KEY CONCEPTS
SOVEREIGN DEBT & HUMAN RIGHTS

Key Concepts is our series that breaks down complex topics for readers keen to unlock the power of human rights to build just and sustainable economies.

HERE, WE ANSWER:

- What is sovereign debt, and why do we need to transform the system governing it?
- What do we gain from looking at debt through a human rights lens?
- What do human rights obligations say about the actions needed in pursuit of debt justice?
- How can we hold governments and other powerful actors accountable for actions in this area?

CENTER for ECONOMIC and SOCIAL RIGHTS

- **Today, low- and middle-income countries face a vicious cycle of overdependence on external debt, taking loans under unfavorable terms skewed in favor of private lenders. The result? Governments' budgets are squeezed, public services are privatized, social protection programs are cut, and groups who are already marginalized suffer the most.**
- **Human rights offer a tool to visibilize—and properly address—the true social costs of these seemingly technical decisions, changing a broken system for good.**
- **By transforming how the global financial system operates, we can create an economy in which countries can rely on debt as a tool to ensure we all have what we need to live a good life, strengthening their economies at the same time.**

1. What is sovereign debt, and why do we need to transform the system governing it?

Sovereign debt, government debt, public debt, or national debt, are all terms to describe the amount that a state owes to others. Borrowing money creates an obligation to allocate resources towards paying (also called servicing) that debt, which also accrues interest. Debt can be domestic (owed to lenders in the country) as well as external (owed to foreign lenders). Lenders can be public (multilateral and bilateral) or private.

It's a myth to say that governments need to live "within their means" in the same way as a household might.

When planned well, government borrowing can play a key role in ensuring we all have what we need to live a good life. Their investments have "multiplier effects" across the economy that can benefit us all. Say, for example, the government takes a loan to invest in creating new jobs and increasing wages for public sector workers, such as nurses and teachers. Not only will this improve access to public healthcare and education, but these workers will also spend more across the economy. This creates new revenue for businesses. These businesses can then reinvest their revenue to hire more employees. In turn, they'll spend more—and so on and so on. This boosts the level of national income, which keeps debt levels sustainable.

It's a myth to say that governments need to live "within their means" in the same way as a household might.

But many low- and middle-income countries face a vicious cycle of overdependence on external debt. The terms and conditions of a loan— including the currency it's in—affect how manageable debt payments are. Inequities in the global financial system means that terms and conditions differ among countries. In particular, low- and middle-income countries are often forced to rely on underregulated international financial markets that are skewed in favor of private lenders. Their "credit worthiness" is perceived to be riskier. So, they end up borrowing at high interest rates and in dollars. When they struggle to service such debts, they have to renegotiate the loan (known as debt restructuring). Often, this involves taking on further loans from public lenders, which impose stringent conditions to achieve certain economic targets and enact particular policies.

For this reason, debt servicing is often undertaken at the expense of social investment. When debt payments squeeze government budgets, or debt relief comes with attached conditions, this leads to the privatization of public assets; cuts in social protection programs; and disinvestment in essential public services. This erodes their quality and their reach and widens the gap for communities at margins. Before the COVID-19 pandemic, 64 countries were obliged to spend more on debt payments than healthcare, for example. Women and girls often suffer the most from cuts to social spending. Their unpaid care and domestic work is relied on to fill the gap, which worsens their economic insecurity and social mobility.

The experience of Latin America in the 1980s is illustrative of this vicious cycle. After an influx of credit from commercial banks and other private lenders, growing interest rates and deteriorating exchange rates triggered a debt crisis. Without a multilateral mechanism to address sovereign debt restructuring, countries had to negotiate with creditors unilaterally, who insisted they accept intervention by the IMF. Of course, this intervention came with strings attached: austerity measures and other neoliberal reforms. Unemployment soared, incomes dropped, and living costs increased as a result—escalating poverty and inequality.

Women and girls often suffer the most from cuts to social spending. Their unpaid care and domestic work is relied on to fill the gap, which worsens their economic insecurity and social mobility.

Sovereign debt has preoccupied the international community for decades. But COVID-19 has thrown the injustices of the global financial system into sharper relief than ever. For many low- and middle-income countries, borrowing has become more expensive and debt payments more onerous. The financial turmoil caused by the pandemic is predicted to trigger—or exacerbate—sovereign debt crises in many countries. Without bold global action on debt, inequalities within and between countries will significantly worsen.

2. What do we gain from looking at debt through a human rights lens?

Recognizing that sovereign debt is a human rights issue helps us to **visibilize—and properly address—the true social costs of these seemingly technical financial decisions.**

Debt has traditionally been seen as a public finance issue. In particular, debt sustainability is considered a factor in determining a country's macroeconomic stability. It is analyzed by looking at whether actions needed to service debt are compatible with maintaining economic growth. Complex financial indicators are used to project a country's current and future ability to service its debts. Missing from the equation is how these actions affect the country's population.

Yet there is plenty of evidence that over-indebtedness, and the policy trends fueling it, have devastating impacts on people's rights.

Recognizing that sovereign debt is a human rights issue helps us to visibilize—and properly address—the true social costs of these seemingly technical financial decisions.

This, in turn, gives us tools to interrogate both the legitimacy of a loan (i.e. whether it was contracted in the public interest) and the sustainability of debt created (i.e. whether payments infringe a government's ability to invest in the realization of people's rights).

A particular social cost that is important to understand is the mutually reinforcing relationship between booming levels of sovereign and household debt. When governments roll back public services and social protection schemes, market-based, individualized solutions fill the gap. For those who can afford them, this means private hospitals, private childcare, private schools, private insurance, private pensions, private care homes etc. But, for those who can't, this means borrowing more and more to maintain their standard of living.
In numerous countries, many people lack access to formal lending sources. In others, financial deregulation has made formal lending sources less safe. This leads to predatory lending. Excessive interest rates, abusive contractual terms, criminalization of debtors and harsh collection practices become a burden. This quickly turns into a never-ending cycle of personal, family and social tragedies for many—putting their economic and social rights in even greater jeopardy and undermining their ability to secure their wellbeing and realize their potential.

Stressing these human rights impacts emphasizes that we all have a stake (and should be able to meaningfully participate)in policy debates and decision making on sovereign debt. This can help redress the power asymmetries in debt-related policy decisions.

Debt crises often affect people living in poverty (especially women, indigenous peoples and informal workers) the most. Yet debates about resolving them are elite-driven, largely ignoring the experiences of the majority of affected groups. A rights-based approach to debt demands greater transparency and accountability, which can democratize decision-making on debt-related issues.

We all have a stake—and should be able to meaningfully participate—in policy debates and decision making on sovereign debt. This can help redress the power asymmetries in debt-related policy decisions.

3. What do human rights obligations say about actions needed in pursuit of debt justice?

Economic and social rights provide a framework for action towards debt justice, as they entitle everyone to the material conditions essential for dignity, freedom and wellbeing. Making these entitlements a reality demands an active role for government in providing public goods and essential services that deliver for everyone, not just those who can pay; in redistributing resources to support households, including through comprehensive social protection schemes; and, critically, in mobilizing resources to do this.

This means when governments do not have sufficient resources domestically, they must seek international assistance. This assistance can include government borrowing.There is also a duty to provide assistance. This flows from the *extraterritorial obligations* that governments have (in other words, obligations they have to people beyond their borders), including to cooperate internationally.

Such cooperation is critical for increasing access to financing for low and middle-income countries. Options for this include:

- Unconditional grants, which do not need to be repaid; and
- Concessional lending, which still creates debt, but on favorable terms and conditions.

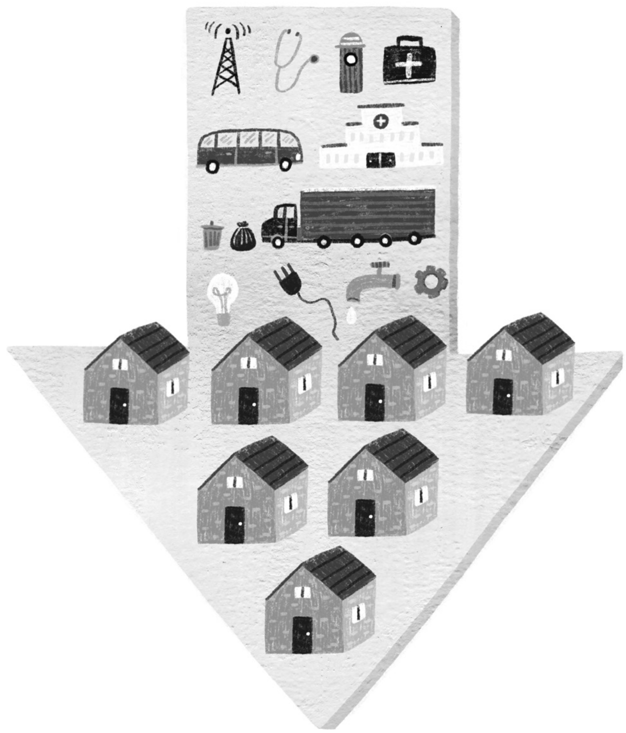
- Special Drawing Rights (SDRs), which are an asset created by the IMF that allows countries to access foreign currency sources without additional debt;

In July 2021, the IMF backed a plan to issue USD 650 billion in SDRs. This falls far short of the USD 1 – 3 trillion called for by progressive economists and debt justice advocates.
A further issue is that SDRs are allocated according to how much a country financially contributes to the IMF. Two thirds go to a handful of wealthy countries, while those with the greatest need receive the least. Many have called for a concrete mechanism to reallocate SDRs where there is most need. But, currently, this depends on voluntary transfers with no comprehensive framework for doing so.

Extraterritorial obligations also prohibit action likely to harm people's rights overseas or prevent other governments from meeting their human rights obligations. The United Nations Guiding Principles on Foreign Debt and Human Rights outline how these obligations apply when governments take on foreign debt. They stress that borrowers and lenders share responsibility for onerous debt.

The principles call for a framework to ensure transparency and accountability in loan negotiations. Including human rights impact assessments in debt sustainability analyses is a key part of that process.

In line with these obligations, borrowing governments should ensure debt payments do not divert resources from social services or take measures to privatize public assets essential for realizing rights. Reflecting their co-responsibility for debt, lenders (who in reality are in a stronger bargaining position) should help facilitate this. This includes an obligation to perform due diligence on the purpose of the loan and the borrower's ability to repay. Resolving unsustainable debt (including through unconditional debt relief) may well be necessary to meet these obligations, and indeed has become even more urgent in light of the pandemic.



Resolving unsustainable debt (including through unconditional debt relief) may well be necessary to meet these obligations.

Particular needs are country-specific. But for many countries, debt moratoriums (temporary freeze) and restructuring (change in the terms and conditions of the loan) will be insufficient. What's needed is debt cancellation (full waiver) and forgiveness (partial waiver). This includes loans owed to private lenders, as well as to public ones. In April 2020, the G20 introduced the Debt Service Suspension Initiative (DSSI). This deferred USD 12 billion worth of loan repayments for a period of eight months. But only 73 countries qualified and only 40 qualifying countries made requests; and it expired at the end of 2021. This falls far short of addressing the draining of domestic resources in these precarious times.

Increasing access to financing or providing temporary debt relief can provide low-cost emergency liquidity (or cash flow). This can free up vital fiscal space (or the degree of flexibility a government has over its fiscal policy decisions) to boost spending on health, support people's livelihoods, and other services vital for protecting rights from the economic fallout of COVID-19.

But, to be effective, they should be pursued in combination with other actions to improve revenue collection, spending efficiency, and the regulation of the private sector. Moreover, fundamental and sweeping reform may be necessary to create an international environment conducive to the full realization of rights.

Many of the challenges low- and middle-income countries face are more structural. They result from a global financial system that creates an unequal playing field between creditors and debtors; lacks transparent and participatory negotiation procedures; includes a voting structure in international financial institutions that concentrates power among wealthy countries; and relies on narrow definitions of debt sustainability. So designing a comprehensive, transparent, timely and enforceable process to systematically restructure (or fairly resolve) heavy debt burdens is essential. In the absence of such a process, countries defaulting on external debt risk losing access to foreign credit and fear being targeted by vulture funds. There's growing support for such reforms, including from the United Nations Secretary General. But, so far, action has been lacking.

Designing a comprehensive, transparent, timely and enforceable process to systematically restructure (or fairly resolve) heavy debt burdens is essential.

4. How can we hold governments and other powerful actors accountable for their actions on debt justice?

The looming debt crisis now facing many low- and middle-income countries has been triggered by the COVID-19 pandemic. But its causes are much deeper. They can be traced back to governments' failure to comply with their human rights obligations, as they've negotiated and renegotiated how the global financial system functions. On the one hand, this has opened up space for debate about how to do things differently. But, that said, this system operates in a way that privileges powerful vested interests, who continue to reject the argument that they're obligated to ensure a fairer redistribution of resources within the global economy. In the face of such strong resistance, we need to be bolder and more creative in our strategies and tactics, including by:

a) Decoding the injustice of the global financial system

It can be difficult to connect the dots between government borrowing; public financing decisions; and the socioeconomic struggles people face in their daily lives. The evidence we need to show the relationships between them is not easy to gather. To address this challenge, actors in the human rights community are increasingly calling for governments to conduct human rights impact assessments when making decisions about taking on new loans and about restructuring existing ones. We've argued that for such assessments to be effective, interdisciplinary collaboration is essential. For example, in 2018 we published Assessing Austerity, which offers an adaptable methodological framework to inform the process for conducting such assessments.

b) Collective advocacy for debt justice

Too often, the social impact of borrowing decisions is overlooked or underestimated in negotiations about the specific terms and conditions of a particular loan, while the voices of individuals and communities most affected by them get ignored. To address this, we've supported partners and joined coalitions in

contesting the terms and conditions of bailouts; IMF loans; and other efforts to address debt crises. In Egypt, for example, we've raised concerns about the austerity policies that accompanied the country's USD 12 billion loan in 2016. In South Africa, we've highlighted how exaggerated anxieties about debt levels have been used as an excuse to introduce harsh budget cuts in recent years. In Ecuador, we called on the IMF to rethink its role in economic policymaking.

c) Setting an agenda for rights-based reform

As outlined above, governments have human rights obligations that apply when they're acting as members of international financial institutions. There are a number of ways these obligations also apply directly to these institutions themselves. But, it can be difficult to articulate, precisely, the demands we can make on governments in line with these obligations. They often remain quite broad and high level. To deepen understanding of the potential of rights to support specific reforms to the global financial system, we're fostering new connections across allied movements. For example, we're part of the Progressive International Debt Justice Collective and contributed to its Debt Justice Blueprint. A number of briefs in our Recovering Rights series have sought to demystify some of the key debates related to debt financing in the COVID-19 context, and the human rights norms that should guide them.

Want to know more?

Here are more resources on this issue:

- Rights, Not Debts: Essay by Allison Corkery, Ignacio Saiz and Juan Pablo Bohoslavsky on how protecting rights must be a core principle of debt justice.
- Freeing Fiscal Space: Article by Ignacio Saiz on how wealthier countries and international financial institutions need to lift the barriers their debt and tax policies impose on the fiscal space of low- and middle-income countries as a global public health imperative and a binding human rights obligation.
- Recovering Rights Briefs: Collaborative briefings that translate human rights principles into concrete policy recommendations to transform the economic system in the wake of COVID. They include issues like governments' obligation to invest "maximum available resources" on human rights, progressive tax measures, debt financing, gender equality, and more.
- Assessing Austerity: Monitoring the Human Rights Impacts of Fiscal Consolidation: Briefing that outlines practical guidance for policymakers, oversight bodies, civil society actors and others seeking to assess and address the foreseeable human rights consequences of austerity.
- Human Rights Impact Assessments and the Politics of Evidence in Economic Policymaking: Article by Allison Corkery and Gilad Isaacs arguing that biases in the "cognitive infrastructure" of economics must be fully understood and addressed to meaningfully assess the human rights impacts of economic policy choices.