



UNITED NATIONS
HUMAN RIGHTS
SPECIAL PROCEDURES

SPECIAL RAPPORTEURS, INDEPENDENT EXPERTS & WORKING GROUPS

Taking stock and identifying priority areas: a vision for the future work of the mandate holder

Independent Expert on debt, other international financial obligations and human rights*

Attiya Waris

[A/HRC/49/47](#)

**IFF
DEBT**





BRIEF HISTORY OF THE MANDATE AND HIGHLIGHTS

1997-2000

The Commission on Human Rights, the precursor to the Human Rights Council, established the mandate for the Independent Expert on structural adjustment policies in 1997.

The current name of “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” has been used since 2008.

2008

2004

Since 2004, there have been **25 country visits** (including all regions of the world and covering a wide array of issues and contexts).

2010

Since January 2010, the mandate has also sent over **90 communications** (as letters of allegation, urgent appeals or others letters with other mandates, under the special procedures communication procedure).

2012

Since 2012, at least **16 resolutions** on the effects of foreign debt and the mandate of the Independent Expert have been adopted at the Human Rights Council. The most recent resolution is 46/08.

2 MILESTONES INSTRUMENTS:



- Guiding Principles for assessing the human rights impact of economic reform policies (2019)
- Guiding Principles on foreign debt and human rights (2011)

INTERLINKAGES BETWEEN HUMAN RIGHTS AND INTERNATIONAL FINANCIAL OBLIGATIONS



“ HUMAN RIGHTS REQUIRE RESOURCES ”

In order for human rights to be effectively respected, protected and promoted, resources are needed. Fiscal resources are essential for investment in housing, health, social security, food, education and other economic and social rights.

States often have limited mechanisms in place for the assessment of international financial obligations, including in relation to legislation or policies regarding illicit financial flows and foreign debt.

Global, regional, national and subnational institutions, including fiscal institutions and human rights bodies, need to be provided with reliable evidence and data concerning resource constraints and competing needs.

Participatory approaches to budgetary and fiscal decision-making processes need to be strengthened and expanded to ensure that all stakeholders, including marginalized groups, are taken into account.

All levels of Government – executive, legislative and judiciary – should consider putting mechanisms of fiscal legitimacy in place and working in partnership with all stakeholders to improve legislation and policies and ensure fiscal legitimacy.

In order for human rights to be effectively respected, protected and promoted, resources are needed.

While the international dimension is key, solutions can at times be found in domestic legislation and policy; this is the case in relation to fiscal systems where sovereignty remains the underlying principle.

There is growing awareness that foreign debt and austerity measures have crippled domestic expenditures on health and education and that social protection is extremely weak and needs to be strengthened.



SIX THEMATIC AND SUBSTANTIVE PRIORITIES

While continuing to build on previous work, the Independent Expert will pay special attention to financing for development process, illicit financial flows, and ongoing discussions on financing for the SDGs.

In line with the report of the Secretary-General “Our Common Agenda”, the Independent Expert will work on ensuring that the global economy works for all, including in areas such as ensuring sustainable financing, enhancing measures to address weaknesses in the international debt architecture and the need for reforms.

1

FISCAL LEGITIMACY AND HUMAN RIGHTS

In the Independent Expert’s view, fiscal legitimacy should be recognized in terms not only of law, economics, politics and social context but also in terms of the racial, ethnic, historical, economic, political, ideological and belief systems in which institutions exist.

Fiscal legitimacy, as seen through a human rights-based approach, rests on the relationship between the State and society; the social contract.

The Independent Expert will not assess the global economy as a single whole that can be broken apart and analysed. The global economy is a combination of multiple economies working sometimes in parallel and at other times in conflict with each other. These key economies feed into the global economy of foreign debt and international financial obligations and impact human rights.



2

ENGAGING THE EVOLVING NATURE AND ROLE OF THE STATE

The Independent Expert considers that it is important to emphasize the ultimate responsibility of States to ensure compliance with their international human rights obligations so that there is no “contracting-out”.

An effective implementation requires that all members of a society, as well as all levels and branches of Government, be cognizant of and fully committed to implementing the State’s obligations.

The respect and implementation of human rights often relies on local governments, community organizations and private actors acting in partnership, thus affirming such implementation as a joint responsibility and commitment.



3

CRISES, NATURAL EMERGENCIES AND FINANCIAL OBLIGATIONS

Profiteering during and after crises is widespread, and can lead to a deepening of **poverty** and **inequality** in countries where populations are already experiencing unstable economic conditions.

The Independent Expert intends to address foreign debt and other financial obligations as part of the COVID-19 recovery process, while also playing closer attention to other crisis-related situations.



- Specific reference to emergency funds in national budgets will be also addressed.
- Other measures that have emerged in the wake of the COVID-19 pandemic, including solidarity funds and taxes; debt for climate swaps; and other ways of addressing global and national concerns.

“

BILLIONAIRES SAW THEIR WEALTH INCREASE BY \$5.5 TRILLION DURING THE PANDEMIC.¹

”



4

THE ENVIRONMENT, ILLICIT FINANCIAL FLOWS, DEBT AND FINANCIAL TRANSACTIONS

As the **climate crisis deepens**, the financing required to achieve climate targets will push countries deeper into a fiscal crisis. The potential negative consequences for human rights are manifold.

As a result, individuals and groups could be:

- left without access to food and livelihoods
- be displaced
- lack access to water
- suffer hunger
- experience extreme poverty



The burden of foreign **debt** in low and middle-income countries was already high pre-COVID-19. It has increased. Often, countries use new loans to service existing debts and this, in turn, leads to large fiscal deficits.

Instead, the Independent Expert suggests that borrowing countries should use foreign debt in productive sectors and in essential infrastructure that both improve the productivity of the economy and also protect the environment

Illicit financial flows cause negative impacts on the economy. They lessen the availability of public resources for infrastructure and social policy, such as measures for poverty alleviation and environmental protections.

“

ILLICIT FINANCIAL FLOWS REMOVED \$10 FOR EVERY DOLLAR SPENT ON OVERALL DEVELOPMENT ASSISTANCE, AND \$80 FOR EVERY DOLLAR SPENT ON BASIC SOCIAL SERVICES.²

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5

TRANSPARENCY OF FINANCIAL AND TAX INFORMATION AND DIGITAL SYSTEMS



The Independent Expert will focus on participation, transparency and accountability as key principles of her analysis, including in relation to tax information, remittances, cryptocurrencies and in digital finance services.

Greater transparency is a commonly agreed public good for guiding financial transactions. Yet too often, public access to public finance contracts is minimal and bilateral agreements remain inaccessible.

Participation, accountability and transparency are also critical to enhance the effective use of information and public resources for investment in human rights. Financial and technical mechanisms are also necessary to enhance timely access to information in order to hold decision makers to account and to provide effective guidance to States and other stakeholders.

6

THE GLOBAL FISCAL SYSTEM AND ITS IMPLICATIONS FOR HUMAN RIGHTS

The Independent Expert will explore and analyze options to develop positions on international taxes, to create a new intergovernmental fiscal body and to adopt a **global minimum corporate tax rates** with a positive impact on the realization of human rights.

The Independent Expert will explore alternatives for an international tax body, and for a body to address fiscal issues more broadly, including foreign debt, illicit financial flows and taxation.



* 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

1. C. Collins, “Global billionaires see \$5.5 trillion pandemic wealth surge”, 2021, Institute for Policy Studies, available at <https://ips-dc.org/global-billionaires-see-5-5-trillion-pandemic-wealth-surge/>.

2. “Illicit financial flows”, available at <https://globaljustice.yale.edu/illicit-financial-flows>.

ABOUT THE INDEPENDENT EXPERT



Ms. Attiya Waris took office the 1st August 2021 as Independent Expert on debt, other international financial obligations and human rights.

She is the only Professor of Fiscal Law and Policy in Eastern and Central Africa. She is the first female Director of Research and Enterprise at the University of Nairobi. She holds a PhD in Law and is a specialist in Fiscal Law, Policy and Development.

She is an advocate, company secretary and arbitrator of over 20 years standing and was the founding Chair, Fiscal Studies Committee from 2017-2020. She spearheaded the first agreement on sharing of data between a University and a revenue agency globally in 2016. She is an Observer to the UN Tax Committee.

She teaches at the Law School, University of Nairobi, Kenya and has previously taught in South Africa, Rwanda, Malaysia and the United Kingdom. She has researched and published on global, African, Asian, European as well as Latin American issues. Her book 'Tax and Development' (2013) is the first publication globally that links the areas of tax and human rights and her more recent publication 'Financing Africa' is the first publication globally to map out African fiscal systems.

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