rad20081120T112948.html> (accessed March 27, 2012); Tillaga til þingsályktunar um fjárhagslega fyrirgreiðslu hjá Alþjóðagjaldeyrissjóðnum, þskj. 264 – 161. mál, Vefútgáfa Alþingistíðinda, slóð: <http://www.althingi.is/altext/136/s/0264.html< (accessed March 27, 2012); Tillaga til þingsályktunar um fjárhagslega fyrirgreiðslu hjá Alþjóðagjaldeyrissjóðnum, þskj. 265 – 161. mál, Vefútgáfa Alþingistíðinda, slóð: <http://www.althingi.is/altext/136/s/0265.html> (accessed March 27, 2012); Tillaga til þingsályktunar um fjárhagslega fyrirgreiðslu hjá Alþjóðagjaldeyrissjóðnum, þskj. 266 – 161. mál, Vefútgáfa Alþingistíðinda, slóð: <http://www.althingi.is/altext/136/s/0266.html> (accessed March 27, 2012); Vefútgáfa Alþingistíðinda, 161. mál, 44. fundur, Steingrímur J. Sigfússon, speech December 5, 2008 at 11:31, slóð: <http://www.althingi.is/altext/raeda/136/rad20081205T113132.html> (accessed March 27, 2012).

[43] Vefútgáfa Alþingistíðinda, 161. mál, 32. fundur, Geir H. Haarde, speech November 20, 2008 at 11:08, slóð: <http://www.althingi.is/altext/raeda/136/rad20081120T110854.html> (accessed March 27, 2012);

ibid, Ingibjörg Sólrún Gísladóttir speech at 12:25, slóð: <http://www.althingi.is/altext/raeda/136/rad20081120T122557.html> (accessed March 27, 2012).

[44] Vefútgáfa Alþingistíðinda, 161. mál, 32. fundur, Steingrímur J. Sigfússon, speech November 20, 2008 at 11:29, slóð: <http://www.althingi.is/altext/raeda/136/rad20081120T112948.html> (accessed March 27, 2012).

[45] Rannsóknarnefnd Alþingis, The Report of the Icelandic Parliament's Special Investigation Commission (Alþingi: Reykjavík, April 12, 2010) Volume 8, 147.

[46] RUV, 'Vildu loka Þjóðleikhúsinu og söfnum' (Reykjavík, February 6, 2012) <http://www.ruv.is/frett/vildu-loka-thjodleikhusinu-og-sofnum> (accessed March 6, 2012).

[47] The following websites were reviewed by the authors: the Office of the Prime Ministry; the Ministry of Finance; the Ministry of Economic Affairs; and the Central Bank of Iceland.

[48] Prime Minister's Office, 'Áætlun Íslands um efnahagsstöðugleika' (November 16, 2008) <http://www.forsaetisraduneyti.is/Aaetlun_um_efnahagsstodugleika/> (accessed March 8, 2012); Prime Minister's Office, 'Fyrstu endurskoðum efnahagsáætlunar Íslands og AGS lokið' (October 28, 2009) <http://www.forsaetisraduneyti.is/frettir/nr/4031> (accessed March 8, 2012); Ministry of Economic Affairs, Letter of Intent (Icelandic Translation) (October 20, 2009) <http://www.efnahagsraduneyti.is/media/Acrobat/LOI_final_for_signing_TYDING_draft.pdf> (accessed March 8, 2012); Prime Minister's Office, 'Ísland útskrifast: Samstarf Íslands og AGS um efnahagsáætlun komið á leiðarenda' (August 26, 2011) <http://www.forsaetisraduneyti.is/frettir/nr/6860> (accessed, 8 March 2012); Ministry of Economic Affairs, 'Viljayfirlýsing stjórnvalda á íslensku' (June 9, 2011) <http://www.efnahagsraduneyti.is/frettir/frettatilkynningar/nr/3253> (accessed March 8,

2012).

[49] IMF, Iceland: Stand-By Arrangement Interim Review Under the Emergency Financing Mechanism, IMF Country Report No. 09/52, December 24, 2008 (Icelandic translation: Prime Minister's Office, 'Fréttatilkynning vegna áfangaskýrslu IMF' (February 12, 2009) <http://www.forsaetisraduneyti.is/frettir/nr/3400> (accessed March 8, 2012)); Central Bank of Iceland, 'Stöðuskýrsla Alþjóðagjaldeyrissjóðsins' (February 12, 2009) <http://www.sedlabanki.is/?PageID=13&NewsID=2043> (accessed March 12, 2012); IMF, 'Statement by the IMF Mission to Iceland' Press Release No. 09/76, March 13, 2009 (Icelandic translation: Prime Minister's Office, 'Fréttatilkynning sendinefndar Alþjóðagjaldeyrissjóðsins á íslensku' (March 13, 2009) <http://www.forsaetisraduneyti.is/frettir/nr/3529> (accessed March 12, 2012)); IMF, 'Statement by the IMF Mission to Iceland' Press Release No. 09/189, May 29, 2009 (Icelandic translation: Prime Minister's Office, 'Fréttatilkynning sendinefndar Alþjóðagjaldeyrissjóðsins á íslensku' (May 29, 2009) <http://www.forsaetisraduneyti.is/frettir/nr/3752> (accessed March 8, 2012)).

[50] These three 'elephants in the room' are discussed in part VI below.

[51] Rannsóknarnefnd Alþingis (n. 45), Volume 8, pp. 133-152.

[52] Vefútgáfa Alþingistíðinda, 161. mál, 32. fundur, Ingibjörg Sólrún Gísladóttir, speech November 20, 2008 at 12:25, slóð: <http://www.althingi.is/altext/raeda/136/rad20081120T122557.html> (accessed March 27, 2012).

[53] IMF, 'Accountability' <http://www.imf.org/external/about/govaccount.htm> (accessed March 8, 2012).

[54] IMF, 'Good Governance: the IMF's Role' (n. 9), para. 7.

[55] E.g., IMF, Transcript of a Conference Call on the IMF's Executive Board Approval of a Stand-By Arrangement for Iceland, November 20, 2008 [Conference Call 1] (on tax and spend policies); IMF, Transcript of a Conference Call on the Completion of the First Review

of Iceland's Stand-By Arrangement, October 29, 2009 [Conference Call 2] (on Iceland's application to the European Union); IMF, Transcript of a Conference Call on Iceland, January 14, 2011 [Conference Call 3] (on Icelandic natural resources and foreign investment).

[56] LOI1 (n. 4) para. 23.

[57] See below, part V.C.

[58] Tillaga til þingsályktunar um fjárhagslega fyrirgreiðslu hjá Alþjóðagjaldeyrissjóðnum, þskj. 189 – 161. mál, Vefútgáfa Alþingistíðinda, slóð: <http://www.althingi.is/altext/136/s/0189.html> (accessed March 27, 2012). All documents relating to the Resolution may be found here: 'Fjárhagsleg fyrirgreiðsla hjá Alþjóðagjaldeyrissjóðun' <http://www.althingi.is/dba-bin/ferill.pl?ltg=136&mnr=161>.

[59] Conference Calls 1, 2 and 3 (n. 55); IMF, Transcript of a Conference Call on Iceland, June 6, 2011 [Conference Call 4].

[60] Gunnar Sigurðsson, Film Director and Activist, Member of 'Opinn borgarfundur" (Open Civil Meeting), Telephone Interview, March 2, 2012.

[61] Lára Hanna Einarsdóttir, 'Borgarabréf til Alþjóðagjaldeyrissjóðsins' Eyjan: Lára Hanna (Blog), November 2, 2009, <http://blog.eyjan.is/larahanna/2009/11/02/borgarabref-til-althjodagjaldeyrissjodsins/> (accessed March 28, 2012) .

[62] IMF, Dominique Strauss-Khan, Managing Director, IMF, Open Letter to Open Civil Meetings, c/o Gunnar Sigurðsson, November 12, 2009.

[63] Sigurðsson (n. 60).

[64] ibid.

[65] See below, part V.C.

[66] IMF, 'IMF Lending,' Factsheet <http://www.imf.org/external/np/exr/facts/pdf/howlend.pdf> (accessed March 6, 2012).

[67] IMF, 'IMF Stand-By Agreement,' Factsheet <http://www.imf.org/external/np/exr/facts/pdf/sba.pdf> (accessed March 6, 2012).

[68] IMF, 'The Unique Nature of the Responsibilities of the IMF' Pamphlet No. 46, <http://www.imf.org/external/pubs/ft/pam/pam46/pam4602.htm#n32> (accessed March 6, 2012).

[69] Stjórnartíðindi A, 7. júní 2008, Lög nr. 60/2008 um heimild ríkissjóðs Íslands til sérstakrar lántöku á árinu 2008, slóð:

<http://www.althingi.is/lagas/nuna/2008060.html> (accessed March 27, 2012).

[70] Vefútgáfa Alþingistíðinda, 161. mál, 32. fundur, Steingrímur J. Sigfússon, speech November 20, 2008 at 11:29, slóð: <http://www.althingi.is/altext/raeda/136/rad20081120T112948.html> (accessed March 27, 2012).

[71] Conference Call 1 (n. 55).

[72] IMF, Iceland 2008 Article IV Consultation Concluding Statement, July 4, 2008, 11-12; IMF, Iceland, Financial System Stability Assessment Update, 2008 (n. 2), 8 (Box 1); IMF, Iceland: 2008 Article IV Consultation, Staff Report, IMF Country Report No. 08/367, August 20, 2008 (published December 2008) 21-22 and 30-31.

[73] ibid; see also, e.g., Staff Report 1 (n. 34) para. 25, IMF, Iceland: Request for Stand-By Arrangement, Staff Report, IMF Country Report No. 08/362, November 25, 2008 [Stand-by Report] para. 26.

[74] Staff Report 5 (n. 34), para. 26.

[75] LOI3 (n. 4), para. 17; LOI4 (n. 4) para. 25; Staff Report 5 (n. 34) paras. 26 and 42; LOI6 (n.

4), para. 23; LOI7 (n. 4) para. 13.

[76] Staff Report 6 (n. 34), paras. 22, 25 and 39.

[77] Rannsóknarnefnd Alþingis (n. 45) Volume 8, 18-31, 158-170.

[78] LOI1 (n. 4), para. 4.

[79] Stjórnartíðindi A, 26. febrúar 2009, Lög nr. 5/2009 um breytingar á lögum nr. 36/2001, um Seðlabanka Íslands, slóð: <http://www.althingi.is/altext/stjt/2009.005.html> (accessed March 30, 2012).

[80] Stjórnartíðindi A, 11. desember 2008, Lög nr. 135/2008 um embætti sérstaks saksóknara, slóð: <http://www.althingi.is/lagas/nuna/2008135.html> (accessed March 27, 2012).

[81] Stjórnartíðindi A, 17. desember 2008, Lög nr. 142/2008 um rannsókn á aðdraganda og orsökum falls íslensku bankanna 2008 og tengdra atburða, slóð: <http://www.althingi.is/lagas/nuna/2008142.html> (accessed March 27, 2012).

[82] Tillaga til þingsályktunar um málshöfðun gegn ráðherrum, þskj. 1502 – 706. mál, Vefútgáfa Alþingistíðinda, slóð: <http://www.althingi.is/altext/138/s/1502.html> (accessed March 28, 2012); Tillaga til þingsályktunar um málshöfðun gegn ráðherrum, þskj. 1538 – 706. mál, Vefútgáfa Alþingistíðinda, slóð: <http://www.althingi.is/altext/138/s/1538.html> (accessed March 28, 2012). The proposal originally named 4 ministers to be indicted, but as the indictment of each minister went through a separate vote; the result was only the former Prime Minister Geir Haarde was indicted.

[83] E.g., Stand-by Report (n. 73), para. 26; Staff Report 1 (n. 34), para. 25 and Attachment II: Iceland: Memorandum of Economic and Financial Policies, para. 5; LOI4 (n. 4), paras. 8 and 25; Staff Report 4 (n. 34), para. 29; LOI5 (n. 4), para. 27; LOI6 (n. 4) paras. 22-25; Staff Report 6 (n. 34), paras. 22 and 25.

[84] LOI3 (n. 4), para. 14; LOI5 (n. 4), para. 27.

[85] IMF, Iceland, Financial System Stability Assessment Update (n. 2), Executive Summary, 5; and 27, para. 48.

[86] IMF, Iceland: 2008 Article IV Consultation, Staff Report (n. 72), para. 33; see also: IMF, 'IMF Executive Board Concludes 2008 Article IV Consultation with Iceland' Public Information Notice No. 08/120, September 19, 2008, 2.

[87] E.g., Staff Report 1 (n. 34), para. 22; LOI (n. 4), para. 14; Staff Report 2 (n. 34), para. 21; Staff Report 4 (n. 34), paras. 10 and 27; Staff Report 5 (n. 34), para. 17; Staff report 6 (n. 34), para. 27; and LOI7 (n. 4), para. 10.

[88] E.g., Stand-by Report (n. 73), para. 23; IMF, Iceland: Request for Exceptional Access for Requested Stand-By Arrangement, November 25, 2008, para. 7; Staff Report 1 (n. 34), para. 57; IMF, Statement by Jens Olof Henriksson, Executive Director for Iceland and Bjorn Olafsson, Senior Advisor to Executive Director, October 28, 2009. para. 2; Staff Report 2 (n. 34), para. 14; Staff Report 3 (n. 34), paras. 11 and 35; Staff Report 4 (n. 34), paras. 15 and 38; and Staff Report 5 (n. 34), para. 6.

[89] Conference Call 1 (n. 55), 5; and Conference Call 2 (n. 55), 3.

[90] Staff Report 1 (n. 34), para. 29; LOI3 (n. 4), paras. 16&19; LOI4 (n. 4), para. 25; Staff Report 4 (n. 34), paras. 15 and 30; LOI5 (n. 4), para. 9; Staff Report 5 (n. 34), para. 26; LOI7 (n. 4), para. 12. But see, Rannsóknarnefnd Alþingis (n. 45), , Volume 8, 184.

[91] Johnstone and Ámundadóttir (n. 21), 474-75.

[92] Staff Report 4 (n. 34), para. 9.

[93] ibid, para. 40.

[94] Johnstone and Ámundadóttir (n. 21), 474-75.

[95] Aðalheiður Ámundadóttir and Rachael Lorna Johnstone, Mannréttindi í þrengingum : Efnahagsleg og félagsleg réttindi í kreppunni (Akureyri: University of Akureyri

Press/Icelandic Human Rights Centre, Akureyri, 2011), 54-56.

[96] E.g., Staff Report 1 (n. 34), para. 22; Conference Call 2, 4.

[97] Staff Report 6 (n. 34), para. 35; Conference Call 3 (n. 55), 1; but compare LOI1 (n. 4), para. 22 (stating that currency controls should be gradually lifted during lifetime of the programme).

[98] Staff Report 1 (n. 34), para. 18; Staff Report 2 (n. 34), para. 20; Staff Report 4 (n. 34), para. 23; Staff Report 6 (n. 34), para. 20.

[99] Staff Report 6 (n. 34), para. 35.

[100] ibid, para. 1.

[101] Staff Report 4 (n. 34), para. 12.

[102] LOI3 (n. 4), para. 19.

[103] See, generally, Ámundadóttir and Johnstone (n. 95).

[104] Staff Report 5 (n. 34), 11, Box 2.

[105] See Human Rights Council, Report of the Working Group on the Universal Periodic Review: Iceland, Report on the Nineteenth Session, December 2011, UN Doc. A/HRC/19/13, para. 12: 'The [Icelandic] Delegation highlighted that the present Government was formed with the specific mission to safeguard and protect the welfare system in times of crisis'; see also Tillaga til þingsályktunar um fjárhagslega fyrirgreiðslu hjá Alþjóðagjaldeyrissjóðnum, þskj. 265 – 161. mál, Vefútgáfa Alþingistíðinda, slóð: <http://www.althingi.is/altext/136/s/0265.html> (accessed March 27, 2012) and Vefútgáfa Alþingistíðinda, 161. mál, 32. fundur, Steingrímur J. Sigfússon, speech 20 November 2008 at 11:29, slóð: <http://www.althingi.is/altext/raeda/136/rad20081120T112948.html> (accessed March 27, 2012) (whilst still in opposition, Steingrímur Sigfússon and the minority in general express concern regarding the impact of the IMF programme on the

welfare system referring to the IMF's record elsewhere).

[106] Compare LOI1 (n. 4) paras. 6-9; and LOI2 (n. 4), para. 18.

[107] Staff Report 2 (n. 34), para. 42.

[108] Staff Report 4 (n. 34), para. 43.

[109] LOI4 (n. 4), paras. 11-12.

[110] See Ámundadóttir and Johnstone (n. 95), 60-62 (on the significance of discussions in 'rights' terms as opposed to 'welfare').

[111] EFTA Surveillance Authority, 'Ice-save: Iceland obliged to ensure payment of the minimum compensation to British and Dutch depositors' (Press & Publications, May 26, 2010) <http://www.eftasurv.int/media/internal-market/LFN-Ice-save.pdf> (accessed March 27, 2012), 1.

[112] ibid, 1-2.

[113] Agreement on the European Economic Area, OJ No. L 1, January 3, 1994, 3. CELEX Ref: 21994A0103(01) (31994D0001).

[114] EFTA Surveillance Authority (n. 111), p. 15.

[115] Statistics Iceland, 'Referendum 6 March 2010' News no. 97/2010, May 18, 2010) <http://www.statice.is/Pages/444?NewsID=5191> (accessed March 27, 2012).

[116] Prime Minister's Office, 'Statement from the Government of Iceland on the outcome of the referendum on the Icesave Agreements' (April 10, 2011) <http://eng.forsaetisraduneyti.is/news-and-articles/nr/6724> (accessed March 27, 2012).

[117] IceNews, 'Landsbanki assets alone nearly enough to cover Icesave' (Reykjavík, October 13, 2008,

<http://www.icenews.is/index.php/2008/10/13/landsbanki-assets-alone-nearly-enough-to-cover-icesave/> (accessed March 27, 2012).

[118] IceNews, 'Landsbanki predicts it can pay Icesave debt, and more' (Reykjavík, September 2, 2011). <http://www.icenews.is/index.php/2011/09/02/26243/> (accessed March 27, 2012).

[119] Ministry of Foreign Affairs, 'Fact Sheet – The Icesave Issue – Key Figures,' June 2010 <http://www.mfa.is/media/MFA_pdf/Fact-Sheet—The-Icesave-Issue—Key-Figures-June.pdf> (accessed March 27, 2012).

[120] Ministry of Economic Affairs, 'Stjórnvöld svara ESA vegna Icesave málsins' May 2, 2011 <http://eng.efnahagsraduneyti.is/media/Acrobat/Government-Response-to-ESA-020511.pdf> (accessed March 27, 2012).

[121] Conference Call 1 (n. 55), 5; and Conference Call 2 (n. 55), 3.

[122] Staff Report 4 (n. 34), 7, Box 1 and 47.

[123] Staff Report 5 (n. 34), 5, Box 1 and 34.

[124] Conference Call 4 (n. 59).

[125] IMF, Iceland: 2008 Article IV Consultation Staff Report (n. 72) paras. 1 and 33; see also: Staff Report 6 (n. 34), paras. 2 and 5 on Iceland's 'abundant' natural resources.

[126] Stand-By Report, para. 32 (p21) and Attachment III: External Debt Sustainability Analysis and Fiscal Sustainability Analysis, para. 4; IMF, 'IMF Executive Board Approves US$2.1 Billion Stand-By Arrangement for Iceland' Press Release No. 08/296, November 19, 2008.

[127] Staff Report 6, para. 5.

[128] Conference Call 3 (n. 55), 3.

[129] Staff Report 3 (n. 34), paras.11, 34 and 45.

[130] Staff Report 2 (n. 34) para. 10.

[131] Philip Daniel, Ruud De Mooij, Thornton Matheson, and Geerten Michielse, 'Iceland: Advancing Tax Reform and the Taxation of Natural Resources' IMF Country Report No. 11/138, May 2011.

[132] Frumvarp til laga um stjórn fiskveiða, þskj. 609, 352. mál. Vefútgáfa Alþingistíðinda, slóð: <http://www.althingi.is/altext/112/s/0609.html> (accessed March 29, 2012)

[133] Stjórnartíðindi A, 28. maí 1997, Lög nr. 75/1997 um samningsveð, slóð: <http://www.althingi.is/lagas/nuna/1997075.html> (accessed March 28, 2012); see also Rannsóknarnfend Alþingis (n. 45) Volume 8, 233; and Níels Einarsson, Culture, Conflict and Crises in the Icelandic Fisheries: An Anthropological Study of People, Policy and Marine Resources in the North Atlantic Arctic, Uppsala Studies in Cultural Anthropology No. 48 (Uppsala University: Uppsala, 2011), 145.

[134] The use of the quotas as collateral for investment in unrelated business ventures was supported by the pre-crash administration: see Níels Einarsson, 'Fisheries Governance and Social Discourse in Post-Crisis Iceland: Responses to the UN Human Rights Committee's Views in Case 1306/2004' (2011) 3 Yearbook of Polar Law 479, 506-7.

[135] Einarsson (n. 133), 146.

[136] Human Rights Committee, Views in Communication no. 1306/2004: Haraldsson and Sveinsson v Iceland (October 24, 2007) UN Doc. CCPR/C/91/D/1306/2004.

[137] Einarsson (n. 133), 145-46

[138] ibid, 147 (noting the difficulties in assessing estimates for the loss of equity of renationalisation since they are almost always coloured by the vested interests or political objectives of those that commissioned them).

[139] IMF, Iceland: 2008 Article IV Consultation Staff Report (n. 72), 28, Table 3.

[140] Staff Report 2 (n. 34), 26, Figure 4.

[141] IMF, 'Good Governance: the IMF's Role' (n. 9), 2.