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International Development Committee Inquiry: Debt relief in low-income countries

BY THE CATHOLIC AGENCY FOR OVERSEAS DEVELOPMENT (CAFOD)

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About CAFOD

1. CAFOD is the official aid agency for the Catholic Church in England and Wales; part of the global Caritas confederation of national organisations, each governed by their national Bishop's conference and linked to national Catholic commissions on health, education, and peace and justice issues. CAFOD partners with diverse local NGOs, including both faith-based groups and others working on human rights and other issues regardless of religion or culture.

Executive Summary

2. The Covid-19 pandemic, spiralling energy and food prices, and now rising interest rates mean that debt cancellation is urgently needed. Countries in the global south need to be able to invest in their health systems, education, wider public services and economic recovery. This current situation is not just a lack of liquidity, it is deep debt crisis with international and systemic connections that must be resolved. Despite the loss of life and livelihoods due to excessive debt payments, debt relief and restructuring efforts have been held up by the intransigence of some creditors. As the IMF has shown, too many debt restructurings have been "too little and too late" harming prospects to achieve debt sustainability.[1]

3. Too often one of the main blockers to debt restructurings and debt relief are private creditors. At the recent IDC evidence session, Nigel Mills MP asked the private sector lobby group the International Institute for Finance (IIF) the following pertinent question which succinctly summarises the current situation: "A lot of your members will be making very worthy statements about ESG investing and lending, but it seems to stick in the throat a bit when they are trying to milk as much money out of countries they know can't repay, at the expense of vital public services. Isn't there a moral duty on your members to actually make some progress here when we can that countries are really going to struggle to pay this?".[2]

4. A diverse range of actors including the investor community recognise that something must be done to pressure private creditors.[3] A recent World Bank note highlighted that based on the experience to date private creditors "may refuse" to participate in the G20 Common Framework and "may undermine" debt restructurings.[4] The note presents several options for legislation on private creditors, in jurisdictions such as the UK, which can speed up progress on debt restructuring. It acknowledges private

[1] Sovereign debt restructuring—recent developments and implications for the fund's legal and policy framework | IMF
Why countries should restructure debts sooner rather than later | FT Opinion
[2] International Development Committee: Debt Relief in low-income countries | Parliamentlive.tv
[3] The Covid aftermath requires sovereign debt restructuring | FT Editorial
[4] Potential Statutory Options to Encourage Private Sector Creditor Participation in the Common Framework | World Bank

creditors are likely to continue calling for voluntary approaches and resist statutory options. The note argues in favour of legislative options as "measures taken by national legislatures to shield their own taxpayers from exploitation by third parties — something that national legislatures do all the time."

5. The role of private creditors in debt relief is increasingly important as they hold nearly half of foreign debts of low- and lower-middle income governments, a doubling in 8 years from 25% in 2010 to 47% in 2018. Calls from G20 governments and lower-income countries for private creditors to voluntarily cancel debt payments has not worked, with a lack of transparency being a key barrier, as debt is often traded between private creditors in secrecy. This imbalance of power does not enable lower-income governments to effectively call private creditors to the negotiating table.

6. The UK Government has a leading role to play because many private creditors are holding debt under English law. To incentivise private creditors to participate in debt relief programmes, including the G20 Common Framework, CAFOD recommends that the UK Government should pass legislation that:

    - Ensures no creditor can sue developing countries under English law for more than they would have received under a debt restructuring agreed under the Common Framework or Paris Club.
    - Stops a minority of private creditors from blocking agreement on a debt restructuring by making any agreement by 66% or more private creditors binding on all.

7. Around a third of external debt payments due between 2022-2028 are owed to multilateral institutions, such the World Bank and International Monetary Fund (IMF). In 2020 more than 140 senior Church leaders from around the world signed a letter[5] urging the IMF and World Bank to cancel debts for developing countries fighting the coronavirus pandemic but their call was ignored. They wrote: "Both of your institutions hold significant reserves in US dollars and in gold, which are held for such a time as this. It is therefore essential that these reserves are used to relieve the burden of debts for countries in precarious need." "As such, we ask you to show courageous leadership at this critical moment and cancel debts owed by developing countries to your institutions for the duration of this crisis. Debt cancellation is the most immediate way to release the finance required to prevent millions of our sisters and brothers being needlessly pushed into poverty by the pandemic."

    CAFOD recommends that the UK Government:

    - Uses its position and influence in the World Bank and IMF to push for board level discussion and agreement on debt cancellation.

The impact on development of high levels of debt

8. Along with UK and global civil society allies, CAFOD played a prominent role in pressuring for widespread debt cancellation in the 1990s and 2000s. This civil society pressure was one factor which pushed northern governments to coordinate debt relief with the World Bank and IMF via the Highly Indebted Poor Country Initiative

[5] Christian leaders urge World Bank and IMF to cancel debts | CAFOD

(HIPC) and the Multi-lateral Debt Relief Initiative (MDRI). Through these processes around $130 billion in debt was cancelled for 36 countries between 1998 and 2010. Debt cancellation enabled these countries to increase spending on health, education and other social services[6] demonstrating the transformative effect this can have compared to weaker forms of debt relief such as the suspension of debt payments.

9. For this reason, it is imperative that once again multilateral institutions such as the World Bank and IMF cancel debt as around a third of external debt payments due between 2022-2028 are owed to multilateral institutions.

10. CAFOD's partners in the global south were part of the jubilee campaigns in the 1990s and 2000s. Today they are once again at the forefront of campaigning for debt cancellation in countries such as Zambia and Sri Lanka. Our partners and the communities they accompany know the impact of onerous debt first-hand. They see how high debt levels undermine efforts to deal with more extreme weather events linked to climate change and weak healthcare systems, something that was highlighted during the Covid-19 pandemic.

The role of the private sector in low-income debt relief

11. Twenty years ago, the majority of global south debt was held by bilateral and multilateral creditors. Thus, the HIPC and MDRI were focused on these types of creditors and were quite comprehensive in their reach. However, today the creditor mix has evolved as China and private creditors are now prominent creditors.[7]

12. The role of private creditors deserves particular attention. Compared to previous debt relief initiatives which centred on bilateral and multilateral creditors, one significant problem is the lack of transparency as debt changes hands between private creditors. As CAFOD research (co-authored with several other NGOs) shows, this means that even if a government in the global south wanted to begin a debt restructuring with private creditors it is unlikely to even know who they are negotiating with. We found that in the case of one Zambian Eurobond ($1 billion due to mature 14 April 2024) bondholders holding 70% of the Eurobond were unknown.[8]

13. Major private creditors who are bondholders of Eurobonds in countries such as Ghana, Kenya, Nigeria, Zambia and Senegal that we were able to identify include BlackRock, HSBC, Goldman Sachs, Legal & General, JP Morgan and UBS. In these five countries, we calculated that the largest private creditor is BlackRock which held close to US$1 billion across thirty-one Eurobonds through a number of funds (see Annex 1[9]). This finding that BlackRock is one of the leading private creditors was confirmed by subsequent research.[10]

14. Since April 2020 CAFOD with other UK NGOs has publicly called on private creditors to cancel debts so that countries in the global south can afford vaccines. BlackRock's response to us in private and in public has centred on the argument that it is an asset manager: "The money invested in bonds by asset managers is predominantly

[6] Factsheet - Debt Relief Under the Heavily Indebted Poor Countries (HIPC) Initiative | IMF
[7] Global Waves of Debt: Causes and Consequences | World Bank
[8] Under the Radar: Private sector debt and coronavirus in developing countries | CAFOD
[9] Under the Radar: Private sector debt and coronavirus in developing countries | CAFOD
[10] Sleep now in the fire: Sovereign Bonds and the Covid-19 Debt Crisis | Eurodad

the money of ordinary people saving for retirement. None of the money is the asset manager's. Any decision on restructuring these bonds must therefore be balanced against the duty of the asset manager to protect the savings of the millions of people whose money was lent to these countries, while at the same time recognising the difficult circumstances they are facing from the challenges posed by Covid-19".[11] When we have tried to advance this conversation with BlackRock beyond this stock response we have been ignored. For example, BlackRock has still not replied to a letter from UK NGOs and the Zambian Civil Society Debt Alliance (which includes CAFOD partners in Zambia) about BlackRock's role in Zambia's current restructuring negotiations.

15. Over two-years in to the Covid-19 pandemic it is evident that beyond specific cases (such as Argentina and Ecuador) private creditors are extremely unlikely to participate in debt relief and debt restructurings voluntarily. Since April 2020 G20 and G7 communiques[12] (including the UK's G7 Presidency during 2021) have repeatedly called for private sector participation but these have fallen on deaf ears.

16. While private creditors ignore G20 and G7 communiques research by SOMO demonstrates private creditors have undermined debt relief efforts at the G20 via their lobby group, the IIF.[13] It is important to place these behind the scenes attempts to delay debt relief alongside the IIF's public statements such as those made in the recent IDC evidence session that "my organization and many others and private sector creditors spent a great deal of time and effort to setup a framework for private sector participation in the DSSI at the request of the borrower".[14] The G20's Debt Service Suspension Initiative (DSSI) was helpful but ultimately was only able to postpone $12.9 billion in debt payments and ended in December 2021.[15] Of this private creditors only suspended 0.2% of what was owed to them.

17. The weak outcomes of the DSSI are now being repeated in the G20's Common Framework for Debt Treatment where, like the DSSI, too few countries have applied to make a significant difference (to date only Chad, Zambia and Ethiopia have applied). While progress has been made in Chad and Zambia it also the case that it has been too slow. When civil society raises these issues with the UK government we are told to be patient. For example, we received a letter from Minister John Glen where he said: "The Government is fully committed to implementing the G20 Paris Club Common Framework for any eligible country requesting a debt treatment. We are actively working with other creditors to progress the live cases in a timely and effective manner. As such, we are working with our international colleagues to strengthen the process underlying the Common Framework, in particular to provide added certainty to countries that may come forward and request a debt treatment."

18. The issue is we have been waiting since November 2020 when the G20 first launched the Common Framework. No debts have been suspended or cancelled to date. As even commentators in the investor community observe it is still not clear how private creditors will be made to provide comparability of treatment under the

[11] BlackRock urged to delay debt repayments from crisis-torn Zambia | The Guardian
'People are suffering': G20 to call on private lenders to suspend debt repayments | The Guardian
[12] G7 Finance Ministers and Central Bank Governors Meeting Communiqué | U.S. Department of the Treasury
[13] The IIF & debt relief: How the Institute of International Finance lobbies to prevent private debt relief for developing countries | SOMO
[14] International Development Committee: Debt Relief in low-income countries | Parliamentlive.tv
[15] Debt Service Suspension Initiative | World Bank

Common Framework.[16] This lack of clarity undermines a level playing field for all creditors including those private creditors who may wish to take part in debt restructurings but cannot risk doing so (for example, the danger of some creditors holding out) because of their fiduciary duty to their clients. As BlackRock keep on saying to us or in response to journalists in their stock response: "Any decision on restructuring these bonds must therefore be balanced against the duty of the asset manager to protect the savings of the millions of people whose money was lent to these countries".

19. As is clearly evident we are beyond the point of waiting for private creditors to voluntarily participate in debt relief. Over sixty countries were in or at risk of being in a debt crisis prior to the Covid-19 pandemic.[17] This situation has clearly worsened as countries had to choose between paying debts and supporting their citizens health and livelihoods. Now on top of all of this, countries in the global south are going to see their debt situation become more difficult with the increase in energy and food prices, and rising interest rates rise in the global north.[18] This is urgent. Countries that are major food importers are already, or will be, struggling to feed their population.[19]

What role the UK Government could and should play in low-income debt relief

20. It is in this context that the UK government has the opportunity to make tangible breakthroughs. It is abundantly clear private creditors holding debt under English law (many of whom have headquarters or subsidiaries based in the City of London) are not currently incentivised to participate in debt relief programmes. An estimated 90% of bonds issued by countries eligible for the Common Framework are governed by English law. As so much debt of global south countries (particularly in Africa) is held under English law[20] the UK government can transform this dynamic and contribute to unlocking significant debt cancellation (via debt restructurings) which is vital to free up resources to meet the Sustainable Development Goals.

21. Over the past few years, the World Bank[21] and IMF[22] have publicly suggested legislative options related to private creditors could be needed to speed up debt restructurings. In the United States a draft Bill has been presented which aims to facilitate orderly debt restructurings for debt held under New York state law.[23] There are precedents of laws to counter vulture fund behaviour in Belgium and the UK.[24] In 2010 the UK government passed the Debt Relief (Developing Countries Act). This prevented a private creditor suing a borrowing government for more than it would have received if it had taken part in the Heavily Indebted Poor Countries process. A recent World Bank note concludes: "despite fears of a negative reaction by the market, it has been accepted by commercial creditors".[25]

[16] Avoiding a two-track economic recovery: Tighter monetary policy in the rich world spells danger for emerging economies | FT Editorial
[17] Are we ready for the coming spate of debt crises? | World Bank
[18] Sri Lanka is the first domino to fall in the face of a global debt crisis | The Guardian
[19] Another Perfect Storm: How the failure to reform food systems has allowed the war in Ukraine to spark a third global food price crisis in 15 years, and what can be done to prevent the next one | IPES Food
[20] UK urged to take lead in easing debt crisis in developing countries | The Guardian
[21] World Bank chief says legislative changes can aid sovereign debt restructurings | Reuters
[22] Transcript of the IMFC Press Briefing | IMF
[23] NY Bill Private Creditor G20 Debt Relief, Protects US Taxpayers, Eases Pandemic | Jubilee USA Network
[24] Potential Statutory Options to Encourage Private Sector Creditor Participation in the Common Framework | World Bank
[25] Potential Statutory Options to Encourage Private Sector Creditor Participation in the Common Framework | World Bank

22. The case for the UK government to act is clear. When the IIF was questioned by MPs at the recent IDC evidence session on whether the UK needed to pass legislation to make private creditors such as BlackRock to negotiate with Zambia their answer was revealing on the danger of leaving the resolution of the debt crisis at the mercy of voluntary decisions by private creditors: "private creditors are not without fault, obviously individual private creditors can have their own specific reasons for engaging or not engaging".[26]

Recommendations for the UK government

Recommendation 1

Private creditors must be held accountable and it is clear that the UK government is in a unique position to incentivise private creditors to participate in debt restructurings.

The UK Government should pass legislation that:

- Ensures no creditor can sue developing countries under English law for more than they would have received under a debt restructuring agreed under the Common Framework or Paris Club.
- Stops a minority of private creditors from blocking agreement on a debt restructuring by making any agreement by 66% or more private creditors binding on all.

The Treasury (HMT) should coordinate with the U.S. Treasury to ensure legislation is complementary and does not allow private creditors to escape their responsibility. The UK government should also coordinate with other G7 allies as this is where the majority of private creditors are based or hold debt under these jurisdictions.

Recommendation 2

As around a third of external debt payments due between 2022-2028 are owed to multilateral institutions, such the World Bank and the IMF, CAFOD recommends that the UK Government:

- Uses its position and influence in the World Bank and IMF to push for board level discussion and agreement on debt cancellation.

[26] International Development Committee: Debt Relief in low-income countries | Parliamentlive.tv