

Mandates 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, the Special Rapporteur on the right to food, the Independent Expert on the enjoyment of all human rights by older persons, the Special Rapporteur on the rights of persons with disabilities, the Special Rapporteur on the human rights to safe drinking water and sanitation, the Working Group on the issue of discrimination against women in law and in practice, and the Chair of the Committee on Economic, Social and Cultural Rights

21 December 2017

Dear Ms. Lagarde,
Dear Executive Directors,

We have the honour to address you in our capacities as 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, the Special Rapporteur on the right to food, the Independent Expert on the enjoyment of all human rights by older persons, the Special Rapporteur on the rights of persons with disabilities, the Special Rapporteur on the human rights to safe drinking water and sanitation, and the Working Group on the issue of discrimination against women in law and in practice, pursuant to Human Rights Council resolutions 34/3, 34/9, 33/5, 35/6, 33/10 and 32/4. We are also joined by the Chair of the Committee on Economic, Social and Cultural Rights of the United Nations. We are writing this open letter to you to express our concerns on the International Monetary Fund's (IMF) approach to social protection, which is currently under discussion within the Fund.

We welcome the IMF's decision to undertake an independent evaluation on the Fund's approach to social protection during the last decade and the publication of the IMF's Independent Evaluation Office report entitled "[The IMF and Social Protection](#)" in July 2017. The evaluation report contains a number of recommendations that could result in improving the IMF's policy advice or financial support to States. However, we are concerned that the evaluation lacked a more thorough examination of whether policy advice or lending conditionalities of the Fund were adequate to protect effectively the right to social security of individuals and groups in situations of vulnerability. This is in our view an important gap, given that the IMF is about to clarify further its future engagement in the field of social protection. Obviously we would like to see that future

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work undertaken by the Fund strengthens social protection systems and the right to social security in Members States, and not undermines them.

Specifically, we are concerned about the general approach of the IMF to social security reforms that has sometimes put fiscal objectives above the objective of ensuring respect for the right to social security as a human right as set out in international human rights law. Several governments with IMF programmes or under IMF advice (Article IV consultations) pursued fiscal consolidation measures that have cut social expenditures to such a degree that national legislation and human rights standards as contained in internationally agreed conventions and recommendations of the International Labour Organization (ILO)¹ were side-lined. Such consolidation measures have led, in many cases, to dramatic decreases in social protection coverage and in the adequacy of benefits and services. It is not surprising that in a number of programme countries poverty and economic inequality has dramatically increased.

As independent human rights experts we have voiced concerns about the harsh effects of austerity on vulnerable groups, such as children, older persons and persons with disabilities, often violating human rights.² We are concerned about continued gaps and cuts in social protection and the disproportionate impact on women and adolescent girls due to the high risk of unplanned pregnancy and its harmful consequences including on the availability of reproductive health services, specifically access to contraception and maternal health services.³ In similar vein the Independent Expert on the enjoyment of all human rights by older persons has encouraged the review of austerity measures and fiscal consolidation programmes, especially those which may negatively impact the economic and financial autonomy of older persons by increasing risk of poverty, exclusion and insecurity in old age.⁴ It is our shared view that social protection should be strengthened, through both contributory and non-contributory schemes, by increasing resources, improving availability of and access to services, and by removing any obstacles to receiving benefits to ensure universal coverage. Regrettably there has been not much reflection of this work in the report of the Independent Evaluation Office.

According to international human rights law, all States have to guarantee the right of everyone to social security in the event of unemployment, sickness, invalidity, widowhood, old age, or other lack of livelihood in circumstances beyond her or his control.⁵ The right to social security includes both contributory and non-contributory

¹ See ILO, *Building social protection systems: International standards and human rights instruments* (Geneva: International Labour Office, 2017), for a comprehensive overview on binding international norms related to social protection.

² Report of the Independent Expert on the question of human rights and extreme poverty, [A/HRC/17/34](#) in conjunction with the report of the Independent Expert on the enjoyment of all human rights by older persons, [A/HRC/33/44](#) on social protection for older persons, cf. para. 51-57; Report of the Special Rapporteur on extreme poverty and human rights, [A/HRC/29/31](#); Reports of the Independent Expert on foreign debt human rights [A/HRC/31/60/Add.2](#), [A/HRC/34/57/Add.1](#); Report of the Special Rapporteur on the rights of persons with disabilities, [A/70/297](#); Report by the Special Rapporteur on the human rights to water and sanitation, [A/HRC/36/45/Add.1](#). The UN Committee on Economic, Social and Cultural Rights has also specifically addressed these issues in its Statement on Public debt, austerity measures and the International Covenant on Economic, Social and Cultural Rights, [E/C.12/2016/1](#).

³ See report on discrimination of women in the economic and social life by the Working Group on the elimination of discrimination of women, [A/HRC/26/39](#).

⁴ Report of the Independent Expert on the enjoyment of all human rights by older persons, [A/HRC/30/43](#) on autonomy and care with regard to social protection of older persons, paras. 53-56. The UN Committee on Economic, Social and Cultural Rights has expressed similar concerns in relation to children and young people, persons with disabilities, women, older persons and individuals subject to discrimination.

⁵ See Articles 22 and 25 of the [Universal Declaration of Human Rights](#), General Assembly Resolution 217 A (III), 1948.

benefits, in cash and in kind benefits, and requires that benefits should be adequate in amount and duration and accessible to all without discrimination. For example, non-contributory old-age benefits or other assistance should be provided for those without resources on reaching old age, with special attention to be given to older persons working in the informal sectors, older women, older widows, and those living in rural and remote areas.⁶

The right to social security has been reaffirmed in international treaty and customary law by the ratification of numerous human rights treaties by Member States.⁷ Thus, all States need to respect, protect, and fulfil this right.⁸ Conversely international organizations, including international financial institutions, need to ensure that their operations, recommendations, policy advice and lending conditionalities to its Members, respect the right to social security. At a minimum they should refrain from undermining the obligation of their Member States to respect, protect and fulfil the right to social security, to which every individual is entitled.

In this context we would like to recall that the Committee on Economic, Social and Cultural Rights monitoring the International Covenant on Economic, Social and Cultural Rights has maintained already in 2008 in its [General Comment on the right to social security](#) that “States parties [to the International Covenant on Economic, Social and Cultural Rights] should ensure that their actions as members of international organizations take due account of the right to social security. Accordingly, States parties that are members of international financial institutions, notably the International Monetary Fund, the World Bank, and regional development banks, should take steps to ensure that the right to social security is taken into account in their lending policies, credit agreements and other international measures. States parties should ensure that the policies and practices of international and regional financial institutions, in particular those concerning their role in structural adjustment and in the design and implementation of social security systems, promote and do not interfere with the right to social security.”⁹

We believe that the Fund could play a crucial role in assisting States in strengthening their social protection systems in collaboration with other international organizations such as the ILO and other UN agencies that have worked on these issues for a long time. We therefore urge the International Monetary Fund and its Board of Directors to use the evaluation of the IMF’s work as an opportunity to ensure that its future policies and staff guidance on social protection provide more comprehensive

⁶ See the report of the Independent Expert on the enjoyment of all human rights by older persons, [A/HRC/30/43](#) on autonomy and care with regard to social protection of older persons, para. 102 *et seqq.*

⁷ The right to social security is also contained in article 9 of the [International Covenant on Economic, Social and Cultural Rights](#) (166 State parties). Article 26 of the [Convention on the Rights of the Child](#) recognizes that every child has the right to benefit from social security, including social insurance (196 State parties), article 28 of the [Convention of the Rights of Persons with Disabilities](#), recognizes the right to social security including equal access to clean water services, to social protection and poverty reduction programmes, access to assistance for disability related expenditures, public housing programmes and retirement benefits and programmes for persons with disabilities (175 State parties); article 5 (e) iv of the [International Convention on the Elimination of All Forms of Racial Discrimination](#) requires all State parties to prohibit and eliminate racial discrimination in all its forms in respect to this right (179 State parties) and Article 11 of the [Convention on the Elimination of all Forms of Discrimination Against Women](#) requires States to take all appropriate measures to eliminate discrimination of women in relation to this right (189 State parties).

⁸ See Committee on Economic, Social and Cultural Rights, General Comment No. 19 on the right to social security, [E/C.12/GC/19](#).

⁹ *Ibid.*, para 58.

orientation on how the Fund, when implementing its mandate, could ensure respect for the right to social security.

We furthermore call upon the International Monetary Funds to align its approach to social protection with the Sustainable Development Goal 1.3 in which States agreed to implement nationally appropriate social protection systems and measures for all, including floors, and to achieve by 2030 a substantial coverage of the poor and the most vulnerable. We would welcome if the IMF would endorse the goal of universal social protection in line with ILO's [Social Protection Floors Recommendation 2012 \(No. 202\)](#), which has already become a shared vision of the World Bank, the ILO and UN agencies through the Global Partnership on Universal Social Protection¹⁰.

We would also like to note that several national courts have reviewed the constitutional validity of fiscal consolidation measures related to social protection, and ruled against them. In 2013, the Portuguese Constitutional Court ruled that four fiscal consolidation measures in the budget, mainly affecting civil servants and pensioners, were unlawful and in breach of the country's constitution; pensioners had to be returned their cut pensions. In Latvia, the 2010 budget proposed new spending cuts and tax increases, including a 10 per cent cut in pensions and a 70 per cent decrease for working pensioners; the Latvian Constitutional Court also ruled that the pension cuts were unconstitutional on the grounds that they violated the right to social security, and cuts had to be reversed. In Romania, 15 per cent pension cuts proposed in May 2010 were also declared unconstitutional.

We are concerned that in several countries, IMF programmes and advice, driven by fiscal objectives, have requested the abandoning of their path towards universal social protection by narrowly targeting social protection to the extreme poor, leaving others inadequately covered. Occasionally social protection benefits have also been reduced below minimum levels required for a life in dignity in contradiction to international human rights standards and norms.¹¹ Often universal child, old age or disability benefits, or universal food subsidies, have been dismantled, or benefits have targeted a smaller group, for example the ultra-poor, leaving other population groups in need without adequate coverage. Mechanisms used for targeting, such as "proxy means tests" have often left a large proportion of the eligible population without benefits. In addition, many Governments, in particular in developing countries, lack administrative capacity to properly identify and deliver benefits to those who are theoretically eligible for support.

IMF recommendations and policies have regrettably led at times to impermissible retrogression of social, economic and cultural rights, increased poverty, inequality and social instability. Particularly in many developing countries, the majority of the population has very low income and are in need of support. We request the IMF to avoid giving advice that continues to drive governments away from their legal obligation to respect, protect and fulfil the right to social security or their commitment to develop universal social protection and to achieve the Sustainable Development Goals, including

¹⁰ Universal social protection should entail inclusiveness, and take into account the particular circumstances of all persons, including those with disabilities. See also the report of the Secretary-General on Social Protection floors and economic and social rights, [A/HRC/28/35](#); and the Statement of the Committee on Economic, Social and Cultural Rights on Social protection floors: an essential element of the right to social security and of the sustainable development goals, [E/C.12/2015/1](#).

¹¹ See General Comment on the right to social security on core obligations in respect to the right of social security, [E/C.12/GC/19](#), paras 59-61.

their targets related to social protection, universal health coverage, social inclusion and reducing inequalities.¹²

Further, the IMF has advised governments to cut employers' social security contributions (the so-called "labour taxes") in recent reports.¹³ We urge you to reconsider this approach: cutting employer's contributions may risk destroying social security systems, be incompatible with international labour standards and national social security laws, and undermine the right to social security of older persons and future generations.

We call upon you to:

- (i) Include in IMF policy documents and in staff guidance that efforts to improve the financial sustainability of social protection systems should pay due regard to the right to social security, as set out in international, and regional human rights law or in the respective national legislation. This should include providing IMF staff with more guidance how they can protect and avoid interfering in an impermissible way with the right to social security when providing technical support to Member States;
- (ii) Undertake human rights impact assessments before, during and after recommending social protection reform and fiscal consolidation measures affecting the right to social security and other rights;
- (iii) Monitor the impacts of macroeconomic policies on gender equality, particularly the impacts of austerity measures, and take action to ensure the right to social security is enjoyed equally by women and men through gender-responsive social protection, provision of essential services, including care services, and measures to ensure women's rights to work and rights at work;
- (iv) Focus on the extension of social protection to all, supporting countries to achieve universal coverage with adequate benefits, according to the right to social security embodied in international human rights treaties, ILO Conventions and Recommendations;
- (v) Enhance the collaboration with human rights experts, UN agencies and the International Labour Organization, the lead agency of the United Nations which has the core mandate to work on social security and social protection; and
- (vi) Ensure meaningful participation, consultation and open social dialogue with all representative stakeholders in countries in which programmes of the Fund are implemented. This should include trade unions, employer organizations, civil society organizations of persons with disabilities, older persons, minorities, children and women or other relevant groups that may in the country specific context be at risk of vulnerability or marginalization.

¹² See SDG targets 1.3, 1.4, 2.6, 5.4, 10.1-4.

¹³ IMF, *World Economic Outlook*, April (Washington DC: International Monetary Fund, 2016), chapter 3; IMF Policy Paper: Fiscal Policy and Long-Term Growth (Washington DC: International Monetary Fund, 2015).

As independent human rights experts we would like to reiterate our willingness to engage with the Fund in a dialogue on this issue in our relevant fields of expertise. For example, the development of Guiding Principles for assessing the human rights impact of economic reform programmes under the auspices of the Independent Expert of foreign debt and human rights may be an opportunity to continue engaging in a constructive dialogue on the issue of social protection with the Fund. We are confident that there may be other opportunities for exchange and collaboration. As independent human rights experts of the United Nations it is our task to speak out. However, this should not prevent us from working together towards a world in which nobody is left behind.

Yours sincerely,

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