

PAPERS
(Overview and Discussion Guide)
For STUDY SESSIONS

STUDY Session 1

Illegitimate Debt: Perspectives and General Definitions

Overview Paper and Discussion Guide

il·le·git·i·mate: adjective 1. Not carried out, made or constituted in accordance with the Law, or with Rules governing a specific activity, or with Social Norms and Customs 2. Not in accordance with accepted standards 3. Departing from the regular; Irregular 4. Inappropriate 5. Not legal or fair 6. Outlawed, Unlawful, Illicit 7. Unauthorized, Unwarranted 8. Not genuine; Spurious 9. Improper 10. Unacceptable ***

***Culled from definitions of several dictionaries, leaving out references to illegitimate offspring

There have been many articles and discussions on illegitimate debt and odious debt and indeed we have come a long way on the issue. But this will be the first time that key debt campaigners from both the South and the North will be able to devote significant time for a focused, systematic and in-depth conversation with each other on the issue.

As debt campaigns from different countries, working under different political and economic conditions - we do not need to reach perfect consensus on very precise and detailed definitions of illegitimate debt. National campaigns may make tactical choices about points of emphasis and ways to bring forward cases and advance country campaigns.

However, as movements working together in a common global campaign, with joint initiatives in regional and international arenas addressing the general public, potential allies of the campaign, governments, as well as international institutions - it is important to work towards a more unified and coherent voice on the main lines of what constitutes illegitimate debt and key questions regarding the application and operationalization of the concept

The notion of illegitimate debt emanates from concrete experiences. Our work of defining and substantiating the concept of illegitimate debt are attempts to systematically describe, analyze and articulate these experiences.

The concept is not new. Debt campaigns and advocacy groups, from the South as well as from the North, have raised issues of illegitimacy since the 1980s, or even earlier, though in some cases other terms were used - onerous, fraudulent, odious, criminal, immoral, unjust debts....

There is a range of perspectives on the definition of illegitimate debt -- from the more radical definition and perspective of illegitimacy - that looks at debts not only in their specific and immediate circumstances, nature and consequences - but from a broader, historical and systemic analysis: to narrower and more easily empirically verifiable definitions of illegitimate debt. There is consensus

BOX A A SUMMARY of ISSUES AS to WHAT RENDERS DEBT ILLEGITIMATE

1. The harm caused to people, communities, and environment
2. The violation of human rights
3. The violation of Laws
4. The violation of basic notions and rules of fairness
5. The violation of public trust, and obligations of transparency and accountability, the principles of good governance
6. The violation of democratic principles; violation of the sovereignty of peoples and nations
7. The use of coercion, deception, misrepresentation, manipulation
8. The exploitation of others' vulnerability, impoverishment and misfortune
9. The violation of basic assumptions of Public Contracts, ie Debt Contracts
 - That parties have the mandate and authority to enter enter in contracts in behalf of the people
 - That parties have common obligation to be transparent and accountable to their citizens and that that the agreements must respect these obligation.
 - The agreement is for the benefit of the people in whose name they are contracting the agreement
 - The agreement, and the attendant terms and obligations should be fair and not grossly disadvantageous to one party
10. The violation of widely held ethical, social, political, legal, economic, environmental values, principles, standards and norms - any of which are articulated in international covenants & treaties that attest to the formal consensus & commitment among states to uphold them
11. The responsibility of both lenders and borrowers in the above

however, that illegitimacy is more than just legality. There is support and resonance to be found in present laws (national and international), but laws do not yet adequately cover and address all the issues being raised in the work on illegitimate debt. (see the discussion on Law and Illegitimate Debt in Study Session 3).

Boxes A and B contain an attempt at a bare synthesis and summary of the basic elements of the various definitions of Illegitimate debt that campaigns are using.

Box B. CONDITIONS OR BASES FOR ILLEGITIMACY MAY BE FOUND in the FOLLOWING

1. Circumstances surrounding the contraction of the debt (can be immediate, can also include broader, historical context)
2. The nature of the contracting parties – if they have the legitimate authority and mandate to contract loans in behalf of their people, if they are despotic, dictatorial regimes; this is where the issue of successor state becomes relevant, and the question of who determines the legitimacy of regimes and how these are determined
3. The relationship between the contracting parties and the relations of power which shapes the financial transactions and relationship
4. The terms and obligations of the contracts
5. The use of debts and access to credit as leverage to impose conditionalities; The impact and implications of conditionalities
6. How the funds were used and the impact of policies and projects financed by debts
7. The impacts and implications of huge debt servicing
8. The impact and implications of “dependence” on borrowing

Issues for discussion

1. Considerations that go into how various groups define Illegitimate Debt

Analytical and ethical starting point, and with the aim of movement-building for social transformation VERSUS Political viability as a starting point with the aim of building broad support and winning immediate political and tangible gains

These two poles are neither conflicting nor mutually exclusive. However, debates among debt campaigns on working definitions of illegitimate debt partly lies in the differences in the starting points and the goals they are emphasizing.

For many debt movements, the starting point is – What is our analysis of debt? What are our convictions about what is just and acceptable and what is not? And the very first goal would be empowering people with this critical analysis, relating the issue to their experiences and mobilizing them, enabling them to visualize and aim for more comprehensive social transformation. For others, the emphasis maybe – what is a definition that is consistent with our analysis and yet viable and convincing

enough to promote among a broad audience, especially among policy-makers? And foremost in their minds may be – how do we take advantage of opportunities to win political and/or tangible gains.

The choice is not one over the other approach, of choosing between comprehensive definitions of illegitimate debt versus more narrow definitions. We can promote a comprehensive definition especially in movement building, in public education etc, and understand also that within certain arenas, for particular purposes, where a consensus has to be established among different actors and constituencies, the consensus will not be as comprehensive as what we on our own promote. Such arenas will include even debt audits which, after all, are supposed to be broadly participatory and therefore arenas where we will encounter a variety of views.

Legitimacy is a political condition, is contestable, and must be contested. It is a matter of what is true and what is just, as much as it is a matter of whose version of the truth, whose concept of justice prevails. In order to de-legitimize debt, the policies and practices and the institutions that in our view are illegitimate but nevertheless prevail and are “accepted” -- it is important to start with our analysis and convictions and build strong grassroots movements that carry these analyses and convictions, as it is also important to build broad support for what may be narrower definitions (for now) of illegitimacy but nevertheless still constitute a rejection of what is being imposed.

In dealing with the following issues for discussion -- the proposal is for us to try to answer them in two ways - The first is what do we believe and want to promote as ideas; And second is, what would we be willing to agree or prefer to propose in broader arenas, in arenas where we engage and challenge policy-makers

2. Illegitimacy of Debt VERSUS Specific Illegitimate Debts

The differences in definitions are not only in terms of what makes specific debts illegitimate, there is a difference in terms of the subject itself - the Debt as a whole vs specific debts.

One view refers to the Illegitimacy of Debt - referring to the Debt as a whole, as well as the system that has spawned this Debt and the state of "indebtedness" or debt domination (note: debt as a whole is different from debt per se). The judgment and conclusion of the illegitimacy of the Debt is based on systemic, historical, structural, political economy analysis and perspective.

From this perspective - because all debts were/are contracted in a system that exploits the South and the poor, contracted based on unequal relations and using unjust power over the South, and because of impoverishment that is partly the consequence of a history of colonization etc - then all debts claimed from the South today (well, maybe just nearly all) are illegitimate.

This does not mean audits are not necessary, but audits are seen as exercises primarily to demonstrate this. This also does not mean the specific nature and circumstances surrounding each individual debt case are of no importance - but that the basis for the illegitimacy of specific debts goes beyond these.

Then there is the approach that refers to Illegitimate Debt as specific individual debts. Each individual debt has to be evaluated and shown to be illegitimate based on grounds that are empirically verifiable. Empirical evidence may be defined and measured in different ways, but would involve the question of indicators and evidence, and include the element of proximity and time - for instance the question of how far back in time can you go to establish causes and consequences and verify evidence.

3. Illegitimate to ask People of the South to Pay VERSUS Illegitimate For Lenders to Collect Payment

When we say a debt is illegitimate we are saying that the debt is NULL, no longer VALID, that it is not acceptable to treat it as a debt. But there are two not necessarily conflicting but very different meanings.

One is to say it is illegitimate to consider these as debts of the people of the South and it is unjust to ask the people of the South to pay for this debt.

The other is to say it is illegitimate and unjust for lenders to claim payment of these debts.

While some of the bases of illegitimacy are common for these two (ex - whether the debt caused harm to people) - there are also some bases that would be different, or be given different weights.

For the first -- the judgment of illegitimacy primarily rests on the impact and implications of the debt to people. For the second -- the judgment of illegitimacy primarily rests on the extent to which lenders are responsible.

For example for the first -- if a project that was financed by debt caused grievous harm to people or to communities, and in addition was riddled with corruption - what major relevance would "prior knowledge of lender" have to the question of whether it is just to ask the citizens of the borrowing country to continue paying the debt?

An example for the second -- in cases where it was clear that loans that were wasted primarily because of corrupt officials of the borrowing government, lenders can argue they were not primarily at fault and have the right to claim at least partial repayment.

How do we stand on the proposition that lender's prior knowledge or awareness of the harmful impact or questionable nature of debts is a requirement for deeming debts as illegitimate?

An important issue regarding these two approaches is the distinction between the people/citizens and the borrowing government. (Lenders do not make that distinction.) An interesting related question would be - while people should NOT pay for the sins of their governments and government officials- how do we make these governments and government officials "pay?"

4. Reviewing the Different Grounds for illegitimacy --

We also have our debates and differences on the difference grounds for Illegitimacy. The following count among these grounds, and these are the questions that have been raised. (Note though that we seem to all agree that these grounds are to be taken in combination - lack of proof in one does not mean the debt is therefore legitimate).

a. Illegitimacy based on Impacts of the Projects financed by the Loans

Some questions --

- What is the nature and extent of "harm" that is enough grounds for illegitimacy? (Social, Economic, Environmental, Political etc)
- Is it enough to demonstrate that projects "did not benefit" the people
- What if certain projects were not proven to have caused immediate and clear harm, may in fact have produced some benefit to the citizens and community? How should this be measured up against other grounds for illegitimacy?

b. Illegitimacy based on Impacts of Loan Conditionalities

This discussion of course begins with our debates on defining what "Conditionalities" are. For the moment, perhaps we can begin with this definition -- Conditionalities are impositions by lenders that are not intrinsic to the financial transaction; it also includes tying the loan to the purchase of specific goods from specific suppliers. Some would also consider eligibility requirements that force borrowing countries to implement certain policies and determine spending priorities (in fact heavily influence the whole fiscal and budget program) -are part of "conditionalities."

Some questions --

- Is the presence of conditionalities grounds for illegitimacy?
- Or does it have to be demonstrated that the conditionalities were/are harmful, unfair and grossly disadvantageous to the people of the borrowing country?

c. Illegitimacy based on the "unfair" and "grossly disadvantageous" terms of the loan

- One of the arguments that have been used to illustrate illegitimacy is the floating interest rates, and the impact of the sudden increase of the rates (ex in the 1980s) -- What level and nature of interest rates would be grounds for arguing illegitimacy?
- What other issues would come under this heading?

d. Illegitimacy based on the illegitimacy of the contracting party - ie Authoritarian/Dictatorial regimes

It is one of the assertions that loans extended to illegitimate regimes - ie regimens that do not have a democratic mandate, are dictatorial or authoritarian, or rule through force and tyranny - are illegitimate.

Questions -

- “Who judges or decides whether a regime is illegitimate or not?” is a question often posed.

One answer is that - it is only the citizens of that country that can decide on the legitimacy of their government and they express this judgment by the historic act of ousting or overthrowing the regime.

A controversial proposal that has come up is for the establishment of independent third parties to determine whether certain regimes are illegitimate or not, for purposes of determine whether loans extended to these regimes are legitimate or not, or whether loans should be extended to these regimes. Do external entities have a right to make judgments on the legitimacy or governments, judgments which serve as basis for international policy of governments? Is this not similar to the question of whether another government or inter-governmental institutions can call for the invasion of another country or instigate the overthrow of a regime on the grounds that they consider this regime to be illegitimate? What, in any case, is the need for an external body?

- Is the illegitimacy of a regime enough basis to declare loans to this regime also illegitimate, or should there be other grounds or criteria?

c. Successor Debts – debts used to pay off illegitimate debt

There is also the proposition that debts that have been used to pay illegitimate debts should also be considered illegitimate. This is very important for countries that are saddled with debts that were incurred specifically to pay of dictatorship debts.

d. Illegitimacy based on the impact of debt service -- “Debts which cannot be paid with impoverishing a country or causing harm to the people.”

For many South campaigns this is a very important part of the issue of illegitimate debt. Others argue that this belong to a different discourse, that of debt sustainability.

4. The difference between Illegitimate Debt and Odious Debt

The concepts of Odious Debt and of Illegitimate Debt are not one and the same. Illegitimate debt is a broader concept that includes Odious debt.

As the definition of Odious Debt involves questions of international law - the suggestion is that this be discussed in Study Session 3.

5. Others ?

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The discussions in Study Session 1 would naturally flow into more specific issues related to operationalizing the concept of Illegitimate Debt, the topic of Study Session 2. Thus, during the discussions in Session 1, points for further discussion in Session 2 should be noted.

STUDY SESSION 2

Issues and Challenges in Operationalizing the Concept of Illegitimate Debt (1)

Overview Paper and Discussion Guide

As we engage and challenge governments and international institutions not only to recognize the problem of illegitimate debt but to act on it (cancellation and/or repudiation) we are challenged to substantiate further our definitions and address specific operational and policy questions, including legal.

We also envision and are conducting debt audit processes as broad participatory processes, involving various groups, organizations, communities, and movements and prominent individuals. Thus, it is only logical that debt audits underscore the need to grapple with various perspectives on illegitimate debt and build a consensus around a definition of illegitimate debt that will be used in the debt audit processes.

Actual experiences in debt audit processes are already showing us that consensus is needed not only on a general definition of illegitimate debt, but how to translate, break down and operationalize this into more systematic and clear grounds or criteria for judging the illegitimacy of debts, corresponding indicators for these grounds/criteria, and what would constitute as admissible evidences. It is not only important for looking at specific cases but also in comparative evaluation of different loans and types of loans.

In confronting complexities of actual experiences and cases - there have also emerged questions regarding the need for more nuanced operational definitions - such as for instance the idea of varying degrees of illegitimacy (i.e. partly illegitimate, completely illegitimately)

This debate is useful and necessary not only for debt audit processes and for engaging governments and international financial institutions -- this is also important for our research work and coming up with rigorous case studies, for public education and gaining public support, for media work, for winning over allies, for broadening our constituency among members of the academic community and professionals.

The discussion for this session partly depends on the discussion in Session 1 and what mutual understanding and consensus has been reached on the issues. The greater the clarity of where each of us stand, and the more substantive the consensus reached on the basic points - the easier it will be to achieve mutual understanding and even consensus on operational issues.

ISSUES FOR DISCUSSION

1. Identifying corresponding Indicators and evidences of different grounds for illegitimacy

- In Session 1, we looked at some grounds for illegitimacy and discussed questions related to these. Let's look at these same grounds and discuss what could be corresponding indicators and evidences:
 - a. Illegitimacy based on Impacts of the Projects financed by the Loans
 - b. Illegitimacy based on Impacts of Loan Conditionalities
 - c. Illegitimacy based on the "unfair" and "grossly disadvantageous" terms of the loan
 - d. Illegitimacy based on the illegitimacy of the contracting party - ie Authoritarian/Dictatorial regimes
 - e. Successor Debts - debts used to pay off illegitimate debt
 - f. Illegitimacy based on the impact of debt service -- "Debts which cannot be paid with impoverishing a country or causing harm to the people.
- Would there be some differences in indicators and evidences between bilateral loans and multilateral loans? With commercial bank loans?
- Many of the grounds and indicators that we have been developing are more appropriate for program and project loans. Would there be other indicators and evidences for loans for general budget support?

- What would be the indicators and evidences that would be appropriate for BONDS?
- There's a debate on whether the legal and formal contractual issues are stronger arguments for illegitimacy than the social and environmental impacts analysis. What do we think about this?

2. The responsibility and accountability of lenders and borrowing governments

(In this discussion, we are distinguishing between governments and people. This is to address the concern of some that the responsibility of borrowing governments redounds to the responsibility of the people and the country as a whole).

There are related issues and concerns that have come up in discussions and debates. Some of them are the following --

a. Identifying indicators and evidence of lender responsibility and culpability for the illegitimacy of the debt

We all agree that the principle of lender responsibility is fundamental in the discourse of illegitimate debt. However, there may be need for clear indicators and evidence of lenders' responsibility and culpability for the illegitimacy of specific debts that is consistent with and substantiates the principle of lender co-responsibility. Especially in the face of claims from international financial institutions and northern governments that many of the issues we raise are the fault of the borrowing governments.

What would be these indicators and evidences in general? What would be specific to different grounds for illegitimacy such as above?

b. The idea of comparative or relative weights of responsibility and implications for policy and what happens to the loan

For many of the grounds for illegitimacy - responsibility and culpability are attributed to both lenders and borrowers. There is the idea that the weight of responsibilities is not always equal, is not always primarily on the lenders side, neither is it not always primarily on the borrower side. What do we think of this idea of comparative and relative weights of responsibility? If indeed it is valid and important to look at this - how can this be measured? What implications would there be for resulting policy on the loan? How can both be made accountable? Would there be differences in accountabilities and "penalties" given different weights of responsibilities? In all of these - how can we ensure that the people/citizens do not end up shouldering the burdens of these accountabilities and penalties?

3. An issue that is also relates to #1 and #2 (above) is the notion of varying degrees of illegitimacy,

There is this idea, primarily stemming from the experience of grappling with the realities of specific loans -- that illegitimacy is not black and white. For example -- there maybe loans which involve bad practices or negative outcomes but not enough to judge them as outrightly or completely illegitimate. Or loans that started out with anomalies, but these anomalies were addressed and corrected in mid process.

One approach is to develop a classification of loans that reflect these nuances. For examples -

- Loans accompanied with questionable practices or terms which need to be corrected and can be corrected - These can be sources of lessons for what not to do in the future and/or targets for rectification other corrective measures
- Loans that may only be partially illegitimate
- Loans that are outrightly illegitimate

These loans would then be addressed or treated in different ways - other than simply outright and/or complete cancellation, repudiation, reparations.

What do we think?

4. Other issues?

**STUDY SESSION 3 Issues and Challenges in
Operationalizing the Concept of Illegitimate Debt (2)
Using legal/juridical arenas
Presentation**

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Principles and theories of law

- usury
- the abuse of law
- Excessive onerousness arising from nonequivalent transactions
- Theory of risk
- The necessary equivalence of transactions
- Illicit enrichment
- Objective good faith
- The objective aim of the contract
- Gross harm
- equity
- The theory of unforeseeability
- Corresponsibility of creditors
- *favor debitoris (due favor>)*
- The inviolability of human rights

Differentiate three distinct situations, all of which are regulated by International Law:

- a) External Debt based on direct obligations among States;
- b) External Debt arising from direct obligations between States and international organisms;
- c) External Debt as an obligation between States and private creditors

Pacta sunt servanda and rebus sic stantibus

- The maxim "pacta sunt servanda" (pacts are made to be respected) is qualified by other considerations, such as:
- "rebus sic stantibus", according to which a fundamental change in circumstances can call into question the obligations of an agreement.
- A State which invokes "overwhelming circumstances" and "state of necessity" cannot be held responsible for the nonfulfillment of its obligations.
- The 1978 Vienna Convention de Viena, article 26

The principle of good faith

- UN Charter (Art. 2, par. 2), which demands that "States should fulfill in good faith the obligations they have assumed."
- General Assembly Resolution 2625 (XXV) - the Declaration Relative to the Principles of International Law in reference to the Relations of Friendship and Cooperation among States -, in conformity with the Charter of the UN situates the principle of good faith in a broader framework.

- The 1978 Vienna Convention of the Law of Treaty also relates the principle of good faith, in as much as its Article 26 establishes that “every treaty constitutes an obligation for its members and should be fulfilled by them in good faith.”
- The same criteria is applied to treaties between States and International Organizations, according to Article 26 of the 1986 Vienna Convention.
- Usury vs. Good faith

The principle of equity

- *ex aequo et bono* (Article 38 of the Statute of the International Court of Justice).
- The International Court of Justice in 1969, in the case of the North Sea Continental Platform, “Equity does not necessarily imply equality.”
- This is very important, because the concept of absolute equality can be incompatible with the principle of equity. True equity, true justice, implies treating differently diverse situations in order to correct real inequality.

Fundamental change of circumstances

- Article 62 of the Vienna Convention of the Right of Treaties as motive for considering as concluded or for withdrawing from a treaty when “that change has the effect of radically modifying the scope of obligations that are still be fulfilled in virtue of the treaty.”
- The Theory of Unforeseeability

Unwarranted enrichment

- General Principle of Law
- from domestic law to international law

General Principle of Solidarity and Cooperation

- Articles 55 and 56 of the Charter of the United Nations
- UN General Assembly Resolution 2625 that has qualified it as a fundamental principle.

Human Rights

- Article 103 of the UN Charter
- Often when referring to economic, social, and cultural rights, it is forgotten that these rights can only exist - not just as juridical formulations but as vital reality - when material conditions exist that make their fulfillment possible.
- Article 22 of the Universal Declaration of Human Rights.
- The Preamble of the International Convention on Economic, Social, and Cultural Rights

- Preamble of the American Convention on Human Rights / San Jose Pact
 - "The ideal of a free human being, free from fear and from misery, cannot become a reality unless conditions are created that permit each person to enjoy his (or her) economic, social, and cultural rights , as well as civil and political rights.
- UN General Assembly Resolution 1514 (XV) "Declaration on the granting of independence to colonized countries and peoples", of December 14, 1960, that solemnly proclaims the need put an end rapidly and unconditionally to colonialism in all its forms and manifestations.

The Right to Development

- Process that began toward the end of the 1960s. A series of UN General Assembly Resolutions began to develop in juridical terms the Right to Development.
- Resolution 34/46 of November 23, 1979
- Resolution 36/133 of December 14, 1981
- The Declaration on the Right to Development adopted by the General Assembly in 1986.

Jus Cogens

- The existence of norms that are valid for the entire international community and that preexist the celebration of any agreement or treaty (prohibition of wars of aggression, prohibition of torture...)
- Article 53 of the Vienna Convention on Treaties
 - Nullity of acts that are contrary to jus cogens
 - Loan contracts with regimes that violate jus cogens are null and without value

The Intntl. Court of Justice

- The possibility of requesting a consultative opinion from the International Court of Justice

Unilateral Acts of State

- A Unilateral Act is “a manifestation of the unequivocal will of the State, formulated with the intention of producing juridical effects in its relations with one or several States or with one or several International Organizations and that is made known to that State or International Organization.”
- The UN Commission on International Law has recognized “unilateral juridical acts formulated by States that have an effect at the international level.”
- The Case of “Western Greenland” before the International Court of Justice.

Odious Debt

- Alexander Sack, 1927 “If a despotic power contracts a debt not in accordance with the needs and interests of the State but rather to strengthen its despotic regime, to repress the population which is struggling to overthrow it, that debt is odious for the entire population of that State. That debt is not an obligation of the nation: it is a debt of the regime, a personal debt of the power that contracted it; and in consequence, it falls with the fall of said power.”

The Right and Obligation to undertake audits

- The Right and obligation to participate in the public affairs of the State (Art. 21 Universal Declaration on Human Rights and Art. 25a of the Intntl. Convention of Civil and Political Rights)
- Right to Informtaion (Art. 19 Intntl. Convention of Civil and Political Rights)

National Law

- Constitutio
- Domestic regulations
- Treaties and conventions that have been ratified.

- Gracias
- Merci
- Thank you

STUDY Session 4

Avoiding Illegitimate Debt and Transforming the International and National Financial Architecture: Towards Principled / Responsible / Alternative Financing

Overview Paper and Discussion Guide

Starting the Debate: Towards Rules for Responsible Lending or A Focus on Alternative Financing?

In raising the issue of illegitimate debt, debt campaigns have encountered the challenge not only of defining what is illegitimate debt but also defining what are legitimate debts or legitimate loans.

This has generated some debate as to whether we should be talking about what would constitute legitimate debt (hence “Responsible Lending and Borrowing” or “Responsible Financing”) or we should instead talk about “Alternative Financing” that would render borrowing unnecessary. Others see this as a non-debate, that both discourses are crucial and not necessarily conflicting.

The campaign on illegitimate debt should address not only outstanding illegitimate debt, but also the creation of new illegitimate debt. This is a foundational point that should be discussed in this session.

Responsible Lending and Borrowing: An Increasingly Critical Issue on Civil Society’s Agenda

A number of countries, especially in Africa, have had a big portion of their debts cancelled. A big challenge is formulating a platform or set of demands and alternatives that address the immediate situation that their governments continue to borrow. There is a strong emerging body of work coming from civil society, especially in but not limited to post-HIPC countries, urging greater responsibility in borrowing. Many of the initiatives are focused on encouraging increased involvement of parliamentarians in the loan contraction process. On the lender side of the equation, Eurodad has proposed a new Charter for Responsible Lending which urges strong constraints on lenders to assure lending does not undermine human rights nor lead to the re-accumulation of illegitimate debts.

Debt Audits are also envisioned as processes that will not just look at the specific debts and come up with recommendations what to do with the debts (i.e. repudiation) but as processes that will also examine the structures, procedures, policies that have led to accumulation of illegitimate debt and/or have rendered the debt illegitimate. Thus, debt audits are also expected to come up with recommendations for structural and policy changes that will not only look at alternative sources of financing but also changes in how lending, borrowing and debt servicing is done - which can be broadly categorized as or overlap with the discourse on principled/responsible financing

Responsible Financing: On the Official Agenda

There is a growing official discourse on the issue of “responsible lending/financing” in a whole range of intergovernmental fora - from the UN Financing For Development Process to the World Bank to the OECD to the G-8 and the G-20. These conversations have intensified since 2005 and much of the debate centers on the much more limited notion of how developing countries can avoid the re-accumulation of unsustainable and irresponsible debt all over again. This debate has also been fuelled by the increased lending activities of “new lenders” such as China in Africa.

Debt movements have a very different perspective of the issue from the policymakers. For instance, governments and international financial institutions want to approach “responsible financing” only in terms of future practices and of the *quantity* of new loans. Many debt groups would argue that the “responsible financing” agenda goes hand-in-hand with a close examination of the debts of the past (i.e. you have to learn the lessons of the past to move forwards).

Moreover, debt campaigners argue, responsible lending is also about the *quality* of new loans being extended and taken-on.

Governments, especially lender governments, and international financial institutions should not be allowed to define, dominate and own this discourse. There are huge opportunities to raise these issues in international processes. In order to engage effectively, debt campaigns need to come together to share views, explore and define common grounds and strategize how we want to collectively approach the issues of principled, responsible, and alternative financing.

Building An Alternative: The Bank of the South and More

The Bank of the South initiative is another arena and source of challenge for debt campaigns and movements to address the question of more “principled” or “responsible” ways, terms and purposes of lending and borrowing. There are frameworks and ideas that have emerged from movements and civil society organizations from Latin America and other places in the context of engaging governments involved in the establishment of the South Bank.