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THE DEBT CRISIS AND IMPACTS ON HUMAN RIGHTS; CASES FROM

Haiti, Kenya, Egypt, Jordan, Argentina and Zimbabwe

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TABLE OF CONTENTS

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These case studies on the impact of debt on human rights were developed by members of Economic Policy Working Group including; Egyptian Initiative for Personal Rights(EIPR), Centro de Estudios Legales y Sociales (CELS) and Fundación para el Desarrollo de Políticas Sustentables (Fundeps), Institute for Justice and Democracy in Haiti (IJDH), Phenix Center, People's Health Movement-Kenya and Mela Chiponda, an individual member of ESCR-Net.

BACKGROUND

Globally, countries are facing social, political, economic and environmental crises intensified by the COVID-19 pandemic. For low- and middle-income countries these crises have been compounded by debt burdens, constraining governments' ability to respond. This phenomenon has heightened inequality and imperiled human rights. The inability of these countries to access vaccines due to intellectual property protection for pharmaceutical corporations, privatization and vaccine nationalism has exposed and aggravated long-evolving failures of the neoliberal capitalist economic models and structures requiring a deep rethink of the practices and conditionalities of lenders including the IMF and other IFIs, which have frequently contributed to these failures.

The IMF has consistently imposed neoliberal policy reforms and structural adjustments amid debt crises rooted in global inequalities and colonial legacies as well as ongoing corporate capture of critical government decision making institutions. Even in the midst of the pandemic, as highlighted by the cases in Kenya and Argentina, these structural reforms have weakened labor rights and social protections and led to the:

- Privatization and Commodification of Basic Necessities
- Undermining of Food Sovereignty
- Promotion of Regressive Taxation
- Imposing Austerity on the Majority

leading to impoverishment, dispossession and growing inequalities, including gender inequalities facing women who bear disproportionate burdens of care and are heavily represented in informal and precarious work sectors, along with many communities. In March 2021, ESCR-Net members via the Economic Policy Working Group, issued a public statement[1] during the IMF/WB Spring Meetings with a raft of demands, including a call for restructuring or total cancellation of debts for middle- and low-income countries. To demonstrate how the debt crisis is impacting negatively on states' ability to fulfill their human rights obligations and undermining enjoyment of economic and social rights, ESCR-Net members have compiled case studies from several countries that are facing social, economic and political impacts of sovereign debt burdens related to IMF responses.

CASE STUDIES

Haiti Case

<u>Historical Context</u>

Haiti has a long history of unjust debt imposed by international actors, beginning from its independence in 1804, with France's imposed "independence debt,"[2] that has forced Haiti into a cycle of aid dependence. This indebtedness allowed for the imposition of policies by foreign States and non-state actors. Most recently, the country's severe underdevelopment that resulted in part from its centuries' long need to prioritize debt repayment has meant that Haiti needed to seek assistance from international financial institutions (IFIs), including the International Monetary Fund, World Bank, and Inter-American Development Bank.

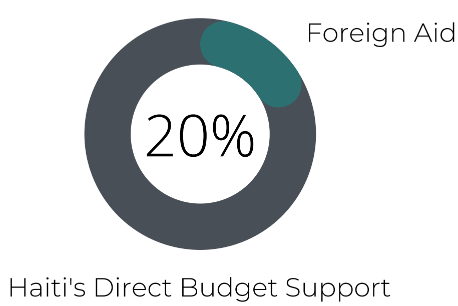
The IMF imposed structural adjustment policies in Haiti in the 1980s and 90s.[3] Although in the 21st century, the IMF stopped the practice of imposed structural adjustment by name, some elements of austerity conditions remained embedded in the agreements.[4]

<u>Ongoing Debt Crisis</u>

Despite the repeated acknowledgement from IFIs of Haiti's high risk of debt distress, they continue to provide conditional loans based upon unrealistic projections, including a US$299 million loan in 2019 and a US$111.6 million loan in April 2020.[5]

Foreign states and non-state actors continue to play a dominant role in the country.

- In 2019 to 2020, foreign aid accounted for approximately 20 percent of direct budget support to Haiti. [6]



Conclusion

The historic and ongoing debt crisis in Haiti and the policies imposed by IFIs that have entrenched debt have created significant obstacles to the realization and protection of fundamental rights in Haiti, including to the population's economic and social rights, namely the right to an adequate standard of living, food, water, health, and education. **IFI loan conditions, including the imposition of fiscal austerity measures, which prioritized debt repayment, fiscal discipline, privatization, and trade liberalization, have decreased Haiti's ability to invest in its population.** In particular, trade liberalization policies weakened Haiti's agricultural capacity by:

- Lowering tariff levels on key agricultural products (rice)
- Implementing a free-floating exchange rate regime
- Eliminating import quotas.

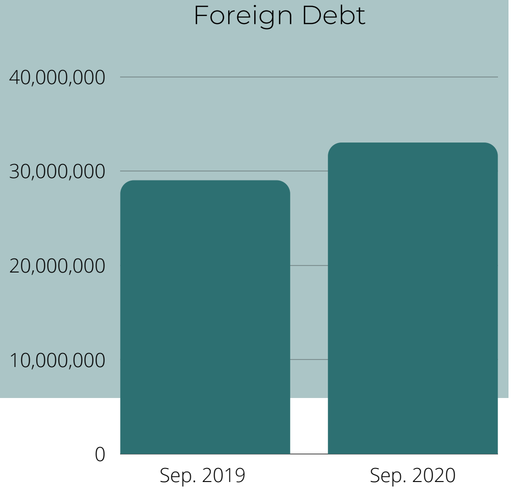
The imposition of IFI loan conditions has also encouraged Haiti to seek assistance from external aid agencies and organizations to provide basic services to the population, thereby perpetuating the cycle of aid dependence and harm to the population.

Kenya

Kenya's Public Debt

In the Kenyan context, the debt situation was worsening prior to COVID-19 pandemic.

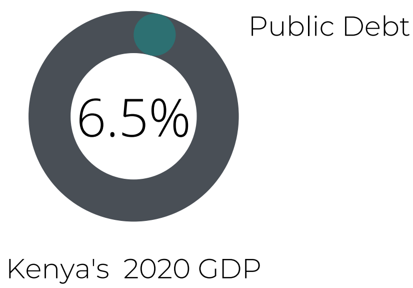
- **The foreign debt increased from USD. 29.9 million by the end of September 2019 to USD. 33.7 million by the end of September, 2020.[7]**



With the government presenting a record KES 3.7 trillion (around USD 34 billion) budget for the fiscal year 2021–2022, representing a 9.0% increase over the prior year's KES 3.4 trillion (around USD 33 billion) budget, the debt crisis is expected to escalate to finance the 7.5% budget deficit due to the decline of 8.7% of GDP estimated for this fiscal year.

In November 2019, the Treasury in its Post COVID-19 Economic Recovery Strategy stated that public debt was at KES8.41 trillion, which is slightly higher than the country's borrowing ceiling, explaining the effort to raise the debt ceiling. The treasury claims that this arises from favourable conditions given by the loaners which include good market interest rates and flexible grace periods for loan repayment.

- According to the 2021 Budget Policy Statement, Kenya's public debt as of June 2020 stood at KES7.06 trillion, which is equivalent to 6.5 percent of GDP [8].



Government's Proposal

Moreover, **the government is proposing to rely on fiscal consolidation plans, including reducing public spending to manage the escalating debt, which in turn will have impacts on basic public commodities like health and education.** To finance the deficit, the government aims to borrow KES 271 billion, or 2.2% of GDP, through external financing and raise the remaining amount, equivalent to 5.3% of GDP, through net domestic financing [9]. The government notes that public debt remains sustainable, yet they have had to change the law a myriad times allowing the treasury to surpass borrowing limits, which is now posing a major challenge, as debt servicing costs are projected to amount to roughly KES 1.2 trillion in the current fiscal year.

IMF Misleading Kenya

The Daily, a local economic and business newspaper, reported that the IMF is misleading the Government of Kenya by emphasizing that the current public debt trajectory is sustainable.[10] The IMF recently pushed the government to introduce a 16% VAT on fuel and fuel products, manage the public wage bill through retrenchment, and merging of State-owned enterprises as conditionalities for Kenya's new loan of USD.2.4 billion.

As part of containing expenditure, the IMF also put pressure on Kenya to investigate the corruption in national parastatals, including the Kenya Medical Supply Agency (KEMSA), and conduct a health check on over 20 state-owned enterprises with the goal of restructuring them, which will result in massive job losses. The IMF further asked the government of Kenya to introduce e-procurement as a strategy to deal with wastages, in essence promoting products owned by huge tech companies and the private sector amid dwindling public services. The introduction of the 16% VAT on fuel has pushed the prices of essential commodities higher amid deepening inequality, rising poverty levels and reduced economic activity. It should be noted that many Kenyans heavily rely on fuel products including cooking gas, kerosene and petrol.

The challenges that Kenya encounters in debt restructuring processes, especially due to the negative impact of the activities and litigation of 'vulture funds'. Vulture funds have averaged recovery rates of about 3 to 20. times their investment, equivalent to returns of (net legal fees) 300%-2000% [11] This has led to excessive foreign debt burden and posed challenges to the realization of human rights in many countries including Zambia where they repay the debt in excess of what . The negative impacts of the activities of 'vulture funds' and their consequences in regard to the enjoyment of human rights raise problems amid the processes of sovereign debt restructuring.

- Key Term: "Vulture Funds": private entities that buy up sovereign debt at a discount from the IFI's like IMF and then pursue a litigation process to force the debtor to pay the full amount.

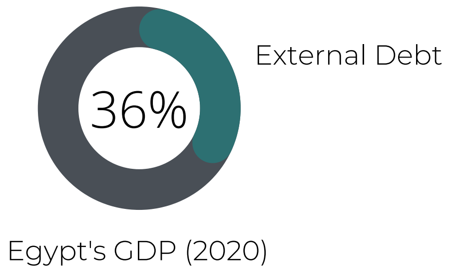
Egypt

In the Egyptian case, external debt increased to USD 129195.70 Million in the fourth quarter of 2020 from USD 125337.80 Million in the third quarter of 2020.[12] The country's public debt is at 120% of GDP. Egypt offers the highest interest rate in the world on its Treasury bills, attracting some 20 billion dollars in hot money (carry trade). Interest payments are above 9% of GDP.

- Debt service is 50% of public expenditure per year, meaning the government has only 50% of public spending left to invest in delivery of essential public services and recurrent expenditure which takes the biggest chunk of these funds.

Further, the short term debt repayment is more than half international reserves. Egypt borrows from different lenders, including 25% from the three main Arab lender countries (Saudi Arabia, Emirates and Kuwait), in addition to IFIs (23%), bonds (18%), China (8%), Paris Club and others.

- Egypt's External Debt is 36% of its GDP. (2020)



Egypt's Relationship with the IMF

While the Egyptian Government does not have a current IMF package, it requires urgent financing from the IMF and had a one-year standby arrangement that ended in June 2021. Of concern to the Egyptians is the fact that **decisions to borrow are made by the executive branch and economic elites without the participation of parliament as a people's representative body.** Most of the loan terms are published in English, making it difficult for citizens and members of

Jordan

Jordan’s economy has been hit hard by the COVID-19 pandemic amid already low growth, high unemployment and growing debt. The World Bank estimated the Jordanian economy to have contracted by 1.6% in 2020, with unemployment rising to 24.7% in the fourth quarter of 2020 and youth unemployment rates reaching an unprecedented 50%.[13] **The pandemic has further exposed the inadequacy of social safety nets in the country, which has now pushed and forced thousands of families to go into household debt to pay for basic necessities.** Poverty rates have increased among repealed bread and fuel subsidies.[14] As Jordan takes on more debts to cope with COVID-19, Jordanians fear future austerity policies that will further reduce social welfare programs and public spending, impacting negatively on economic and social rights. Jordanian’s vulnerable groups will be hit the hardest, including women, refugees and migrants, people with disabilities, and the poor.

Jordan's New Debt to Combat the Pandemic

In order to combat COVID-19 and continue to fund the government, Jordan authorities went to the debt markets. The IMF[15] provided an emergency loan of USD 396 million through the Extended Fund Facility and a further USD 1.3 billion for a four year program.[16]

- The new loans are likely to push the government’s debt-to-GDP ratio from approximately 96% (as of December 2019) to upwards of 110%.

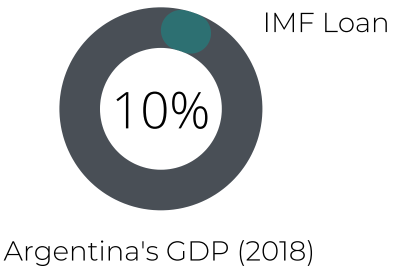
Jordan will thus be forced to allocate a greater portion of its budget towards servicing debt rather than investing in infrastructure projects and public services. Coupled with the debt crisis and structural adjustment policies including increasing taxes on basic goods, pushing for cuts in public spending, retrenchment to deal with wage bill among others imposed by the IMF, will lead to increased poverty, hunger, and a protracted unemployment crisis in which an estimated 50% of youth in Jordan are already unemployed.[17] Additionally, Jordan’s external debt will likely force the government to introduce austerity measures, which are highly unpopular with the public, as they often reduce social welfare programs.[18]

Argentina

<u>Argentina's IMF Loan</u>

The Argentine Government is currently negotiating an agreement with the IMF that can replace the one signed in June of 2018.

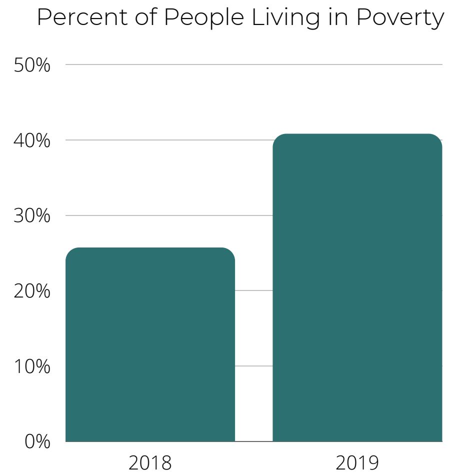
- In 2018 the IMF loaned Argentina a total of 44500 million USD or about 10% of the Argentine GDP.[19]



When the agreement was signed, the Argentine economy was going through a crisis with high inflation, job losses, and financial and currency runs. In the center of this crisis were the measures adopted by the government focused on the liberalization of the capital market and reduction of deficits. In this context, the government and the IMF negotiated in record time what was the largest loan ever approved by the IMF, which bypassed even the most basic procedures of internal authorization. The objective of this loan was to sustain and deepen the policies underway despite the overwhelming evidence of their failure.

It is also worth mentioning that a significant portion of the funds went to deregulated financial sectors generating capital flights,[20] even though article VI of the IMF Articles of Agreement prohibits it to finance capital flights. As this loan was only meant to sustain liberalization policies, the economic crisis went on. **Between 2018 and 2019, the GDP decreased by 4.6%, inflation rose, the currency devalued, and salaries stagnated.**

- All of these resulted in an increase in the number of people living in poverty from 25.7% of the population to 40.8% in 2019.[21]



The Pandemic's Effect

This situation has been greatly aggravated by the COVID-19 pandemic. The pandemic also brought to light the deterioration of the health and education sectors as a result of the austerity measures. Between 2018 and 2019, public expenditure on health dropped 21% and on education 36%. At the same time, the share of the budget devoted to paying debt services grew 28%.[22]

In 2020, Argentina had to restructure not only its debt with the IMF but also its debt with private creditors. During this period, the IMF supported these negotiations affirming that the "debt was unsustainable", but at the same time, the IMF did not provide additional funds for fighting the pandemic nor insist that the creditors signed a speedier or more sensible agreement. Now as the negotiations with the IMF continue, the organization has discarded the idea of reducing the debt and is offering only one way out: to move from a Stand by Agreement to an Extended Facilities Agreement which would only increase the time for repaying the debt. While this will allow for flexibility and elongate the repayment period freeing some resources, they may not be adequate to address the increasing demand for public services. The Argentine government currently argues that as the IMF agreed to the loan without adhering to its own guidelines on debt sustainability and as many evaluation steps were omitted, the organization should share part of the responsibility for this debt.

Zimbabwe

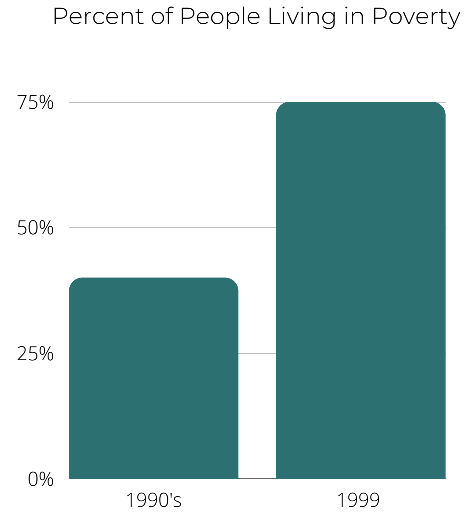
Historical Context

When Zimbabwe gained its independence in 1980, it took over a debt worth of US$700 million from the colonial administration[23], the Rhodesian government. The debt accumulated over the years when the Rhodesian government attempted to bust the United Nations-imposed sanctions on the colonial regime in order to purchase arms during the country's liberation against its white colonial rule. **The new independent state of Zimbabwe inherited an unjust, short-term, high-interest debt which necessitated a considerable repayment burden on the country in the early 1980s.** The impacts of this unjust debt were felt as the country also faced a devastating drought during the same period, in the 1980s. It also assumed the role of rebuilding the post-war infrastructure and economy.

Zimbabwe had to take on new debt to reconstruct and pay for old debts. During the 1980s, the country borrowed from the World Bank to fund the productive sector. Of note are the loans borrowed from the World Bank, the European Investment Bank, and the UK government to develop the Hwange Thermal Power Plant, which was the country's most significant energy source. The UK government loans were entwined to use by British companies. By the end of the first decade of its independence, Zimbabwe had debt repayments that were equivalent to twenty-five percent of its exports and twenty-five percent of its revenue.

To pay the debts, Zimbabwe had to borrow from the International Financial Institutions, including the World Bank, African Development Bank and the International Monetary Fund (IMF). It is worth noting that the money was not for investment but repayment of old debts. At the end of the 1980 and beginning of the 1990s, the country adopted the World Bank, and IMF recommended economic blueprint, the Economic Structural Adjustment Programme (ESAP), which led to reductions in government expenditure, deregulation of prices, the introduction of user fees, privatisation of state entities, trade liberalisation and laying off of public servants to reduce government spending. This was tied to the loans that the government received to pay off old debts. In 1992, the country faced one of the most devastating droughts in its history, which resulted in widespread poverty and sank the country deeper into an economic crisis.[24] Instead of growing the economy, the ESAP resulted in a crisis, as the annual growth of the economy fell from 4.5% in the 1980s to 2.9% between 1991 and 1997, imports grew more than exports. The country's US$750 million debts came directly from the World Bank, AfDB and IMF ESAP loans.[25]

- The people living below the poverty datum line rose from 40% in the 1990s to 75% in 1999.

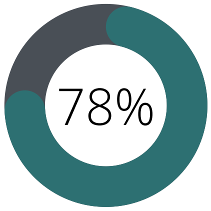


It should be noted that foreign governments continued to give loans to Zimbabwe to trap the country into buying exports from their companies. Governments such as the UK did not bother to carry out social impact analyses before handing out their loans. They put the interests of their corporations ahead of ensuring productive projects that would benefit the people of Zimbabwe.

The Pandemic's Effect

Currently, Zimbabwe is struggling with settling external debt arrears, which have ballooned to US$8.02 billion as of September 2020 which is challenging to repay. Since 2001, the country has found it challenging to repay the external debt, which stood at USD $6.34 billion.[26] The arrears on both the principal and interest on the debt are accumulating and the interest compounding. The COVID-19 pandemic has drastically reduced government revenue due to the disruptions in production and exports that were necessitated by the lockdowns that were put in place to contain the spread of the virus. It has severely constrained the government of Zimbabwe, mainly when there is an urgent need for procurement of vaccines to fight the pandemic. The government of Zimbabwe seems to have exceeded the threshold level of debt to GDP, which the Southern African Development Community (SADC has pegged at 60% of the GDP). It is worth noting that the country's Public Debt Act sets the limit at 70% of the GDP. [27]

- The Zimbabwe National Budget Statement of 2021 estimated that the public debt as of 31 December 2020 was at 78% of the GDP, which is well above the threshold.

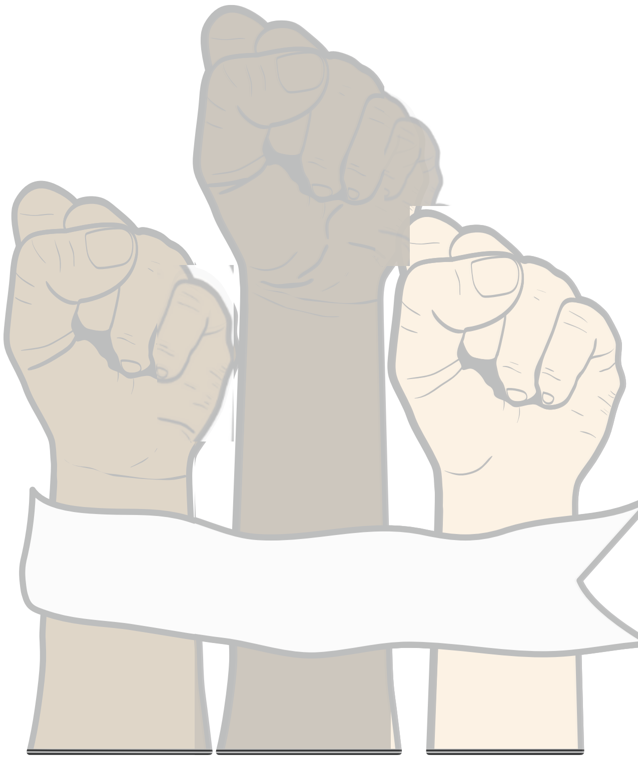


It should be noted that the COVID-19 pandemic came at a time when the country was still struggling to recover from the debt crisis and the climate change-induced Cyclone Idai of 2019, which left more than 1,000 people dead, 270,000 homeless, 17,608 homes destroyed, 139 schools affected, more than 9,000 learners affec -ted, and massive destruction of infrastructure, which includes roads and electricity networks.[28] With no immediate solution, Zimbabwe is sitting with a twin crisis, reconstruction in response to Cyclone Idai and the COVID-19 pandemic. Currently, the country continues to borrow to service the old debts and rebuild and keep the people alive. Some sections of the Zimbabwe community peg the external debt at well above US$20 billion as a result of some loans that were acquired secretly outside of parliament, particularly those that were acquired and backed by the country's mineral resources.

OUR COLLECTIVE DEMANDS

In March 2021, during the IMF/WB Spring Meetings, ESCR-Net members via the Economic Policy Working Group (EPWG) submitted a strong public statement of demands to the IMF in particular. In the statement members amplified the call for immediate action on debt calling on the IMF to cancel debt for low and middle-income countries, ensure the centrality of human rights in programs and plans and the need to refrain from adopting policies that continue to deepen impoverishment and inequality. Members also called on the IMF to embrace a more democratic and responsive governance and engagement structures to allow for effective and meaningful participation. Please read the full statement here. ESCR-Net Member Statement of Demands to the IMF 2021 Spring Meetings.

The statement also emphasized on the obligation of the State to fulfil, protect and promote all human rights. These include the extraterritorial obligations and prioritization of rights during negotiations and making policy decisions with institutions like the IMF that have direct impacts on citizens rights.



FOOTNOTES

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