ITUC Input for Report on International Debt Architecture Reform and Human Rights

The International Trade Union Confederation strongly supports the principle that sovereign debt payments should not be prioritised over the state's ability to create an environment where people can realise their economic and social rights. These include the right to work and rights on the job, alongside universal access to education, healthcare, and social protection. The current design of the international debt architecture is unfit for this purpose, and the inability to timely and reasonably restructure debts results in prioritising creditors over human rights. Debt restructuring or relief is usually tied to adjustment programmes from the international financial institutions that promote austerity and deregulation, thereby harm labour rights and increasing inequality.

Questionaire responses

1-4. N/A

5. What measures and mechanisms have been adopted to protect 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?

The response and measures taken to respond to the needs of the population during the pandemic have been very uneven, with high-income countries spending heavily on their pandemic response, while lower-income countries have been unable to do so. The ILO has estimated this "stimulus gap" between the stimulus measures in low- and lower-middle-income countries and high-income countries to be around $982 billion.[1]

The ITUC appreciates that the IMF has stepped up to provide emergency loans without traditional conditionality for countries to respond to the pandemic, and debt relief through the Catastrophe Containment and Relief Trust. However, until the end of 2020, the IMF had only disbursed $30 billion in such loans despite its advertised firepower of over $1 trillion.[2] The World Bank has scaled-up loan commitments and is seeking an early replenishment of the International Development Association to provide additional loans to low-income countries. However, the Bank has refused calls to offer debt relief.

[1] https://www.devcommittee.org/sites/dc/files/download/Statements/2020-10/DCS2020-0041-ILO.pdf
[2] https://www.ituc-csi.org/IMG/pdf/reforming_the_imf_for_a_resilient_recovery_v2.pdf

The UN independent expert on extreme poverty has published a report on over 1,400 1are not enough to deal with the scope of the crisis. The report estimates another 176 million people are at risk of falling into poverty.[3]

The ITUC deems the adopted mechanisms to be insufficient in responding to the needs created by the pandemic. For that reason, the ITUC has joined the call for a Global Social Protection Fund to respond to ensuring sufficient investment to establish social protection floors to address the most immediate needs, to increase global solidarity and coordination, and ensure that all countries can kick start the financing to fulifll , in accordance with the relevant ILO standards, including ILO Social Protection Floors Recommendation No. 202, their commitments to UN SDG 1.3 and SDG 8 on decent work for all.[4]

6. How could assessments of a debtor's capacity to repay its creditors incorporate the safeguarding of maximum available resources for human rights?

The ITUC supports the recommendation of the UN Independent Expert on Foreign Debt and Human Rights to incorporate human rights obligations into frameworks for debt sustainability analysis.[5]

Mechanisms to assess the ability to repay do not currently account for human rights obligations. It is extremely concerning that in 2020, in the midst of a pandemic, at least 64 countries spent more on servicing their external debt than on healthcare.[6]

The ITUC believes that immediate measures must be taken to ensure that all debt sustainability assessments incorporate and prioritise protection, respect and progressive realisaction of economic, social and cultural rights of the population over repayment of creditors. If growth or revenue projections from the initial assessments fail to materialise, the ability to repay must adjust downwards rather than forcing further spending cuts on essential public services and key parts of the Sustainable Development Goals.

This needs to be incorporated into future lending and used as a guiding principle in restructuring current debt. Creditors that force states to violate their human rights obligation to repay their debts should be held accountable. Furthermore, credit rating agencies should neither hold countries hostage nor penalise countries that prioritise fulfilling their human rights obligations over repaying their creditors

7. If there are legal, policy or regulatory frameworks that can assert the primacy of access to essential services over the repayment of foreign debts, please explain and provide relevant documentation.

---

[3] https://www.ohchr.org/Documents/Issues/Poverty/Covid19.pdf
[4] https://www.ituc-csi.org/IMG/pdf/ituc_campaign_brief_-_a_global_social_protection_fund_en_v3.pdf
[5] https://www.undocs.org/A/71/305
[6] https://d3n8a8pro7vhmx.cloudfront.net/eurodad/pages/2112/attachments/original/1616676341/debt-pandemic-final_%282%29.pdf?1616676341

Pushing for austerity measures, including cuts to public sector employment that is the foundation of service provision, to prioritise repayment of foreign debts has not contributed to economic recovery, worsened the long-term capacity to repay debt, and resulted in human rights violations.[7]

States have legal obligations regarding the enjoyment of human rights of their citizens. Therefore, international financial institutions, often engaged in debt restructurings, and any legal proceeding relating to sovereign debt must not impose measures or unsustainable payments that result in human rights violations. The UN has adopted a basic resolution that affirms these principles in 2015.[8] Human rights obligations of States in the context of foreign debt are also reflected in the Guiding Principles on foreign debt and human rights, endorsed by the UN Human Rights Council in 2012 in its resolution 20/10, and the Guiding Principles for assessing the human rights impact of economic reform policies in 2019. [9]*8. If available, what is your Government's position/ Institution's position with regard to the aspects of national and international debt architecture that need to be reformed in order to make it more robust?*

Recognising the uneven power individual countries have when it comes to debt negotiations with their creditors and the need for a UN-led neutral debt restructuring mechanism that can balance the human rights of the population and the rights of creditors is imperative.

The ITUC condemns the actions of so-called "vulture funds" that buy distressed debt for litigation in creditor friendly jurisdictions and calls for the elimination of this practice.

The ITUC fully supports the UNCTAD Roadmap and Guide for Sovereign Debt Workouts and the establishment of a UN body to handle sovereign debt restructuring at the UN in accordance with UN Resolution A/69/L.84.[10]

9. Which stakeholders should be consulted, at national and/or international level, in order to identify existing gaps in the international debt architecture? Why? What sort of mechanisms should be used for these consultations? What would be some of the benefits and shortfalls of consultation for the process?

The gaps in the international debt architecture beget lengthy and insufficient debt restructurings and prolonged economic crises, often resulting in bailouts and loan programmes from official creditors and IFIs. The report of the Independent Expert to the 40th session of the Human Rights Council examined labour reforms taken as part of adjustment programmes, particularly those of the international financial institutions. These reforms contravened human rights obligations and hurt working people while failing to help economic growth. The report recommended human rights impact assessments with consultation of trade unions and observed:

---

[7] https://undocs.org/A/74/178
[8] https://digitallibrary.un.org/record/820120?ln=en
[9] https://undocs.org/A/HRC/Res/20/10
https://undocs.org/A/HRC/40/57
[10] https://unctad.org/system/files/official-document/gdsddf2015misc1_en.pdf

> There is also a need to reflect upon and devise more inclusive negotiation procedures for dealing with sovereign debt restructuring. In particular, when sovereign debtors and their creditors negotiate the terms of a debt restructuring or new lending with financial institutions, unemployed people, workers, their unions and national human rights institutions should have full access to and be able to participate in this debate. The outcome of these decisions may imply official or informal commitments to pass labour law reforms or budgetary restrictions that may affect the labour market, the functioning of the economy and the public finances in a way that impairs the employment prospects in the State concerned.[11]

The ITUC sees all those impacted by the resulting fiscal policies as stakeholders in issues related to reforming debt architecture. Therefore, consultations held both at the international level with international organisations and at national levels should include representatives of trade unions and civil society to properly assess the way in which these gaps affect people and interfere with their human rights.

10. N/A

11. With regard to the G-20 Debt Service Suspension Initiative (DSSI), adopted in April 2020 and valid until June 2021: What have been the benefits and what have been the drawbacks of this initiative? If available, what is your Government's position/ Institution's position regarding how the DSSI could be improved, and why would this initiative need extension and improvement?

The G20 DSSI provides temporary relief for several low-income borrowers but barely scratches at the surface of the problem. As ITUC has noted in a joint statement with civil society submitted to the G20, DSSI excludes private and multilateral creditors and thus only covers 3.65% of debt payment service. Even for those eligible, it simply avoids dealing with the problem by requiring full repayment between 2022 and 2024, when eligible countries already have around $155 billion to be repaid from previous commitments.[12]

The ITUC believes that for DSSI to successfully ease debt burdens and create fiscal space for countries to respond to the pandemic and for a resilient recovery, it needs to include multilateral debt, force the participation of private creditors, and widen eligibility to all middle-income countries. Furthermore, DSSI should be extended to at least four years. This extension can provide the time and space to properly assess and move forward with necessary debt restructurings and cancellations that must be conducted fairly and transparentlybased on debt sustainability assessments that consider human rights obligations. A 4-year DSSI extension would allow the time to set up a sovereign debt restructuring mechanism pursuant to UN Resolution A/69/L.84.

---

[11] https://undocs.org/A/HRC/34/57
[12] https://www.ituc-csi.org/IMG/pdf/c20_l20_statement.pdf

12. One of the alternatives to supply needed emergency liquidity is through a new issuance of special drawing rights (SDR): How could a new issuance of SDRs be beneficial for your State in the short and mid-term?

The ITUC has been an early supporter of a new SDR issuance and believes that within existing mechanisms, it will provide much-needed debt-free liquidity to boost to many countries in need.[13] However, this boost is temporary and cannot on its own address deeper needs for debt restructurings and cancellations. The proposed amount of $650 billion for an SDR allocations means that about $260 billion will reach low- and middle-income countries, which is a small amount of their estimated needs but by far the largest amount of funds to reach these countries.[14]

The ITUC supports both the idea of larger or subsequent allocations. Furthermore, the ITUC believes that high income countries that do not need or make use of their SDR allocations should donate them to IMF trust funds such as the Catastrophe Containment Relief Trust (CCRT) that has provided debt relief from IMF repayments to its lowest income members. Sufficient donations would enable the IMF to broaden the eligibility for CCRT to more countries and ensure adequate resources for any future shocks.

13. If available, what is your Government's position/ Institution's position with regard to the following issues:

a. Debt cancellation

The ITUC supports cancelling all debt found to be unsustainable in assessments that take into account human rights obligations and the Sustainable Development Goals. Creditors charge interests because they assume a risk and need to accept reductions.

b. How to ascertain how much debt relief should take place and to which States

The ITUC believes that a UN-led neutral Sovereign Debt Restructuring body should make this assessment according to a fair debt sustainability analysis that can reflect the needs for relief for each state.

c. Multilateral framework for debt restructuring

The ITUC supports a multilateral framework that can evenly and fairly apply the same principles, inclusive of human rights needs, to all states.

d. Market-based improvements to international debt architecture

The ITUC believes that while market-based improvements are welcome, especially when it comes to responsible lending practices and broader use of collective action clauses, they are not sufficient on their own to address the looming debt crisis.

---

[13] https://www.ituc-csi.org/IMG/pdf/ituc_brief_imf_sdr_3-2020.pdf
[14] https://policydialogue.org/opinions/sdrs/

e. Independent international body on debt crisis resolution and prevention

The ITUC support such a body being hosted at the UN and operating under already adopted principles on debt restructurings.

f. Reform of credit rating agencies

Despite their questionable track record on credit ratings and lack of reckoning on their role in the Global Financial Crisis, credit rating agencies have maintained their influence and ability to hold populations of entire countries hostage to their often arbitrary rankings. Credit rating agencies continue to have the ability to trigger a crisis through downgrades of sovereign ratings, which can mark the onset of capital flight and balance-of-payment problems. The role of credit rating agencies in dissuading participation in the DSSI and Common Framework has further eroded the usefulness of these instruments. The ITUC supports fundamental reform and regulation of such agencies, which should not be complicit in international human rights violations or the undermining of debt relief initiatives.

14. According to your Government's position/ institution's position, how can changes on the global level of international debt architecture be reflected and consistent with international human rights obligations?

The ITUC believes that all fiscal policies need to be consistent with international human rights obligations and supports impact assessments for all proposed economic reforms, including those prompted by debt restructurings.[15] Debt restructuring and linked support from international financial institutions should no longer be linked with labour, financial or product market deregulation, reductions of public services, and other measures that harm people and sustainable growth while increasing inequality. This creates a vicious cycle by putting countries back on the path to unsustainable debt and crisis. Debt restructuring should instead be arrayed around the Sustianable Development Goals including investments in climate-friendly jobs and universal social protection and health.

Furthermore, the ITUC supports widening criteria for debt sustainability analysis frameworks by incorporating the UN 2030 Agenda, the ILO Centenary Declaration, and the Paris Agreement to place human rights obligations and financing a sustainable and resilient recovery at the core of all assessments on a country's ability to pay its creditors.

For questions on this submission, please contact Lara Merling at Lara.Merling@ituc-csi.org

[15] https://www.ituc-csi.org/IMG/pdf/ituc_contribution_to_consultation_human_rights_impact_assessments.pdf