e-ISSN 2690-3458 ISSN 2690-3431

JOURNAL
OF
ACADEMICS STAND AGAINST POVERTY

Volume 3, Issue 1, 2023: pages 61-77

Research Paper

Debts, Human Rights, and the Poor: From London 1953 to Present Human Rights Violations

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Abstract: The London Debt Agreement's 70th anniversary provides an occasion to compare present "debt management" with the extremely generous debt reduction Germany received in 1953. After triggering two World Wars, Germany's creditors, among them developing countries, allowed a German national to tell them how much Germany should pay — an absolutely unique feature in the history of sovereign debts. Arbitration for any arising disagreement and a limit on payments were stipulated while massive social expenditures were allowed. Naturally, Germany's role in the Cold War explains this unique agreement. This example contrasts most sharply with so-called "Structural Adjustment" programs forced on debtor countries since 1982, in which social expenditures have been cut and debt service payments have been maximized, violating debtor protection, human rights, and the Rule of Law as creditors have acted as judges in their own cause. Economies and especially the poor have suffered horribly. Creditors alone have decided. Only NGO pressure has introduced trace elements of debtor protection, all arbitrarily decided by creditors. Meanwhile, the Bretton Woods Institutions (BWIs) have played an especially wicked role as debt administrators. After describing the London agreement and Indonesia's similarly politically motivated debt relief around 1970, this paper will analyze the glaring differences in debtor treatments. Germany, an adamant hardliner, was especially vile on Spain and Greece, two benefactors who had forgiven German debts in 1953. After itself benefitting from relief, still not having fulfilled all stipulated obligations, Germany turned arguably into the staunchest opponent against treating other sovereign debtors (including countries that had generously forgiven German debts) in a decent, Rule-of-Law and human rights-based manner. This is difficult to understand – unless German governments after 1945 still believe that different rules should apply to Germans than to everyone else.

Keywords:

1. Cold War
2. Debt Reduction
3. Germany
4. Human Rights
5. Structural Adjustment

2023 Journal ASAP

DOI: 10.5281/zenodo.10582024

Received 27 January 2023
Revised 10 December 2023
Accepted 15 December 2023
Available online 20 December 2023

1. Introduction

This year marks the 70th anniversary of the London Debt Agreement (LDA), the most generous debt relief ever extended to any debtor country, granted to Germany after WWII despite its horrendous war crimes and crimes against humanity. Among those literally forgiving German debts were developing countries. Greece, for example, a victim of outrageous German war crimes, was in this category then. She had been very generous, receiving German "gratitude" during the Greek debt crisis. After accepting huge relief from Greece in 1953, and stipulating payments of some debts later, Germany, no longer at the mercy of its creditors, did not pay Greece as stipulated in the LDA. Germany was merciless to its benefactor. Effects on the poor and devastation created in Greece were of no concern. As a country pressed down by the EU (Germany playing a leading role) and the International Monetary Fund (IMF), German and other EU firms capitalized by "buying" Greek assets at cheap prices.

Faith-based groups often quoted Matthew 18:23-35, probably because the then German government was headed by an alliance of two nominally Christian parties. Jesus, not a party member, though arguably a Christian, had a totally different view on the servant who, after his own debts had been generously forgiven by the king, then immediately had his own debtor thrown into prison. Too powerful again, Germany cannot suffer the just treatment Jesus suggested.

German conduct is actually worse than the behavior described in the gospel. In Matthew's gospel, the poor debtor thrown into jail was not a former creditor having generously forgiven his tormentor's debts. Sinking to German levels means sinking well below what Jesus condemned. It is no real consolation that this contempt for human rights and human dignity was inflicted on an EU member, Greece, rather than on Southern debtor countries, thus displaying equal (mis)treatment of debtors in the North and the South.

This paper demonstrates the deteriorating treatment of the poor during debt crises. Germany has always been the most adamant, implacable, and toughest hard liner after receiving unusual and undue clemency, while itself not paying as stipulated. Starting from the LDA, this paper also analyzes the generous debt relief offered to Indonesia. Germany lobbied against it, ironically, on the high moral principle that all debts must be paid, an "honest" view given the relief Germany itself had received just before and its refusal to pay as stipulated once it could get away with it. Finally, this paper will discuss how present debt management is killing millions of poor people every day. Here, a crucial difference between Germany and other sovereign debtors should be borne in mind: none of them had triggered two World Wars or massacred millions of civilians. Britain received no comparable relief, apparently failing to qualify by German criteria.

2. London 1953: Increasing Social Expenditure and Safeguarding Human Rights

Germany's generous debt relief allowed a new start, triggering the German economic miracle (*Wirtschaftswunder*). Southern Countries (SCs) — Ceylon (now Sri Lanka), Pakistan, Iran, the Republic of South Africa, as well as Yugoslavia, Greece, and Spain (classified as "developing countries" in those days) — generously forgave German debts. Spain also experienced German "gratitude" during the Euro crisis.

For Germany, maturities were stretched, interest payments were reduced (1/3 for arrears, 1/4 for current payments), the amount to be paid was limited (cf. Raffer 2010, p. 4-5). Hermann J. Abs (1983) stressed the idea that it was especially important for creditors to choose between getting interest *or* principal repayments. Mathematically, they are equivalent; the choice is merely a question of accounting and budgetary law. Getting both was excluded during the first five years. Repayment was so generously stretched that it was not yet wholly affected after Abs published his article in 1983, right at the time of the big debt crises when Germany lobbied on "high moral" grounds against any treatment of SCs even faintly similar to the one it had received, any treatment that would have saved lives (especially children's).

Comparing Germany's debt indicators when it got relief with those considered "generous" under the Highly Indebted Poor Countries Initiatives I and II (HIPC I and II) shows an inexplicable difference. Germany's Debt Service Ratio (DSR, actual total debt service/exports of goods and services) before reduction was below 4%, the ratio of debt stock to exports below 100% (85% in 1952) versus 200-250% and 150% to qualify for HIPC I and HIPC II, respectively (Raffer 2010, p. 4). Even this was considered unsustainable for Germany. No doubt Germany's reparations after WWI, which the country had to pay against Keynes's advice, were an important reason why Germany's debt burden (negligible compared with Southern debtor countries nowadays) was considered to be unbearable and stifling to Germany's economy. Comparing Britain with Germany, Eichengreen & Ritschl (2009, p. 213) documented that Britain's debt/GDP ratio was always well above 100 between 1953 and 1960 (152.3 in 1953), whereas Germany's sank from 21.6 to 17.4 over this same period, a feat which would not have been possible without the LDA. If anything, Britain needed debt relief more urgently, but did not get it.

Germany's debt indicators (measured as percentages of export earnings) had improved steeply after 1949. Scheduled Debt Service Ratios fell from 3.06% (1953) to 1.84% (1956), only once exceeding 2% slightly after 1956 (1958: 2.07%) when amortization started after a five-year grace period. Creditors accepted a German trade surplus, agreeing that, generally, debt service cannot exceed this surplus. As Keynes had remarked after WWI, only a real transfer is possible, meaning there must be exports of real goods and services, not just payments of printed German currency. This is clear logic politicians could apparently not understand, thus paving the way for Hitler and WWII. Now, Germany was only expected to pay if it had such surpluses.

Germany's economy boomed so dynamically that it outdid its schedule. Still, it always paid less than 5% of export earnings and never more than 60% of its trade surplus. Therefore, the German Jubilee campaign (*Erlaßjahr 2000*) demanded a debt service limit of 5% for SCs in the 1990s.

Germany did not need a "certificate" by the Bretton Woods Institutions (BWIs: the IMF and the International Bank for Reconstruction and Development, IBRD which pleases itself by calling itself the World Bank, although it is totally controlled by the North, especially the US), was not forced to adopt "Structural Adjustment" programs, and instead could pursue the very opposite, successful economic policies characterized by the term "social market economy" (*Soziale Marktwirtschaft*), which triggered the "Economic Miracle."

Independent arbitration was stipulated for disagreements with its creditors. Hypocritically, when arbitration was first proposed for SC debts (Raffer 1989, 1990), Germany was among the staunchest opponents.

Neither the IMF nor the IBRD estimated Germany's capacity to pay. A German national(!), Hermann J. Abs, was asked to tell creditors how much they should cancel. This was not only unthinkable before WWII, when arbitration on sovereign debts was *the* usual solution, but even more so after 1982. Germany itself had "systematically defaulted on most of its foreign loans since the early years of the Nazi-era" and "had not made any payments prior to 1953 for over two decades" (Galofré-Vilà et al 2019, p. 7). Briefly, a "model debtor" whose morality had to be rewarded by generous relief. No present sovereign debtor has ever disregarded over two decades of payments, another difference to Germany, apparently justifying harsher treatment of others.

Not all German debts were included in the LDA. Pursuant to Article 5, LDA claims by countries at war with Germany or whose territory and citizens had been occupied, the costs of occupation, and resources plundered during German occupation (German term for this robbery: *Verrechnungskonten*) were deferred and only to be addressed following the "final settlement of the problem of reparations "(Agreement 1953, Art. 5.2). This explains why Greece's demand that Germany finally pay its debts from WWII for the atrocities committed against Greeks was legally valid but powerless against new German political clout and even ridiculed in Germany. Again, Germany had simply ignored contractually stipulated obligations as one Chancellor, Hitler, had done after WWI.

After Germany had completely denied the existence of the LDA, NGOs found the official "non-existent" document when *Erlaßjahr* proved it existed. At first, the Chancellery claimed to have no records for a text easily accessible in, for example, Switzerland or the UK (Abkommen 1953, Agreement 1953). Both LDA signatories would surely have helped with a copy of the document Germany purported not to exist.

Kampffmeyer (1987), the first to draw attention to the German example of a *de facto* insolvency, proposed the application of this generous German solution to SCs. Germany's opposition to this solution can only be explained if people in other debtor countries are not considered equal to Germans by German governments. Unlike public creditors, commercial bankers soon suggested sovereign insolvency (e.g., Suratgar, 1984; Herrhausen, 1989).

The most important, unique, and astonishing point not sufficiently stressed by campaigners is that creditors allowed Germany to finance large social expenditures. Not even Iceland, which successfully resisted IMF austerity, enjoyed comparable leeway (Bohoslavsky, 2017) relative to Germany who had just bitterly fought most of its creditors in a World War and committed war crimes against their peoples. Interestingly, this point has never been sufficiently highlighted by debt campaigners.

Abs, the German national who determined how much Germany could pay, immediately stressed to creditors that "an additional burden on the state budget could be expected through additional social spending" (quoted from Galofré-Vilà et al 2019, p. 9). This logically implies increasing debt relief to create necessary fiscal space for said spending. Money that could have repaid creditors remained exempt to allow financing social expenditures instead, quite in line with civilized insolvency laws or the Raffer (1989, 1990, 2016) Proposal for sovereign debtors, and contrary to the lemon squeezer approach after 1982 still enforced on debtor nations. Germany has turned into one of the fiercest opponents of treating others as it had been treated itself and of respecting human rights and the Rule of Law.

Galofré-Vilà et al. (2019, p. 1) highlight that the LDA created "fiscal space for investment and social expenditures." There was a "substantial and statistically significant increase in real per capita social expenditures relative to other spending categories." "The LDA mostly prioritized spending on social welfare because other spending was rather limited or blocked" (*ibid*.), such as military expenditure. In 1953, the *Economist* noted "an improved system of social welfare," and that "a whole series of increases in social welfare payments has been added to the already very heavy German burden" (quoted from Galofré-Vilà et al. 2019, p. 9). "Hence, during the 1950s, the most important category of expenditure was social welfare (26.9 percent). This was followed by investment in defense, law and order (15.4 percent), education (8.9 percent), housing (8.6 percent), economic development (6.5 percent), and health (4.75 percent)" (*ibid*.). Hence, social spending rapidly increased after the LDA (*ibid*., p. 9) According to Vonyó (2018, p. 209), "social housing was not only one of the most activist instruments of public policy in post-war Germany […] it also created legacies that persist even today."

The importance of increased social spending (which present debtors are forced to slash to increase debt service) as a main, if not *the,* engine of growth must be emphasized. Vonyó (2018, p. 175) concludes that "social policy rather than economic policy made the most critical contribution to the West German growth miracle."

Large government surpluses accumulated and were soon used "to expand social security, and the government's account was run down" (Eichengreen & Ritschl, 2009, p. 214). According to the authors, "what really seems to have mattered for Germany's fiscal system was the absence of large interest burdens on the public budget." Thus, tax rates could be kept low.

Finally, generous Marshall aid provided food and financed Germany's reconstruction, a support SC debtors have never enjoyed.

Despite its 70th anniversary, the LDA is not yet history. Germany has still not paid part of its debts. According to Article 5.2:

> Consideration of claims arising out of the second World War by countries which were at war with or were occupied by Germany during that war, and by nationals of such countries, against the Reich and agencies of the Reich, including costs of German occupation, credits acquired during occupation on clearing accounts and claims against the Reichskreditkassen shall be deferred until the final settlement of the problem of reparation. (Agreement 1953)

Once again, Germany simply refused to honor its contractual obligations while simultaneously and staunchly advocating on high moral grounds that all debts must be paid. Apparently, obligations are to be honored differently, depending on whether the country is from the West or the East (Hockerts et al., 2006).

German Subterfuge to Avoid Stipulated Payments

Greece is quite a special case. When the Eurocrisis broke, Greece referred to still unpaid German debts pursuant to the LDA. That carried no weight with Germany, now at least as powerful as in 1939 if not more so. Obviously German debts, and in particular claims based on SS massacres and mass rapes, were not to be paid. Fleischer & Konstantinakou (2006) give a detailed description of German behavior aimed at avoiding paying to Greece as stipulated in the LDA. The Federal Republic repeatedly exerted pressure to free war criminals, speaking of "alleged" war crimes. Was the very idea of Nazis committing crimes unimaginable to Germany's post-1945 governments?

Germany had repeatedly invoked the *Rechtswohltat* (legal benefit) of 5.2 LDA (cf., e.g., *ibid*. pp. 385, 447), changing its argument after decades of stalling that all "that" was so long past that it was by German interpretation no longer valid, conveniently forgetting that Germany itself (no doubt again on highest moral grounds) had deliberately enforced this delay referring to the LDA's *Rechtswohltat*. The LDA and its obligations are still valid, but like Hitler, the *Bundesrepublik de facto* declared them unilaterally null and void. Since no final settlement of the problem of reparations had been reached due to German obstruction, these claims can still not be enforced. The legal benefit of Art. 5.2 continues to be valid, but so are German obligations. Obviously, Germany will never pay. Thus, costs of German occupation, money extorted from Greece called "credits," which the Nazis recognized as loans, but the *Bundesrepublik* chose to deny, will never be repaid.

After receiving very generous debt relief from Greece and Spain, the *Bundesrepublik*'s acted to devastate these countries during the Eurocrisis.

For the sake of brevity, only one spectacular case will be described in detail. Even though many more massacres and rapes in Greece occurred, Villa Vigoni encompasses Germany's attitude in a nutshell. Successful lawsuits in Greek and Italian courts claiming reparations for an SS massacre and mass raping at Distomo allowed the seizure of German property. This was warded off by the International Court of Justice (ICJ) at German insistence since the building to be seized was property of the German State and thus immune.

> Germany requested the Court to declare that Italy had breached Germany's jurisdictional immunity by declaring enforceable in Italy decisions of Greek civil courts rendered against Germany on the basis of acts similar to those which had given rise to the claims brought before Italian courts. Germany referred in particular to the judgment rendered against it in respect of the massacre committed by German armed forces during their withdrawal in 1944, in the Greek village of Distomo in the *Distomo* case (ICJ, no year).

Germany admitted in its Memorial (2009, p. 23) to the ICJ that "more than 200 civilians, among them mostly women, children and elderly men, were mercilessly massacred. The village was burned to the ground. There can be no doubt that this was an abominable war crime." It did not mention mass rapes, nor use the term crimes against humanity here. Germany went on to say that the "European Court [of Human Rights] stated that it did 'not find it established […] that there is yet acceptance in international law of the proposition that States are not entitled to immunity in respect of civil claims for damages brought against them in another State for crimes against humanity'" (*ibid*., p. 25). Briefly, this "human rights" court also dismissed the case, clearly showing what the European Convention on Human Rights is actually worth.

"The Court further observed that, assuming that the rules of the law of armed conflict which prohibited murder, deportation, and slave labor were rules of *jus cogens*, there was no conflict between those rules and the rules on State immunity." (ICJ, no year) Thus, *jus cogens* may formally prohibit massacres or mass rapes, but it is not really *cogens.* State immunity trumps crimes against humanity, allowing perpetrators to go scot-free.

One notes that Germany admitted the massacre, an outrageous war crime against humanity, and even referred to similar crimes committed in Italy as though that were an excuse. The Greek court's ruling was not contested, only immunity ws pleaded. Formal immunity, the ICJ ruled, is more important than addressing Nazi crimes against humanity. Tough luck for the survivors of an SS massacre Germany openly admitted. Germany did not consider paying anything to the survivors and their families during the Greek crisis either, doubtlessly on high moral grounds. SS atrocities or forced loans (to describe German plundering politely) seem not to create normal debts that must be paid. Economically and legally extorting money is not normal, though normal practice during a certain period. Apparently, killing, raping, and torturing many people is not necessarily a reason for reparation if perpetrated by Germans.

The last news available shows that victims tried to seize accounts of the *Deutsche Bahn* (German Railways) in Italy (Dernbach, 2020). The *Deutsche Bahn* is undoubtedly not a sovereign entity. So far, Germany still seems to be able to fend off payments. Logically, there is only one conclusion: the present *Bundesrepublik defends*, though it hopefully stops short of approving, Nazi atrocities, refusing compensation to victims hiding behind state immunity if necessary.

While this author cannot confirm how the Villa was used when the ICJ ruled, it now offers seminars and meetings, quite clearly not sovereign activities, unless getting certificates for learning German at a low level were *acta jure imperii,* sovereign actions protected by foreign sovereign immunity. The author cannot confirm whether this was so already when the ICJ ruled, quite clearly making a powerful member happy, whether the ICJ checked or not. As of June 2023, Villa Vigoni offers *inter alia* a summer seminar for €350, hardly an offer *iure imperii*[1]. It was founded in 1986 by Germany and Italy, apparently, as far as one can judge from its own homepage for similar activities.

Greek victims are not the only example of Germany steadfastly refusing to pay fair reparations. After 1904, German troops committed the brutal genocide of the Herrero and Nama, not only murdering these indigenous populations but also incarcerating them in concentration camps, resembling a test run for a later, larger genocide. Naturally, Germany has refused to pay for decades, first at all, then fully. Under pressure it is now making gestures, but has still not taken full, especially pecuniary responsibility, surely again on high moral grounds.

3. Debt Relief for Indonesia

Abs was also the mastermind behind Indonesia's debt reduction around 1970, which resembled Germany's. He insisted again that the burden must not be too large. He was not formally an arbitrator, but it was clear that both parties would implement his decision. While Indonesia held mostly public debts, the composition also covered private claims. Abs insisted on strictly equal treatment of all (including private) creditors as "indispensable for any settlement of debts" (Abs, 1969, p. 9; Raffer, 2010, p. 5). Since Indonesia had substantial debts to Communist governments, this demand was politically important. Interestingly, Germany, now a creditor, already strongly opposed Indonesia's debt reduction on well-known high moral grounds.

As the fiercest advocate of full repayment, Germany was not alone in the Paris Club when Indonesia's relief was discussed. A group of so-called "Abs-countries" (Kampffmeyer, 1987, p. 58) supported his proposal against a group of opponents. The rift was so serious that "the future of the Paris Club was in doubt" (*ibid*.). Interestingly, the BWIs supported Abs (*ibid*., p. 61)

As in Germany's case, US political interests carried the day. The US wanted to stabilize the new government after Sukarno, a leader of the non-aligned movement, considered a mortal sin by the US. The fact that Suharto had thousands of real or alleged communists plus some others massacred (estimates go from 500,000 to 1.2 million, some even higher) qualified this defender of the "Free World" and human rights for proper debt relief. The odds were against anti-Abs countries, Germany had the problem that it could not argue against relief openly since Abs was the very architect of Germany's own generous debt relief. What remained, though, was a very pronounced desire of the Paris Club not to produce a precedent for further crises.

Abs had to find reasons why Indonesia was no precedent, a singular case inapplicable to other debtors. These "special characteristics," which it must have cost Abs quite some effort to compose, are (Abs, 1969):

- All old debts were contracted by a previous government.
- Indonesia's debts consisted predominantly of credits with little or no economic usefulness; practically the whole debt service had to be financed from the central budget.
- High inflation could only be brought under control by energetic policy and exceptionally generous help from outside.
- The country was unable to repay its debts in the future.

Indonesia's creditors, especially the Paris Club, obviously recognized these as valid reasons for debt reduction. Logic suggests applying these criteria to any similar cases without creating legal precedents if necessary. When Ghana demanded "Indonesian type" relief a bit later,

[1] https://www.villavigoni.eu/vigoni-sommerseminar-2023/?lang=de

creditors were reluctant to grant comparable terms, explaining this by their desire to avoid precedents. Eventually**,** Ghana was granted very “generous" terms undisclosed until today (Raffer, 2010, p.5).

4. Debtor Protection Denied and Creditor-Caused Damages

In contrast to the LDA, debtor protection was immediately denied to SCs in crisis. Creditors have knowingly caused damages to SCs. To be succinct, this paper will restrict itself to summarizing the most important points (for details, see Raffer, 2010, pp. 19-37, Raffer & Singer, 2001, pp. 158-197, and literature quoted there). To exempt money for social expenditures was just laughed at as idiotic and utopian, especially by German officials, when first proposed (Raffer, 1989, 1990). After all, those people were not German.

At first, Southern debt problems were ignored, then considered unimportant. Germany held that these SCs would “grow out of debts,” an opinion backed by routinely and wrongly overoptimistic forecasts from the BWIs under Northern control. What Germany had been considered unable to pay could be easily paid by much poorer countries.

Even the amount of debts of large debtors was unknown at first and remained so for some time. It is quite unusual for banks to not know how much they are owed. Checking loan-by-loan, Costa Rica managed to save almost 10% of interest in arrears: nearly $24 million (Bogdanowicz-Bindert, 1985, p. 145). Unfortunately, such checks were not routinely made nor requested by the BWIs or the Paris Club, thus aiding and abetting doubtful practices. SC debtors were forced to service “socialized” debts, initially private debts lent without any government involvement that governments were later forced to adopt as their own, increasing debt burdens illegally.

Until September 1995, the BWIs officially denied that multilateral debts were a problem. If they had actually financed viable projects and programs, these would have been self-liquidating, thus no problem. Unfortunately, multilateral claims were not earning their own debt service. Breaking the taboo of the multilateral debt overhang, which is of special relevance to the poorest countries, is a great merit of IBRD President Wolfensohn. Hence, HIPC I was realized. The IMF had opposed Wolfensohn’s idea with fervor, a fact not fully reflected by the present official assertion that HIPC was a “joint” BWI initiative.

The HIPC-Initiative relied heavily on non-IFI (International Financial Institutions, which means the private sector and some non-Paris Club members, such as China) creditors. Paris Club members would commit up to 80% reduction of eligible debt in present-value terms. Contrary to the LDA, “eligible” does not mean that paying non-eligible debts would be postponed. They were just not reduced. Other non-multilateral creditors were expected to provide relief on “at least comparable terms” (Boote & Thugge, 1997, p. 14), even though they had had no say in determining reductions, and the Paris Club has no legal right to demand this. But legality or human rights have never been of even the slightest importance to public creditors after 1982. Only if all other reductions should prove insufficient at the completion point were IFIs to reduce their claims in a way that preserves their wrongly (colleagues more critical than this author might even say fraudulently) claimed “preferred creditor status” (cf. Raffer, 2009).

Overoptimistic BWI forecasts “justified” smaller reductions, thus smaller (if at all) losses for IFIs, unfairly allowing IFIs to reduce their own claims relative to other creditors, outrightly contradicting Abs’ demands or Raffer’s (1989, 1990, 2016) Proposal. Creditors determining debt relief is unheard of in any Rule-of-Law compliant system.

As insufficient relief triggered new crises, IFIs thus secured their existence and profits. Simply by declaring higher debt sustainability, IFI losses diminished and generated new business by prolonging crises. The BWIs, determine how much they might like to lose. As they lose less, the poor lose more. Details on overoptimism are presented elsewhere (Raffer, 2010, p. 204-211). For decades, overly optimistic forecasts (even repeatedly recognized by the IMF as too optimistic) have inflicted serious damages on debtor countries, especially on the poorest. Crises were not solved but rather dragged on by public creditors. Further, there is no consideration to compensate victims; on the contrary, IFIs cash in on their wrongdoings.

Suffice to quote just one publication by the IMF and the International Development Association (IDA), which found

> past experience suggesting a systematic tendency toward excessive optimism. Indeed, while the specifics differed across countries, a common theme behind the historical rise in low-income countries' debt ratios was that borrowing decisions were predicated on growth projections that never materialized.

Thus

> An analysis of projections made by Fund staff over the period 1990-2001 suggests a bias toward over-optimism of about 1 percentage point a year in forecasts of low-income country real GDP growth. The bias in projecting GDP growth in U.S. dollar terms, however, was considerably larger, at almost 5 percentage points a year (IMF & IDA, 2004, p. 13).

In the Commonwealth of Independent States "overoptimism by multilaterals contributed to the high debt levels" (Helbling et al., 2004, p. 1). Furthermore, the IMF (2003, p. 30) itself stated that "overoptimism appears to be a feature of most large IMF-supported programs." One wonders why a clearly recognized and admitted error has not been corrected over decades. Obviously, one's Northern master's voice was obeyed, banning any fair and permanent solution, let alone emulating terms of the LDA.

Similar tactics would have shown in 1953 that Germany needed no relief and would be perfectly economically viable in 1954 without it. This would have been as realistic and accurate as BWI forecasts have been after 1982.

The BWIs have actively contributed to the suffering of the poor by knowingly producing wrong estimates for decades, supporting politically wanted fake facts that no or lower debt reductions, thus no protection of the poor, were necessary. Recovery has always allegedly been just around the corner, and the good life for the poor just about to come true. Of course, this has never been so. In fact, loans were granted even while knowing they would cause catastrophe (cf. e.g., IMF, IEO 2004, pp. 54-55, Raffer, 2010, pp.199-200).

As debt stock has traditionally been measured in present value terms, discounted values crucially depend on discount rates. Overoptimism in forecasting growth or export income "reduces" debt reduction "necessary" to reach "sustainability." Higher discount rates serve the same purpose. "Calculating" debt burdens, the BWIs have combined both ways of "reducing" necessary debt reductions. UNCTAD (2004, p. 54) revealed that: "as Uganda's reassessment under the enhanced HIPC Initiative showed, high discount rates combined with overly optimistic export projections can make a country's debt appear sustainable, even though it is not."

After HIPC II (Cologne) and Topping-Up, (another debt reduction initiative) the G7/8 initiated the Multilateral Debt Relief Initiative (MDRI). All these initiatives were the result of massive NGO pressure, which would not have been needed if either a fair solution had been allowed by public creditors or debt relief comparable to Germany's or Indonesia's had been granted early on, treating people equally irrespective of race, nationality, or color. Needless to say, none of these initiatives solved the debt problem; they were probably not supposed to. Arbitrary creditor determination of "eligible" debts prevailed, bailing out creditor countries and IFIs.

5. NGO Pressure Finally Introducing Minimal Debtor Protection

Although it was a step forward, HIPC I still did not consider protecting human rights or the poor. As a mere anecdotal point: this author strolled along the Rhine with a high-ranking member of a highly regarded G7 institution during the Cologne Summit. Answering the author's question on whether it was right that such different standards were applied to people according to where they lived, he answered clearly: yes. Obviously, this is how Northern decision makers have been thinking which explains Northern debt policies perfectly. This has barely, if not all, changed. Race matters, even though the Euro crisis proved that white skin does not guarantee you protection either.

At Cologne, the G7 wanted to discontinue HIPC I. Only strongest NGO pressure, supported by more than 17 million signatures collected worldwide (Jubilee 2000 and its master mind Ann Pettifor deserve special mention), forced the G7 to agree on HIPC II. Unlike in 1953, enormous pressure was necessary.

Under pressure, an official anti-poverty focus eventually introduced at least the idea of debtor protection, more honored in the breach than the observance. Although HIPC I had already paid some lip service to anti-poverty measures, this was an important innovation. Arguably, HIPC II was even more disappointing than HIPC I. In 2000, the NGO community spoke of the "betrayal of Cologne: twelve months of failure" (Raffer & Singer, 2001, p. 190). Reductions quickly proved too small. Even HIPC III was considered necessary, being realized under another name.

Again, to avoid debt reductions necessary to protect human rights and the poor, overoptimistic projections "justified" Highly Insufficient Payment Cuts (HIPC), prolonging the problem and increasing the number of people suffering and dying because of debts. Pure creditor arbitrariness in deciding which countries would receive HIPC treatment is another sad point (Raffer & Singer, 2001, p. 191-192). Nigeria, a Severely Indebted Low-Income Country was initially classified as a HIPC but removed from the list in 1998. As her debts were substantial, she was taken off the list , as was Indonesia. With debt/exports ratio and DSR in 1998 well above the Cologne thresholds, Indonesia qualified for HIPC. But as the amount of debts was substantial ($150.8 billion) treating Indonesia according to objective criteria would have been costly. Official creditors simply chose not to follow their own criteria.

6. The Pernicious Evolution of the BWIs: From Helpers to Human Rights Violators

It is a sad fact that official creditors only moved towards protecting human rights under extremely strong public pressure. The BWIs were initially created to help; the IMF to finance short run financial problems unconditionally and the IBRD to provide cheap financing for the reconstruction of Europe and international development (added due to SC pressure). No BWI was of any importance to the LDA, and neither to Indonesia's settlement. Now, they have turned debt administrators.

After the demise of the Bretton Woods system, economic reason would have suggested dissolving the IMF. Looking for new reasons to exist, the Fund started adjustment programs in SCs, first with no or very lenient conditionality. Acquiring "customers" to "justify" its existence was fundamental. Once the foreseeable debt crisis struck, the IMF became powerful. The crisis provided a new “justification” for its existence as a debt manager, which was not what it had been founded for.

Founded mainly to finance projects, the IBRD also shifted to so-called “program lending.” Stern (1983, p. 104), the mastermind behind the IBRD's program lending, saw a “unique opportunity to achieve a comprehensive and timely approach to policy reform.” For Stern, “Structural Adjustment” was the response to a “feasible [...] call for increased sacrifices” (*ibid*., p. 91) by the population. In Germany’s case, calls for increased sacrifice had obviously been deemed infeasible in 1953. After a brief turf war between the BWIs, both started to administer SCs in a brutal, neocolonial way. The BWIs forced debtor countries to adopt policies that, rather than solving debt problems, made them worse.

Early econometric attempts to prove success were short-lived. Empirical evidence remained, at best, inconclusive. There was no statistically significant difference between “adjusters” and “non-adjusters.” Statistical methods, such as country groupings, were repeatedly attacked as purpose serving, meaning that groups had been regrouped only according to the purpose of “showing” success (Raffer, 2010, p. 118-120). One of the extremely few statistically significant results came from Khan (1990), a high-ranking IMF econometrician. In the *IMF Staff Papers,* he found a predicted reduction in growth rates of at least 0.7% of GDP each year countries had an IMF program. Even the World Bank (1990) acknowledged that “Structural Adjustment” lending had achieved some success regarding the improvement of the balance of payments (largely due to import compression, critics rightly pointed out) but did not encourage investments nor enable debtors to grow out of debts. This approach has not yet been fundamentally changed. The General Agreement on Tariffs and Trade (GATT, 1980, p. 25) was more outspoken: “virtually the entire burden of adjustment” had been put on SCs. “What is worse, adjustment has involved mostly import contraction rather than export expansion”, which threatens to result in a “vicious circle of reduced imports and reduced export potential.” It (*ibid*., p. 95) observed import cuts “large enough to affect the future productive capacity of these countries.” No “adjusting” debtor recovered sustainably, unorthodox debtors did. Even according to the IMF, gross capital formation declined by one third between 1979 and 1985 (Raffer, 2010, pp. 119-120).

Economically, this is good for IFIs: crises generate fees and income, but only if any financial responsibility for one’s failures is totally abolished. Supported by the North, which usually cannot stop preaching good governance and the Rule of Law, the IFIs, especially the BWIs, have established an economically perverted system allowing them to profiteer on their own failures and overoptimistic projections.

Changing, even violating, one’s own statutes became necessary. Before the Second Amendment, the IMF’s statutes "contained a provision suggesting that others would have preference on the Fund" (Martha, 1990, p. 825). While this provision has been done away with, there is still no legal preference of IMF claims, as the IMF knows and seldom officially acknowledges. Nevertheless, this does not keep it from knowingly and wrongly claiming its preference at the highest costs to the globe’s poorest. The Paris Club, mostly eager to support policies against the poor and their human rights, supports this claim. Private creditors accepted it early during debt crises, when IFI claims were quite low, practically as “commissions” for forcing austerity on debtors, allowing them to receive more benefits than observance of human rights, the Rule of Law, or negotiations on an equal footing would have produced. The first few attempts to do it themselves very quickly convinced banks that such “commissions” were money well invested. It appears that banks therefore agreed to let IFIs have de facto preference. If one looks at present IFI exposures, such as the IMF’s in Argentina, where the Fund is a main creditor, this arrangement has also turned against the private sector. While quite convenient to private banks initially, high IMF exposures are threatening their possibilities of receiving higher repayments. Pacts with the BWIs, as those with the devil, are finally in his favor.

The IBRD (1982) has the statutory obligation to help members in distress yet has openly refused to obey its own constitution. Article IV.4.c of its Statutes confers a right onto members suffering "from an acute exchange stringency" (threatening default) to ask for relief:

> If a member suffers from an acute exchange stringency, so that the service of any loan contracted by that member or guaranteed by it or by one of its agencies cannot be provided in the stipulated manner, the member concerned may apply to the Bank for a relaxation of the conditions of payment. […] (ii): The Bank may modify the terms of amortization or extend the life of the loan, or both.

Stipulating no conditions but the member's urgent need for help, Article IV.4.c specifically demands taking both the Bank's and such member's interests into account. No conditions are stipulated except the member's urgent need for help. The Bank has never done so, even though obeying its statutes would have defused quite a few catastrophes. For whatever reason, no member seems to have ever dared invoke its statutory right. Profiting on emergency lending, and not accountable to act according to the Rule of Law or good governance, BWIs violate their own constitutions in favor of larger profits. Referring to default (for which the Bank has to build up reserves), Art.IV.7 urges the IBRD to provide relief as necessary. Not specifically mentioning default, the IDA's Articles of Agreement are similar, though somewhat more vague (Raffer, 2009). Either way, both institutions have violated their statutes; a few more people avoidably dying of hunger are of no concern to them.

The IMF has no explicit duty to reduce claims. Like other IFIs it has charged the costs of establishing loan loss provision to clients. IFIs charge insurance payments against default, refusing to use them when default occurs.

Rodrik's (1996) opinion on the "Asian Crisis" caused by adhering to BWI-advice to change successful policies in favor of catastrophic ones also seems to explain "Structural Adjustment." Debt crises were opportunities seized by orthodox economists for a "wholesale reform of prevailing policies." Rodrik (1996, p. 17) interprets this as the chance "to wipe the slate clean and mount a frontal attack on the entire range of policies in use." Taking advantage of this, official creditors, especially the BWIs, have been able to establish a neocolonial system. To do so, anything even faintly resembling the LDA must remain banned. Germany's government might see racial differences justifying such different treatment. Thinking that citizens of debtor states might judge how much their countries should pay is totally "ridiculous" nowadays that Germany is a creditor.

7. The IMF's New Method of Profiteering on the Poor

The really important coup against the poor happened in 1997. The IMF introduced so-called surcharges. Usurious profiteering started. Surcharges are additional interest payments the IMF imposes on countries with large outstanding debts, a trick that paid off. "These [surcharges] could reach as much as US $7.9 billion over" (Munevar, 2021) the period 2021-2028, when over 60% of IMF income from these members would be the result of surcharges. Economically understandable, "the Executive Board decided to lower the threshold for level-based surcharges from 300 percent of quota to 187.5 percent" (IMF, 2016). In plain English: even more profiteering from the poorest by surcharging drawings not subject to surcharges before. One may expect further lowering of thresholds.

Conveniently “forgetting” facts, the IMF’s argument (if one did not shy away from calling blatant untruths arguments) is that these surcharges would secure its existence. The IMF alone decides whether members are allowed to draw. Thus, if the IMF actually decided on general economic principles (like private creditors rightly judging on their possibilities to create income unless they are sure to be bailed out) in the member’s interest, the IMF would be statutorily obliged to deny economically doubtful drawings (IMF loans are technically called drawings, and indeed different from a normal loan), taking the members’ interest into account. It simply chooses not to do so to profiteer, in Argentina, as once in Asia and elsewhere. Therefore, higher surcharges would be unheard of if the Fund obeyed its own constitution or economic reason.

One has to qualify Gallagher’s verdict: “The IMF’s surcharges are unfit for purpose.” Although correct, in the way he argues (Gallagher, 2021), from the economically dubious point of view of ripping off debtor members and making the poor suffer, they serve their purpose perfectly. IMF profits are prioritized over human lives.

Valid arguments against these surcharges are not taken into account. Arguing convincingly against this money-making IMF ruse, Stiglitz & Gallagher (2022) conclude:

> They worsen potential outcomes for both the borrowing country and its investors, with gains accruing to the IMF at the expense of both. This transfer of resources to the IMF affects not just the level of poverty, health, education, and overall wellbeing in the country in crisis, but also its potential growth.

Right as they are, all this is irrelevant to an IMF only looking at its own profits, deriding human rights and human dignity. Arguments or ethics will go nowhere when addressing an institution that seems to accept death and penury of the poor for the sake of increased profits.

IMF surcharges must be abolished. Officially, they act as disincentives to large drawings, the microeconomic argument that increasing prices reduces demand. Regarding the Fund, it is utterly wrong. The Fund is not obliged to grant drawings amounting to a multiple of the quota, well above 1,000 % in the case of Argentina. This multiple of the quotas has been increased by the IMF over the years. The IMF still is (and clearly was before the era of profiteering) not supposed to make extra profits from members in distress. Quite on the contrary, if drawings are unlikely to help, let alone likely to make things worse, the IMF has the obligation to refuse them. But increasing surcharges with increasing drawings are highly lucrative, especially so as the normal economic disincentive to lose money if lending negligently or even while knowing that this would destroy the borrower’s economy does not apply to the IMF. Higher rates are thus not compensation for higher risk. As the IMF always gets paid with interest and surcharges (HIPC cases excepted) bad programs are lucrative for the Fund. They create additional high income, increase the Fund’s importance, and make new jobs “necessary” — *the* classic moral hazard situation. Logically this might be described somewhat cynically as "IFI-flops securing IFI-jobs" (Raffer, 1993, p. 158). It fosters lending without any regard for the real needs of debtors, even against members’ interest, rewarding knowingly inflicting damage on the poor.

This absurd IMF incentive structure, irreconcilably inimical to the very idea of the market mechanism and to any principle of sound management, human rights, or the Rule of Law, produces a systemic bias towards accommodating other goals, including lending that causes catastrophe. It did not exist in the 1950s but is now supported by the North. The present surcharge system is logically explained by the IMF's determination to increase its income at the cost of human lives**.**

8. Conclusion

Analyzing the LDA and Germany's record before the Agreement one cannot help but see an embarrassing difference to present debt management. This difference gets all the more embarrassing as Germany has been the strongest and staunchest advocate of merciless debt policies, demanding that others must not be treated as leniently as it had been treated. People more critical than this author may feel the ideas dominating Germany before 1945 to live on. Germany opposed even decent, let alone generous treatment of Greece and Spain, countries that had generously forgiven German debts, not to mention non-Europeans.

Debt management after the 1970s, to which mostly but not only SCs were subjected, differs dramatically not only from the LDA, but also from any acceptable legal, moral or ethical standard: it has created misery and death in debtor countries and continues to do so. Any fair, Rule-of-Law based solution, such as the Raffer Proposal, let alone emulating the LDA is resolutely blocked by IFIs and other official creditors, staunchly determined to preserve a system of global apartheid and financial colonialism. Unfortunately, Germany is one important pillar of this discriminatory system.

References

Abkommen (1953). über deutsche Auslandsschulden, Abgeschlossen in London am 27. Februar 1953, fedlex, Die Publikationsplattform des Bundesrechts. https://www.fedlex.admin.ch/eli/cc/1954/3_3_3/de#fn1

Abs, H. J. (1969). Das Problem der indonesischen Auslandsverschuldung und Überlegungen zu seiner Lösung. 30 June, (mimeo).

Abs, H. J. (1983). Deutsche Banken und Außenwirtschaft. In H.J. Hahn (ed). *Institutionen des Währungswesens* (23-31). Baden-Baden: Nomos.

Agreement (1953) on German External Debts [with Annexes and Subsidiary Agreements], London, February 27, 1953, Treaty Series No. 7, 1959, London HM Stationary Office. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/269824/German_Ext_Debts_Pt_1.pdf

Bogdanowicz-Bindert, C. A. (1985). Debt and Development Crisis: The Case of Small- and Medium-size Debtors. In Haq K. (Ed.). *The Lingering Debt Crisis*. (141-151) Islamabad: North-South Roundtable.

Bohoslavsky, J. P. (2017). Iceland: A Human Rights Sensitive Approach to Deal with Financial Crises. In Bohoslavsky, J.P. & K. Raffer (Eds). *Sovereign Debt Crises – What Have We Learned?* (103-122) Cambridge: Cambridge University Press.

Boote, A. R., & K. Thugge (1997). Debt Relief for Low-Income Countries, *IMF Pamphlet Series* no. 51.

Dernbach, A. (2020). Kolonial- und Kriegsverbrechen vor Gericht: 'In Konflikt mit den Menschenrechten', Tagesspiegel, 3 January, https://www.tagesspiegel.de/politik/in-konflikt-mit-den-menschenrechten-4123534.html

Eichengreen, B. & Ritschl, A. (2009). Understanding West German economic growth in the 1950s. *Cliometrica*, vol.3, 191-219.

Fleischer, H., & Konstantinakou, D. (2006). Ad calendas grecas? Griechenland und die deutsche Wiedergutmachung. In Hockerts, H.G. Moisel, C. & Winstel, T. (Eds.) (2006) *Grenzen der Wiedergutmachung, Die Entschädigung für NS-Verfolgte in West- und Osteuropa 1945-2000*, (375-458). Wallstein, Göttingen.

Gallagher, K.P. (2021). The IMF's surcharges are unfit for purpose. *FT,* March 3, https://www.ft.com/content/cc82f5bf-36c6-454f-b7f0-a4a18576ff2b

Galofré-Vilà, G., Meissner, C. M., McKee, M., Stuckler, D. (2019). The economic consequences of the 1953 London Debt Agreement, *European Review of Economic History* 23(1), 1-29.

GATT (1980) *International Trade 1979/80*, GATT: Geneva

Helbling, T., Mody, A., & Ratna S. (2004). Debt Accumulation in the CIS-7 Countries: Bad Luck, Bad Policies, or Bad Advice?, IMF Working Paper (WP/04/93). http://papers.ssrn.com/sol3/papers.cfm?abstract_id=878916#PaperDownload

Herrhausen, A. (1989). Die Zeit ist reif — Schuldenkrise am Wendepunkt, *Handelsblatt*, No.124, 30 June.

Hockerts, H.G., Moisel, C., & Winstel, T. (eds.) (2006). *Grenzen der Wiedergutmachung, Die Entschädigung für NS-Verfolgte in West- und Osteuropa 1945-2000*. Wallstein, Göttingen.

IBRD (1982). *Articles of Agreement (as amended effective June 27)*. https://thedocs.worldbank.org/en/doc/722361541184234501-0330022018/original/IBRDArticlesOfAgreementEnglish.pdf

ICJ (International Court of Justice) (no year) Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening), Overview of the Case, https://www.icj-cij.org/case/143

IMF & IDA (2004). Debt Sustainability in Low-Income Countries — Proposal for an Operational Framework and Policy Implications, 3 February, http://www.imf.org/external/np/pdr/sustain/2004/020304.pdf

IMF (2016). "Press Release: IMF Executive Board Reviews Access Limits, Surcharge Policies, and Other Quota-Related Policies", No. 16/166, April 11, https://www.imf.org/en/News/Articles/2015/09/14/01/49/pr16166

IMF, IEO. (2004). *Report on the Evaluation of the Role of the IMF in Argentina, 1991–2001*, http://www.imf.org/external/np/ieo/2004/arg/eng/pdf/report.pdf

IMF, Independent Evaluation Office (IEO). (2003). Evaluation Report, The IMF and Recent Capital Account Crises: Indonesia, Korea, Brazil, http://www.imf.org/external/np/ieo/2003/cac/index.htm

Kampffmeyer, T. (1987). *Towards a Solution to the Debt Crisis: Applying the Concept of Corporate Composition with Creditors*. Berlin: DIE.

Khan, M. S. (1990). The Macroeconomic Effects of Fund-Supported Adjustment Programs, *IMF Staff Papers* 37(2), 195-231.

Martha R. S. J. (1990). Preferred Creditor Status under International Law: The Case of the International Monetary Fund, *International and Comparative Law Quarterly* 39(4), 801-826.

Memorial of the Federal Republic of Germany (2009) to the ICJ, Case Concerning Jurisdictional Immunities of the State. https://www.icj-cij.org/case/143

Munevar, D. (2021). "A guide to IMF surcharges," Eurodad, https://www.eurodad.org/a_guide_to_imf_surcharges

Raffer, K. (1989). International Debts: A Crisis for Whom? In H.W. Singer & S. Sharma (Eds). *Economic Development and World Debt* (Selected Papers of a Conference, at Zagreb in September 1987), (51-63). London & Basingstoke: Macmillan.

Raffer, K. (1990). Applying Chapter 9 Insolvency to International Debts: An Economically Efficient Solution with a Human Face. *World Development* 18(2), 301-313.

Raffer, K. (1993). International Financial Institutions and accountability: The Need for Drastic Change. In S.M. Mushed and Raffer K. (Eds.) *Trade, Transfers and Development: Problems and Prospects for the Twenty-First Century*, (151–166). Cheltenham/Northampton, Elgar. Or https://homepage.univie.ac.at/kunibert.raffer/ifiacc.pdf

Raffer, K. (2009). Preferred or Not Preferred. Thoughts on Priority Structures of Creditors, Paper presented at the 2nd International Law Association's Sovereign Insolvency Study Group, 16 October, Washington DC 2043, https://homepage.univie.ac.at/kunibert.raffer/ila-wash.pdf

Raffer, K. (2010). Debt Management for Development — Protection of the Poor and the Millennium Development Goals, Cheltenham/Northampton: Elgar (Paperback 2011).

Raffer, K. (2016). Debts, Human Rights, and the Rule of Law: Advocating a Fair and Efficient Sovereign Insolvency Model. In M. Guzman, J. A. Ocampo & J. E. Stiglitz (Eds). *Too Little, Too Late, The Quest to Resolve Sovereign Debt Crises* (253-269). New York: Columbia University; Pre-publication paper: http://policydialogue.org/files/publications/Debts_Human_Rights_and_the_Rule_of_Law_Advocating_a_Fair_and_Efficient_Sovereign_Insolvency_Model.pdf

Raffer, K., & Singer, H. W. (2001). *The Economic North-South Divide: Six Decades of Unequal Development*. Elgar, Cheltenham (UK)/Northampton (US), [paperback eds: 2002; 2004].

Rodrik, D. (1996). "Understanding Policy Reform." *Journal of Economic Literature*, XXIV(1), 9-41.

Stern, E. (1983). World Bank Financing and Structural Adjustment. In John Williamson (Ed). *IMF Conditionality* (87-96), Washington DC: IIF & MIT.

Stiglitz, J., & Gallagher, K. P. (2022). IMF surcharges: A lose-lose policy for global recovery. https://cepr.org/voxeu/columns/imf-surcharges-lose-lose-policy-global-recovery

Suratgar, D. (1984). The International Financial System and the Management of the International Debt Crisis, In D. Suratgar (Ed). *Default and Rescheduling Corporate and Sovereign Borrowers*. (151-161). Euromoney, London.

UNCTAD (2004). *Economic Development in Africa, Debt Sustainability: Oasis or Mirage?* UN Conference on Trade and Development: Geneva.

Vonyó, T. (2018). *The Economic Consequences of the War: West Germany's Growth Miracle after 1945*. Cambridge: Cambridge University Press.

World Bank. (1990). *Adjustment Lending: Ten Years of Experience*. World Bank: Washington DC.