

Eurodad submission to the call for contributions on International debt architecture reform and human rights

by the UN Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights

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The following text has been prepared and submitted by Eurodad, European Network on Debt and Development, complementing the submission made by the Civil Society group on Financing for Development. The following points offer insights on the [questions 3 to 6, 11 and 13 outlined in the call for contributions](#).

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Foreign debt repayments increasing burden is decimating available resources for human rights is safeguarded in times of COVID-19 crisis (Q.3&4)

A [report](#) by Eurodad identified that public debt of developing countries has increased from an average of 40.2 to 62.3 per cent of GDP between 2010 and 2020. More than one third of the increase, equivalent to 8.3 percentage points, took place in 2020. Public debt increased in 108 out of 116 developing countries in 2020. Countries that entered the crisis with the highest levels of public debt tended to experience the largest increases in 2020. For a group of 40 developing countries with debt levels above 60 per cent of GDP in 2019, the increase in public indebtedness reached 11.4 per cent of GDP in 2020.

As public debt increased, so did the resources allocated to meet creditor claims. The share of government revenues in developing countries used to meet external debt service increased threefold in low and middle income countries, from 6.6 to 17.4 per cent between 2011 and 2020. In at least 32 countries, governments are now allocating more than 20 per cent of government revenues to debt service. As a result, a large number of countries in the developing world are already allocating more resources to debt service than to either public health care or education. External public debt service was larger than health care expenditure in at least 62 countries in 2020. Furthermore, external public debt service was larger than education expenditure in at least 36 countries in 2020.

This is not only a consequence of the worsening of the economic context due to the Covid-19 pandemic. As a [Eurodad report](#) pointed out in early 2020, before the Covid-19 outbreak, debt service had been increasing in many developing countries over the past decade, diverting an increasing amount of resources from public services towards debt payments. While debt levels were increasing, between 2014-18 resources spent on public services dropped by more than 18 per cent in Latin America and the Caribbean and by 15 per cent in Sub-Saharan Africa. In at least 21 low- and middle-income countries, government education expenditure as a percentage of GDP decreased between 2015 and 2017, while debt service as a percentage of GDP was increasing. Similarly, in the 39 countries where data is available, the domestic general government health expenditure per capita decreased between 2014 and 2016, while debt service per capita increased.

The impact of unsustainable debt is not only on social rights, such as access to health or education, but it particularly falls more heavily on women and girls rights. It is mainly women who will carry the extra unpaid burden of the care tasks that public services will eventually stop providing (or as both quality and coverage

decrease). Women are concentrated more heavily than men in lower-income sectors of society, thus women are more affected by cuts in social protection programmes and food or energy subsidies, or, for example, by the removal of vital services for survivors of gender violence, given the increase of external debt service weight in the public budgets. Public workers' wage caps also directly impact women's income and economic security, as the public sector tends to be a major source of employment for women. All of these measures were and are part of the fiscal consolidation programs that countries undertake, often under the guidance of the IMF, to return their external debt to sustainable levels. The Covid-19 health, social and economic crisis has deepened this process.

Despite the severity of the health and social crisis, countries have continued to prioritize debt repayments over safeguarding resources to protect the human rights of their population. Public external debt service of developing countries reached US\$ 372 billion in 2020. This led to a net negative transfer on external public debt of developing countries of US\$ 194 billion. The public sector transferred resources to their creditors on a net basis in at least 58 countries. This figure is a damning indictment of the inadequacy of the ongoing multilateral response to the crisis. It is unconscionable that the public sector of developing countries has been forced to transfer such a staggering amount of resources to its external creditors in the middle of a global pandemic while foregoing their human rights obligations.

As indicated, the coronavirus pandemic has further exacerbated the debt crisis in the Global South. Countries with low to middle incomes, whose economies were already unstable before the Covid-19 pandemic, are the most affected of all by the effects of recession, and their debt servicing ability has been substantially weakened. [Erlasjahr Global Sovereign Debt Monitor 2021](#) identifies that 132 out of 148 countries in the Global South are critically indebted. 74 out of these countries have a debt service to export ratio higher than 10%. The widespread nature of debt distress and the impact that external debt service has on the availability of foreign currency to provide for basic imports such as food, medicine and oil [calls for the cancellation of public external debt payments](#), by all lenders - bilateral, multilateral and private - for all countries in need, so they can use the resources freed from debt to address immediate needs for vital and universal healthcare, social protection and other essential services and rights, secure the safety and well-being of people and communities, provide economic and structural assistance to affected, vulnerable and marginalized individuals, families and communities, undertake urgent climate action, and build economies that are equitable, uphold human rights, promote gender, race and ecological justice, are climate resilient and compatible with the health of the planet. The steps taken by the G20, Paris Club, and International Financial Institutions have fallen far short of what is needed, which should be reason enough to advance towards a profound reform of the debt architecture and the implementation of a fair and transparent debt workout mechanism.

The austerity delusion threatens, once again, protection of the fiscal space required to respond to the exceptional needs of the population during the pandemic, in areas such as health, food, education and social security (Q.5)

Eurodad has highlighted the lack of measures specifically designed to protect fiscal space to finance the protection of human rights. A [review](#) of 80 developing countries which have received financial support from the IMF conducted by Eurodad shows that 72 countries are projected to begin a process of fiscal consolidation as early as 2021. Tax increases and expenditure cuts are to be implemented in all 80 countries by 2023. Between 2021 and 2023, these countries will implement austerity measures worth on average 3.8 per cent of GDP.

The process of fiscal consolidation will have long term implications for human rights and development. For 46 countries for which data is available, a decade of austerity measures will reduce public expenditures from 25.7 to 23 per cent of GDP between 2020 and 2030. Public expenditures in 2030 are projected to stabilise at below pre-crisis levels. At the same time, increased debt service requirements will have 20 countries paying their creditors additional amounts equivalent to a Covid-19 response package every year for the rest of the decade. The decision to prioritise debt payments and follow through with fiscal consolidation will cripple development efforts in the 2020's. The achievement of the SDGs and the commitments of the Paris Climate agreement by 2030 will be irremediably out of reach.

As argued before, the IMF's recipe for fiscal contraction has [specific impacts on gender equality](#). For Eurodad, in order to protect fiscal space to safeguard human rights, responses to the Covid-19 crisis need to be [gender responsive, also at a macroeconomic level](#). Gender blind policy responses to the Covid-19 health, social and economic crises will only reinforce pre-existing gender inequalities. Therefore, the fundamental shift needed in the global economy and debt architecture should be a feminist shift. In order to be able to address the underlying systemic drivers of the crisis, including gender inequalities, IFIs will need to shift development finance agendas away from austerity measures and market-friendly reforms – including privatisation, deregulation and trade liberalisation – which have contributed to countries' vulnerability to exogenous economic shocks.

Introducing a human rights approach to the assessments of a debtor's capacity to repay its creditors (Q.6)

The IMF and World Bank Debt Sustainability Analysis works at cross purposes with development and human rights as it fails to account for financing requirements related to these goals. The methodology is grounded in the assessment of the commitment of governments to adjust domestic resource use to levels compatible with meeting creditor claims. Debt is sustainable as long as the country is able to meet these claims without incurring a large policy adjustment, even at the expense of resource mobilisation towards guaranteeing human rights. Thus, without additional financial support and substantial debt relief, attempts to stabilize debt levels will result in countries having to abandon the active pursuit of the 2030 Agenda, their international human rights obligations, the Beijing Declaration and the commitments of the Paris Agreement on Climate Change.

The conscious abandonment of any of these commitments is an unacceptable policy failure that may trigger a widespread humanitarian crisis and further gender inequality. Against this background, post Covid-19 debt relief needs cannot be assessed under this framework. DSA's must explicitly incorporate countries' long-term financing needs to pursue the SDGs, climate transition and adaptation goals, human rights and gender equality commitments. Debt sustainability consistent with the SDGs and human rights can be achieved through an ambitious process of debt relief, including extensive debt cancellation and progressive resource mobilization. An available methodology to achieve this goal is explained in UNCTAD's [Trade and Development Report 2019](#).

Drawbacks and improvements of the G-20 Debt Service Suspension Initiative (DSSI) (Q.11)

The DSSI was intended to help vulnerable developing countries. A [report](#) by Eurodad on the DSSI shows that the G20 initiative only covered a meagre 1.66 per cent of debt payments due in 2020 by all developing countries. Its impact has been very limited due to the failure of private and multilateral lenders to participate. As a result, only 24 per cent of the debt payments due to be made between May and December 2020 by beneficiary countries were actually subject to potential debt suspension. An extension into 2021 covers

potentially only 44 per cent of debt payments by the 46 countries that have so far requested participation in the DSSI. Failure to compel all creditors to offer substantial debt relief has created a situation in which resources freed up under the DSSI are effectively being used to repay private and multilateral debts and not to fund the response to the Covid-19 crisis.

Overall, the DSSI falls far short of the effort needed to meet the current scale of need in the global south. A global effort is vital to stave off a full-blown wave of defaults, and the human and social costs that this will entail, above and beyond the damage already being inflicted by Covid-19. A much more ambitious approach is needed to tackle this unprecedented crisis. A scaling up of the G20 DSSI should be urgently agreed to release much-needed funds to deal with the enormous challenges in tackling the health, social and economic crisis, including all countries in need and all creditors – MDBs and those from the private sector alike. Debt payments should not only be postponed, kicking the can down the road, but effectively and unconditionally cancelled. However, it is crucial that the international community does not stop there.

A systemic approach to the resolution of the present debt crisis beyond the DSSI means that the G20 governments and IFIs need to agree and implement a post-Covid-19 debt relief and sustainability initiative under UN auspices to bring developing country debts down to sustainable levels and which considers countries' long-term financing needs to pursue the SDGs, climate goals, and human rights and gender equality commitments. This should involve all creditors and ensure debt cancellation and restructuring. In addition, steps towards a permanent multilateral framework under UN auspices to support systematic, timely and fair restructuring of sovereign debt, in a process convening all creditors are required.

Unfortunately, the Common Framework for debt treatments beyond DSSI, approved by the G20 in November 2020, also falls short from what is needed. The Common Framework does not ensure private sector participation, it ignores the need for multilateral debt relief and leaves out most middle-income countries in debt distress. So far, the only result of the Common Framework has been the sovereign rating downgrades from Credit Rating Agencies (CRAs) to those countries daring to ask for a debt restructuring with private sector participation. Yet another example on why an international financial architecture reform is urgently needed and should address, as the [UN Independent expert on Debt and Human Rights suggests](#) in her latest report, a further regulation of CRAs and the creation of a public credit rating agency.

Eurodad's proposals for sovereign debt architecture reform

Eurodad, together with our members and global south partners and allies, calls for reforms and improvements of the sovereign debt architecture in the following areas:

[Multilateral sovereign debt resolution framework \(Debt workout mechanism\)](#): Currently, there is no systematic process under which sovereign debt restructurings can take place and no possibility for a country to restructure its entire debt stock in one place and in one comprehensive procedure. There is no bankruptcy code for countries to legally discharge their debt and they can only secure debt relief with the voluntary agreement of their creditors.

Indebted countries are instead subject to a 'non-regime', characterised by ad hoc operations that have evolved through trial and error, and that are driven by the needs and interests of creditors and spread across a fragmented landscape of opaque, informal creditor forums. This has too often resulted in long, drawn-out situations of sovereign indebtedness, characterised by serial restructurings, and for which populations have paid a heavy price in eroded human rights and stalled development.

The deficiencies of this ‘non-regime’ are only intensifying in view of the changing dynamics of sovereign debt: from the emergence of new bilateral and non-traditional commercial lenders; to the growing use of bonds, collateralised lending, and leveraged private finance in development; and not least, the ongoing threat of aggressive litigation by vulture funds. And they starkly underline why the necessity for a multilateral sovereign debt workout mechanism can no longer credibly be ignored.

The Common Framework for debt treatment that the G20, Paris Club and the IMF launched last November, is not an adequate nor sufficient answer to shortcomings of this ‘non-regime’. Countries in need for a debt restructuring and debt cancellation still have to face, as the cases of Zambia, Chad or Ethiopia are already showing, long and unstructured negotiations with their different creditors, facing free-riders and non collaborative private creditors at the same time as they have to negotiate with their bilateral creditors.

International efforts to develop and agree upon such a mechanism must be renewed. To stimulate and inform these efforts, Eurodad along with 33 partner CSOs, who together represent more than 1500 individual organisations, have set out 10 key principles that we see as essential to the functioning of any mechanism that genuinely seeks to overturn the shortcomings of the current ‘non-regime’, and that will ensure a timely approach to orderly, fair, transparent, and durable crisis resolution.

The principles proposed by civil society are:

1. Creation of a body independent from creditors and debtors;
2. Process may be initiated by the borrower and the institution of automatic stay will apply;
3. Initiation of the process should trigger a stay on creditor litigation and enforcement;
4. Comprehensive treatment of a country’s debt stock in a single process;
5. Inclusive participation of all stakeholders
6. Independent assessment of debt sustainability and the validity of individual claims;
7. Focused on debt sustainability that puts the needs of the population before debt service;
8. Respect for international human rights law and the realisation of international development commitments;
9. Transparency: negotiations and their outcomes must be made public;
10. Enforceability.

Details of these 10 principles can be found in the document “[We can work it out: 10 civil society principles for sovereign debt resolution](#)” (Eurodad, September 2019)

Debt transparency and audits: Improved transparency is key to ensure a functional sovereign debt architecture. Eurodad together with other 12 civil society organisations, are calling for all loans to or bonds issued by governments or public bodies, or with any form of government guarantee, should be disclosed via a [global publicly-accessible registry](#) within 30 days of contract signature, and should include: the value of the loan/bond/guarantee, fees, charges and interest, the law the debt is owed under, any available information on the use of proceeds and the payment schedule. As a central part of these efforts towards debt transparency, Eurodad promotes the organization of [debt audits](#). Debt audits can be a powerful tool to support civil society engagement in citizen assessment of debt impacts but also to increase citizens’ participation in public finance governance. These can lead to an increase in accountability and transparency and allow for the identification of illegitimate debts at the national, regional and municipal level. They can also include a review of lending and borrowing policies and practices and develop an agenda for changing these policies and practices. Furthermore, by examining both creditor and debtor responsibility, debt audits

are also an important counter-narrative to the focus by International Financial Institutions and lenders on debt management that tends to place responsibility mainly on debtor countries.

Responsible Sovereign Borrowing and Lending binding rules: The Addis Ababa Action Agenda states the need to work towards a global consensus on guidelines for debtor and creditor responsibilities in borrowing by and lending to sovereigns, building on existing initiatives. This commitment was restated in the Financing for Development outcome document of 2019. The urgency of advancing this agenda has never been more pressing than in the wake of the COVID pandemic. When the lack of proper regulations to ensure sustainability in lending to and borrowing from sovereigns leads to unsustainable sovereign debt levels this undermines the possibility of attaining the 2030 Agenda for Sustainable development. Debt restructuring and cancellation in the wake of the COVID pandemic, and the efforts for a fair and transparent debt resolution framework, must be coupled with well-functioning global systems for ensuring responsible lending and borrowing practices, so as to safeguard sovereign fiscal space for the fulfilment of human rights obligations and the 2030 Agenda for Sustainable Development.

IMF Article VIII, Section 2 (b): A key challenge faced by the G20 DSSI and the recently announced “Common Framework for Debt Treatments Beyond the DSSI” relates to Private Sector Involvement. The DSSI encouraged the private sector to participate on a voluntary basis in the initiative. To date, private creditors have not participated in the DSSI. At least three DSSI participating countries are so far known to have asked private creditors to participate in the DSSI. Refusal to participate by both private creditors and creditors with hybrid features from China has undermined the implementation of the DSSI and it risks derailing any prospective debt relief to be offered under the Common Framework. Moreover, it delegitimizes the DSSI, as official creditors are effectively bailing out private investors. The proposals put forward by the IMF on International Financial Architecture reform to tackle this problem, focused on contractual clauses, are insufficient. Difficulties to establish comparability of treatment between private creditors and creditors with hybrid features from China will obstruct debt relief and restructuring operations. In addition, while there have been improvements in the implementation of Collective Action Clauses (CACs), significant [coverage gaps remain](#). These are susceptible to be taken advantage of by both types of creditors to delay the successful completion of debt restructuring. The IMF acknowledges that this reform agenda might not be enough to address a systemic sovereign debt crisis and additional tools could be required.

To this end, the [IMF could make use of Article VIII, Section 2 \(b\) of its Articles of Agreement](#). The article in question allows the IMF to impose a debt standstill through the temporary suspension of enforceability of debt contracts in domestic courts of more than 189 IMF member countries, including the US and the UK. Debtor countries acting in good faith under an IMF programme would be protected from aggressive litigation strategies from holdout creditors in numerous jurisdictions, including the US and the UK. A standstill under Article VIII would ensure that private creditors receive uniform treatment and ensure intercreditor equality.