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The lower-income country debt crisis and the Debt Relief (Developing Countries) Bill

“ Sovereign borrowers deserve at least some of the protections that are routinely afforded to debt-strapped businesses and individuals under national bankruptcy laws. Private creditors that make risky, high-interest loans to poor countries ought to bear a fair share of the cost when the bet goes bad

Indermit Gill, Chief Economist, World Bank

1. Summary

Lower-income countries have been plunged into a debt crisis that is preventing them from addressing the needs of their people or responding to the climate emergency. Thirty-two African countries now spend more on external debts than they do on healthcare. Twenty-five African countries spend more on external debt payments than on education. Debt servicing consumes 11 times as much resources as social protection spending across lower-income countries. Lower-income countries are spending five times more on debt payments than on addressing the climate crisis. The harmful impacts of this are experienced most acutely by women, girls and people facing intersecting forms of marginalisation.

Urgent debt relief is being blocked by the failure of bilateral, multilateral and private creditors to agree on sharing the burden of debt restructurings. The G20 initiatives have neglected to include robust processes to require banks, hedge funds and oil traders to agree as much debt relief as governments.

90% of bonds issued by countries eligible for the G20 Common Framework are governed by English law. This means the UK could pass legislation to ensure that minority creditors cannot undermine collectively agreed restructurings. This would protect countries which have negotiated a debt restructuring from being sued by predatory creditors seeking payment in full, as well as benefit responsible private creditors, allowing them to participate in restructurings without fear of losing out to competitors or reneging on any fiduciary duty to maximise investor returns.

The UK played a key role in ensuring the success of the global initiative to address the last debt crisis by passing the Debt Relief (Developing Countries) Act in 2010, which ensured that no creditor could sue for more than they would have got if they had participated in debt restructurings agreed under the Heavily Indebted Poor Countries Initiative.

The Debt Relief (Developing Countries) Bill, introduced as a ten minute rule bill by Bambos Charalambous in November 2024, aimed to enable the UK to play a similar global leadership role at no cost to the taxpayer. This or similar legislation could be presented on the global stage as a key element of a wider agenda to strengthen and expand the Common Framework, in order to address the critical financing gaps facing lower-income countries.

It would enable the UK to meet the demands of global south countries in the outcome document of the Fourth International Conference on Financing for Development, which “encourage[d] jurisdictions to consider passing legislation aimed at limiting holdouts by creditors to facilitate effective debt restructuring.”

Taking such meaningful action to address the debt crisis is also a critical way for the UK to demonstrate its commitments to gender equality and the leave no-one behind agenda. This is all the more urgent given the widespread aid cuts: in 2023, African countries spent over 50 times more on external debt than they received in aid from the UK.

2. The debt crisis

Lower-income countries have been facing increasingly unsustainable debts with debt payments increasing by over 200% between 2010 and 2024. The economic shocks from the pandemic have significantly exacerbated the situation.

As a result, resources needed to respond to energy and food price crises, the climate emergency, rights for all, and other locally determined needs are increasingly diverted to debt repayments. When social provisioning is cut due to debt repayments, women and girls are hardest hit, especially those facing multiple oppressions based on e.g. class, age or disability. Women rely more on public services because they are more likely to live in poverty; women carry a vastly unequal share of unpaid care and domestic work and are assumed to fill the gaps at times of austerity; and women comprise the majority of the care sector workforce, so face the steepest levels of job losses when services are cut in order to service debts. Children also bear the consequences of a debt crisis twice: first through reduced social services and then later as adults responsible for repayment. In 2024, the 10 countries with the greatest barriers to girls' education, home to 32 million out-of-school girls, spent four times more on debt repayments than on education.

Lower-income countries simply cannot afford to adequately mitigate or adapt to the impacts of the climate crisis not of their making, and are forced to take on even greater debt to address Loss and Damage. This means that climate-related disasters will continue to have devastating effects on communities, and to drive up debt levels. In the absence of adequate grant-based climate finance, lower-income country governments must borrow and accept climate finance in the form of loans.

3. Delays in the Common Framework process

The Common Framework was announced by the G20 in November 2020 in response to the growing debt crisis triggered by the pandemic. However, since it was established, only four countries (Chad, Ethiopia, Ghana and Zambia) have applied. All have faced long delays in completing restructurings, discouraging other countries from applying. Even after debt relief, all four countries will be just one climate or economic shock away from being pushed back into debt crisis.

The key reason for the delays has been the reluctance of some private creditors to provide equal levels of debt cancellation to that agreed by government creditors. The participation of private creditors in debt restructuring is critical: 39% of lower-income country external debt repayments are to Western private creditors between 2020-2025, compared to 34% to multilateral institutions and 13% to Chinese public and private lenders.

The Common Framework requires debtors to request comparable debt relief from private creditors. However:

- Chad failed to get any debt relief from its main private creditor, UK-based Glencore, and Glencore will be repaid 50% more than government creditors
- Governments have agreed debt relief for Ethiopia but private lenders have refused and threatened to take Ethiopia to court in the UK
- Zambia has been negotiating for four and a half years. In spring 2024, it finally reached a debt relief agreement with bondholders, but one which will see these private companies paid 13% more than governments, including the UK. Other private lenders to Zambia are still to agree to debt relief.
- Ghana reached a deal with bondholders in June 2024 which is comparable to the debt relief offered by governments. However, other private lenders, including banks in the UK, have yet to agree to debt relief.
- South Sudan has successfully been sued in the UK by a commercial creditor for non-payment of $657 million of debt. South Sudan has not applied for the Common Framework as key creditors refuse to participate in it.

The delays are caused by the lack of a process to enable deals to happen in a timely manner. The potential for holdout creditors to sue defaulting countries in the English courts creates significant risks and uncertainty both for countries and responsible creditors.

By eliminating the risk of vulture fund litigation, UK legislation would provide clarity to negotiations and strengthen the hand of defaulting countries and responsible creditors in agreeing to equal treatment.

What reform would look like

The Debt Relief (Developing Countries) Bill would incentivise private creditors to take part in debt relief. It would replicate the 2010 Debt Relief (Developing Countries) Act by ensuring that no creditor can hold out for more than government creditors will receive through a Common Framework or other multilateral debt restructuring. It would also initiate a debt payment standstill once a country applies for debt relief, so long as it is negotiating in good faith. This would give debtor countries greater confidence that applying for debt relief is legitimate and protect them from being sued during the negotiation process. Such protection is standard practice for corporate debt restructurings. Similar legislative proposals are being advanced in New York, to minimise the risk of lenders avoiding contracts under English law.

There is no evidence that legislation would reduce lending or raise borrowing costs. Similar concerns were raised ahead of the 2010 Act, but a government review found no evidence of unintended or adverse effects, and private lending under English law to countries covered by the Act increased more than tenfold in the following years.

This should be part of a package of reforms to the debt relief process, including deeper debt relief so countries are not at risk of repeated crises and restructurings, suspension of debt payments during negotiations, and making clear how much debt relief is on offer before countries apply.

Debt Justice

We are a campaigning organisation working with others to end unjust debt and the poverty and inequality it perpetuates, in the UK and across the world.

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