PUBLIC SERVICES
INTERNATIONAL

The global union federation of workers in public services

UNITED NATIONS
UNCTAD

ENGLISH

5

Fixing a rigged system

FAIRER GLOBAL DEBT RULES

BRIEF 5

PSI BRIEFING SERIES - DEBT AND WORKERS

Fixing a rigged system:

FAIRER GLOBAL DEBT RULES

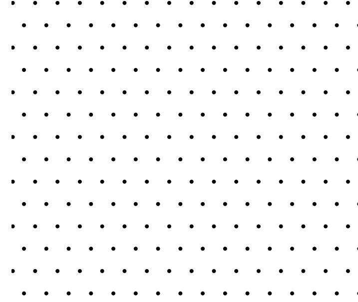
There is an urgent need for a new global debt system that provides more policy space to countries in debt distress, so that macroeconomic measures can be taken to restore stability.

There are very limited global rules to govern how creditors and debtors should behave when crisis hit and how they come to agreement on sovereign debt issues. The rules which do exist are fragmented, ad hoc and malleable: a patchwork of contractual clauses, global forums, and initiatives.[1] Attempts to set up uniform legal or regulatory frameworks and address the unbalanced allocation of risks and rewards between creditors and debtors have failed.

There are a number of factors which are keeping the current system rigged:

1. **Sovereign countries that are unable to service their debt cannot seek bankruptcy protection to restructure or delay payments, in the same way that a failing business can.**

2. **IMF intervention typically seeks to protect international banks and other creditors, often providing loans to the distressed country to help ensure creditors are paid in full.**



3. **There is no evaluation of the motives, rights and responsibilities of the borrower or lender.** Instead, creditors rely on getting their money back from IMF loan or the use of litigation and arbitration to obtain settlements which often exceed their initial exposure.

4. **Trade and investment deals restrict governments' ability to respond by reducing policy and regulatory space.** International investment agreements (IIA), regional and bilateral investment treaties (BITs) and treaties with investment provisions (TIPS) strengthen creditor/investor rights and make sovereign debt restructuring more difficult and costly. Creditors have argued that policies like capital controls, bank deposit guarantees and nationalization of banks breach trade agreement clauses such as national treatment, most favoured nation and fair and equitable treatment.[2]

5. **When courts rule on sovereign debt matters, the sanctity of "the contract" prevails over the public interest.** This automatically puts workers in debtor countries at a disadvantage.

6. **In this uncertain environment, vulnerable countries enter once again into a phase where the repayment of debt takes precedence over strategies for industrialization and development,** locking them into a cycle of stalled development, inability to grow sustainably, more debt, premature repayment of the debt and so on.

There is an urgent need for a new global debt system that provides more policy space to countries in debt distress, so that macroeconomic measures can be taken to restore stability.

THE CONSEQUENCES OF FAILURE

There is no coherent international scheme for working out debt or a formal bankruptcy mechanism. There are many types of government liabilities which are not systematically handled under the existing arrangements. In times of crisis, debtor countries are essentially working with pieces of an incomplete puzzle, making them ill equipped to prevent or promptly resolve debt crises when they arise. This creates a number of negative economic consequences:

1. **UNNECESSARY DELAYS.** The absence of a defined international framework for solving crises contributes to uncertainty and restricts countries from resolving debt difficulties when they arise. Debtor governments are often reluctant to openly admit solvency problems for fear that it will trigger capital outflows, financial distress and economic crisis. Private creditors have little incentive to acknowledge a solvency crisis, which might entail reducing the value of their repayments. This means that interventions are often characterized as "too little, too late" and debt renegotiations fall short of restoring a country's debt sustainability (this is particularly the case for low income countries).

2. **ECONOMIC AND HUMAN COSTS.** Prolonging the period before negotiations on solvency ahead of a sovereign default may result in ballooning costs that reduce both the ability and willingness of a country to pay. If countries are compelled to impose austerity, they can lose development gains. Such policies make it more difficult for countries to get out of debt distress, return to strong and inclusive growth and pursue a sustainable development path.

3. **CREDITOR HOLD OUTS.** Many creditors actively resist debt restructuring. If debt is to be cancelled or reduced, it requires a coordination mechanism that forces all creditors to accept some nominal losses. Without this, each individual creditor is incentivized to hold out while other creditors cancel parts of their claims. Coordination problems and the possibility of free riding are particularly serious in the case of bonded debt and are exacerbated by the presence of vulture creditors.[3]

4. **COSTLY RENEGOTIATION.** Countries might agree to a deal to restructure or delay debt but as the time for repayment draws closer, they often face pressure by changing economic realities to renegotiate a new deal. Each time this happens, creditors seek larger long-term rewards, often with longer repayment terms. For example, Mozambique recently renegotiated a USD 760 billion loan. This loan was considered by many locals and international commentators as illegal in the first place, as it was undertaken without appropriate parliamentary approval. The original repayment terms were for USD 1.1 trillion between 2014 to 2020. Now Mozambique must pay back USD 2.2 trillion between 2014 and 2033.[4]

HOW DOES THIS IMPACT WORKERS?

The problems for workers of a sovereign debt crisis are outlined in previous briefs. However the lack of balanced and certain rules defined in advance create further problems. During the period leading up to default, governments may take (or be pushed into) measures such as cutting pensions and public sector wages, privatization, postponing investments and pushing banks to hold larger shares of sovereign debt in order to try to avoid default.[5]

Anti-debt protestors in the Philippines

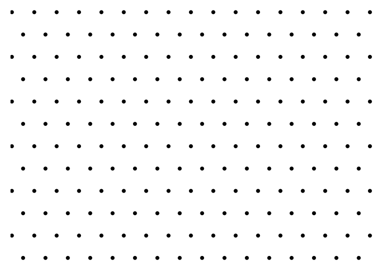
During restructuring, the lack of interim financing or liquidity can make it difficult for government to function. This can amplify the crisis and further reduce the ability to pay for social programs, provide trade subsidies or stimulate the economy through other measures. In the years following default countries often undergo declines to GDP, trade, foreign direct investment, private credit and foreign credit to domestic firms.

THE LONDON AGREEMENT A FORGOTTEN EXAMPLE OF THE WAY FORWARD

The 1953 London Agreement between the Federal Republic of Germany (FRG) and its creditors was a major factor contributing to the country's so-called "post-war economic miracle." The agreement stands in sharp contrast to the harsh reparations imposed on Germany after the First World War which set the stage for WWII.

Substantial debt cancellation for West Germany ranked high in the Western Allies' priorities for post-war reconstruction: as a means to ensure future economic and political stability and integration into the emerging bloc of anti-Soviet Cold War allies. The response was also informed by the post WW1 experience where austerity created economic pain that radicalised German politics and contributed to the rise of fascism. Beyond these political considerations, the economic logic underlying the agreement was the complete opposite of the austerity policies which characterize contemporary approaches to debt restructuring. The London Agreement included the following:

1. **Limited debt servicing costs, dependent on Germany running a trade surplus:** The ceiling for the debt servicing costs was set at a maximum of 3% of total export revenues in any year. Repayment could be postponed if there was no trade surplus. In other words, in years where a trade deficit was experienced, Germany was not required to take on new borrowing to service existing loans.
2. **Built-in incentive for creditor nations to import German goods.** Creditor countries bought exports from the debtor Germany themselves so they would later get their money back, thereby laying the foundations of Germany's powerful export sector and fostering its so-called "economic miracle
3. **Interest rates capped and repayment in local currency.** Interest rates for debt ranged from 0 and 3 percent, much lower than countries face today. Importantly, debt could be repaid in Deutsche Mark rather than in a creditor currency.
4. **The agreement was comprehensive and coordinated and there was no space to opt out.** All creditors were treated equally and the possibility of any creditor engaging in individual negotiations was ruled out.



5. **Renegotiations were allowed for.** An explicit option to renegotiate on the basis of Germany's economic prospects was allowed for, with the clear understanding that the growth of the debtor economy was essential to enable it to service and repay the debt.

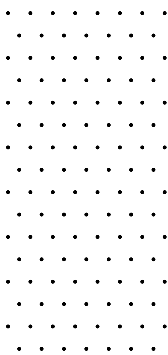
These types of measures are the equivalent of releasing an inmate from debt-prison prison and offering them a job, rather than forcing them to languish in jail until death.

The current reality is debtor countries:

- regularly have debt service obligations well above 10% of their export revenue
- pay market interest rates well above 5% per annum,
- are obliged to repay in US dollars
- face holdouts from individual creditors seeking special (predatory) deals

The London Agreement provides a useful model for debtor countries to aspire to: one that would help ensure fairness, growth and ultimately increase the likelihood of repayment for creditors too.

WHY IS A SOLUTION SO HARD TO FIND?

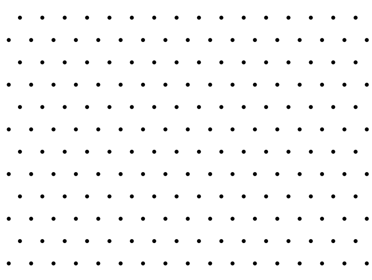


Countries and responsible creditors would benefit tremendously from a fair, transparent, predictable and timely resolution of crises when they arise.

So why have rules to help ensure this happens still not been developed?

In 2003, an internal proposal for an international bankruptcy procedure for sovereign debt was roundly rejected by IMF Board members. This is, in part, because major power inside the IMF lies with creditor countries who are the funds major contributors.

But at the UN, the voices excluded from IMF decision-making, including many of the countries forced through painful debt restructuring procedures, have a stronger voice.



In 2015, the UN General Assembly adopted a resolution on “Basic Principles on Sovereign Debt Restructuring Processes.”[6] This set out a number of so-called soft-law legal principles – including sovereignty, good faith, transparency, impartiality, equitable treatment, legitimacy, and sustainability – that should guide sovereign debt restructuring processes. Such principles are not legally binding but provide a normative guide that creditors and debtors should follow in the interest of equitable, fair and effective sovereign debt restructuring. This was an important step forward.

预览已结束，完整报告链接和二维码如下：
https://www.yunbaogao.cn/report/index/report?reportId=5_8608