United Nations A/75/164

General Assembly

Distr.: General
31 July 2020

Original: English

Seventy-fifth session
Item 72 (b) of the provisional agenda*
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

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

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the 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, Yuefen Li, in accordance with Human Rights Council resolution 34/3.

* A/75/150.

20-09597 (E) 130820

Report of the 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, Yuefen Li

Addressing, from a human rights perspective, the debt-related problems of developing countries caused by the coronavirus disease (COVID-19) pandemic

Summary

The present report is focused on debt servicing and debt sustainability of low-income and developing countries in the context of the coronavirus disease (COVID-19) pandemic and its impacts on human rights. In the report, the 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, Yuefen Li, looks into pre-existing debt vulnerabilities and the existing financing gap affecting efforts to contain the pandemic, highlighting the impact of debt on emergency response efforts of and resources available to States. The report also provides an analysis of a series of proposed solutions aimed at tackling debt challenges in the context of the pandemic from a human rights lens and a discussion of various options available in that regard, including fiscal stimulus packages and emergency financing, as well as debt standstill, restructuring and cancellation. The Independent Expert concludes that debt problems, especially those of developing countries, must be addressed as quickly and effectively as possible in order to flatten the COVID-19 infection curve and to prepare for an equitable, resilient, greener and sustainable economic and social recovery. She offers a set of recommendations for States, international financial institutions and other stakeholders, to enable them to address current debt challenges from a human rights perspective and prevent and mitigate future dire socioeconomic impacts.

Contents

I. Introduction

1. The world is facing multiple crises: a health crisis, an economic crisis, a social crisis and a human rights crisis.[1] One main trigger is the coronavirus disease (COVID-19) pandemic, which has claimed many lives worldwide. To date, more than 16 million people have been infected and more than 662,000 people have died across the planet.[2] Those figures may be even higher, owing to various underreporting issues. In the absence of a vaccine and an effective cure, many countries have resorted to extensive lockdowns and social distancing measures to contain the spread of the virus and have struggled to maintain the rights to health and life of their people. Those measures have had an unintended economic and social cost because of the widespread collapse of economic activities in both demand and supply and because of the immense fiscal cost, thereby revealing pre-existing social, economic and financial weaknesses, systemic inequalities and a range of human rights concerns, including the unequal access and availability of health care, food, housing, water and sanitation, among other basic social services. The context has also exacerbated systemic racial and gender discrimination and, from an economic perspective, income inequalities between and within countries and inequalities between countries with reserve currencies and those without.

2. Although particular efforts have been deployed in recent years to address poverty, inequality, exclusion and marginalization from a global perspective, including by means of continuous political commitments from States through the adoption of the Millennium Development Goals and the Sustainable Development Goals, recent progress has been seriously threatened and existing concerns have been rapidly exacerbated by COVID-19. Containment of the pandemic is unfortunately not yet in sight, as the number of new cases has been rising quickly in several countries.

3. Moreover, for the first time in history, the global economy is confronted with a rapidly unfolding, synchronized and severe economic recession, affecting both developed and developing economies and all continents at the same time. The World Bank has estimated that COVID-19 will push 71 million people into extreme poverty in 2020, measured at the international poverty line of $1.90 per day.[3] Furthermore, the World Food Programme has projected that 265 million people will face crisis levels of hunger unless direct action is taken.[4] It is of concern that the road to recovery is likely to be long and tortuous, especially without adequate social protection or strong health-care services in place or a vision of using the crisis as an opportunity to advance towards “the future we want”.

4. The issue of debt has been in the spotlight recently, dominating international discussions about efforts to fight the pandemic and ensure future recovery. The reasons for the increased attention paid to debt issues are obvious: fighting the pandemic requires immense financial resources that many countries cannot easily deploy, and Governments are faced with difficult situations, sometimes resulting in a choice between saving lives or making debt payments. In addition, a significant number of the economies experiencing such challenges were already suffering from unsustainable debt prior to the COVID-19 crisis. Many Governments have therefore had to make the difficult decision of either servicing debt (by paying off principal and interest) or using that money to save lives, thereby protecting the human rights of

[1] United Nations, “COVID-19 and Human Rights: we are all in this together”, policy brief, April 2020.

[2] World Health Organization (WHO), WHO Coronavirus Disease (COVID-19) Dashboard. Available at https://covid19.who.int/ (accessed on 31 July 2020).

[3] Daniel Gerszon Mahler and others, “Updated estimates of the impact of COVID-19 on global poverty”, World Bank Blogs, 8 June 2020.

[4] World Food Programme, “COVID-19 will double number of people facing food crises unless swift action is taken”, 21 April 2020.

their people, in particular the most vulnerable and marginalized among them, and preserving livelihoods so as to mitigate the impacts of COVID-19.

5. A pandemic is not like any other kind of crisis, and urgent solutions and actions are of vital importance. Time is a significant challenge, and although the international community has come up with many proposals and concrete measures to address the debt problem, quite a number of those solutions are difficult to realize in a timely fashion. The world has yet to develop a system that can handle a sovereign debt crisis in a time-efficient manner. The process is normally long and costly, and it has become even more so in recent history, as debt instruments have become more sophisticated, creditors more numerous and borrowers more varied and larger in size. In addition, with the current explosion of public and private debt worldwide, combined with the deep economic recession, it is expected that more sovereign and private defaults will be seen in the immediate future.

6. Traditionally, through a narrow and sectoral understanding of debt, the issue has been considered to be a matter pertaining to financial and economic studies, overlooking human rights. Nevertheless, the current crisis has clearly demonstrated how much debt issues are closely linked to the realization of many human rights, exposing to the international community and Governments the connection between debt, available resources and the fulfilment of human rights obligations. The problems arising from the pandemic have, once again, clearly underscored the fact that the progressive and full realization of economic, social and cultural rights should not be perceived as a mere ideal. The implementation of the rights to an adequate standard of living, housing and food, as well as the rights to health, water and sanitation, through the establishment of universal health-care, water and sanitation services and comprehensive social protection systems for all, have an essential role to play when it comes to cushioning the dire impacts of crises on human rights and the economy, in particular for the most vulnerable and marginalized groups of people. In other words, the pandemic has shown that human rights dimensions must be included in the economic equation, including when it comes to debt, in order to prevent a debt crisis and ensure that resolution measures serve people in situations of poverty and vulnerability and that future recovery from the pandemic is sustainable, inclusive, resilient and fair.

7. The present report is focused on debt servicing and debt sustainability of low-income and developing countries in the context of the COVID-19 pandemic and its impacts on human rights. In the report, the 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, Yuefen Li, first looks into pre-existing debt vulnerabilities and the existing financing gap affecting efforts to contain the pandemic. The report then provides an analysis of solutions proposed from a human rights lens, through a study of various options available.[5] In the report, the Independent Expert concludes that debt problems, especially those of developing countries, must be addressed as quickly and effectively as possible in order to flatten the COVID-19 infection curve and to prepare for an equitable, resilient, greener and sustainable economic and social recovery and offers a set of recommendations to stakeholders. The report took into account information from consultations with various stakeholders and experts and contributions received from States, national human rights institutions, international organizations,

[5] For instance, the Government of South Africa unveiled a stimulus package of 500 billion rand that included the provision of a COVID-19 social relief grant. Submission by Oxfam International in response to the joint questionnaire on COVID-19 and human rights, available at www.ohchr.org/EN/HRBodies/SP/Pages/Joint-questionnaire-COVID-19.aspx.

non-governmental organizations and academia, among others, in response to a joint call for input from several special procedure mandate holders.[6]

II. Pre-existing debt vulnerabilities of developing countries and the financing gap in containing the pandemic

8. Most developed economies have mounted massive fiscal and monetary stimulus measures, injecting money into their national economies as part of efforts to respond to the pandemic. Such measures have been supported by a surge in borrowing, which can only be comparable to some previous wartime periods. For example, between April and June 2020, the United States of America introduced a $3 trillion fiscal stimulus package, in addition to monetary expansion measures by the Federal Reserve System.[7] Another round of quantitative easing[8] is also currently being discussed by the United States Congress.

9. In the short term, "(f)iscal stimulus and social protection packages aimed directly at those least able to cope with the crisis are essential to mitigating the devastating consequences of the pandemic. Immediate economic relief measures such as guaranteed paid sick leave, extended unemployment benefits, food distribution, child care and universal basic income can help (to) safeguard against the acute effects of the crisis".[9] According to the International Monetary Fund (IMF), global government support totalled about $9 trillion by May 2020,[10] most of which was from advanced countries, which have a wide array of instruments at their disposal, ranging from fiscal to debt-related measures, to increase expenditure for their national health-care systems and to help people in situations of vulnerability, including through unemployment benefits, payroll tax deferrals, subsidies to small and medium-sized enterprises and direct payments to households.

10. Even though developed economies have great advantages over developing countries with regard to financial resources, the pandemic has, nevertheless, accentuated income inequalities and racial and gender-based discrimination in the former, which need to be addressed urgently.

11. Developing countries require massive liquidity and financing support to deal with the immediate fallout resulting from the pandemic and its repercussions on economic and human rights, owing to their weaker health-care and social protection systems, heavy debt burden and deteriorating economic buffer. In 2019, the International Labour Organization reported that more than half of the world's population, mostly those residing in developing countries, lacked essential health services and had little or no social protection.[11]

---

[6] See www.ohchr.org/EN/Issues/Development/IEDebt/Pages/Call-for-Input-COVID-19-impact-financing-development.aspx and www.ohchr.org/EN/HRBodies/SP/Pages/Joint-questionnaire-COVID-19.aspx.

[7] James Politi, James Fontanella-Khan and Ortenca Aliaj, "Why the US pandemic response risks widening the economic divide", *Financial Times*, 18 June 2020.

[8] Quantitative easing refers to the purchase of assets by central banks in order to increase the amount of money circulating in the economy in order to boost economic activity.

[9] Office of the United Nations High Commissioner for Human Rights, "COVID-19 guidance", 13 May 2020.

[10] Bryn Battersby, W. Raphael Lam and Elif Ture, "Tracking the $9 trillion global fiscal support to fight COVID-19", IMFBlog, 20 May 2020.

[11] International Labour Office, *Universal social protection for human dignity, social justice and sustainable development* (Geneva, 2019). Summary and report available at www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_675946/lang--en/index.htm.

12. With much unknown about the coronavirus and given the lack of an effective cure, countries around the world are being exposed to a range of human rights issues, which are, in fact, twofold. First, a significant portion of the population of many countries around the world does not have an adequate standard of living, including housing, food or access to clean water and sanitation facilities, thereby exposing them to the deadly virus and its related impacts. The risk of community spread is thus high. Second, lockdowns introduced mostly in cities as a preventive public health measure have also greatly affected the economy and the livelihood of many, putting the realization of economic, social and cultural human rights at risk, in particular for those working in the informal sector, low-paid workers in essential services and members of the most vulnerable and marginalized groups.

A. Debt and emergency response

13. Health systems in many countries have been brought to a collapse or are under tremendous strain because of the pandemic. With a narrower fiscal space, limited foreign reserves and other domestic resources, developing countries, especially those that are poor and debt distressed, do not have much room to provide for a proper response to the pandemic and therefore require urgent international support.[12] Although the number of people affected on the African continent has, to date, appeared to be relatively low, one reason for that could be insufficient reporting and inaccurate data collection; experts have also warned about the danger of the virus spreading more widely, and the number of people affected has been increasing.

14. It is of concern that, while advanced economies have used 8.6 per cent of their gross domestic product (GDP) to respond to the pandemic, emerging market and low-income economies have respectively used 2.8 per cent and 1.4 per cent of their GDP on pandemic spending and tax reductions.[13] Taking into consideration the enormous difference in GDP between developed and developing economies, the power of developing countries to respond to the pandemic has been dwarfed by that of developed economies. Although there is a clear disparity between countries when it comes to spending capacity, it is essential to stress that States have committed themselves to the progressive realization of economic social and cultural rights, “individually and through international assistance and cooperation, especially economic and technical”,[14] both in the short term, by supporting emergency response efforts, and in the long term, by ensuring a sustainable and human rights-friendly recovery. All States therefore have an important role to play in ensuring the full realization of human rights for all and a swift, fair and sustainable response to current crises. Should they not have the capacity to do so, countries would have to rely on international cooperation and support.

15. In April 2020, the United Nations Conference on Trade and Development (UNCTAD) and IMF estimated that the liquidity and financing needs of developing countries for fighting COVID-19 amounted to at least $2.5 trillion.[15] IMF later raised

[12] See, for example, the submission by the United Nations country team of the Lao People’s Democratic Republic in response to the joint call for input, available at www.ohchr.org/EN/Issues/Development/IEDebt/Pages/Call-for-Input-COVID-19-impact-financing-development.aspx.

[13] Martin Mühleisen, Vladimir Klyuev and Sarah Sanya, “Courage under fire: policy responses in emerging market and developing economies to the COVID-19 pandemic”, IMFBlog, 3 June 2020.

[14] International Covenant on Economic, Social and Cultural Rights, art. 2 (1).

[15] United Nations Conference on Trade and Development (UNCTAD), “From the great lockdown to the great meltdown: developing country debt in the time of COVID-19”, Trade and Development Report update, April 2020; and Kristalina Georgieva, Managing Director of the International Monetary Fund (IMF), opening remarks at a press briefing following a conference call of the International Monetary and Financial Committee, 27 March 2020.

its estimate, fearing that the return to normalcy would most likely be longer than originally expected and that the risk of a second wave was looming.

16. COVID-19 has already crippled some developing economies, and Governments have had to increase their emergency health expenditure and social and economic support to enterprises and individuals in vulnerable situations, thus incurring greater fiscal transfers. Meanwhile, their fiscal revenue has been shrinking, owing to the knock-on effects of the pandemic. The pandemic has had a massive negative impact on almost all revenue-earning channels, including key sectors for many economies, as the world has witnessed plunging commodity prices, a drastic decline in foreign direct investments and trade, unprecedented capital outflow (in March, although it has since stabilized), a sudden stop in tourism, a free fall in remittances and collapsing tax systems. To date, the scope and magnitude of the devastating effects of the COVID-19 crisis on developing countries has therefore been unprecedented.

B. Existing debt vulnerabilities

17. To make matters worse, developing countries entered the pandemic with a historically high vulnerability to debt problems, as public and private debt levels have been rising quickly. At the time of writing, developing countries have together accumulated about $11 trillion in external debt and nearly $4 trillion in debt service, all due in 2020.[16] More than 40 per cent of low-income countries were already in debt distress or at high risk of debt distress prior to the pandemic. The majority of those countries were dependent on commodities and thus more sensitive to a collapse in commodity prices. Some middle-income countries also suffered from debt unsustainability.

18. Furthermore, debt sustainability for those countries was threatened not only by the swift increase in the amount of debt, but also by the increasing cost of debt servicing, as well as by shorter terms to debt maturity (the point when the debt payment is to be made in full).

19. Since the 1990s, and especially since the 2008 global financial crisis, some countries, including low-income countries that do not have an investment-grade rating, have shifted to riskier debt, including debt on commercial or near-commercial terms.[17] In other words, countries have to accept increasing debt payment burden, thus less fiscal space, and exposing themselves more to external shocks like exchange rate and interest rate volatilities. Among low-income countries, more than half of government debt is on non-concessional terms.[18] Moreover, external debt with short terms to maturity has been on the rise since 2010, which has proven to be a very dangerous trend,[19] resulting in greater vulnerability to rollover and solvency risk and thus potentially affecting resources available for the progressive realization of economic, social and cultural rights.

20. The evolving structure and composition of developing countries' debt has driven up their debt servicing burden, resulting in greater liquidity risk. Half of all heavily indebted poor countries have seen an increasing interest-to-revenue ratio on their

[16] Homi Kharas, "What to do about the coming debt crisis in developing countries?", Brookings Institution, 13 April 2020.

[17] World Bank, "Debt service suspension and COVID-19", fact sheet, 11 May 2020.

[18] M. Ayhan Kose and others, "Caught by a cresting debt wave: past debt crises can teach developing economies to cope with COVID-19 financing shocks", *Finance and Development*, vol. 57, No. 2 (June 2020).

[19] IMF, Strategy Policy and Review Department, and World Bank, "The Evolution of Public Debt Vulnerabilities in Lower-Income Economies", Policy Paper No. 20/003 (Washington, D.C., IMF, 10 February 2020).

external debt, owing to higher interest rates and higher levels of debt, potentially affecting their spending in such other sectors as social and health-care services.

21. Debt servicing has therefore occupied a large portion of the revenue of those developing countries. With the economic shocks affecting both supply and demand, and added pressure on health systems, the pandemic is a calamity calling for immediate action and an enormous amount of financial resources to protect lives, maintain social and economic stability and prevent people in situations of poverty and vulnerability from being the first victims of the pandemic. A recent analysis indicates that, in 2019, 64 lower-income Governments had spent more on external debt payments than on health care.[20] In recent years, a correlation has also been noted between an increase in debt servicing and a decrease in public spending in the global South, including in Africa, Latin America and the Caribbean.[21] To service debt at a time like the present would divert urgently needed financial resources from saving lives and from guaranteeing the realization of human rights and ensuring the protection of the most vulnerable people in society.

22. It is clear that an unsustainable debt burden and greater debt servicing costs would severely limit the capacity of countries to respond to the pandemic. It is therefore a matter of great urgency to address debt problems in order to enable countries to ensure access to health care for all and to support their vulnerable populations.

C. Addressing debt issues to free up fiscal space

23. As early as April 2020, the Secretary-General had warned about the risk of potential default, highlighting that, in many countries, including both low- and middle-income countries, it was becoming clear that, unless sizable debt relief was provided, private and public creditors could face multiple unilateral defaults. The choice was no longer between default and continued debt-service payments, but between a wave of disorderly defaults and orderly payments agreed to between debtor countries and their lenders once the economic situation improved.[22]

24. In the face of that challenge, three main options have been envisaged by a variety of stakeholders to allow developing countries to be in a position to protect lives and livelihoods in the context of COVID-19. The first option involves a quick provision of liquidity to allow Governments to provide necessary medical services and economic support during the pandemic has been proven to be key in addressing the challenges posed by the current crisis, and of particular importance for countries with a high debt burden and those currently without sufficient fiscal space.[23] The second option is to provide debt service relief, also known as debt standstill or a debt moratorium, with a view to freeing up countries' fiscal space to better address the

[20] Jubilee Debt Campaign, "Sixty-four countries spend more on debt payments than health", 12 April 2020.

[21] Submission by the Committee for the Abolition of Third World Debt (CADTM), available at www.ohchr.org/EN/Issues/Development/IEDebt/Pages/Call-for-Input-COVID-19-impact-financing-development.aspx.

[22] United Nations, "Debt and COVID-19: a global response in solidarity", policy brief, 17 April 2020.

[23] Many States have resorted to further financing. For instance, according to the submission by the Association for Emancipation, Solidarity and Equality of Women of North Macedonia, in order to implement its economic measures and cover its large budget deficit, the Government began to use funds that were easily available in the financial market by concluding loan agreements mainly with international financial institutions. According to the submission by the Office of the National Counsel for the Defence of Human Rights (*Procuraduría para la Defensa de los Derechos Humanos*) of El Salvador, that country will most likely see its debt grow from 70 per cent to 80 per cent of its gross domestic product. Both submissions are available at www.ohchr.org/EN/Issues/Development/IEDebt/Pages/Call-for-Input-COVID-19-impact-financing-development.aspx.

pandemic by diverting financing allocated to debt servicing to emergency response. The third option remains debt cancellation, which would be of particular help for countries already facing solvency problems, as their debt is unsustainable and their financial capacity insufficient to pay that debt even if bridging money is provided.

25. It should be stressed that debt service suspension and debt cancellation could be provided by all creditors, including multilateral financial institutions and Governments, in the case of official bank loans, and private investors, in the case of bonds or other loans. It is essential to note that debt instruments are governed by different regulations or legislation. It is therefore not possible to treat them all in a one-size-fits-all manner.

26. Most developing countries have had very limited fiscal space and a very limited buffer. In a context of crisis, when money is desperately needed, the crucial problem of “choosing” between saving lives or servicing debt becomes even more clearly a human rights issue. While the response remains clear, and the need to save lives a priority, the need to rapidly tackle economic challenges remains an important aspect for the medium to long term. Without a quick supply of liquidity, there could be many defaults and the international debt market could end up being chaotic. Against that pessimistic prognostic, IMF and the Group of 20 (G20) announced debt standstill initiatives just a few days apart, in April 2020. International financial institutions and various United Nations agencies issued warnings that a new and widespread debt crisis was looming on the horizon. With the pandemic and the deep economic recession, it is clear that debt issues are no longer just a financial matter. Without a human rights approach to the resolution of the current pandemic and the coming debt crisis, more social injustice and social unrest could follow, and the hard-won gains resulting from progress made to date in the achievement of the Millennium Development Goals and the Sustainable Development Goals could be reversed.

III. Addressing the challenges of the debt problem and the pandemic through a human rights approach

27. The COVID-19 pandemic is affecting States around the world, killing hundreds of thousands of people and exerting unprecedented strain on economic and health-care systems. Faced with a crisis of this magnitude, States and international institutions have been expected to play the role of last resort for the economy, while also fulfilling their human rights obligations by ensuring life-saving measures and maintaining health-care and social services and the smooth and stable functioning of the economic system. The deployment of those efforts has resulted in two different situations for States.

28. On the one hand, countries with capacities have created massive debt in order to mount stimulus packages to respond to the crisis. On the other hand, pandemic-stricken countries that are saddled with debt and thus have limited fiscal space have had limited choices, thereby justifying their hope for sufficient debt relief to allow them to fight the pandemic and protect the human rights of their people.

29. Regardless of the response taken, be it through stimulus packages or debt relief, efforts should be guided by human rights principles to ensure that the process does not contribute to widening inequalities or leave vulnerable and marginalized populations worse off than they were before. States, international financial institutions and private creditors must abide by their human rights obligations in any considered response. Of particular importance is that any foreign debt strategy “must be designed not to hamper the improvement of conditions guaranteeing the enjoyment of human rights and must be directed, inter alia, to ensuring that debtor States achieve an adequate level of growth to meet their social and economic needs and their

development requirements, as well as fulfilment of their human rights obligations" (A/HRC/20/23 and A/HRC/20/23/Corr.1, annex, para. 8). Furthermore, a human rights approach would not only benefit future economic recovery from the pandemic, but also make the world more fair, inclusive and resilient.

A. Narrowing inequalities and ensuring the full enjoyment of human rights for all through stimulus packages and debt relief

30. States have the minimum core obligation to use the maximum available resources to progressively realize social, economic and cultural human rights, despite any disparity in resources available to them. The fiscal space and borrowing capacities of developed countries being financially wider than that of developing countries, especially those with a heavy debt burden, a response relying on excessive debt is of concern. This kind of pandemic response, although necessary, would massively increase the public debt of both developed and developing countries, aggravating the debt burden of developing countries and making future recovery more difficult.

31. From the outset, it is of vital importance that any money that has been unblocked or mobilized is used to uphold social, economic and cultural rights and will not exacerbate marginalization, discrimination or inequality in society. There is a need to ensure that the unprecedentedly large stimulus packages or the financing space gained from debt service suspension or emergency financing is actually dedicated to protecting human rights and minimizing the negative impact of the pandemic.

32. To allow wealthy and big corporations to enjoy substantial tax benefits, bailout money and other measures aimed at supporting the market for a lengthy period of time, while providing ordinary households and small and medium-sized companies most affected by the pandemic with only very short-term financial handouts or support, would not be the appropriate way of using financial resources and would certainly widen income inequality and inequitable access to medical and other services. Economists have had heated debates about the effect on income of the previous round of quantitative easing, which was implemented during the 2008 global financial crisis and which underscored the risks of not taking income inequality and other human rights issues into full consideration.[24] To cushion the blow of the pandemic and leave no one behind, social protection and financial support should be sustained for a sufficient period of time. In that regard, all States should move towards the same goal, in line with international human rights standards and the international commitment to implementing the 2030 Agenda for Sustainable Development. There should therefore be no distinction between countries in terms of the effective realization of human rights, regardless of whether the money used to fight the pandemic is drawn from the very limited fiscal revenue of the countries themselves or from financial support provided by multilateral, regional or bilateral institutions, be it through emergency funds or debt relief.

33. With regard to Governments, not providing for minimum basic needs or the medical services is a failure by the State to discharge its human rights obligations. Addressing inequalities requires a focus on marginalized groups and individuals in situations of vulnerability (see A/HRC/40/29). Therefore, in implementing stimulus packages or monetary expansion measures, policymakers must abide by their human rights obligations. Very often, this approach is either overlooked or not communicated clearly to society. It would create a more balanced, pro-economic and prosocial approach to development if those considerations were taken into account by countries at the policymaking stage. A human rights impact assessment of economic policies and reforms would provide a clear orientation for that process. For instance, it is

[24] Brookings Institution, "Did the Fed's quantitative easing make inequality worse?", event, 1 June 2015.

essential that considerations on minimizing income, gender and racial inequalities be included in the design of stimulus packages, in addition to ensuring the informed participation and consultation of the most affected members of society.

34. A key element in good governance and decision-making processes, in particular with regard to those affecting the lives of hundreds of thousands of people, is to clarify the attribution of responsibility and accountability for decisions, actions and implementation. In that regard, the guiding principles on foreign debt and human rights provide that transparency, participation and accountability are core values that should be observed in the lending and borrowing decisions made by States, international financial institutions and other actors, as appropriate, the negotiation and execution of loan agreements or other debt instruments, the utilization of loan funds, the making of debt repayments, the renegotiation and restructuring of external debts and the implementation of debt relief when appropriate (A/HRC/20/23 and A/HRC/20/23/Corr.1, annex, para. 28).

35. States must ensure that no one is left behind and that "the rights of the disadvantaged and marginalized individuals and groups are not disproportionately affected".[25] To a certain extent, this could be called a "people's quantitative easing".[26] Policies that integrate a human rights approach would generate economic growth and reduce poverty and inequality in the long term. There is much to be considered in the allocation of funds that would contribute to the reduction of the spread of the pandemic by minimizing contagion, providing medical services and preventing impacts on the enjoyment of human rights. Debt sustainability analyses must therefore go beyond economic considerations and include a human rights dimension.

36. In other words, it is vital that economic analysis and decision-making should prevent the potential retrogression of economic, social and cultural rights. When it comes to gender equality, for instance, evidence has shown that women have been disproportionately negatively affected by the current crises, because the most affected sectors, such as the service sector (e.g. retail shops, restaurants, hospital and tourism), employ more female workers and have been hit hard by social distancing measures, lockdowns and the closing of borders, leading to a significant setback for gender equality.[27] In addition, many women work in the informal sector, which means that job security is almost non-existent and social protection is very precarious. Lockdowns have forced many women to return to their home towns, which are sometimes in the countryside where, more often than not, it is difficult for them to resume providing the kinds of services they had provided previously, owing to various logistic and financial reasons. In order to redress the structural or systemic discrimination against women, it would be essential not only to provide them with access to health care and special financial support, but also to reinforce social protection systems so as to prevent them from bearing the brunt of the economic crisis and the pandemic-response measures.

37. Furthermore, in accordance with article 8 (1) of the Declaration on the Right to Development, "States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income".

[25] Letter dated 16 May 2012 addressed by the Chairperson of the Committee on Economic, Social and Cultural Rights to States parties to the International Covenant on Economic, Social and Cultural Rights.

[26] Submission by Koldo Casla, available at www.ohchr.org/EN/HRBodies/SP/Pages/Joint-questionnaire-COVID-19.aspx.

[27] Stefania Fabrizio, Vivian Malta and Marina M. Tavares, "COVID-19: a backward step for gender equality", VoxEU, 20 June 2020.

B. Human rights approach for addressing the debt problems of developing countries during the pandemic

38. Four waves of debt build-up have been identified in recent history.[28] The current wave began with the 2008 global financial crisis. This time, however, the composition of the debt accumulation is much more complex and includes concessional and commercial bank loans, bonds and different forms of external and domestic debt. The diversity of creditors and lenders is also unprecedented, with a mixture of public, private, foreign and domestic.[29]

39. While the debt compositions and actors have changed significantly in recent years,[30] it is interesting to note that the toolkits for debt crisis prevention and resolution have remained more or less the same since the 1980s, with the exception of some tightening of bond contracts. This mismatch has made the policy proposals created in response to the COVID-19 crisis appear, to some extent, to be lacking in both potency and sophistication.

40. In parallel, the pandemic has also triggered a socioeconomic and human rights crisis. Policy measures for addressing debt crisis therefore call for a human rights approach, an issue that has been raised many times in the past but has been brushed aside each time. At the present time, much of the discussion revolves around the idea of “building back better”. Implementing such a concept without integrating human rights, however, would be going back to “business as usual”. It would be opportune to take up the issue in order to ensure that the crisis response adequately addresses social, economic, environmental and human rights concerns and, most importantly, that the future recovery and reform process includes due systemic reforms. In doing so, debt crisis prevention and resolution policies and the related toolkit would match the current landscape and thereby strengthening resilience against external shocks and the debt crisis at the national, regional and international levels.

1. Temporary debt standstill from international financial institutions and the Group of 20 countries

41. When COVID-19 began to spread rapidly across the globe, debt-saddled developing countries knew that they could not take due responsive measures without international support. The situation is such that even States willing to use their maximum available resources to duly fulfil their human rights obligations may not be in a position to meet even their minimum core obligations on their own and without international cooperation. While major economies around the world have injected historically large amounts of money into their own economies, many developing countries in Africa, Asia and Latin America have also taken swift and decisive action, with their much more limited financial resources, to prevent the further spread of the pandemic, including by putting lockdowns in place, distributing soap and food, ensuring the supply of water and electricity and providing emergency social protection measures.

42. The credit crunch for poor countries is obvious. The international community, fully aware of the need for urgent liquidity support for those countries, reacted quickly in providing emergency financing and addressing the debt service burden. Although there have been complaints that the amount provided was far too little, the purpose was to free up additional resources to address, on an exceptional basis, the balance of payment needs caused by the pandemic, so that pandemic-stricken

---

[28] M. Ayhan Kose and others, “Understanding the global waves of debt”, Policy Insight No. 99 (Centre for Economic Policy Research, March 2020).

[29] Anna Gelpern. “Now that everyone is on the standstill bandwagon... Where to? Part I”, Credit Slips, 20 April 2020.

[30] Submission by CADTM.

countries could focus on containing the crisis, while also minimizing the negative impact of the pandemic on human rights.

43. As expected in accordance with their human rights obligations, and with such expectations being even greater when resources become scarce, there is a need for States to prioritize human rights-related expenses that allow for the provision of health services, food, housing and other vital emergency measures over debt payments. It should be emphasized that some human rights are non-derogable at all times and that all States must fulfil the minimum core human rights obligations.

44. In that context, the Independent Expert welcomes the fact that some key creditors and lenders, including IMF and the G20, have proposed concrete measures to alleviate the debt burden of low-income countries. It should be noted that both sets of measures are temporary in nature. More specifically, in April 2020, the IMF announced that it would provide grants to 25 of the poorest and most vulnerable countries to cover interest and principal payments on debt owed to IMF for next six months to help them channel more of their scarce financial resources towards vital emergency medical and other relief efforts. The G20 followed with a proposal regarding debt service suspension, from 1 May to the end of 2020, for 73 primarily low-income developing countries that are either eligible to borrow from the International Development Association (IDA) or that are least developed countries, and called upon private creditors to provide debtors with the same debt relief service. In that regard, on 14 May 2020, the Independent Expert recommended that the debt standstill extend beyond 2020.[31]

45. These are very welcome initiatives, as they can provide indebted countries with some breathing space, allowing them to focus on fighting the pandemic. They are also in line with article 2 (1) of the International Covenant on Economic, Social and Cultural Rights. For almost three decades, the international community has affirmed that "debt payments should not take precedence over the basic rights of the people of debtor countries to food, shelter, clothing, employment, health services and a healthy environment" (see Commission on Human Rights resolution 1994/11). To continue with debt servicing during the pandemic would divert resources from the protection and promotion of human rights and, in particular, hinder efforts by States to meet their minimum core obligations and force them to adopt retrogressive measures. Nevertheless, there are a few issues that deserve attention.

a. Classification of country groupings qualified for debt relief

46. Countries that qualify for debt service suspension through both the IMF and the G20 initiatives are assessed by income level or by GDP per capita, not on debt sustainability conditions. That is a very narrow set of criteria that does not take into consideration the actual debt vulnerabilities of those countries or the actual impact of the pandemic on their populations or the human rights of those populations. Some developing countries, which are neither among the least developed countries nor eligible for IDA financing and thus not qualified for debt relief, have nevertheless been hit hard by COVID-19 and have limited medical facilities to cope with the pandemic. Some middle-income developing countries have also been negatively affected by the pandemic and have serious debt sustainability problems. Some were already in the process of debt restructuring when the pandemic began.

47. Although middle-income countries typically owe more to private creditors, especially bondholders, than the poorer countries, they also owe debt to IMF and to other countries. For small island developing States, which rely heavily on tourism, the pandemic has led to a sudden stoppage in the inflow of tourists and to severe balance-

[31] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25888&LangID=E.

of-payment shock. Although these countries do not meet the criteria for the IMF and G20 debt standstill initiatives, they end up having limited resources to devote to medical services or social benefits, in addition to facing considerable debt challenges. In fact, not only do they not qualify for any of those debt standstill measures owing to their income level or their GDP per capita, but they have also contracted different types of debts for the very same reasons. Moreover, the types of debt contracted often involve less advantageous payment terms and higher costs. Therefore, if the pandemic drags on, these countries will face a significant risk of debt default. Debt standstill criteria should therefore take into consideration countries' actual debt vulnerabilities at the time of the pandemic, as well as their obligations to uphold human rights.

48. Given the plight of those countries, the Independent Expert would like to echo the views of the United Nations[32] and some debt scholars[33] that all vulnerable countries, including middle-income countries, that request support to free up fiscal resources in order to save lives and livelihoods should be given support in addressing their debt vulnerabilities.

b. Reputation loss and debt relief

49. The changes in the composition of debt owed by developing countries and the restrictive nature of the debt standstill have led to reluctance by some qualified countries, including some world's poorest countries, to request forbearance under the IMF and G20 initiatives out of concern it could harm their credit ratings and future market access.[34] They fear that the resulting reputation loss would compromise their future ability to borrow from the international capital market.

50. Coupled with prevailing low interest rates around the world for borrowing and the quest for yields by investors with large amounts of liquidity on their balance sheets, in part owing to current and prior rounds of quantitative easing, the international capital market was frozen this time for only about two months. There are, therefore, both push and pull factors explaining the reluctance of developing countries to accept the debt service relief offered.

51. Another possible reason for that reluctance is that the coming five years will bring the height of debt repayments for some developing countries; the amount needed for rolling over that debt would therefore be much larger than the amount provided by the limited debt service suspension. According to UNCTAD estimates, in 2020 and 2021, the amount of debt will total between $2 trillion and $2.3 trillion for high-income developing countries, and between $700 billion and $1.1 trillion for middle- and low-income countries.[35]

52. With the pandemic raging, securing financing opportunities might be difficult and costly in the future. In this context, some debtor countries would rather forego the limited amount of debt relief offered and float a much larger bond so as to ease their concerns with regard to their upcoming legal requirements for debt servicing. Furthermore, in recent years, countries without an investment-grade rating, including small and more vulnerable countries, have tapped into bond markets. In fact, bond issues from developing countries have been significant in the past two months.

53. International financial institutions are also afraid of reputation loss. The World Bank and IMF were concerned that their participation in the debt standstill would

[32] United Nations, "United Nations comprehensive response to COVID-19: saving lives, protecting societies, recovering better", June 2020.

[33] Anna Gelpern, Sean Hagan and Adnan Mazarei, "Debt standstills can help vulnerable Governments manage the COVID-19 crisis", Peterson Institute for International Economics, 7 April 2020.

[34] Reuters. "UPDATE 1 – World Bank chief frustrated by private creditors on poor country debt relief", 19 May 2020.

[35] UNCTAD, "From the great lockdown to the great meltdown".

negatively affect their preferred creditor status, leading to the loss of their AAA rating and thereby raising the cost of their future funding. A special fund was therefore set up with contributions from advanced member countries; IMF subsequently granted debt relief to qualified countries requesting it, using money from the fund. Even during an unprecedented global pandemic, however, international financial institutions must abide by their human rights obligations, just as much as in normal times, and do whatever they can to provide assistance to countries in need. There is also the concern among developing countries that contributions to the fund by developed countries would be considered official development assistance (ODA), so that even if developing countries receive temporary debt service relief, they could lose out on future ODA.

c. Private sector reluctance to participate in debt relief

54. The involvement of the private sector in debt service suspension as proposed by the G20 is on a voluntary basis. Given that imposing a debt service suspension is impossible, owing to the absence of a global debt-restructuring mechanism and to bond contract terms, it seems that the G20 could not have done more than encourage the private sector to willingly provide such a suspension. To date, the majority of private sector creditors have not responded to the call to join the debt relief initiative, even though some debt experts have offered concrete proposals on possible arrangements.[36] There are several reasons for this failure. First, the diversity and the large number of the bondholders makes potential agreement on the matter more difficult. Second, it seems that no institution has the authority to compel the private investors to join the debt relief.[37]

55. Another concern is that vulture funds may be waiting for opportunities to take advantage of the current situation (see A/70/275).

56. In that connection, it worth noting that, in an effort to avoid the occurrence of litigation by creditors against countries benefiting from the G20 programme as a result of contract violations in the context of debt relief initiatives, a draft legislation proposal is being developed in the United Kingdom of Great Britain and Northern Ireland. Several scholars, together with such civil society organizations as Jubilee Debt Campaign, have been working on the draft proposal, which, if adopted, could prevent private creditors holding bonds issued under English law by a country qualifying for the G20 debt relief programme from pursuing legal or arbitral proceedings, including enforcement proceedings, against that qualifying country in any court in the United Kingdom, during a specified moratorium period.[38]

57. Such complex uncertainties associated with involving the private sector, at a time when it could, more than ever, contribute to reducing the suffering of people in situations of poverty, reducing inequalities and protecting human rights, makes it all the more important to emphasize that private creditors also have human rights obligations, including those set out in the Guiding Principles on Business and Human Rights, endorsed by the Human Rights Council in its resolution 17/4. Under the guiding principles on foreign debt and human rights, international financial organizations and private corporations also have the obligation to respect international human rights (A/HRC/20/23 and A/HRC/20/23/Corr.1, annex, para. 9). Furthermore, circumstances rendering a debt unpayable, such as severe financial distress of the borrower and natural disasters, may warrant changes in the reciprocal obligations between a debtor State and its creditors (ibid., para. 52). Given that some

---

[36] Patrick Bolton and others, "Sovereign debt standstills: an update", VoxEU, 28 May 2020.

[37] Anna Gelpern, "Now that everyone is on the standstill bandwagon".

[38] Stephen Connelly and others, "COVID-19: suspending debt service for indebted countries", Centre for Law, Regulation and Governance of the Global Economy Briefing Note No. 2 (Coventry, United Kingdom, University of Warwick, June 2020).

private actors may lack the willingness to engage in genuine dialogue and abide by those obligations, other options need to be explored.

d. Necessity as rationale for debt standstill during the pandemic

58. Given the sudden onset of the pandemic and its sizeable impact on States, it would be opportune to consider that States may not be in a position to fulfil their international agreements, including those regarding debt.

59. Under international law, there are circumstances precluding the wrongfulness of an act or omission by States. Among other situations, the International Law Commission recognizes force majeure, distress and necessity as elements constituting exceptional circumstances for which States could be forced to breach their international obligations, especially if lives and livelihoods are in danger, for as long as the situation exists (see General Assembly resolution 56/83, annex, arts. 23–25).

60. From this perspective, one could argue that the pandemic constitutes an exceptional situation allowing countries to request a debt moratorium, in line with international law. The pandemic could be compared to such circumstances as natural disasters, like a severe earthquake or a typhoon.

61. In addition, both the Principles on Promoting Responsible Sovereign Lending and Borrowing of UNCTAD and the guiding principles on foreign debt and human rights uphold the notion that creditors and debtors share responsibility for preventing and resolving unsustainable debt situations and for reconciling debt obligations with human rights. It should be noted that the previous Independent Expert had underlined the need to implement both instruments.

e. Duration of the debt standstill

62. In view of the uncertainties associated with the development of the pandemic and the expected time horizon for the development of vaccines and an effective cure, the Independent Expert issued a press release to request an extension of the initial six-month debt standstill. Some institutions and countries have expressed similar concerns. The recent decision of the IMF Executive Board to try to extend the duration of grant-based debt relief to vulnerable members for up to two years also shows that the initial IMF and G20 proposals were insufficient and too short.

63. On the whole, the debt standstill proposed by IMF and the G20 have not taken full consideration of the changed landscape of developing countries' debt. Consequently, its implementation has been difficult and, to date, has not freed the expected magnitude of financial resources needed by developing countries.

2. Emergency financing and special drawing rights

64. The liquidity shortage among developing countries is massive and constitutes a pressing obstacle to addressing the challenges of COVID-19. Not addressing that obstacle urgently would lead to a collapse in investment and turmoil in the financial market and, more importantly, to human suffering and the erosion of human rights. The alarm bell was heard by a number of financial institutions and stakeholders, and international financial institutions, other international institutions and development banks have all tried to contribute to filling in the financing gap experienced by developing countries.

65. To tackle the challenge, IMF responded by offering emergency financing from its Rapid Credit Facility and other financing vehicles. IMF has received requests for emergency concessional funds allocated with minimum conditionality (i.e. for spending related to COVID-19) from an unprecedented 102 countries. The World Bank Group has indicated that it is prepared to provide, over the next 15 months, up to $160 billion in financing tailored to the health, economic and social shocks that countries are facing.

66. In addition, the Secretary-General established the United Nations COVID-19 Response and Recovery Fund as an inter-agency fund mechanism intended to support programmes in low- and middle-income countries, in particular those most vulnerable to economic hardship and social disruption, aimed at overcoming the health and development crisis caused by the pandemic.[39] The financial requirements of the Fund are projected to be $2 billion. The funding provided is supplemented by other regional, multilateral and bilateral development banks, which have also committed themselves to providing urgent financing to support health-specific and other social and economic responses to the COVID-19 pandemic.

67. Nevertheless, although the volume of financing being made available is significant, the amount still falls far short of the liquidity needs of developing countries. To meet those needs, United Nations development agencies have called for a fresh allocation of special drawing rights, which are a form of reserve assets that can be used by countries as additional liquidity, with a view to filling the financing gap.[40] Such an allocation was made during the 2008 financial crisis. The advantage to such a tool is that special drawing rights are highly liquid and unconditional assets that could soften a country's cash flow problem, even if unused, as they would appear on its balance sheet and strengthen market confidence in the country.

68. While some institutions and Governments around the world have supported the proposal, the Managing Director of IMF later said that there was no unity among IMF members on a fresh allocation of special drawing rights, but that they had agreed to use existing special drawing rights that were in the hands of wealthy countries.[41] The governance of the international financial institutions is still an issue that need to be examined, it seems.

3. Debt restructuring and debt cancellation

69. When countries are suffering from structural unsustainable debt and are thus in debt distress, or, in other words, when they do not have the capacity to meet their financial obligations and are insolvent, there is a need to restructure their debt or cancel it, if possible. Otherwise, the country would have no investment or economic growth and no access to new borrowing opportunities, and its population would suffer the consequences. Experience shows that retrogressive measures that may be put in place as a result lead to a deterioration in human rights and livelihoods, to the extent where people lose access to, inter alia, food, medical care, water, housing, as well as crisis-related social support. With the pandemic still raging, once these countries succumb, the rest of the world will suffer. In an interconnected and interdependent world, no country is safe unless every country is safe. As always, the people most affected would be those in situations of poverty and vulnerability, in both developed and developing countries alike.

70. There are no debt restructuring or insolvency regimes for sovereign States, although there are such systems for corporations. There are currently only costly, time consuming (averaging 10 years), patchwork and ad hoc arrangements for sovereign debt restructuring.

71. To date, IMF and the G20 have been treating debt problems for developing countries as a liquidity problem, not a solvency problem. Efforts made thus far have therefore been aimed at the rapid disbursement of emergency funds and temporary debt standstills, rather than the provision of advice for debt restructuring or debt cancellation. However, when there is no formal bankruptcy code, mechanism or

---

[39] See https://unsdg.un.org/sites/default/files/2020-04/COVID19-Response-Recovery-Fund-Document.pdf.

[40] UNCTAD, "From the great lockdown to the great meltdown".

[41] Jonathan Wheatley, "Global economic outlook still worsening, says IMF: Georgieva warns prospects are 'worse than our already pessimistic projection'", *Financial Times*, 12 May 2020.

framework for sovereign States to compel creditor participation, private sector actors are unlikely to approach the negotiation table themselves.

72. On the other hand, it would be difficult for IMF or the G20 to propose debt restructuring, especially when sovereign bonds are governed by such jurisdictions as London or New York. At the beginning of the pandemic, there were already a number of countries facing unsustainable debt and thus already categorized by IMF as being in debt distress or at high risk of debt distress. With the pandemic not only incurring high costs in order to save lives but also destroying both the demand and the supply sides of the global economy, resulting in a deep worldwide recession, Governments around the world are witnessing an explosion of public, corporate and household debt. It is therefore likely that more countries will soon be facing a debt crisis.

73. Although the temporary debt standstill and emergency financing measures could soften the blow to some extent in the short term, in the longer term, there is concern that heavily indebted countries will end up accumulating more debt. In addition, for heavily indebted countries that do not qualify for debt standstill or emergency financing, the risk of insolvency is even greater, as they would then face a credit crunch. It is predicted that the current severe liquidity shortage will evolve into a structural solvency problem. Therefore, in addition to the countries that are already in debt distress, it is expected that over a dozen more would then default on sovereign debt.

74. The proposal for a debt restructuring mechanism can be traced back to efforts begun by UNCTAD in 1971. There have been several subsequent attempts to create such a mechanism, including the failed efforts by IMF to establish a sovereign debt restructuring mechanism in 2002, work done by UNCTAD on its Principles on Promoting Responsible Sovereign Lending and Borrowing between 2009 and 2012 and General Assembly resolution 68/304 on the establishment of a multilateral legal framework for sovereign debt restructuring processes, adopted in 2014. The guiding principles on foreign debt and human rights also offer a human rights approach to debt crisis resolution.

75. The Guiding Principles on Business and Human Rights contain a clear statement of the human rights obligations of business enterprises (principles 11–15). This means that they should avoid infringing on human rights and should address adverse impacts on human rights in which they may be involved. The fact that private creditors have not volunteered to participate in debt service suspension and countries qualified for debt relief are reluctant to request such relief reflects the changed debt landscape and the difficulties related to both creditor and debtor coordination under an international initiative. It also demonstrates, once again, the need for a debt restructuring mechanism. Because debt restructuring is a lengthy and costly process, it is difficult to carry out swiftly in times of crisis without tremendous political will.

76. Owing to the existing debt vulnerabilities of some countries, which are mostly a legacy from the 2008 global financial crisis, continued uncertainties about the ultimate length of and eventual economic and social cost posed by the negative impact of the pandemic, along with the further worsening of the debt situation, will necessitate debt restructuring and debt cancellation down the road. It is essential that preparations be made and groundwork begun for that eventuality. Currently, the most important thing to do is to build political will and international coalitions.

IV. Conclusions and recommendations

77. **COVID-19 has caught the world by surprise. A pandemic of this magnitude has not been seen in a century, and much remains unknown and evolving about**

the situation and the virus.[42] **Its spread and the resulting lockdowns have dealt a heavy blow to the world economy, especially that of developing countries. Its ramifications will be felt years to come.**

78. **In order to flatten the COVID-19 infection curve and prepare for an equitable, resilient, greener and sustainable economic and social recovery from the pandemic, the debt problems, especially those of developing countries, have to be addressed as effectively and quickly as possible. As developing countries entered the pandemic with unprecedentedly high debt levels, debt burden has been an obstacle preventing the Governments of these countries from performing their human rights obligations, including with regard to social protection, urgently needed medical services and basic needs. Governments need to use their limited fiscal space, tap into their foreign reserves and borrow more money in order to slow down the spread of the virus. As a result, public debt has increased further, and that trajectory can only worsen in the near future. Normally, poor countries are in a position to reduce their debt burden only when the global economic environment is benign and commodity prices are stable. Unfortunately, the global economy is in a deep recession and recent projections are pointing to the risk of a further downward slide. As a result, there is fear of a widespread debt crisis in the world, with more sovereign and private defaults to come in the near future. Taking into consideration that gloomy picture and the lack of a human rights approach in addressing debt problems, the Independent Expert reminds States, international financial institutions and the private sector of their responsibilities and human rights obligations in the current situation and puts forward for consideration the recommendations outlined below.**

79. **Recommendations for States, both individually and as members of international financial institutions, are as follows:**

(a) **International cooperation and multilateralism are vital for facilitating countries' navigation of the present crisis and for laying the groundwork for a robust, sustained and inclusive global economic recovery. To address the pandemic and its consequences and realize universal human rights, States should take action, both individually and jointly through international cooperation. Articles 55 and 56 of the Charter of the United Nations contain a clear request to States, as do various human rights treaties and declarations, to cooperate with and assist each other in order to achieve certain goals, including ensuring development and eliminating obstacles to development, finding solutions to international economic, social, health and related problems and promoting universal respect for and observance of human rights and fundamental freedoms;**

(b) **A more comprehensive debt standstill should be put in place for all countries with a high debt burden that have been hit hard by the pandemic and have requested debt relief, including middle-income countries and small island developing States, so as to provide them with fiscal breathing space;**

(c) **All Governments must focus on protecting and promoting human rights and fighting inequalities in their responses to COVID-19, in particular in their allocation of financial resources. People in situations of poverty or vulnerability should benefit from the resources used to fight the pandemic, and big corporations and privileged individuals in society should not be the main and final beneficiaries. International institutions, States and the private sector should all fulfil their human rights obligations in these common efforts to overcome the pandemic;**

(d) **Although the extension of social support to people in situations of poverty and vulnerability would further exacerbate fiscal positions, it is important not to prematurely withdraw support, which could lead to more people falling into**

[42] WHO, Regional Office for South-East Asia, "Communicating and managing uncertainty in the COVID-19 pandemic: a quick guide", 27 May 2020.

the trap of poverty and to mass job losses. It is equally important to give sufficient time and space to allow the economy to embark on a solid recovery before the introduction of fiscal consolidation or austerity measures, in line with human rights standards. The road to recovery will be long, uneven and tumultuous.

80. **Recommendations for international financial institutions and States are as follows:**

(a) **For countries in debt distress, debt standstill is necessary, but no substitute for debt restructuring and debt cancellation, as past experience has shown that it is difficult for insolvent countries to rise out of the debt trap, in particular since no one knows when the global economy will be restored to its pre-COVID-19 form. International financial institutions and creditors are encouraged to consider criteria for debt cancellation, and to do so as soon as possible;**

(b) **All stakeholders are encouraged to resume efforts to develop a sovereign debt restructuring framework and not wait for another crisis to occur. As debt restructuring is complex, time-consuming and costly, in times of crisis, there is often a panicky search for alternate solutions, as there is no existing mechanism to which to appeal. Human rights considerations should be fully reflected in such a framework;**

(c) **At the present stage, the injection of liquidity is vital for developing countries, to save lives and livelihoods. International financial institutions and development banks, including regional, multilateral and bilateral banks, are encouraged to continue to provide valuable financial support to developing countries. Doing so would assist developing countries in the struggle against the pandemic and prevent more countries from turning a liquidity crisis to an insolvency debt crisis;**

(d) **The request for a fresh allocation of special drawing rights should be considered. It is a valuable source of liquidity that countries in need can use, especially those that do not have major swap arrangements with large economies or economic groupings;**

(e) **Both debt sustainability analyses and debt relief should incorporate human rights obligations, including social and environmental sustainability standards and a wider vulnerability index, to ensure that debt service does not undermine the enjoyment of human rights or the attainment of the Sustainable Development Goals in all developing countries (see A/71/305);**

(f) **Many factors, both external and internal, can lead to a debt crisis. To prevent one from occurring, both creditors and borrowers should conduct their activities in a responsible manner and not be driven by the quest for yields at all cost, tempted by low interest rates or by the belief that the upswing business cycle would last forever. Acting responsibly would minimize overborrowing and risky lending behaviours. It would be important to revisit the Principles on Promoting Responsible Sovereign Lending and Borrowing and the guiding principles on foreign debt and human rights;**

(g) **Sovereign bond contract reforms undertaken since 2003 can help to support a more orderly debt restructuring process. Although those reforms contain significant limitations, such efforts should be continued and expanded. In addition, the pandemic boosts the case for State-contingent sovereign debt, such as GDP-linked bonds. Some debt contracts have also included standstill clauses in their force majeure clause, which will serve countries in times of calamity.**

81. **Recommendations for the private sector are as follows:**

(a) **Private creditors are urged to follow a time-bound suspension of legal litigation regarding the debt standstill during the pandemic. As more countries**

have acquired bond debt, the active participation of the private sector is crucial to ensure the effectiveness of the standstill;

(b) **Credit rating agencies should suspend procyclical downgrades during the pandemic. In this way, international financial institutions can offer debt relief without fearing downgrades and countries can accept debt relief without worrying about future access to capital markets. The objective is not to allow debt servicing to sop up the limited financial resources of countries with a high debt burden and leave them with no means to fight the pandemic.**