

Partnerships for Sustainable Development: Analyzing the Challenges

Basil Ugochukwu

Key Points

- A successful sustainable development agenda requires partnerships between governments, the private sector and civil society. Goal 17 of the UN Sustainable Development Goals (SDGs) prescribes the establishment of partnerships, especially multilateral government coalitions, for the realization of all other goals.
- Building effective international collaborations to achieve sustainable development is fraught with challenges. Addressing the impacts of external debts on sustainable development illustrates this challenge as exemplified by two different international mechanisms.
- In managing global sovereign debt, some partnerships, such as the Heavily Indebted Poor Countries (HIPC) initiative and the Multilateral Debt Relief Initiative (MDRI), produced some good results. The UN mechanism on the effects of foreign debt and other related international financial obligations of states on the enjoyment of socio-economic development has been more controversial.

Introduction

This policy brief discusses the challenges that could arise in building international partnerships to achieve the SDGs in the specific context of external debt impacts. External, or sovereign, loans are a double-edged sword. When sustainable, they could help states with desperately needed funding for social and economic infrastructure.¹ When unsustainable,² such loans could be detrimental to sustainable socio-economic development. Sovereign debts are often associated with one crucial fact: they are owed mostly by developing countries to more advanced states and their financial institutions. In some cases, some states viewed as developed could also face the negative impacts of huge external debts.³

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- 1 Cephas Lumina, "Sovereign Debts and Human Rights: The United Nations Approach" in Juan Pablo Bohoslavsky & Jernej Letnar Čerňič, eds, *Making Sovereign Financing and Human Rights Work* (Oxford, UK: Hart, 2014) 251.
 - 2 Stella Muhajji & Kalu Ojah, "Management and Sustainability of External Debt: A Focus on the Emerging Economies of Africa" (2011) 1:3 *Rev Dev & Finance* 184 (stating that unsustainability is characterized by "external debt in excess of 49.7% of GDP,... monetary or fiscal imbalances, and large external financing needs that signal illiquidity" at 186).
 - 3 See e.g. Oscar-René Vargas, María Ramos-Escamilla & Lupe García, "Human Rights and External Debt: Case Study Spain" (2016) 396 *Economía Informa* 3.

About the Author

Basil Ugochukwu is a research fellow with CIGI's International Law Research Program. At CIGI, his current research focuses on how to reflect human rights and sustainable development goals in climate mitigation and financing projects. This includes analyzing regulatory and human rights risks that could result from market-based mechanisms in article 5 of the Paris Agreement and the use of internationally transferred mitigation outcomes to achieve nationally determined contributions in article 6. Basil's research will also examine how the mechanisms above could facilitate sustainable financing for a transition to a green economy.

Prior to joining CIGI, Basil was a director of the Legal Defence Centre in Nigeria and a staff attorney at the Constitutional Rights Project in Nigeria. He has also taught various courses in legal process and international human rights law at York University. His research has been published in the *African Human Rights Law Journal*, *Law and Development Review* and *Transnational Legal Theory*, among others.

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The SDGs direct attention to areas where public spending may be needed to enhance overall living conditions. This includes poverty reduction (Goal 1), food security (Goal 2), good health care (Goal 3), quality education (Goal 4) and clean water (Goal 6). Meeting these social needs will require massive public spending, especially in the more developing regions of the world. Conversely, public social spending will be limited if there is a huge debt overhang from servicing and repayment obligations. Ensuring that the countries that need to spend more on social infrastructure are able to do so free from excessive debt obligations requires the kind of partnerships⁴ called for by Goal 17 of the SDGs. There is a need for vertical/horizontal, bilateral/multilateral/plurilateral and developed/developing country partnerships if these sustainable development objectives are to be realized.

Sovereign Debts and the HIPC and MDRI Partnerships: What Worked?

States recognize the danger that heavy external debts pose to sustainable development. As per Goal 17 of the SDGs, there seems to be an understanding that international partnerships⁵ are necessary to deal with massive national debts. For example, starting with the 1996 HIPC, the enhanced HIPC initiative of 1999 and the MDRI of 2005 helped eligible poor countries “to address rapid, unsustainable buildups of external debt through targeted debt relief.”⁶ At the time of the last report

4 The term “partnerships” in this policy brief is used to describe collaborative initiatives for achieving sustainable development regardless of how they are described by the participants.

5 From a UN perspective, “partnerships” could be among “[s]tates, civil society, local authorities, private sector, scientific and technological community, academia, and others”; see UN, “Partnerships for the SDGs: Global Registry of Voluntary Commitments & Multi-Stakeholder Partnerships”, online: <<https://sustainabledevelopment.un.org/partnerships/about>>.

6 Cyrus Rustomjee, “Restoring Debt Sustainability in African Heavily Indebted Poor Countries” CIGI, CIGI Policy Brief No 133, 19 June 2018; see also Danny Cassimon et al, “Africa: Out of debt, into fiscal space? Dynamic fiscal impact of the debt relief initiatives on African Heavily Indebted Poor Countries (HIPC)s” (2015) 144 *Intl Econ* 29.

in 2017, both initiatives had relieved 36 participating countries of US\$99 billion in debt.⁷ With reduced debt service costs to the benefiting countries, the recipients were able to achieve many positive social impacts, including poverty reduction; less incidence of extreme hunger; diminished infant, neonatal and under-five mortality rates; and increased spending on primary education and public health.⁸

These initiatives brought together three different international stakeholder groups: the World Bank Group, bilateral and multilateral creditors under the umbrella of the G7 group of economically advanced countries, and the benefiting HIPC states. The MDRI, which implemented full debt cancellation for the benefiting states, included the World Bank and other actors such as the International Monetary Fund, the African Development Bank and, later, the Inter-American Development Bank.⁹ The major objective of the initiatives was to “allow some public resources, otherwise being used for debt service, to be liberated for alternative use... [such as an] increase [in] poverty-reducing public spending.”¹⁰ In some instances, debt forgiveness was tied to investment in sustainable activities such as the protection of the marine ecosystem.¹¹

UN Independent Expert on the Effects of Foreign Debts: The Controversy

While the above debt-reduction initiatives indicate successful partnerships, this does not mean that building such coalitions is easy. A more controversial and challenging partnership-building initiative in this regard seems to be the UN initiative that tries to link debts and economic adjustment programs more broadly to the denial of social and economic rights around the world. In 1997, the then UN Human Rights Commission reached a decision to appoint an independent expert to study the effects of structural adjustment policies on economic, social and cultural rights. These adjustment programs are often prescribed for heavily indebted states, so they can maintain their international credit worthiness. By Resolution 7/4 of 2008, the Human Rights Council, which succeeded the commission, redefined the special thematic procedure that, henceforth, became known as 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.”¹²

The initial report of the independent expert submitted in 1999 substantiated the relationship between debts and socio-economic destitution. It noted that the economic, social and cultural rights of millions of economically disadvantaged people across the developing world have been systematically undermined by neo-liberal economic adjustment policies aimed at sustaining debt servicing by destitute nations.¹³ The report noted that, for the majority of people living in debtor countries, economic recession meant increasingly inadequate diets, insufficient income to feed and educate children, and mounting susceptibility to disease.¹⁴

7 World Bank, “Heavily Indebted Poor Country (HIPC) Initiative: Relieving the World’s Poorest Countries of Unmanageable Debt Burdens” News Brief (9 January 2018), online: <www.worldbank.org/en/topic/debt/brief/hipc>.

8 Rustomjee, *supra* note 6; see also Henri Ondo, “The Effects of the Heavily Indebted Poor Countries Initiative on the Millennium Development Goals for Health” (2016) 40:1 Intl J Pub Admin 12.

9 Cassimon et al, *supra* note 6 at 30.

10 *Ibid.*

11 See e.g. Ian Evans, “Swapping Debt for Ocean Conservation”, *Pacific Standard* (14 March 2018), online: <<https://psmag.com/environment/swapping-debt-for-ocean-conservation>>; see also Chris Leadbeater, “Seychelles to Protect Marine Wonders in Exchange for International Debt Relief”, *The Telegraph* (22 February 2018), online: <www.telegraph.co.uk/travel/destinations/africa/seychelles/articles/seychelles-protected-marine-parks-debt-relief/>.

12 *Mandate 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*, HRC Res 7/4, UNHRC, 39th Sess, A/HRC/RES/7/4 (2008).

13 Commission on Human Rights, “Effects of structural adjustment policies on the Full Enjoyment of Human Rights Report by the Independent Expert, Mr. Fantu Cheru, submitted in accordance with Commission decisions 1998/102 and 1997/103”, E/CN.4/1999/50 (1999).

14 *Ibid.*

Under the HIPC and MDRI initiatives, direct debt reduction and relief by creditor states and institutions were applied to the debt problem.¹⁵ However, the work of the UN independent expert seeks to tie external debts to international human rights. In the latter scenario, freedom from external debts is seen as essential to the enjoyment of a range of basic human rights. The rights in question tend also to have strong connections to sustainable development objectives set forth in some of the SDGs already mentioned, including health, food, education, water and poverty reduction.¹⁶ Invariably, there is a nexus between socio-economic advancement, freedom from external debts and the achievement of sustainable development. However, rather than providing direct ameliorative benefits of actual debt relief or cancellation, as in the HIPC and MDRI initiatives, the UN independent expert's function is more a conceptual tool that is intended to deliver indirect, but still positive, policy outcomes.

Even so, not all states are sold on the idea of viewing external debts as a human rights issue, regardless of the policy merits such an approach may have. Significantly, developed and developing states that worked successfully together on the HIPC and MDRI programs are strongly opposed to one another in the regime of the UN independent expert. As Cephas Lumina asserts, while developed countries have acknowledged the adverse effects of excessive debts on developing countries, they are reluctant to accept that this constitutes an obstacle to the full realization of human rights.¹⁷ Developed states also opposed a General Assembly Resolution concerning "Basic

Principles on Sovereign Debt Restructuring Processes," adopted on September 10, 2015.¹⁸

One of the earliest resolutions that the then Human Rights Commission (HRC) passed regarding the effects of economic adjustment and debts on the right to development was introduced by Cuba and sponsored by mostly developing states.¹⁹ Developed countries, including Canada, the United States, Great Britain and Germany voted against.²⁰ When the guiding principles on the topic developed by the independent expert were adopted in 2012, they followed a similar developed/developing country division as 31 mainly developing countries voted for the resolution while 11 mostly developed states — including the United States, Austria, Belgium and Switzerland — voted against.²¹ The pattern repeated itself in 2014 when the Human Rights Council renewed the mandate of the independent expert. The resolution to renew was carried by a majority of 30 mostly developing states while 14 exclusively developed states voted against.²²

What could be responsible for the positive response of developed countries in relation to the HIPC and MDRI initiatives versus their antagonistic attitude toward the HRC independent expert? It is clear that the debt programs and the work of the independent expert are aimed at creating the right conditions for sustainable development to take place. This claim is made even though the debt reduction and cancellation initiatives actually freed financial resources, whereas the independent

15 See e.g. Department of Finance Canada, News Release, 2005-008, "Canada Proposes 100 Per Cent Debt Relief for World's Poorest Countries" (2 February 2005), online: <www.fin.gc.ca/n05/05-008-eng.asp>; see also Max Townsend, "Canada should lead a new effort at global debt relief", *Globe and Mail* (19 August 2018), online: <www.theglobeandmail.com/business/commentary/article-canada-should-lead-a-new-effort-at-global-debt-relief/?cmpid=rss&utm_source=dldr.it&utm_medium=twitter>.

16 See e.g. OHCHR, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976), which has sustainable development objectives such as work (article 7); adequate standard of living, including food, clothing and housing (article 11); and health (article 12).

17 Lumina, *supra* note 1 at 268.

18 See Kanad Bagchi, "UN General Assembly Resolution on Basic Principles on Debt Restructuring Processes: a First Step Towards a Global State Bankruptcy Regime?" (10 October 2015), *Euro Crisis in the Press* (blog), online: <<https://blogs.lse.ac.uk/eurocrisispress/2015/10/08/un-general-assembly-resolution-on-basic-principles-on-debt-restructuring-processes-a-first-step-towards-a-global-state-bankruptcy-regime/>>.

19 *Effects on the full enjoyment of human rights of the economic adjustment policies arising from foreign debt, and in particular, on the implementation of the Declaration on the Right to Development*, CHR Res, UNCHR, 55th Sess, E/CN.4/RES/1999/22 (1999).

20 *Ibid.*

21 *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*, HRC Res 20/10, UNHRC, 20th Sess, A/HRC/RES/20/10 (2012); see also Matthias Goldmann, "Human Rights and Sovereign Debt Workouts", Max Planck Institute for Comparative Public Law and International Law, 2014 at 3, online: <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2330997>.

22 *Mandate 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*, HRC Res 25/16, UNHRC, 25th Sess, A/HRC/RES/25/16 (2014).

expert mechanism is only a conceptual policy tool. However, it could be seen that building the necessary international coalitions and partnerships to drive sustainable development has not produced comparable results in the context of both strategies.

The divergent trajectory of the HIPC and MDRI initiatives on the one hand and the work of the HRC independent expert on the other points to the necessity of international partnerships and the kinds of challenges that could be encountered in building them for sustainable development. The first practical challenge is the likelihood of binary positions taken by developed and developing countries. At times, those positions can be deeply entrenched. For example, note must be taken that the Millennium Development Goals (MDGs) that preceded the SDGs had a Goal 8 (similar to Goal 17 of the SDGs) aimed at developing “a global partnership for development.”²³ There were suggestions in the MDGs context that this goal implied “some form of international legal responsibility on the part of industrialized countries to finance the meeting of MDGs in poor countries.”²⁴ Perhaps as a result of this belief, the debate as to whether development is a human right has only led to a drawing of “lines between the [Global] North and [Global] South, rather than to increase understanding of the relationship between human rights and development.”²⁵

While this policy brief is not about why there is a North/South schism on the understanding of sustainable development, it points to at least one reason that it might be difficult to build the kind of partnerships that SDG 17 recommends. The Global North and South have different understandings of the relationship of debts to sustainable development. Yet, for meaningful and effective coalitions to be built on achieving the SDGs, there should be a clear consensus on what the issues are as well as options for policy intervention. From all indications, most developed states accept that unsustainable external debts are detrimental to sustainable development, hence their support for

the HIPC and MDRI initiatives. The same states do not support the HRC independent expert mechanism ostensibly because the mechanism seems to hold them responsible both for the debts and their impacts on sustainable development.

Recommendations

The analysis thus far indicates that while stakeholders, in the efforts to ensure sustainable development, may agree that all impediments to achieving that goal should be removed, they may not agree on the methods to accomplish this goal. Disagreements as to methods, however, do not remove the need to build partnerships as prescribed in SDG 17. Such disagreements instead heighten the need for international collaboration that brings together critical stakeholders such as states, businesses and other non-governmental entities. The factors to consider in building such international alliances may include:

- A recognition that while sustainable development challenges confront almost all countries, more may be required to deliver on them in some countries than in others. Partnership building would require states to identify which elements depend on assistance from better situated countries and which elements would require less developed states to take responsibility.
- Keeping in mind that the overall objective of achieving sustainable development should be building partnerships and designing policy strategies. Development should therefore be conceived as resting on broader principles than simply aid or charity.
- Studying why some states are unable to break out of the debt cycle and establish successful partnerships. As of 2018, more than one-third of African countries that benefited from the HIPC debt reduction initiative are approaching the levels of indebtedness they had before the initiative.²⁶ Two of those states are already in debt distress.²⁷

23 See UN, *The Millennium Development Goals Report, 2015* at 7, online: <[www.un.org/millenniumgoals/2015_MDG_Report/pdf/MDG%202015%20rev%20\(July%201\).pdf](http://www.un.org/millenniumgoals/2015_MDG_Report/pdf/MDG%202015%20rev%20(July%201).pdf)>.

24 Philip Alston, “Ships Passing in the Night: The Current State of the Human Rights and Development Debate Seen through the Lens of the Millennium Development Goals” (2005) 27:3 *Hum Rts Q* 755 at 758.

25 Bonny Ibhawoh, “The Right to Development: The Politics and Polemics of Power and Resistance” (2011) 33 *Hum Rts Q* 76 at 77.

26 See Rustomjee, *supra* note 6.

27 *Ibid.*

Conclusion

Delivering on the UN 2030 Agenda for Sustainable Development would depend on the extent to which all SDGs are achieved. Apart from the cost to individual countries in terms of resources and capacity to make progress on specific goals, there is also a need to build local and international partnerships that will be crucial to the achievement of global developmental objectives. Unsustainable sovereign debts could be a hindrance to the achievement of the SDGs. International action is required to limit the incidence of unsustainable debts, and this requires a level of international collaboration. Building the necessary partnerships could also be challenging because of divergent responses of the Global North and South to the two international approaches for addressing the sovereign debt problem. There is room to build better understanding on this issue.

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