



To:

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Submission to the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights

July 2019

A child rights approach to private debt

The present submission is meant to offer recommendations to the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights in support of his efforts to tackle the issue of private debt from a human right perspective, with a particular focus on children.

About FIBGAR

Baltasar Garzón International Foundation (FIBGAR) is a private, social, non-profit foundation, deeply committed to the defence and promotion of Human Rights, Universal Jurisdiction and fight against impunity. Although FIBGAR is located in Spain, Colombia, Argentina and Mexico, its global vocation encourages us to design and implement projects with a wider scope.

Introduction

In the last years, the global burden of private debt is growing fast, jeopardising both economic instability and inequality.

It is particularly true in the case of **consumer debt**, which covers mortgage debts, auto loans, payday loans and credit card debts. While borrowing is the most conventional path to debt, people facing emergencies, income shocks, or a persistent inability to make ends meet can also incur expenses that push them into debt without taking out a loan as in the case of unpaid bills.



Given its nature, consumer debt can produce a serious, widespread and inequitable impact on people's life. At a minimum, it reduces the ability to save and to invest in opportunities to build security and wealth. In the worst scenario, it impacts the capacity of paying for basic need. Moreover, when the debt goes beyond a certain point, and consumers fall behind on repaying it, debt repayments and creditor demands spiral into unmanageable situations of growing indebtedness, poverty and social exclusion which can devastate lives, bringing about a cascade of negative consequence.

This snowball effect can affect entire **families**, especially those with children, whose presence is overwhelmingly associated with a greater likelihood of financial difficulties. The financial position of many families is extremely precarious, and parents are often trapped in a situation where they have little alternative but to turn to credit to fill the income or expenditure shock or simply to pay for necessities. In fact, taking on debt is a necessity for many families, helping them juggle financial challenges and ensure a basic standard of living for their children.

In the immediate aftermath of the financial crisis starting in 2008, unemployment rose sharply, and there was a dramatic increase in mortgage repossession actions, credit defaults, and personal insolvencies.¹ The challenge facing parents is currently made more acute by broader issues such as reducing levels of benefits, an insufficient societal safety net, the insecure labour market, and more general trends in income inequality and poverty.

Even though in recent years the issue of personal debt and its impact on families, particularly those living on a low income or whose options to improve their financial situation are limited, has become salient, the impact on children is rarely considered.

Research on this issue has too often failed to look beyond how this debt affects the debtor alone and see that when problem debt strikes a family, the youngest members, who paradoxically are unable to directly accrue debt, systematically become its most innocent and vulnerable victims.

In fact, children experience downturns in family fortunes in both subtle and painfully evident ways, which are assumed to be similar to the effects on adults, but they are not.

Far from being immune to the impact of family debt, every aspect of children's lives is affected, from access to basic necessities, through to family relationships and school experiences.

¹ The Children's Society, *The debt Trap: Exposing the impact of problem debt on children*, 2014. Available at https://www.childrenssociety.org.uk/sites/default/files/debt_trap_report_may_2014.pdf
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Child rights approach

Therefore, a child rights approach to private debt is imperative.

The *Convention on the Rights of the Child* is uniquely placed to do this as its coverage and scope recognise the rights of “*all girls and boys under the age of 18*” and set out how they are to be promoted and protected.

In accordance with international human rights principles, the Convention identifies **four core principles** of nondiscrimination, devotion to the best interests of the child, respect for the views of the child and right to life, survival and development of the child, as basic guidelines for its interpretation and implementation and, taking into account the situation of children and their evolving capacities, and spells out the fundamental human rights inherent to a harmonious physical, psychological, emotional, social and spiritual development of every child, setting standards in health care, education, and legal, civil and social services.

The food they eat, where they live, the time they spend with parents and friends are important factors that determine their **well-being**, which is at risk when family incomes decrease, and contextual conditions deteriorate. These situations may interfere with a myriad of interdependent and interrelated human rights, in a sense that violating one may impair the enjoyment of other and vice versa.

Once in debt trap, families are placed in an impossible situation and have to cut back on essential items in order to keep up payments on debts, and it means their children miss out on the basics.

When families cannot afford to pay rent, mortgage or utilizes, to provide food regularly or to keep the home adequately warm, children are severally deprived of the possibility to make any significant progress in their physical, mental, spiritual, moral and social development.

A recent study conducted by University of Wisconsin found that, on average as parents take on more debt, their children tend to become worse off in terms of their socio-emotional well-being, for the first time shedding light on the link between family debt and children, as previous research has typically focused on how debt affects adults².

Parental debts can negatively affect children in numerous ways.

² Berger M. L., Houle H.J., *Parental Debt and Children's Socioemotional Wellbeing*, in *Paediatrics*, 2016, 137 (2).



When families are indebted and trapped in a cycle of ever-increasing debt obligations to the point that they cannot meet their basic needs, like food, clothing, and other housing expenses, the **right to life, survival and development** (art. 6) is affected.

Moreover, in accordance with the Universal Declaration of Human Rights (art. 25) and the International Covenant on Economic, Social and Cultural Rights (art.11), the Convention provides children with the **right to an adequate standard of living** (art. 27), recognizing that the child's development cannot be divorced from his or her conditions of living.

Rent, mortgage payments and other housing costs are generally the most significant expenditure in a family budget, which, when not covered, can lead to inadequate housing or, in the worst case, to homelessness and other extreme consequences.

The reduced living standards experienced by families in debt, within the home environment can also have negative impacts on **family well-being**, which is emphasized in the Preamble to the Convention when it is said that “... *the family, as the fundamental group of society and the natural environment for the growth and wellbeing of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community*” and “... *the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding*”.

The strain caused by financial difficulties associated with debt can exacerbates and compounds the financial and psychological pressure and have a debilitating effect on family relationships, whether this leads to arguments between parents, or between children and parents, affecting children in critical periods of intellectual and emotional development.

These situations can also affect the **right to health** (art. 24) in many ways.

Children can experience psychological trauma and emotional distress as related physical illness, including sleep deprivation, lack of concentration, heart problems, when parents endure a significant reduction in income or when they are a target of marginalization and victimisation³.

Thus, the presence of problem debt can also damage children's relationships with their peers as a result of social stigma and shame related to a situation of over-indebtedness.

³ The Children's Society, *The Damage of Debt: the impact of money worries on children's mental health and well-being*, 2016. Available at <https://www.childrensociety.org.uk/sites/default/files/the-damage-of-debt-2016.pdf>



Furthermore, problem debt can interfere with the right of health when it decreases the funds available to pay for health care, including preventative and emergency care.

In the same way, parents' economic lack of resources can restrict the family's ability to meet school expenses like fees, uniforms and books, compromising the **right to education**, which is protected by the Convention under art. 28, in conformity with the Universal Declaration of Human Rights (art. 26) and the International Covenant on Economic, Social and Cultural Rights (art. 13).

Such conditions can also make it hard for children to focus on their schoolwork, thus altering their educational outcomes as school attainment, attendance, and performance.

In the worst cases, family economic difficulties may have a long-term, detrimental impact on their prospects and deter children's progress in the educational system. In fact, low-income children have difficulty financing their university education and are more prone to get into student loan when they become young adults, so continuing a downward spiral of debt.

Alongside the impact on their school experiences, problem debt can also have a profound impact on children's ability to engage in social activities, affecting their **right to play and recreational activities, to rest and leisure, and to take in cultural life** (art. 31) which is considered a key component of children's social, moral, mental and spiritual development.

When children do not take part in cultural, sports and social activities, they have fewer opportunities to develop emotionally and to realize their potential. These situations can also undermine children's relationships with their peers and their life experiences, with the risk of having an on-going effect that lasts throughout the child's life.

Add in other layers of vulnerability, and the risks multiply. It may mark the situation of children in particularly vulnerable situations, such as those in a lone parent family, in large families, from minority ethnic backgrounds or migrants. Along with that, children with disabilities are more likely to be negatively affected by the lack of resources resulting from problem debt.

In this sense, the Convention protects every child from the risk of discrimination (art.2), establishing a special provision for the **rights and needs of children with disabilities** (art. 23).



Conclusion

Nowadays, children represent approximately one-third of the world's population, which have the right to survive, live and grow up in a decent environment, with all that implies: attending school, enjoying good health and nutrition, and living and growing in safety and security.

This is not only a moral assertion of the human rights inherent to children but also a legal commitment assumed by 196 governments through the UN Convention on the Rights of the Child, the world's most widely ratified human rights treaty.

Children are also central to sustainable development, the future of our planet and all its inhabitants and a distinct priority on the international development agenda, which urges to *"leave no one behind"*.

Problem debt does not only represent a significant barrier to children enjoying a meaningful life where they can meet their basic needs and expand their opportunities to reach their full potential since they are more dependent on other for supports, but also a mean of intergenerational transmission of disadvantage which is unfair and costly for both individuals and society as a whole and can lead to the risk of exacerbating social divide in the future.

In the worst case, it causes lifelong damage to children's minds and bodies, turning them into adults who perpetuate the cycle of poverty by transmitting it to their children. The longer these children remain in the debt trap, the harder it will be for them to escape.

Thus, a wider vision to tackle private debt, realise rights and achieve the Sustainable Development goals is urgently needed.

Having said that, we encourage the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights to promote a truly child-rights approach to the issue of private debt in order to *"no leave children behind"*.

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FIBGAR consent to the publication of the submission on the Independent Expert's official webpage.