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International Debt Forgiveness and Global Poverty Reduction

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INTERNATIONAL DEBT FORGIVENESS AND GLOBAL POVERTY REDUCTION

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The crushing debt burden of the world's poorest countries threatens not just basic dignity but life itself. According to the United Nations Hunger Project, thousands of people die each day from hunger, on average one person every 3.6 seconds.[1] According to the Institute for Food and Development Policy, ten percent of those hunger-related deaths are from war; ninety percent are from simple malnutrition.[2]

World poverty is a crisis of global dimensions that must be laid alongside peacekeeping and human rights as a challenge that the international community has an obligation to address. The international debt crisis has played a critical role in entrenching and prolonging global poverty. This Essay argues for an expansion of coordinated international effort, bolstered by fundamental principles of public international law, to address global poverty by substantially reducing the foreign-denominated debt owed by developing-country governments to industrialized-country governments, private banks and international financial institutions. This Essay will first describe the international debt crisis, and then consider the moral, economic, political and legal bases for international debt forgiveness. Finally, this Essay will discuss what is being done, and propose what needs to be done in the future.

I. THE DIMENSIONS OF DEBT

The debt burden borne by developing countries totals over $2 trillion.[3] Among indebted developing countries, the debt burden is particularly severe, not surprisingly, for the least developed countries. The World Bank and IMF have identified forty "heavily indebted poor countries" ("HIPCs") — countries at the bottom end of the world's wealth spectrum, with per capita incomes of just a

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1. *See* Peter Uvin, *The State of World Hunger*, *in* THE HUNGER REPORT: 1998 3 (Ellen Messer & Peter Uvin eds.).

2. *See id.* at 5.

3. *See* UNITED NATIONS DEVELOPMENT PROGRAMME, HUMAN DEVELOPMENT REPORT 196 (1999) [hereinafter HUMAN DEVELOPMENT REPORT].

few hundred dollars a year.[4] The debt burden of these forty countries is just ten percent of the total for the developing world — about $200 billion — but for these countries in particular, the burden is unsustainable one.[5]

To explain the dimensions of the debt crisis in more concrete terms: Two trillion dollars is a little over one-fifth of annual U.S. economic output, which is about $9 trillion.[6] HIPC debt is 2.2% of annual U.S. economic output. It is about one-eighth or 12.5% of the U.S. federal budget; about 80% of the annual Department of Defense budget,[7] and about half of annual expenditure on Social Security.[8]

The debt burden is directly related to world hunger and poverty because debtor governments must divert precious and scarce resources to paying down external debt instead of meeting the pressing needs of their population. For the poorest countries, the debt burden is about $5 billion each. This amounts to about 0.3% of U.S. federal budget, and .05%, or one-half of one-thousandth of U.S. annual economic output. The same $5 billion in debt, however, constitutes an average 125% of annual GDP of each of these countries.[9]

Thus, external debt for these countries is an overwhelming burden that takes resources away from populations already in very dire straits. According to recent reports by Oxfam, the United Nations Children's Fund ("UNICEF") and the United Nations Development Programme ("UNDP"), about half of all households in these countries lack access to safe water and sanitation.[10] Average life expectancy is fifty-one years, or twenty-six years less than in industrialized countries. Life expectancy in many countries is actually declining, due in part to epidemic levels of the HIV virus. There is one doctor for every 7700 people on average, about

4. *See* World Bank, Global Development Finance 1999 (External Debt Summary Indicators) (visited Apr. 10, 2000) <http://www.worldbank.org/hipc/about/debt-table/debt-table.html>.

5. *See id.*

6. *See* BUREAU OF ECONOMIC ANALYSIS, SURVEY OF CURRENT BUSINESS 132 (1999).

7. The U.S. federal budget was $1.65 trillion in 1998. *See* Executive Office of the President of the United States, Budget of the U.S. Government: Fiscal Year 2000, at 365. The Department of Defense spent $260 billion in 1998. *See id.*

8. *See id.* at 253.

9. *See* World Bank, Global Development Finance 1999, *supra* note 4.

10. *See* UNICEF & OXFAM, DEBT RELIEF AND POVERTY REDUCTION: MEETING THE CHALLENGE ¶ 2.1 (1999).

twenty times worse than industrialized country average.[11] The average literacy rate for the poorest countries is thirty-five percent, with over one-third of the population not reaching grade five.[12]

Despite the dire health needs and educational plight of the population, debtor governments spend more on debt payments than on health and education. In most of the HIPCs, more than one-fifth of the limited public revenue is being diverted to debt repayments.[13] Yet expenditure on health and education is under ten percent on average.[14] A recent joint report by UNICEF and Oxfam conveyed the dire consequences of this dilemma:

> Countries such as Burkina Faso, Mozambique, Niger and Tanzania are spending \$3-\$6 per capita a year on their health systems, which is insufficient to finance a package of basic health interventions. Yet each of these countries spends more than double on debt servicing what is spent on primary health care. In Zambia — where infant mortality rates are increasing, over half a million children are out of school, and illiteracy is rising — debt servicing claims more of the national budget than health and education combined.[15]

In Zambia, per capita income is \$250. The debt burden is \$750 per person — three times per capita income.[16]

Of the amount repaid, less than half goes to paying principal — most goes to paying interest, so that the debt burden decreases only very slowly over time. In sum, debtor governments are caught in a cycle that they cannot break without debt reduction. There are moral, economic, political and even legal reasons for an international effort to relieve this burden.

II. The Arguments for International Debt Forgiveness

A. Moral Arguments

This Symposium on forgiveness in the law has extensively addressed the moral grounds for forgiveness.[17] Forgiveness recognizes the kinship of the human spirit — that there is a bond between us that overrides material differences and inequalities.

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11. *See* Human Development Report, *supra* note 3, at 173-75.
12. *See id.*
13. *See* Unicef & Oxfam, *supra* note 10, ¶ 3.1.
14. *See id.*
15. *Id.* ¶ 3.2.
16. *See id.*
17. *See* Panel on *Forgiveness and Justice*, *in* Symposium, *The Role of Forgiveness in the Law*, 27 Fordham Urb. L.J. 1347, 1367 (2000).

This is one reason why religious groups have become strong advocates for international debt forgiveness. The Roman Catholic Church has declared the year 2000 a Jubilee Year, invoking an ancient Hebrew tradition discussed in the Old Testament. According to this tradition, "the Jubilee was a time to start over, to right old wrongs, to reestablish justice and equity."[18]

However, the moral strength of this issue does not depend on religious belief or denomination. A more secular basis is provided by fundamental tenets of international human rights law: the principle of universal human dignity, and the belief that human solidarity requires action by all to ensure that the dignity of all is recognized and protected.

One might protest that debt forgiveness is not morally preferable because debtors should be held accountable for the debts they have accrued. Yet the causes of the debt crisis are complex and cannot be attributed solely to the debtors. Certainly, the crisis arose in part from excessive borrowing, inefficient and ill-thought-out economic policies and even corruption by debtor governments. The most notorious example may be that of Mobutu Sese Seko of the former Zaire, now Democratic Republic of Congo — Mobutu's theft reportedly equaled all health and education expenditures of that country.[19]

The behavior of debtor governments, however, was only one of many causes of the debt crisis. Part of the problem was excessive lending. Private banks, flush with petrodollars, were eager to recycle them to debtor governments. Industrialized governments, locked in a Cold War, were willing to lend money to corrupt and totalitarian regimes to secure their political alliance. Mobutu initially helped to wrest power away from the democratically elected prime minister Patrice Lumumba, with the support of the U.S. government, and secured his kleptocratic dictatorship with the support of the West.

Part of the problem also lay with the vicissitudes of the international economy, particularly the early 1980s. The bottom fell out of the international market for the export crops many of these countries depended on, such as copper and coffee. This recession in

18. Address of Bishop John Glynn, US Catholic Conference, to Congress, November 4, 1999.

19. *See* Chantal Thomas, *Does the "Good Governance Policy" of the International Financial Institutions Privilege Markets at the Expense of Democracy?*, 14 CONN. J. INT'L L. 551, 555 & n.21 (1999). Ferdinand Marcos became similarly infamous for his colossal theft from the government of the Philippines.

revenue-earning exports coincided with tight monetary policy of the U.S. government that drove up loan interest rates and made debt burdens particularly acute.

Thus, many dynamics interacted to produce the debt crisis. Even if one could say debtor governments were entirely to blame, this conclusion would not produce a morally valid reason to withhold forgiveness. Forgiveness is the act of putting away and canceling claims on one who has done wrong. It is invoked precisely when the wrong done cannot be justified or excused. Moreover, insisting that governments must be held accountable for all past debts is meeting the wrong of excessive borrowing with another wrong, that of making the people in these countries pay the price.

B. Economic Arguments

Debt repayment by very poor countries is an inefficient use of global resources, for a very simple economic reason with a fancy name, called the diminishing marginal utility of money.

The general principle of diminishing marginal utility says the more you have of a particular thing, the less value you're going to attach to each additional increment of that thing.[20] The diminishing marginal utility of money is an extension of that principle: beyond a certain level of income, one experiences decreasing (though positive) increments of well-being from successive incremental increases in income. This is one of the principles on which progressive income tax systems are based — it's a simple economic argument for redistribution.

In the international debt forgiveness scenario, if the U.S. economy grows by one-half of one-thousandth of a percent, it won't change things in the U.S. much. By contrast, in the world's poorest countries, the same amount could wipe out the debt and build a basis on which to begin making essential steps toward meeting basic human needs.

This redistributive argument seems particularly apropos at a time when the industrialized world is in the throes of unprecedented expansion. The United States is experiencing the longest peacetime economic expansion on record. Private lenders are benefiting from the bull market. Citibank, for example, earned eighty-six percent more than it did last year, and the annual *profits* (i.e.

20. WILLIAM J. BAUMOL & ALAN S. BLINDER, MICROECONOMICS 98-100 (1998). To take a somewhat frivolous example, even if you happen to be a maniac for chocolate chip cookies, you would not appreciate the hundredth cookie as much as the first.

net, not gross, revenues) of Citigroup alone would pay off over one-quarter of the debt of the heavily indebted poor countries.[21]

Debt reduction, then, is crucial to the development of poor countries. Without the basic conditions necessary for the people of these countries to survive, let alone thrive, the crucial human capital that they bring to development process will remain largely untapped.

Many have also argued that debt reduction is in the economic interests of the Western world. Debt repayment is critical to enabling economic development, and economic development opens up places for Western actors to do business with. The Clinton Administration recognized this in its initiative related to debt relief, particularly in its trade and aid with Africa initiative. From this perspective, the debt burden is a dead weight on the global economy.

C. Political Arguments

Debt forgiveness is also in the political interests of the world. In fact, it is critical to ensuring political security and international peace. The United Nations Security Council made headlines recently when it declared that the HIV/AIDS epidemic in the developing world constituted a threat to international security. United States Vice President Al Gore stated in his opening address to the Security Council that "the number of people who will die of AIDS in the first decade of the 21st century will rival the number that died in all of the wars in all of the decades of the 20th century."[22] And yet, as noted above, many heavily indebted governments have had to cut back on health services in order to service external debt. A population decimated and destabilized by disease is vulnerable to strife and unrest. Severe poverty does create political risk.

The political legitimacy of the current order is undermined when the world's powers stand by and allow the world's poor to suffer and even to die. Conversely, the political legitimacy of the current order is reinforced when the world's powers join the world's poor in partnership. The United States government realized this with the Marshall Plan and its other generous initiatives to rebuild Europe and Japan after World War II.

21. Heidi Miller, Citigroup Fourth Quarter 1999 Review 3, 11 (Jan. 18, 2000).

22. Address by United States Vice President Albert Gore to the United Nations Security Council, January 10, 2000.

D. Legal Arguments

Debt forgiveness is a crucial component in securing international prosperity and international peace — it is a challenge for the international order. As such, it is a challenge for international law. The current principles of international law represent the beginnings for progressive development of an international legal system to address state insolvency.

For example, numerous international human rights documents affirm the principle of human dignity. The Universal Declaration of Human Rights, the founding declaration of principles for the modern international human rights law framework, recognizes in its first sentence that the "inherent dignity . . . of all members of the human family is the foundation of freedom, justice and peace in the world."[23] Article 1 of the International Covenant on Civil and Political Rights grants all people the "right of self-determination" which includes the right to "freely pursue their economic, social and cultural development,"[24] and states that "[in] no case may a people be deprived of its own means of subsistence."[25]

These general principles of human dignity and self-determination are complemented by principles that have emerged with domestic legal systems specific to bankruptcy. According to international law doctrine, general principles of domestic legal systems offer a basis on which to derive norms of international law.[26] The principle of forgiveness in bankruptcy law seems to be well-established in this regard.

Indeed, domestic legal systems cause one to wonder about the possibility of establishing an international insolvency regime. International adjudicative bodies are growing and becoming stronger all the time: the International Court of Justice; the WTO; the International Criminal Court; and European Union courts. A multilateral forum for the management of state insolvency deserves consideration.

III. What Has Been Done

Among the poorest countries, the main creditors are industrialized-country governments and international financial institutions ("IFIs").

23. Universal Declaration of Human Rights, United Nations General Assembly Res. 217A(111), Dec. 10, 1948.

24. International Covenant on Civil and Political Rights, Art. 1, cl.1 (1966).

25. *See id.* at cl. 2.

26. *See* Statute of the International Court of Justice, Article 38 (1924).

The HIPC Initiative was established in 1996 as a joint program by the World Bank and the International Monetary Fund. It is conditional on agreement by debtor countries to a series of deep-reaching economic reforms, often called "structural adjustment." The HIPC initiative is intended to provide some relief for heavily indebted poor countries that followed IMF and World Bank policy advice but have not reached "debt sustainability," defined by the IMF and the Bank as 200 to 250% of annual export earnings.[27] A heavily indebted country can qualify if it has been unable to relieve its debt burden through existing debt relief mechanisms, and if it has a track record of implementing the economic and social reforms suggested by the IMF and World Bank. The program is divided into two stages of three years. In the first three years, a country establishes a record of implementing reforms. In the next three years, the IFIs work together with the country's creditors to allow the country to exit from unsustainable debt at the end of that period, or the "completion point." Multilateral creditors reduce their debt burden by up to eighty percent. To date, four countries (Uganda, Bolivia, Guyana and Mozambique) have completed this debt reduction and are receiving funds totaling 2.8 net-present-value ("NPV") billion ($5 billion as dispersed). Seven countries have agreed on debt reduction packages (Bolivia, Burkina Faso, Cote d'Ivoire, Guyana, Mali, Mozambique and Uganda), totaling 3.4 billion NPV (6.8).

In June 1999, the G-8 group (US, Canada, German, UK, France, Japan, Italy, plus Russia) of industrialized countries meeting in Cologne proposed a "Cologne Debt Initiative" accelerating the HIPC initiative. Under this initiative, total debt relief available would rise from $55 billion to $100 billion. Creditor governments would agree to reduce their debt by up to 100%, up from eighty percent. The Cologne Initiative shortens the time frame for relief from six years to three years.

There has also been some bilateral debt reduction by creditor governments. In November of 1999, for example, President Clinton signed into law a debt relief directive[28] that cancels almost one hundred percent owed to the U.S. by the poorest countries and appropriates $110 million in debt relief in 2000.

27. *See* Axel van Trotsenburg & Alan MacArthur, The HIPC Initiative Delivery Debt Relief to Poor Countries 1-2 (joint paper of the IMF and World Bank, Feb. 1999).

28. *See* Consolidated Appropriations Act of 2000, Pub. L. No. 106-113, 113 Stat. 1501, 1501A-311 - 1501A-318 (codified as amended at 22 U.S.C. §§ 262, 286 (2000)).

IV. WHAT CAN BE DONE?

The IMF and World Bank HIPC addresses only a fraction of all developed countries. Moreover, the Cologne Initiative to improve it has not been clearly operationalized. Oxfam and UNICEF believe the debt sustainability definition used under the HIPC initiative allows debt burden still too high to allow a country to meet the basic needs of its population. Traditional critique of IMF and World Bank measures, which is that they often require fiscal discipline by the government that hurts the population and proves counterproductive, remains relevant. As a result of instructions to cut back on budgetary expenditures, for example, health clinics are cut in countries where health problems are already dire. This arguably is a backwards way of going about the issue, simply ensuring that the problems the government has to meet will be much worse by the time money is freed up to address them.

The IMF and World Bank have not been as sensitive to pressing debt need in other circumstances: e.g., Hurricane Mitch, a devastating hurricane in Central America that left thousands dead and homeless. IMF and World Bank did not participate in a moratorium on debt payments agreed by lender governments, so that in the midst of their attempts to deal with Hurricane Mitch, these two governments had to pay the IMF and World Bank $1 million a day.

IMF is considering re-evaluating its gold reserves, which would free up to $1 billion dollars, and is considering using some portion of that for debt relief. Governments must also increase bilateral debt relief. The Hope for Africa Act of 1999[29] currently in the Senate Finance Committee, provides trade, aid and debt relief for Sub-Saharan African countries, nearly all of whom are HIPCs. Finally, debt reduction by private creditors is a critical part of the puzzle. Ultimately, both a coordinated international response to the debt emergency and a longer-term solution are necessary.

29. S. 1636, 106th Cong. (introduced Sept. 24, 1999); *see also* H.R. 772, 106th Cong. (introduced Feb. 23, 1999). The Hope for Africa bill was originally introduced by Rep. Jesse Jackson, D-Ill., as an alternative to H.R. 434, the "African Growth and Opportunity Act." The "Hope for Africa" bill offers expanded trade provisions and incorporating labor and environmental concerns. *See* 145 Cong. Rec. S11,877 (daily ed. Oct. 4, 1999) (statement of Sen. Feingold).

INTERNATIONAL DEBT FORGIVENESS

ORGANIZATIONS AND CONTACTS

Oxfam

http://www.oxfam.org
http://www.oxfam.org/advocacy/papers.htm

The Jubilee 2000 Coalition

http://www.jubilee2000uk.org

National Conference of Catholic Bishops/United States Catholic Conference

http://www.nccbuscc.org/sdwp/international/debtindex.htm

World Bank Heavily Indebted Poor Countries Initiative

http://www.worldbank.org/hipc/

The Hunger Site

http://www.thehungersite.com

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Pending U.S. Legislation: H.R. 772; S. 1636 ("Hope for Africa Act")