BRETTON WOODS project

BRETTON WOODS
observer
A quarterly critical review of developments at the World Bank and IMF

FINANCE analysis

# The IMF and World Bank-led Covid-19 recovery: 'Building back better' or locking in broken policies?


In this issue



**Calls abound for transformational Covid-19 response**

**New IMF programmes lock countries further into austerity after Covid-19 peak**

**World Bank doubles down on private sector-first approach**

When the devastating impacts of the Covid-19 pandemic started to become apparent this spring, myriad critical thinkers from civil society, academia, the UN and other spaces called for a fundamental rethink of the policies and architecture that make up the international development and finance landscape (see *Dispatch* Springs 2020). Arguing that the virus only exacerbated pre-existing vulnerabilities and instabilities, they demanded transformational change, proposing multi-coloured global new deals that would see government intervention in support of a just transition to low-carbon, care-centred economies that transform the position of developing economies in the world order.

The sentiment that returning to business-as-usual is no longer an option also appeared to percolate into international policy spaces, as the IMF and World Bank adopted calls for governments to "build back better" in response to the Covid-19 crisis. In the June edition of the IMF's magazine, *Finance & Development*, IMF Managing Director Kristalina Georgieva argued that this opportunity must be seized to, "reshape how we live and to build a world that is greener, smarter and fairer," while the Bank echoed that opportunities exist to "build back better" in its Covid-19 policy response, calling for a "sustainable recovery".

This rhetoric is reminiscent of the institutions' responses after the 2008 global financial crisis. Yet, despite promises to learn the lessons from past crises, they ultimately proved unwilling to change their neoliberal policy spots, as most recently evidenced in May in ITUC's landmark twin reports on the IMF and World Bank. Early signs indicate that even 'building back better' as currently presented by the Bank and Fund, which still falls short of the transformational change called for by many outside observers, might be too ambitious for the Bretton Woods Institutions. Instead of change, evidence suggests that the IMF and Bank-led recovery plans will lock in the same broken economic and development models that have exacerbated this crisis (see *Observer* Summer 2020).

### IMF retains medium-to-long-term fiscal consolidation targets amidst crisis

While commentaries by economists making the case for sustained fiscal stimulus in the context of Covid-19 seemed to be cropping up left, right and centre, the IMF signalled early on that even the unfolding crises will not lead it to relax its long-standing adherence to stringent austerity measures over the long term. Its April *Fiscal Monitor*, for instance, called for "a more ambitious, credible medium-term fiscal consolidation path," for emerging and middle-income economies after the peak of the crisis. While the technically "voluntary" policy commitments made in the majority of the 77 loans approved by the IMF between

March and June should be considered "*de facto* conditionality", as the IMF has begun to approve new or adapt existing programmes with formal conditionality attached, the consequences of its persistent dedication to fiscal consolidation are becoming alarmingly clear.

For example, in June, the IMF agreed a 12-month, $5.2 billion loan programme with Egypt, after providing an initial $2.772 billion in emergency financing in May. The June agreement detailed a FY2020-21 primary budget surplus target of 0.5 per cent to allow for Covid-19 related spending, but demanded it be restored to the pre-crisis primary surplus of 2 per cent in FY2021-2022. The IMF also agreed a new 18-month, $5 billion loan programme with Ukraine in June, in which it praised Ukraine's fiscal consolidation efforts pre-Covid-19 that it noted were, "achieved mainly through a reduction in the real value of wages and social benefits," and set out fiscal consolidation targeting a primary surplus of about 1-1.5 per cent by 2023 (see *Observer* Summer 2020).

In Jordan, emergency financing in May came on top of a four-year loan programme agreed in January. While the Fund recognised fiscal consolidation targets conditioned in the original programme would need to be reconsidered for 2020 in the context of Covid-19 spending, the 2024 fiscal surplus target remained unchanged, meaning fiscal consolidation will need to be resumed at a higher speed, "from 2021, [including by] cutting lower priority spending." Similar long-term fiscal consolidation measures were agreed in a loan programme with Pakistan, where resistance against the resulting hospital privatisations and public salary freeze were already reported in March. While the emergency financing the IMF provided to Ecuador in May came with a request for the cancellation of its existing programme, the IMF still set out a primary surplus target of about 3.1 per cent of GDP by 2025 (see *Observer* Summer 2020). James Heintz with the University of Massachusetts Amherst commented, "Such rigid fiscal targets unnecessarily constrict the policy space available to countries to recover and adapt to new realities as the Covid-19 crisis evolves – and are ultimately a product of a set of biases that favour financial interests and further entrench global inequalities."

**World Bank doubles down on private-sector-first approach**

How the World Bank aims to implement the 'building back better' agenda into concrete measures that are integrated into its project and programme pipelines remains equally unclear. With increased pressure to 'get money out the door', there is concern that much of the Bank's lending over the next 15 months will fund pre-existing projects with little connection to the just recovery agenda. While CSOs point out that "the pandemic highlights just how much we need high-quality public services," the Bank's embrace of its private-sector-first Maximizing Finance for Development (MFD) approach seems undiminished (see *Observer* Spring 2020). The International Finance Corporation, the Bank's private sector arm, is playing a central role in the Bank's immediate pandemic response (see *Observer* Summer 2020; *Dispatch* Springs 2020). Post-Covid-19, as governments face serious fiscal constraints, in part shaped by the IMF's restrictive fiscal policies and dependence on international financial markets and credit ratings agencies, there are concerns that the Bank's MFD approach will be used to support a race to the bottom to encourage investors back into hard-pressed developing countries.

This can already be observed from various Bank blogs indicating that, "healthy cooperation with the private sector will be more important than ever as countries exit this crisis even more fiscally constrained." A June Bank note on assisting countries' decarbonisation efforts by 2050 also carved out a central role for the private sector in mobilising finance for climate action. Perhaps more worryingly, this can also be discerned from policy conditions in Bank loans agreed as the pandemic unfolded in May. For instance, a development policy loan (DPL) to Ecuador contained conditions to reduce the number of fixed sectoral and occupational minimum wages and expand exemptions for a tax associated with financial transactions, and a DPL to Kenya supported crowding private investment into "affordable housing". Meanwhile, a $750 million Bank 'programme for results' loan to Nigeria's power sector approved in June, "seeks to de-risk the power sector for private investment through a comprehensive package of financial, operational, governance, and policy interventions." The loan was approved as the country slipped further into a severe debt crisis, with the collapse of global oil prices triggered by Covid-19 shrinking government revenues.

**Too late to change course?**

Responding to the IMF's renewed medium-term targets, Isabel Ortiz with the Initiative for Policy Dialogue, commented that, "The pandemic has revealed the weak state of global public health systems – generally overburdened, underfunded and understaffed because of earlier austerity policies and privatisations. A return to austerity measures after 2020 is completely inadequate – governments must look for fiscal space to achieve the sustainable development goals and effectively build back better."

Similarly warning the World Bank of "dangerous complacency", in a July statement, former UN Special Rapporteur on extreme poverty and human rights, Philip Alston, said that, "The rush to fund the SDGs through ever-greater reliance on the private sector…is a blind alley. Too many 'win-win' promises are fairy tales." He went on, "after decades of unparalleled growth, the primary beneficiaries have been the wealthiest. Rather than an end to poverty, unbridled growth has brought extreme inequality, widespread precarity in a world of plenty, roiling discontent and climate change—which will take the greatest toll on the world's poor."

The Bretton Woods Institutions have a vanishing window of opportunity to rise to calls for transformational change, confront what 75 years of their own policies and structures have done to, bring the world to another point of crisis, and change course – but will they use it?

***bit.ly/BBBCovid19***

## IMF watchdog releases Covid-19 tracker

In March, the website IMF Monitor published a new dataset dedicated to tracking IMF financing arrangements requested and approved in response to the Covid-19 pandemic. The data, which are updated fortnightly, include clear overviews of IMF Covid-19 lending in relation to countries' risk of debt distress, the type of financing approved by region and income group, and size of the loans in relation to a countries' quota. Christina Laskaridis with SOAS University of London, the researcher behind the dataset, explained, "I wanted to unpick the IMF's 'lend now, worry later' approach to the pandemic and the tracker is a way to aggregate in one place the scale and structure of the IMF's financing."

IMF Monitor also hosts the Article IV scanner, a tool that enables easy searches of IMF surveillance, as well as the first freely available, comprehensive and transparent database of IMF conditionality (see *Observer* Summer 2019, Winter 2017-2018).

CONDITIONALITY analysis

# The IMF's role in the devastating impacts of Covid-19 – the case of Ecuador

Guest analysis by Pablo Iturralde, Center for Economic and Social Rights (CDES), Ecuador

**IMF-backed austerity measures starved health sector prior to pandemic**

**Fund continues on fiscal consolidation path for the long haul**

In Ecuador, the impact of the coronavirus is one of the most devastating in the world, severely exacerbated by the IMF-backed policies implemented before the crisis. Yet, even now, Ecuador is undergoing IMF-mandated structural reforms that further dismantle its health system and suppress economic growth, just when it is necessary to increase public investment and delay fiscal austerity measures to overcome the crisis caused by the pandemic.

In June, the *Financial Times* placed Ecuador first in the world ranking of excess mortality, with the civil registry documenting 20,000 excess deaths during the Covid-19 crisis. While it should be clear that not all these deaths were directly caused by the virus, they must be added to the excess victims from other serious or chronic ailments that could have been treated and perhaps saved, had the health system not collapsed so completely.

The evident weakness of the country's public health system is the result of six years of fiscal austerity measures endorsed by the IMF, including a fall of 64 per cent in public investment in the health sector in just the last two years. Reflecting the implications of these policies, just five days after the start of the quarantine, the health minister resigned, explaining that she could not face a health emergency without resources and stated that, "no budget allocation has been received from the competent authority to emergency management."

While the IMF was careful not to explicitly condition its 2019 loan programme on cuts in social spending, the programme was based on the expectation that Ecuador would transform its current account deficit of 0.7 per cent of GDP in 2018 to a surplus of 0.4 per cent in 2019, including through the "strengthening of controls on expenditure commitments [in the health sector]" and "realigning the public sector wage bill." Predictably, this led to 3,680 public health workers being laid off in 2019, or 4.5 per cent of total employment in this Ministry, ahead of the worst global public health crisis in decades. New analysis demonstrated that, "every single low-income country that received IMF advice to cut or freeze public employment in the past three years had already been identified by the World Health Organisation as facing a critical health worker shortage."

That said, the lack of resilience is linked to a wider deterioration of the economy and it is essential to reference the entire package of IMF-imposed fiscal, labour and financial reforms. With similar public spending reductions in the social security sector being announced last year, one of the most significant difficulties during the crisis has been the state's inability to provide financial support to the 60 per cent of Ecuadorian families whose subsistence depends on the informal economy and daily wages.

The state of emergency instituted on 16 March was used to further approve structural adjustment measures long called for by the IMF: a flexible labour reform that had been postponed for fear of social opposition (see *Observer* Autumn 2019); a tax reform that had been rejected by parliament in late 2019; and resuming the elimination of fuel subsidies after a massive social protest had prevented it last year (see *Observer* Winter 2019). The implementation of the IMF agenda was only possible because social mobilisation was made impossible.

Yet, things will only get worse. Bewilderingly, the IMF's austerity recommendations continue. While the IMF has emphasised that it is supportive of increased public health spending in the immediate response to Covid-19, in its emergency financing loan agreed in May, the Fund revealed its proposal to continue "fiscal consolidation...of about 6.2 percentage points of GDP during the period 2019-2025" in Ecuador, which will inevitably severely undermine social spending and protection. In this context, should we really be surprised by headlines finding that *during* the pandemic, a further 11,820 public sector workers were fired, or that as recently as 31 May, another health budget cut of $217 million relative to the initial 2020 budget was made?

The reduction of social spending hits the poor, women and marginalised harder, while benefitting creditors, and increasing the profits of the rich. It should thus not be surprising that new regulations approved during the pandemic include guarantees for the payment of external debt and even for the payment of arbitration awards for the benefit of transnational corporations that sue the state for measures taken to protect its people from the pandemic (see *Observer* Summer 2020). Only in this framework can the incongruous scene that the country is witnessing be understood: While the doctors are protesting in the midst of the pandemic due to the lack of financing for medical supplies, the Ecuadorian government is paying interest to private creditors and the IMF on time.

These are the same supply-side reforms promoted by the IMF for more than four decades, with the aggravating circumstance that they are applied today in the midst of a pandemic that requires sustained counter-cyclical policies that support economic recovery and guarantee people's human rights. The IMF must go beyond the declarations of good intentions and change the course of its specific policies. One cannot wait any longer: It is time to put finances at the service of life.

***bit.ly/EcuadorCovid-19***

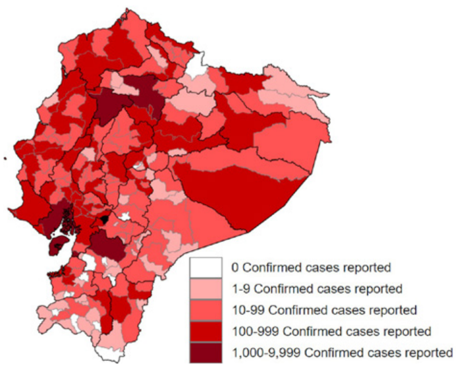


Photo: David C. S.

Covid-19 outbreak cases in Ecuador as of May 7.

INFRASTRUCTURE analysis

# World Bank must ensure new Africa energy strategy is inclusive and pro-poor

Guest analysis by Jacqueline Kimeu, ACCESS Coalition

**Consultation of African civil society integral to success of new Africa energy strategy**

**Strategy must start with inclusive and integrated energy planning that is responsive to wider development needs**

**Targeted policies and financing, including subsidies for the poorest, are critical**

Globally, the world is not on track to achieve universal access to affordable, reliable, sustainable, and modern energy for all by 2030, the target for Sustainable Development Goal 7 (SDG 7). According to *Tracking SDG 7: Progress Report 2020* by the International Renewable Energy Agency, there has been steady progress on the global electrification rate since 2010. Nevertheless, 789 million people across the world still lack access to electricity, with the deficit increasingly concentrated in sub-Saharan Africa, even as the access rate in the region climbed from 34 per cent in 2010 to 47 per cent in 2018.

Additionally, almost 3 billion people still do not have access to clean cooking fuels and technologies, according to the report. It is worth noting that the number of people lacking access to clean cooking solutions has remained largely unchanged over the past two decades, owing to population growth outpacing the number of people gaining access to clean cooking solutions. This is especially the case in sub-Saharan Africa, where population growth between 2014 and 2018 outstripped growth in access to clean fuels and cookstoves by an average of 18 million people a year. Population growth has meant that the number of people without access to clean cooking has risen from 750 million to 890 million in the region over the same period.

### The World Bank can play a greater role in enabling energy access in Africa

The World Bank has taken steps to increase its investments in off-grid renewables. Particularly, support to mini-grid and off-grid programs grew to $600 million in 2018, up from roughly $200 million in previous years. However, this is still a small proportion of their overall energy budget. More targeted support is needed to reach countries with the greatest energy access deficits. For cooking energy poverty, 9 out of the 10 "High Impact Countries" (HICs) – those countries with the biggest energy access challenges – are located in Africa, as are 13 of the 20 HICs for electricity poverty. Yet, under the IDA 19 climate policy priorities agreed last year, the Bank failed to include any targets for energy access, despite IDA including a number of HICs. Recognising this omission, the World Bank is currently developing a new Africa energy strategy to be launched later this year, which will set out the Bank's approach going forward.

In the face of shrinking civil space globally (see *Dispatch* Springs 2020) and the recognition that more demand-side approaches are needed to rebalance the current focus on supply-side interventions, there is a need for clear and inclusive stakeholder consultation to harness the views, experiences, and expertise of both energy-poor communities and experts groups to help shape the Bank's strategy. Civil society groups are well placed to offer insights into how more inclusive, demand-based, and integrated energy service planning and delivery can help achieve the targets of the strategy. The Alliance of Civil Society Organizations for Clean Energy Access (ACCESS Coalition), whose members have hands-on experience and research expertise in delivering energy services and products to consumers in the last mile, stand ready to take part in consultations around the new strategy.

The strategy is welcome, particularly if it recognises that energy access must go beyond the household level to support the delivery of community services. The current context of Covid-19 has highlighted both the role played by indoor air pollution in increasing susceptibility to respiratory diseases and the crucial role of energy in powering health services and building community resilience more widely. The World Health Organization (WHO) estimates that around 4 million people die annually due to premature illness caused by indoor air pollution. Response and recovery packages to the pandemic offer the opportunity to accelerate and innovate further to deliver SDG 7.

In sub-Saharan Africa, energy access is often given low political priority, and planning and service delivery approaches are usually top-down and not based on the needs of energy-poor communities. The Sustainable Energy for All initiative argues for more integrated electrification pathways, where energy access is mainstreamed into wider energy planning and service delivery and responds to the wider context of sustainable development and human needs. This requires a government commitment to support and coordinate the planning process. One tool that has operationalised this approach is the Energy Delivery Model Toolkit, currently being used for sub-national level planning working with the county government in Kenya. The Bank should embrace such inclusive planning processes as part of its new Africa energy strategy.

Delivering universal access to energy requires more targeted action to address the affordability gap for poor and vulnerable consumers – as the Bank itself recognises. According to the Regulatory Indicators for Sustainable Energy (RISE), the poorest 40 per cent of households spend more than 5 per cent of their monthly household expenditure on electricity. This illustrates how unaffordable electricity is to the majority of the unserved population and requires different financing models to close the gap. This includes targeted subsidies and social protection (or "energy safety nets"). The Bank's strategy should include provisions for such safety nets.

In short, the Bank's new Africa energy strategy offers it an important chance to mainstream achieving SDG 7 into its energy lending on the continent, through consultation with African civil society.

***bit.ly/WBGAfricaEnergy***

RIGHTS news

# IFC denies responsibility for community harms following CAO's Guatemala dam investigation

**CAO investigation finds IFC failed to prevent harms to indigenous community**

**IFC refutes investigation claims and refuses to take remedial action**

In June, the Compliance Advisor Ombudsman (CAO) – the accountability mechanism of the International Finance Corporation (IFC), the World Bank's private sector arm – released its 2018 investigation into the IFC's role in the controversial Santa Cruz Barillas hydroelectric dam project in Guatemala (see *Observer* Spring 2020).

In 2008, the IFC provided $20 million in loans and $9.9 million in equity investments to a Latin American financial intermediary, Corporación Interamericana para el Financiamiento de Infraestructura (CIFI), which financed a further company, Hidro Santa Cruz (HSC), to build the hydroelectric dam.

The IFC was found negligent of preventing harm to the local indigenous community of Santa Cruz Barillas in the CAO's compliance investigation report, following a complaint filed by the residents in 2015. The investigation highlighted that the IFC failed in its duty to prevent harms linked to the project, which included illegal detainment of those protesting against the project and the murder of local activist, Andrés Pedro Miguel, as well as the use of violence against several other members of the community.

The CAO investigation concluded that, "Though aware of project impacts during the period of financing, IFC did not engage with its client to ensure that residual impacts of the project were assessed, reduced, mitigated, or compensated for, as appropriate, including at project closure, as required by the Performance Standards and the Sustainability Policy." The IFC's environmental and social consultant, commissioned to prepare a review of the project, corroborated the CAO's findings.

In its response, released in June, the IFC accepted that the community had suffered negative impacts, admitting some failures in its due diligence and monitoring. However, it did not offer to take remedial action to address the damages, denying that the impacts can be attributed directly to the construction of the dam. To support its claim, the IFC cited a 2013 report by the Office of the UN High Commissioner for Human Rights, despite the UN report clearly linking human rights violations in Guatemala to the Barillas dam. In the same response, the IFC contradicted its own defence by highlighting evidence from the Guatemalan Human Rights Ombudsman which, it stated, "references the HSC project as contributing to the wider conflict in Barillas."

The IFC's response caused uproar from civil society and local organisations, who claim it is misrepresenting the UN report. On 8 July, civil society groups sent a joint letter calling on the IFC's Chief Executive Officer Phillippe Le Houérou to revise the IFC's response.

In Guatemala, the People's Assembly of Huehuetenango issued a statement condemning the response as, "fraught with racism, indolence, irresponsibility, but above all impunity." In a June press release, Cecilia Mérida, a community leader from Santa Cruz, stated, "We've been imprisoned, forced to flee our communities and some of us have lost our lives. We've waited five years to hear the result of our complaint. And for what? We are appalled by the IFC's response."

Kate Geary, of Netherlands-based civil society organisation Recourse, described the IFC's claim as "absurd and illogical" in a June article by the International Consortium of Investigative Journalists, warning that this signalled, "a return to the bad old days of an unaccountable and unresponsive IFC."

IFC's response follows recent commitments from Le Houérou, who announced this month that he will be stepping down from his position, to strengthen its environmental and social standards (see *Observer* Summer 2020). Geary further commented, "This is one of the first test cases of that new accountability and it has failed," adding that the IFC's board of directors must now assist the community affected by these harms.

***bit.ly/GuatemalaDamIFC***

Photo: Luis Miranda Brugos


Women's March in solidarity with the resistance camp against hydroelectric plants. Santa Cruz Barillas, Huehuetenango. Guatemala. Movement against the installation of hydroelectric projects in indigenous territories.

RIGHTS news

## Concerns over labour rights resurface in IFC's Covid-19 response

The International Finance Corporation (IFC), the private sector arm of the World Bank, faced calls to outline its approach to occupational health and safety and social protection measures in a joint letter from human rights groups sent in May.

The letter was submitted as the IFC allocated $8 billion in financing in response to the Covid-19 pandemic, of which $6 billion will be disbursed through financial intermediaries and $2 billion to support its existing clients in the infrastructure, manufacturing, agriculture, and services industries (see *Dispatch* Springs 2020).

The letter, addressed to IFC chief executive officer Philippe Le Houérou, outlined recommendations to ensure that its Covid-19 response aligns with the IFC's Performance Standards and binding international labour and human rights standards. It called on the IFC to publish a strategy detailing how it is supporting clients to implement paid sick and family leave, job protection, employer-provided childcare and health care, occupational health and safety and non-discriminatory retrenchment. The IFC has not publicly disclosed whether clients receiving Covid-19 response financing are required to adopt these measures.

The Covid-19 pandemic has already had a devastating impact on millions of workers in precarious and informal employment, particularly women. Komala Ramachandra, with US-based organisation Human Rights Watch said, "The IFC should act quickly and transparently to leverage relief funds to assist the millions of workers connected to their private sector and financial intermediary clients."

The IFC has faced long-standing criticism for its record on workers' rights, which some fear will be exacerbated by the pandemic (see *Observer* Winter 2018, Spring 2018).

**bit.ly/LabourRightsIFC**

IFI GOVERNANCE news

## IFC CEO announces planned retirement

Philippe Le Houérou, chief executive officer (CEO) of the International Finance Corporation, the Bank's private sector arm, announced via Twitter on 7 June that he will be stepping down from his position, effective 1 October. Le Houérou's successor will be appointed by the IFC's board of directors, based on the recommendation of World Bank President David Malpass, per the IFC's Articles of Agreement.

Le Houérou was appointed IFC CEO in 2015. Under his leadership, the IFC announced new policies on retaliation against civil society and a Green Equity Strategy to encourage its commercial clients to divest from coal over time (see *Observer* Summer 2019, Winter 2018). He also oversaw a recent wave of reforms, as part of the IFC's capital increase (see *Dispatch* Springs 2018), aimed at bringing greater accountability to the organisation.

However, despite these reforms, the IFC remained a laggard in terms of transparency, ranking 31st out of 52 organisations in the *2020 Aid Transparency Index*. The IFC also continues to face criticism around the harmful environmental and social impacts of its lending (see *Observer* Summer 2020).

"Le Houérou has certainly set the IFC on the path towards much-needed important reforms to its financial intermediary lending including its commitment to climate through its new Green Equity Approach," said Christian Donaldson of Oxfam International. "There is still more work to be done on several fronts including IFC's accountability, but we hope the next CEO will build on Le Houérou's efforts to engage with and listen to civil society voices."

**bit.ly/CEOIFC**

FINANCE news

## Failure to lend to Venezuela and Iran once again raises questions around IMF's political neutrality

As the world struggles to respond to the Covid-19 pandemic, and amid calls for greater international cooperation, including by the IMF, the Fund has thus far failed to provide $5 billion in requested loans to both Venezuela and Iran. The failure to respond to requests by two countries significantly impacted by the pandemic once again raises questions about the Fund's political neutrality (see *Observer* Spring 2015). UN human rights experts cautioned in May that, "Venezuelans are teetering on the brink of survival," with Human Rights Watch also calling for urgent action. According to news outlet *Bloomberg*, the IMF stated that it is barred from lending to Venezuela because the current government lacks the required recognition by the international community. In March, Juan Pablo Bohoslavsky, former UN Independent Expert on Foreign Debt and Human Rights, expressed deep concerns about the Fund's position, stressing that the, "IMF's argument…cannot be the basis for a decision that gravely endangers the whole of the Venezuelan population, and by extent the whole world. Such decisions may amount to a gross violation of human rights and would require accountability from the institution and its deciders."

As Iran recorded a death toll of 11,571 from Covid-19 in July, it also still awaits a response from the IMF on its request for a $5 billion loan, which has reportedly been blocked by the US. According to an April article in online news site *Politico*, Josep Borrell, the EU's foreign policy chief, criticised the US position: "I regret that…the United States are opposing the…decision," adding that, "From the humanitarian point of view… this request should have been accepted."

**bit.ly/IMFVenezuela-Iran**

RIGHTS analysis

# Fears of lawsuits at World Bank's tribunal constrain efforts to fight pandemic

**Flood of ICSID suits feared as countries try to cope with the pandemic**

**States' capacity to safeguard public health constrained due to threat of lawsuits**

The Covid-19 pandemic has forced states to take unprecedented measures to try to minimise the pandemic's health impacts, resulting in near paralysis of economic activity and restrictions to social and political activities with far-reaching global consequences (see *Dispatch* Springs 2020). But developing (and indeed developed) states may face yet another challenge – the threat of arbitration at the World Bank's International Centre for Settlement of Investment Disputes (ICSID) (see *Inside the Institutions*, ICSID).

ICSID is the principal forum for the settlement of investor disputes brought against states through the system of Investor-to-State Dispute Settlement (ISDS), which are included in many bilateral and multilateral trade agreements and provide foreign companies and individuals privileged treatment and recourse against states outside the jurisdiction of domestic courts. ICSID has been widely criticised for alleged corporate bias, secrecy and lack of democratic accountability (see *Observer* Autumn 2015, Summer 2014; *Bulletin* December 2013). Currently about two-thirds of investor disputes are filed at ICSID, which does not have a process for appealing decisions.

While the number of cases brought to ICSID were initially small, they have increased dramatically as globalisation brought a surge in trade and investment deals and development actors championed foreign direct investment. As detailed in the 2019 *Extraction Casino* report by Mining Watch Canada, the Institute for Policy Studies and the Center for International Environmental Law, the number of mining, oil and gas cases filed at ICSID has nearly doubled in the past two decades, as have the amounts awarded. The report noted, for example, that, "Colombia faces around US$18 billion in threatened or actual claims from six mining companies gambling on international arbitration to pursue future lost profits over measures to protect water and Indigenous territory."

### Corporations consider suing governments for efforts to control pandemic

According to a May Seattle to Brussels civil society network open letter sent to governments and signed by 630 organisations, "from 1 March until 25 May 2020 when most governments were in the midst of the pandemic crisis, 12 new ISDS cases were filed at [ICSID] alone." Peru, for example, has been the subject of an arbitration claim at ICSID by investors for having suspended the collection of tolls on roads operated by private firms in response to the Covid-19 outbreak.

A May article on law firm Addleshaw Goddard's website noted that, "there are currently over 260 [ICSID] cases pending against African States…compared to 135 cases in May 2017. It is anticipated that many more arbitrations will be commenced in the months to come. This is especially important when considering that in the case of ICSID arbitrations alone, more than half of claims commenced against African States have resulted in a final award, and more than half of those cases have resulted in an award of full or partial damages against the State."

These trends and the prospect of future claims have resulted in calls for a suspension of ISDS cases during the crisis. The Seattle to Brussels network's open letter demanded a suspension of all ISDS cases on any issue against any government while it is responding to the Covid-19 pandemic, noting that, "by the end of 2018, states worldwide had been ordered or agreed to pay investors in publicly known ISDS cases the amount of US$88 billion. Some developing countries have billions outstanding in pending ISDS claims."

The letter echoed a similar call in May for an ISDS moratorium during the Covid-19 crisis by the US-based Columbia Center on Sustainable Investment, signed by, among others, a number of prominent UN human rights experts and Justin Lin, a former chief economist at the World Bank. The Center's letter included a call for a permanent restriction "on all arbitration claims related to government measures targeting health, economic, and social dimensions of the pandemic and its effects."

The prospect of a flood of ICSID cases resulting from responses to the pandemic, was highlighted in a May article by research group Corporate Europe Observatory titled, "Cashing in on the pandemic: How lawyers are preparing to sue states over COVID-19 response measures." Considering the potential scope for action by corporations, the article stressed that cases could be brought against states for a numerous efforts to combat the pandemic, from action for affordable drugs and tax justice measures to debt relief for households and businesses.

As UNCTAD's May *Investment Policy Monitor* report indicated, the mere threat of ICSID cases may deter states from taking actions thought necessary in response to the pandemic. The report's findings are supported by Bart-Jaap Verbeek from Dutch civil society organisation SOMO, who stressed that, "Foreign investors do no longer turn to ISDS only as a last resort to resolve disputes, but increasingly use it as a deterrent to pre-emptively strike down government measures that may negatively impact their business activities. The financial pressure emanating from such multi-million dollar claims may potentially result in governments watering down or dropping the necessary regulations to cope with emergency situations like the Covid-19 pandemic and ensuing economic crisis."

### ICSID and ISDS reforms are essential to a just Covid-19 recovery

The 2019 UNCTAD *Trade and Development* report stressed that, in the aftermath of the 2008 global financial crisis "with markets in freefall…government was the solution", yet, as the situation stabilised, "money still talks but governments apparently have lost their voice", leading to a return to a reliance on private sector investment as the key provider of finance for sustainable development. The report aptly concluded, "everything, it seems, has had to change, for things to stay as they were."

The World Bank's Maximizing Finance for Development (MFD) approach – including its push for public-private partnerships (see *Observer* Winter 2017-2018), the 'Billions to Trillions agenda' and the exorbitant privilege afforded foreign investors under ISDS and within ICSID, are very tangible expressions of this trend (see *Observer* Summer 2017). Given the potential deluge of ICSID lawsuits in response to government efforts to control the world-wide pandemic, those interested in more just international financial architecture will be watching closely to see how states respond to calls for a moratorium of ISDS cases and whether ICSID's ongoing reform process will result in urgently required changes (see *Observer* Winter 2018). Radical reform of the flawed institution has been proposed, including, its formal separation from the World Bank. As emphasised by professor Kevin Gallagher and UNCTAD's Richard Kozul-Wright in their June article in the *Global Policy* journal, reforms of ICSID and ISDS are essential to ensure the survival of an effective multilateral system (see *Bretton Woods at 75 and the future of multilateralism* conference).

***bit.ly/ICSID2020***

Photo: Rolling Rebellion


Bellingham Rolling Rebellion, a movement against trade tribunals mobilises against the Trans-Pacific Partnership.

IFI GOVERNANCE news

# "Godmother of austerity" appointment to World Bank chief economist post raises concerns

**Appointment of Carmen Reinhart to World Bank chief economist announced in May**

**Reinhart faces criticism for maintaining austerity bias despite modelling error**

On 20 May, World Bank President David Malpass announced that Harvard professor Carmen Reinhart would replace Pinelopi Goldberg as the Bank's chief economist. The appointment follows Goldberg's early departure from the Bank in March (see *Observer* Spring 2020).

Prior to the appointment, Reinhart was a professor of the international financial system at Harvard's Kennedy School of Government. Previously, she served as a senior policy advisor and deputy director at the IMF and vice president and chief economist of the investment bank Bear Stearns, a post also held by Malpass.

Reinhart takes up the position amidst the Covid-19 pandemic, as the world faces the worst recession since the Great Depression and calls for sustained fiscal stimulus abound (see *Dispatch* Springs 2020). In this context, her appointment has raised concerns because of her past support for austerity policies.

Reinhart is well-known among economists for her discredited public debt modelling work alongside fellow Harvard economist Kenneth Rogoff in their 2010 paper entitled *Growth in a Time of Debt*.

The paper claimed that when a country's debt rises to more than 90 per cent of GDP, economic growth is slowed by 0.1 per cent. Reinhart and Rogoff argued that public debt causes economies to sharply contract, which in turn makes debt unsustainable and causes default. To avoid this fate, in a 2010 *Financial Times* piece, they recommended that countries in debt tighten fiscal policy, warning that, "Countries that have not laid the groundwork for adjustment will regret it."

It was considered incredibly influential in shaping pro-austerity policy debates following the 2008 global financial crisis, most notably in the Troika's (the European Central Bank, the European Commission and the IMF) loan programmes for Greece during its sovereign debt crisis (see *Observer* Autumn 2018). US news website *Business Insider* highlighted in 2014 that, "Their research is frequently cited as one of the inspirations for austerity measures, with high-profile advocates...citing it during key debates about the need for euro zone budgetary tightening." A 2013 *Financial Times* article described Reinhart and Rogoff as the "intellectual godmother and godfather of austerity."

Former UK Chancellor George Osborne used the paper as justification for the rollout of austerity when in government (even after the paper was discredited). The paper is also credited for influencing Germany's long-running debt brake policy.

In 2013, an economics doctoral student discovered that the paper included major errors, significantly skewing the results. In fact, the corrections showed that countries with 90 per cent debt ratios see their economies grow by 2.2 per cent, instead of the 0.1 per cent decline claimed by the paper. The IMF further refuted the findings in a 2014 paper, which found no evidence of a "magic threshold" for debt "above which medium-term growth prospects are dramatically compromised." Despite this, Reinhart and Rogoff defended their paper in a *New York Times* article, maintaining claims that high debt curbs growth.

As the pandemic continues to wreak havoc on the global economy, observers will be closely following how Reinhart's leadership shapes the World Bank's approach to this critical moment.

During a May interview with *The Harvard Gazette*, she noted her support for a temporary debt standstill, despite the World Bank's refusal to offer debt suspension on its own loans.

Economist Jayati Ghosh highlighted that, "In times of crises, global institutions should be led by those with a high level of credibility", adding, "For the World Bank, which lays out principles for development and conditionalities for loans, a higher level of integrity will be required for it to become credible and trusted in developing countries."

***bit.ly/WBGChief***

ACCOUNTABILITY news

# CSOs raise concerns about conflict of interest related to World Bank technical assistance loan in Guyana

**Law firm contracted under World Bank technical assistance apparently backs out after CSOs expose links to ExxonMobil**

**Terms of Guyana's oil contract have resulted in constitutional crisis and contested election**

World Bank support for governance reforms linked to Guyana's offshore oil development have been called into question in recent months, after research by Germany-based civil society organisation (CSO) Urgewald found that a law firm contracted by the Bank under a technical assistance loan had long-standing links to ExxonMobil, one of the companies involved in developing Guyana's Stabroek offshore oilfield.

According to Urgewald, the law firm Hunton Andrews Kurth was contracted by Guyana's government and paid $1.2 million by the World Bank to draft the country's new petroleum laws. The firm has, per Urgewald, "represented ExxonMobil for some 40 years, including as a top lobbyist."

Following letters sent by Guyanese and international CSOs to World Bank President David Malpass and members of the Bank's executive board, and extensive coverage by international and local media, Hunton Andrews Kurth contacted Guyana-based newspaper *Kaieteur News* in June to state that it had informed the Guyanese government it, "would not represent the Government on the matter." This has yet to be confirmed by either the Bank or the Guyana government, Urgewald says.

**The tip of the iceberg: Procurement concerns symptomatic of wider dismay about Bank's role in Guyana's oil development**

The Bank has so far provided a total of $55 million to Guyana, consisting of a $35 million development policy loan approved in 2018 to reform the country's financial sector in anticipation of the oil boom, and a $20 million technical assistance loan approved in 2019 to improve governance and management of Guyana's oil and gas development (see *Observer* Summer 2018).

The technical assistance loan includes support for an, "update of Guyana's legal and regulatory frameworks for the governance and oversight of the O&G [oil and gas] sector." Guyanese groups are concerned this will dilute legal environmental protections in Guyana, which are considered a regional gold standard and inspired many elements of the Escazú Agreement – i.e. the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean.

Despite the Bank's aims to improve governance in Guyana, the country has slipped into political chaos since agreeing World Bank support. Following criticism of the ruling APNU-AFC Coalition and their handling of the petroleum contract for the Stabroek oil field, the coalition lost a vote of no confidence in December 2018 and became an unconstitutional government in September 2019 following their refusal to hold elections. A subsequent election in March 2020 favoured the opposition PPP/C party, but this has been contested by the incumbent APNU-AFC Coalition, despite them being unable to produce any evidence, in a move which has been widely condemned by international observers.

"The World Bank has undermined the rule of law in Guyana and must accept some responsibility for the current constitutional crisis in which an unlawful government is trying to hold on to power fraudulently," said Melinda Janki, an international lawyer based in Guyana. "The World Bank has lent money to a government that had no lawful authority to borrow that money. The World Bank allowed an individual to sign the Financing Agreement as Minister of Finance in direct violation of the Constitution. That is direct political interference in Guyana by the World Bank."

The country's political deterioration comes as Guyanese citizens again wrote to President Malpass in June to query the World Bank's proposal that Guyana join the Zero-Gas Flaring Initiative, which would paradoxically allow Exxon's subsidiary Esso to keep practicing routine flaring, before eventually stopping in 2030. Esso has flared over 9 billion cubic feet of associated gas in just six months off the coast of Guyana, according to civil society observers, even though its environmental permit prohibits routine flaring. "Exxon has neither been forthcoming with information about the flaring nor taken adequate measures to prevent this harmful and unnecessary practice," said Nikki Reisch of US-based CSO Center for International Environmental Law.

**bit.ly/WBGuyana**

Photo: Dan Sloan

Guyana's low-lying coastline makes it vulnerable to climate change, one of host of reasons Guyanese CSOs have opposed the Stabroek offshore oil and gas development.

SOCIAL SERVICES news

# The World Bank, Covid-19 and public education: two steps forward one step back

**World Bank launches new report on education and Covid-19**

**Approach contrasts with IFC's private school investment freeze**

The World Bank Group published a report in May exploring the implications of the "twin shocks" – identified as the closure of schools and looming economic recession – on education systems globally. In a June blog, David Edwards of Education International, a federation of 32 million teachers across 173 countries, pointed out "some gaping omissions and problematic assumptions" in the Bank's report. Edwards highlighted two faulty assumptions that run throughout the report: "privatising education supports the achievement of SDG 4" and that, "teachers are merely a resource whose effectiveness is to be maximised; efficiency is key and labour rights are a barrier."

Increased drop-out numbers, inequality, lack of access and poor quality of education are among the many negative trends that will be exacerbated by the crisis, according to the report. Yet, the private-sector focus of the report seemed to contradict the rationale behind a recent announcement by the International Finance Corporation (IFC), the World Bank's private sector arm, about freezing financing of private schools. This reaffirms long-standing concerns about the Bank overlooking the need to support governments to build better public education systems and move away from the privatisation of critical public services (see *Observer* Winter 2018).

The Bank's report focuses on how to cope with private schools' losses, rather than issues such as labour or education rights, social dialogue, or the need to ensure adequate support to teachers. It presented proposals such as "government-funded school-fee waivers", as a way to prevent private schools from closing permanently. This raised flags about the World Bank "artificially boosting the private market rather than taking the opportunity to consider the effectiveness and sustainability of a highly privatised education system," Edwards noted.

**Mixed messages – IFC announces freeze of investments in for-profit education providers**

The approach reflected in the report contrasted with an April announcement by the IFC, committing to freezing investments in private for-profit primary and secondary schools and to greater transparency in financial intermediary lending, as part of a new package of reforms linked to the approval of the IFC's capital increase by the US Congress. In a press release in response to the announcement, Nadia Daar of Oxfam International noted that, "This is a huge step forward not just for the IFC, but for how we understand the role of the private sector in development," and that, "The COVID-19 pandemic should not be used by any donor as an excuse to invest in for-profit private education provision."

The announcement took place after more than 170 CSOs from around the world sent a letter in October 2019 calling on the Bank to end support to for-profit private education and to ensure it focuses instead on the development of quality education systems that are accessible to all (see *Observer* Winter 2019). The letter came after the UN Human Rights Council unanimously adopted a resolution recognising the Abidjan Principles on the human rights obligations of states to provide public education in July last year, and the Global Partnership on Education (GPE) adopting a draft private sector strategy in June, agreeing that, "no GPE funds can be used to support for-profit provision of core education services" (see *Observer* Summer 2019).

***bit.ly/WBGCovidEducation***

Photo: GPE/Kelley Lynch

Kasimba Primary School, Mpanda District, Katavi Region, Tanzania. August 2019.

FINANCE news

# Argentina increases offer to bondholders after IMF claims "room for improvement"

According to the *Financial Times* (*FT*), on 6 July, Argentina announced an improved offer to its bondholders, after IMF staff told the *FT* in June that, "there is still room for Argentina to increase payments to private creditors," an assessment confirmed by an IMF technical statement. The assessment, made upon the request of the Argentine authorities, came as the Latin American country entered into sovereign debt default in May, and has been negotiating with private creditors since then. It comes after the IMF warned Argentina's bondholders to prepare for a haircut in February to help safeguard the sustainability of its largest ever loan programme (see *Observer* Spring 2020, Autumn 2019).

The IMF specified to the *FT* that it would be "very hard" to improve the deal beyond a net present recovery value of 50 cents on the dollar. The government's offer at the time was approximately 46 cents, while offers from private creditors ranged from roughly 53-to-58 cents on the dollar. The new deal offered in July suggests a recovery value of about 53 cents on the dollar, according to the *FT*.

Responding to the statement, Beverly Keene with Dialogue 2000-Jubilee South Argentina noted, "every penny that goes for the speculators means dollars less for healthcare, food, jobs and decent wages, and more hardship for everyone, children, women, and the elderly in particular. The Argentine Central Bank has shown that none of the debt now being negotiated served the needs and rights of the Argentine people. It is an illegitimate and odious debt. That is why we continue to push for the government to take a sovereign decision to stop all payments and investigate the legality and legitimacy of these claims. There is no other way out of the debt trap."

As the G20 granted suspensions of official bilateral debt in the face of the Covid-19 pandemic, they called for private creditors to "do the right thing and follow suit." In May, the International Institute for Finance, the leading global association of private financial institutions, retreated from its initially more promising position on debt relief by endorsing private sector participation on a voluntary basis only. Keene added, "The pandemic makes it clear that we need binding rules that force private capital to respect the sovereign rights of peoples and countries everywhere."

***bit.ly/Argentina-IMF***

LAND news

# IMF and World Bank help push through contentious Ukraine land reform amid Covid-19 pandemic

In June, the IMF approved an 18-month, $5 billion loan programme with Ukraine. Facing acute public health and economic crises and an ongoing civil war, in the related memorandum the government committed to lifting the 19-year moratorium on the sale of state-owned agricultural lands, after sustained pressure from international finance institutions (see *Observer* Winter 2019). Olena Borodina with the Ukrainian Rural Development Network commented that, "the agribusiness interests and oligarchs will be the primary beneficiaries of such reform... [this] will only further marginalize smallholder farmers and risks severing them from their most valuable resource."

Despite the move sparking several large protests in 2019, a bill lifting the moratorium was passed in an emergency Parliamentary session in March. According to a May press release by US-based think-tank the Oakland Institute, this coincided with mandatory Covid-19 stay-at-home orders in place across the country, "effectively quelling potential protests or demonstrations."

The World Bank incorporated further measures relating to the sale of public agricultural land as conditions in a $350 million Development Policy Loan to Ukraine approved in late June, which included a required 'prior action' to, "enable the sale of agricultural land and the use of land as collateral," along with measures designed to privatise the gas sector and promote private infrastructure investment in Ukraine.

Frederic Mousseau of the Oakland Institute commented, "The goal is clearly to favor the interests of private investors and Western agribusinesses...It is wrong and immoral for Western financial institutions to force a country in a dire economic situation amidst an unprecedented pandemic to sell its land."

***bit.ly/UkraineLand***

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