

Submission to the Office of High Commissioner for Human Rights
Promoting and protecting economic, social and cultural rights within the context of addressing
inequalities in the recovery from the COVID-19 pandemic
Sexual Rights Initiative
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Introduction

1. This submission is made by the Sexual Rights Initiative (SRI)¹. The Sexual Rights Initiative is a coalition of national and regional organisations based in Canada, Poland, India, Egypt, Argentina, and South Africa that work together to advance human rights related to sexuality at the United Nations.
2. This submission argues that one of the essential elements to “profoundly transform economies to make them greener, fairer and more inclusive” is to review the current macroeconomic system, which itself is a continuation of the historical and ongoing consequence of colonialism: its impact on people and to embark on a radical global system change - one which places people and the planet before profits. The submission points out that the rising inequalities, made even starker due to the COVID-19 Pandemic, are a symptom of the failed economic system that prioritises profit over people and impoverishes people with a specific emphasis on the gendered impact of this system. The submission specifically looks at the impact of the erosion of public systems through privatisation and financialisation and resulting human rights violations and abuses. The submission particularly looks at public health systems that were woefully inadequate to deal with the Pandemic. Finally, the submission makes a case for greater accountability and the imperative of international financial institutions and transnational corporations to adhere to the human rights framework. In this context, the submission highlights the impacts of austerity measures and fiscal consolidation, often as a condition of loans/aid, on the human rights and fundamental freedoms of the poor, particularly the marginalised. Consequently, the Office of the High Commissioner for Human Rights must address and highlight that macroeconomic and health structures are not immune from scrutiny and accountability.

Current macroeconomic system

3. The current economic, geopolitical and global health structures are a reflection of colonial power dynamics, and the colonial structures continue shaping racist inequalities in resources, health access and outcomes within and among countries.² Capital has fed and thrived on hegemonic patriarchy and the oppression and subjugation of populations through colonialism.³ The recent example of the negotiations on the TRIPS waiver proposal of COVID-19 vaccines or the blocking of HIV treatment and HPV treatment is indicative of the global economic structures, reinforcing Northern countries' and corporations' profits

¹ <http://www.sexualrightsinitiative.com/>

² See joint submission by Sexual Rights Initiative, National Council of Women Leaders (NCWL), the Dalit Human Rights Defenders Network (DHRDNet), the International Dalit Solidarity Network (IDSN), AWID, Her Rights Initiative (HRI) and Alisa Lombard to the Committee on the Elimination of Racial Discrimination: Racial Discrimination and the Right to Health; <https://www.sexualrightsinitiative.org/resources/submission-committee-elimination-racial-discrimination-racial-discrimination-and-right>

³ See joint statement by Sexual Rights Initiative, AI-Haq, IWRAP Asia-Pacific, ILGA and AWID at HRC 51, <https://www.sexualrightsinitiative.org/news/2022-sep/hrc-51-statement-panel-discussion-negative-impact-legacies-colonialism-enjoyment>

over the lives of people of the Global South.⁴ The intellectual property regimes are another legacy of colonialism allied with neoliberal capitalism and the human rights system reluctant to engage with entrenched structures of racism and colonialism,

4. During the Pandemic, the world's ten wealthiest men have doubled their fortunes, while over 160 million people are projected to be impoverished.⁵ Inequalities within and among countries have increased manifold. The gap between rich and poor nations is now expected to rise for the first time in a generation⁶, and at least 73 countries face the prospect of IMF-backed austerity risks worsening inequality between countries and every type of inequality within countries.⁷ Oxfam analysis has found that 85% of the 107 loans negotiated between the International Monetary Fund (IMF) and 85 national governments to respond to the COVID-19 crisis indicate plans to undertake fiscal consolidation, i.e. austerity, during the recovery period.⁸
5. The Independent Expert on Foreign Debt described the current system that the world confronts as “sustained by gender inequality and discrimination against women.”⁹ Macroeconomic policies and mainstream economics are often male-biased and androcentric, leading to the imposition of structural adjustment and fiscal consolidation policies without due regard for their negative human rights or gendered impacts. They also fail to take into account the expertise and recommendations of feminist economists and women's rights advocates.¹⁰
6. This kind of neoliberal macroeconomic prioritisation informed IMF's responses during the Pandemic. The IMF prioritises and advocates for a particular definition of growth which has been influential in government's economic and fiscal policies everywhere. According to their website, “the International Monetary Fund (IMF) works to achieve sustainable growth and prosperity for all its 190 member countries. It does so by supporting economic policies that promote financial stability and monetary cooperation, which are essential to increase productivity, job creation, and economic well-being.”¹¹ More often than not, the pursuit of growth is prioritised at the cost of the health and well-being of people and equality and non-discrimination. The most common aspects of IMF advice and work are on macro-economic policies, like fiscal consolidation which brings in austerity, wage cuts, reducing public expenditure, and adding consumer tax among others. While they are supposed to bring prosperity for the countries, the impact on the people and the nation is the opposite. “Ultimately, overly restrictive macro-economic targets to reduce public expenditure have

⁴Please read SRI submission to the Special Rapporteur on health for the report on racism and right to health

<https://www.sexualrightsinitiative.org/sites/default/files/resources/files/2022-08/SRI%20submission%20on%20racism%20and%20the%20right%20to%20health.pdf>

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⁵ Oxfam briefing paper, January 2022: Inequality kills, The unparalleled action needed to combat inequality in the wake of COVID 19, <https://policy-practice.oxfam.org/resources/inequality-kills-the-unparalleled-action-needed-to-combat-unprecedented-inequal-621341/>

⁶ <https://news.un.org/en/story/2020/01/1055681>

⁷ Oxfam briefing paper, August 2021: How IMF demands for austerity will drive up inequality worldwide?; <https://policy-practice.oxfam.org/resources/adding-fuel-to-fire-how-imf-demands-for-austerity-will-drive-up-inequality-worl-621210/>

⁸ Oxfam briefing paper, August 2021: How IMF demands for austerity will drive up inequality worldwide?; <https://policy-practice.oxfam.org/resources/adding-fuel-to-fire-how-imf-demands-for-austerity-will-drive-up-inequality-worl-621210/>

⁹ Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights: Impact of economic reforms and austerity measures on women's human rights, A/73/179, 2018, <http://www.undocs.org/A/73/179>, para. 78.

¹⁰ *Ibid.*, paras. 7, 10, 89.

¹¹ <https://www.imf.org/en/About/Factsheets/IMF-at-a-Glance>

real economic, political and human rights costs, disproportionately shouldered by women, which palliative social safety nets and targeted gender programmes cannot alone alleviate.”¹²

Neo-liberal structures and diverting funds from public systems

7. This section will provide a case study about health systems and the impact of diverting funds from the public health system as an illustrative example. While some of the details may differ, the impact of reducing public expenditure resonates across other public services such as education and housing among others.
8. Around the world, health systems and health financing have been eroded, undermined and weakened by decades of neoliberalism, austerity, privatisation and structural adjustment programs and an emphasis on minimising State intervention and relying on a discourse of “personal responsibility.”¹³ The negative human rights impacts of these policies, the prevalence of market forces over human rights and the lack of accountability in that context have been criticised by several Special Procedures mandates and Treaty Bodies.¹⁴
9. This has been especially destructive in countries in the Global South, where the concept of structural violence has been used to describe the effects of neoliberalism, austerity and structural adjustment programmes, combined and compounded with the enduring impacts of colonial dispossession and domination.¹⁵ In the European Union too, “neoliberal policies [...] have resulted in damaging budget cuts and created pressures to privatise and commercialise healthcare and elderly care systems, thereby weakening Europe’s pandemic preparedness.”¹⁶ Neoliberal approaches to health spending have disproportionate impacts along gender, race and class lines and are themselves a form of structural and economic violence that needs to be addressed to ensure that health systems are robust and equipped to stop reproducing and enacting structural violence onto the most marginalised, and to respond to survivors of interpersonal violence.
10. The mandate of the Special Rapporteur on the right to health has long warned that: “the global trend towards privatisation in health systems poses significant risks to the equitable availability and accessibility of health facilities, goods and services, especially for the poor and other vulnerable or marginalised groups. In many cases, privatisation has led to

¹² The IMF, Gender Equality and Expenditure Policy: The gendered costs of austerity: Assessing the IMF’s role in budget cuts which threaten women’s rights, Bretton Woods Project, September 2017; <https://www.brettonwoodsproject.org/wp-content/uploads/2017/09/The-IMF-Gender-Equality-and-Expenditure-Policy-CESR-and-BWP-Sept-2017.pdf>

¹³ Macassa G, McGrath C, Rashid M, Soares J. Structural Violence and Health-Related Outcomes in Europe: A Descriptive Systematic Review. *International Journal of Environmental Research and Public Health*. 2021; 18(13):6998. <https://doi.org/10.3390/ijerph18136998>, page 10.

¹⁴ See e.g. the Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context on financialization of housing and the right to adequate housing, A/HRC/34/51, 2017, <https://undocs.org/A/HRC/34/51>; Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, A/HRC/10/7, 2009, <https://undocs.org/A/HRC/10/7>; Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights: Responsibility for complicity of international financial institutions in human rights violations in the context of retrogressive economic reforms, A/74/178, 2019, <http://www.undocs.org/A/74/178>, para. 36; Statement by the Committee on Economic, Social and Cultural Rights: Public debt, austerity measures and the International Covenant on Economic, Social and Cultural Rights, E/C.12/2016/1, 2016, <https://undocs.org/en/E/C.12/2016/1>

¹⁵ Macassa G, McGrath C, Rashid M, Soares J. Structural Violence and Health-Related Outcomes in Europe: A Descriptive Systematic Review. *International Journal of Environmental Research and Public Health*. 2021; 18(13):6998. <https://doi.org/10.3390/ijerph18136998>, page 10.

¹⁶ Corporate Europe Observatory: “When the market becomes deadly: How pressures towards privatisation of health and long-term care put Europe on a poor footing for a pandemic.” January 2021. <https://corporateeurope.org/sites/default/files/2021-01/healthcare-privatisation-final.pdf>, page 23.

increased out-of-pocket payments for health goods and services, disproportionate investment in secondary and tertiary care sectors at the expense of primary health care, and increased disparity in the availability of health facilities, goods and services among rural, remote and urban areas.”¹⁷

11. This privatisation is fuelled and exacerbated by persistent deficits, unavailability of public funds in absolute terms and low prioritisation of health by governments in their public expenditure.¹⁸ None of these factors work alone; they feed into each other resulting in making health systems inaccessible for the people who most need them.¹⁹ The violent impacts of neoliberal approaches to health are translated in numbers: recent Oxfam research estimates that for 5.6 million people per year in poor countries, lack of access to health care leads to death.²⁰

Financialisation and its impact

12. A continuation of the neoliberal economic order and accumulation of wealth in the hands of a few and disenfranchising people is financialisation. The concept of financialisation has drastically altered the nature and relationship between individuals, households and markets. It has been described as “a shift in the way wealth is accumulated. Whereas in the past profits came mainly from the mass production and sale of goods, in our financialised era a large proportion of profits come from the buying and selling of financial securities and the interest payments they accrue.”²¹
13. The global economic crisis in 2008 due to the financialisation of housing has had devastating impacts on millions of people, As multiple Special Rapporteurs²² have highlighted in their reports, the financialisation of housing turned housing into a commodity for investment regulated by the market rather than a fundamental human right of every person and a state obligation. The result is the removal of the state from one of its primary functions: providing public services. The Special Rapporteur on Housing accurately describes the impact of the financialisation of housing on state obligations; “The financialisation of housing has dramatically altered the relationship of States to the housing sector and to those to whom they have human rights obligations. Rather than being held accountable to residents and their need for housing, States’ housing policies have often become

¹⁷ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on health financing in the context of right to health, 2012, available at <https://undocs.org/A/67/302>, para. 3.

¹⁸ For instance, in Egypt the Constitution-mandated minimum spending of 3% of the GDP on health had been unachieved for several years until 2020, when it was reached not by increasing spending on underfunded aspects, but by broadening the scope of what constitutes “health spending” in the national budget. See <https://eipr.org/en/publications/eipr-launches-study-%E2%80%9Cand-after-covid%E2%80%A6-plight-egyptian-physicians%E2%80%9D>, page 10.

¹⁹ SRI submission to the Office of the High Commissioner on Human Rights for its report on maternal mortality and morbidity (2020).

²⁰ Nabil Ahmed: “Inequality Kills: The unparalleled action needed to combat unprecedented inequality in the wake of COVID-19.” Oxfam International, January 2022. <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621341/bp-inequality-kills-170122-en.pdf;jsessionid=0357E79A4E1055BF74247BF3657969CE?sequence=9>, page 12 ; <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621341/tb-inequality-kills-methodology-note-170122-en.pdf>, page 15.

²¹ financialisation: a primer, Transnational Institute, <https://www.tni.org/en/publication/financialisation-a-primer>

²² A/HRC/10/7, Report of the Special Rapporteur on housing on housing, markets and financial crisis; <https://www.undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F10%2F7&Language=E&DeviceType=Desktop&LangRequested=False>, A/67/286, Report of the Special Rapporteur on housing on the impact of housing finance policies on the right to adequate housing of those living in poverty; <https://undocs.org/Home/Mobile?FinalSymbol=A%2F67%2F286&Language=E&DeviceType=Desktop&LangRequested=False>, A/HRC/34/51, Report of the Special Rapporteur on housing on financialisation of housing and the right to adequate housing, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F34%2F51&Language=E&DeviceType=Desktop&LangRequested=False>

accountable to financial institutions and seem to pander to the confidence of global credit markets and the preferences of wealthy private investors.”²³

14. Financialisation removes state intervention from social security nets, like pension schemes, welfare measures etc. It has also ostensibly made financial markets easily available to households, for instance by investing to access post-retirement benefits instead of social security benefits and nets. It requires individuals and households to have “financial literacy”, to be able to ascertain how to save and invest for the household and for the future, effectively absolving all the State of all its responsibility. Similar to the privatisation of health care, where the responsibility and the onus shifts on the individual. This has been specifically described as “the mounting reliance of households on financial markets is the consequence of a total or partial withdrawal of state support for social functions, such as pensions and other types of social security, subsidised housing, health, and education. It is about “the transfer of risk and responsibility from the collective to the individual.”²⁴

15. The transfer of responsibility and risk, depending on the circumstances, to the individual instead of the state has two important consequences; the state obligations shifts and/or are absolved, and secondly, the structural oppressions, which created inequalities continue to operate without any challenge. To put it simply, the rich get richer, the poor get poorer, the marginalised are more disenfranchised and the powerful gain more power. It also changes the relationship between the individual and the state, where holding states accountable is not only difficult but also inadequate. As illustrated in the earlier sections of this submission, states are also often held hostage by private firms, international financial institutions, transnational corporations, and investment firms, who do not adhere to human rights standards. The violations and abuses continue with impunity, and economic, social and cultural rights are deprioritised without accountability for the denial of these human rights.

Recommendations

- International financial institutions, their policies and practices must be subject to human rights scrutiny, and they must be held accountable for violating human rights standards including through reparations.
- Progressive taxation and wealth tax must be instituted everywhere as the first step and eliminate every kind of consumption tax.
- Public service, including the public health system, should be expanded and prioritised.
- Reparations for colonial and debt cancellation, and debt cancellation particularly by international financial institutions which have used debts to force neoliberal frameworks.
- Regulation of investment and financialisation in a manner where human rights and state obligations are not turned into commodities traded/gambled by investment bankers to become richer.
- TNCs and MNCs must be accountable to national and international human rights standards wherever they operate, and states should enforce the accountability measures with meaningful participation of all people and communities who are particularly impacted by the extractive industries.

²³ A/HRC/34/51, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context;

<https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F34%2F51&Language=E&DeviceType=Desktop&LangRequested=False>

²⁴ Financialisation: a primer, Transnational Institute, <https://www.tni.org/en/publication/financialisation-a-primer>

- Right to development should be embedded in all human rights frameworks and the human rights standards should be embedded in all right to development frameworks.