Structural Adjustment Programs: A Violation of Rights

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Introduction

In 1987, Tanzania's former President Julius Nyerere asked, "Must we starve our children to pay our debts?"[1] The answer furnished by International Monetary Fund (IMF) and World Bank structural adjustment programmes (SAPs) would appear to be 'yes'. SAPs essentially came into being as a result of the Third World debt problem. They are economic reform packages aimed at ensuring debt repayment by reducing government expenditure, reducing domestic demand and increasing exports. They also ensure that less developed countries (LDCs) pursue a free market philosophy to the benefit of developed countries, and to the detriment of their own people. UN agencies like UNICEF believe that SAPs are destroying the basic human capital by which poor nations can develop. They erode living standards, force schools to close and infant mortality rates to rise, lead to increasing malnutrition and foster the spread of preventable diseases.[2] In a 1990 report, UNICEF conservatively estimated that 500,000 children die every year from the implementation of austerity measures. Bill Blaike, a Canadian critic of SAPs, says that LDCs would appear to have two alternatives:

> Structural adjustment, in which, as we know, children die; and no structural adjustment, in which, according to [the IMF], more children die. For God's sake, is there not some way we can have a program where children do not bloody well die to satisfy the economic assumptions and doctrines of the international marketplace?[3]

Part of the problem is the discourse of economics. The international response to underdevelopment is quite often formulated by economists in terms of waging a war against poverty. SAPs are the most-favoured weapons in this war, part of the "battery of measures" aimed at turning economies around. What they fail to understand is that every war has its casualties. The immediate and direct effect of SAPs and Third World debt is in violating the economic, social and cultural rights of LDC citizens, as well as their right to development. These citizens are living well below the poverty line, struggling to survive. Despite this, they are required to pay interest on loans that have effectively been repaid many times over. These loans, often made to corrupt dictators, were encouraged by banks on the basis of grossly miscalculated income projections. The repayments are now funded by drastic cuts in social spending to the detriment of people who have never received these loans. The only ones to have benefited from SAPs have been Western banks

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1 S Shaw 'Burden of Hope: Africa in the 1990s' (1990) 208 *New Internationalist* 4 at 6.
2 S Shaw 'Pinstripes and Poverty: Inside the World Bank' (1990) 214 *New Internationalist* 4, 6.
3 C Neal 'Strong Medicine' (1990) 214 *New Internationalist* 25.

and corporations looking for cheap labour, ready resources and new markets. While the populations of less developed countries suffer, the West prospers.

This article examines the human and economic effects of SAPs on the citizens of LDCs in Africa. It begins by outlining the importance of 'economic' rights in the broader international human rights framework and the role of financial institutions such as the IMF and the Work Bank in regulating global economic conditions through the use of SAPs. It goes on to précis the reasons for underdevelopment, and describe the human effects of debt-reduction measures introduced into LDCs under these programs such as reduction in government expenditure and devaluation of local currencies. The paper concludes by suggesting that, based on the evidence of economic misery and human rights breaches to be found in less developed economies in the African sub-continent, world financial institutions need to re-think the mode of delivery of their debt payment programs. At the same time, others need to exercise greater vigilance in respect of the impact of these organisations' programs on the fundamental human rights of all peoples.

Reasons for Underdevelopment

It is generally assumed that LDCs are personally responsible for their economic underdevelopment. While internal mismanagement is an important factor to consider, it does not negate the importance of the external pressures generated by the global economy. How much fault is attributed to either of these factors is a contentious issue.

Several writers maintain that internal factors are the most important. The World Bank has concluded that the problems of Africa "cannot be satisfactorily explained as a result of an adverse international economic climate".[4] Yet the 1980 Report of the Independent Commission on International Development Issues, under the Chairmanship of Willy Brandt, was particularly scathing in its assessment of the international economic environment, arguing that development "can only be brought about through a change in the international economic environment; through more purposeful collaboration between North and South, and much more systematic assistance from the North".[5] And as recently as 1992, the United Nations Development Programme (UNDP) found that "the free working of markets often tend to increase the disparities between rich and poor".[6] Because of the deterioration in their terms of trade, LDCs often experience negative

4 World Bank and UN Development Programme *Africa's Adjustment and Growth in the 1980s* (1989) World Bank Washington, 2, in L Stein *Structural Adjustment in Developing Countries* (1992) AGPS Canberra, 6.

5 Independent Commission on International Development Issues under the Chairmanship of Willy Brandt *North–South: A Programme for Survival* (1980) Pan Books, 58.

6 United Nations Development Programme *Human Development Report 1992* (1992) Oxford University Press New York, 7.

growth. Every 1 per cent increase in coffee exports from Africa in the early 1980s was met by a 2.17 per cent price fall.[7]

Clark and Davies liken the world economy to a global game of Monopoly, where developed countries start the game with hotels on Mayfair and Park Lane, and less developed countries start with nothing on Old Kent Road, being forced to pay huge amounts of money every time they land on squares with hotels on them. The role of the Banker is played by the IMF and World Bank and other international financial institutions. Clark and Davies conclude that "the problem is the rules of the game that allow the gross disparity and injustice", and the World Bank and IMF should be "shouting as loud as they can that the rules of the game are unplayable".[8]

The UNDP believes that a global compact is required to ensure sustainable human development for all countries. While it does not attribute blame for Third World underdevelopment entirely upon either internal or external factors, the focus of its suggested reforms is almost entirely at the international level. Whatever one's view on the determinative causes of Third World underdevelopment, few would disagree that "both external and internal factors [are] at play in affecting the current account outcome for non-oil developing countries".[9]

Principle 30 of the Limburg Principles,[10] in interpreting Article 2(1) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), states:

> International co-operation and assistance must be directed towards the establishment of a social and international order in which the rights and freedoms set forth in the Covenant can be fully realised.

This is an apparent acknowledgment that realisation of economic, social and cultural rights is dependent on an appropriate international order.

The Vienna Declaration and Programme of Action, a result of the World Conference on Human Rights, also emphasises the importance of the international economic order. Paragraph 1(10) states that lasting progress towards the right to development requires "equitable economic relations and a favourable economic environment at the international level", and asks States to promote "effective international cooperation for the realisation of the right to development and the elimination of obstacles to development". Paragraph I(13)

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7 M Godfrey 'Trade and Exchange Rate Policy: A Further Contribution to the Debate' in T Rose (ed) *Crisis and Recovery in Sub-Saharan Africa* (1985) Organisation for Economic Cooperation and Development.

8 J Clark and M Davies *A Simple Guide to Structural Adjustment* (1991) Oxfam Oxford, 9.

9 MS Khan and MS Knight *Fund-Supported Adjustment Programs and Economic Growth* (1990) IMF Occasional Paper No 42 Washington, 46-47, in Stein n 4.

10 The Limburg Principles were formulated by a group of distinguished experts in international law, who met in Maastricht on 2-6 June 1986 to consider the nature and scope of the obligations of States parties to the ICESCR. While the Limburg Principles are not strictly 'law', they are highly persuasive evidence of how the Convenant should be interpreted.

further states that "there is a need for States and international organisations, in cooperation with non-governmental organisations, to create favourable conditions at the national, regional and international level to ensure full and effective enjoyment of human rights". Once again this clear acknowledgment that external factors play an important role in the difficulties faced by LDCs.

There are also many historical reasons for Third World underdevelopment. While they are not the focus of this article, they may be briefly stated. Developed countries accelerated their economic growth by exploiting the resources of their colonies, many of today's less developed countries. They guaranteed themselves a supply of raw materials at very cheap prices. The colonisers effectively underdeveloped Africa while simultaneously industrialising their own countries. This accounts for the current dependence of LDCs on primary products for their export earnings, and the relatively poor state of their manufacturing sectors. The political independence won by LDCs in the latter part of this century has not ended their economic domination.

> The West [has] put in place a global economic order which [ties] Africa to the former's apron strings, with the Bretton Woods institutions policing the whole thing.[11]

Dealing with Underdevelopment: Structural Adjustment

History

Before western economists identified any real problem with LDCs, world financial institutions such as the World Bank and IMF encouraged these countries to accept international finance as a way of dealing with their underdevelopment. Together, the World Bank and the IMF are the biggest institutional lenders on international capital markets. During the 1970s, the World Bank was keen to increase the volume of its business. It encouraged LDCs to borrow more than they actually could on the basis of grossly miscalculated capital projections.

The World Bank particularly increased lending for agricultural development projects which "contributed to the debts of African governments without making any significant impact on crop production".[12] Economically unstable countries also attracted sizeable loans if they were strategically important in the geography of super power politics. As a result of the world debt crisis in 1982, following a worldwide economic recession and collapse of world commodity prices, these institutions, frightened that the debts of LDCs would never be repaid, decided that further lending was inappropriate, unless LDCs adopted measures aimed at reducing domestic expenditure and increasing their export income. LDCs are now required to adopt structural adjustment programmes, engineered by the IMF and World Bank, before further loans are approved, or before they can attract

11 Editorial 'Darwinism Rules, Okay?' (1993) 3958 *West Africa* 1334 at 1335.
12 G Williams 'Africa in Retrospect and Prospect' in *Africa South of the Sahara 1994* (1993) 23rd ed Europa Publications England, 4.

further investment. The Bretton Woods institutions now dominate the decision making and policy formulation in almost all African countries. Development strategies in most African countries depend on World Bank and IMF approval, and SAPs are currently being implemented in 36 sub-Saharan debtor countries.[13]

Basic Principle

There is a common perception that LDCs have been 'living beyond their means', as evidenced by their distorted balance of payments, excessive budget deficits, low domestic savings and high inflation rates. Their economies are said to be out of equilibrium. One way of dealing with LDC instability has been structural adjustment, a method of reducing expenditure and increasing output, thereby altering the volume and nature of a country's outlays. Structural economic modifications are made to achieve an economic equilibrium, and to generate reasonable growth to sustain it. The SAPs promoted by the IMF and World Bank require countries to cut internal demand and drastically reduce public expenditure, while promoting exports and giving free reign to foreign capital. Most crucially, these programmes involve currency devaluation. This method of adjustment is based on the free-market philosophy of neo-classical economics, one which strongly disapproves of State intervention. It is aimed purely at the national level, since that is where the fault is seen to lie, relying on the market, private enterprise, and export orientation, to ensure economic growth. Structural adjustment programmes are essentially *domestic* measures in that they largely ignore the international aspects of the global economy that impede Third World development.

> [SAPs] manifestly fail to recognise the depth of the crisis and the depth of the international injustice that lies behind it.[14]

Content

The IMF is concerned with macro-economic policy, which tends to involve short-term measures, while the World Bank concentrates on micro-economic reform, which tends to involve long-term measures. The IMF usually recommends government deficit reduction and significant devaluations, reflecting its monetary approach to the balance of payments.[15] These recommendations have an instant effect on a country's economic balance sheet. On the fiscal side, the World Bank commonly pursues the abolition of price subsidisation, the reduction of subventions provided to public utilities, the streamlining of government administrations, and cutbacks in public and private sector real wages.[16] These measures tend to take longer to impact on a country's economy. Other measures pursued by the World Bank include the raising of interest rates to stimulate savings, the dismantling of import barriers to open economies,

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13 A Kola 'The Debt Trap' (1993) 3958 *West Africa* 1337.
14 Clark & Davies n 8, 14.
15 Stein n 4 at 3.
16 Stein n 4.

deregulation to improve overall market mechanism, and privatisation of government assets. The IMF has also begun to use longer-term instruments of structural adjustment.[17]

The types of reform imposed by seven typical IMF packages and seven typical World Bank packages are shown in the following table. Column 1 shows the type of reform and the two adjacent columns show how many of the seven packages contained that reform.

Table 1: ***Structural Adjustment Packages***[18]

Element of Structural Adjustment Package	World Bank	IMF
Remove import quotas/cut tariffs	6	7
Improve export incentives	6	6
Revise exchange rate policy	2	5
Reform budget/taxes	5	6
Reform interest rates	2	7
Strengthen management of external borrowing	5	6
Reform public enterprise resource use	5	6
Revise current expenditure	2	7
Strengthen financial and capital markets	2	1
Re-prioritise investments	6	3
Revise agricultural prices	6	5
Revise energy prices	5	6
Introduce energy conservation measures	3	2
Develop indigenous energy sources	3	3
Revise industry incentive system	4	3
Strengthen capacity for public investment	4	2
Increase efficiency of public enterprises	6	1
Improve support for agriculture	6	2
Improve support for industry	4	0

Structural adjustment programmes contain many measures, so it is not surprising that some may be negative, while others may be appropriate and even positive. In its broadest sense, structural adjustment "is not bad or evil".[19] It is necessary to identify, therefore, those elements which have negative social and environmental effects.

17 Clark & Davies n 8.
18 S Griffiths-Jones *Cross Conditionality or the Spread of Obligatory Adjustment* (1988) Institute of Development Studies in Clark & Davies n 8, 13.
19 Clark & Davies n 8, 12.

SAPs as a method of recolonisation

The loans that accompany SAPs ostensibly facilitate a more orderly, less hasty and less painful transformation, thus minimising the degree of social disruption. However, SAPs effectively allow the IMF and World Bank to dictate a country's monetary, fiscal and exchange rate policies. They allow the global, capitalist economy to be expanded. A US report commissioned by the Congressional Research Service has found that

> [the US uses] its influence to obtain or reject loans for countries based on how well it likes the policies of their governments. . . . [T]his influence is often decisive in the institutions because votes are weighted according to the size of the voting country's financial contributions and the US is the biggest contributor.[20]

Bureaucrats in Washington DC are hijacking LDC control over their economic policy.

Sovereignty

According to Principle 11 of the Limburg Principles, popular participation is required at all stages of the realisation of economic, social and cultural rights, "including the formulation, application and review of national policies".[21] Principle 20, interpreting Article 2(1) of the ICESCR, states that each State party is to determine the appropriateness of the means to be applied in that State. How SAPs, which significantly impinge on a government's ability to determine policy, sit with these principles is questionable.

Delegates at a conference sponsored by the Institute for African Alternatives have accused the Bank and IMF of recolonising African countries by undermining their political sovereignty and controlling their economic destinies.[22] The Bank sets price policy, monetary policy, subsidy policy, import policy, export policy, banking policy, agricultural policy and so on.

Principle 6 of the Limburg Principles states: "The achievement of economic, social and cultural rights may be realised in a variety of political settings. There is no single road to their full realisation."[23] Principle 31 further requires States to cooperate with one another to promote the economic growth of developing countries free from discrimination based on differences in the political, economic and social systems of these countries. US manipulation of IMF loan approvals is clearly in breach of this principle, as is IMF and World Bank insistence on a free market philosophy.

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20 Kola n 13, 1339.
21 Economic and Social Council (ECOSOC) *The Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights* UN Doc E/CN.4/1987/17 at 2.
22 Shaw n 2, 6.
23 ECOSOC n 21, 1.

SAPs as a Method of Ensuring Debt Repayment

While outwardly concerned with development, SAPs are a way of ensuring the repayment of LDC loans. The Minister of Economic Planning Costa Rica, says that the economic models imposed by the IMF and World Bank are "nothing more than a program of debt repayment".[24] Morris Miller, Canada's Executive Director at the World Bank during the early 1980s, believes that the US uses its influence to help the banks get their debts serviced.[25] SAPs effectively allow indebted countries to continue to pay interest on their debts. It is no coincidence that LDCs which have adopted structural adjustment programmes, spend up to three times as much on debt servicing, than they do on their own social spending. As a whole, Africa spends four times more on debt servicing than on the provision of health services.[26] In the Philippines, debt repayments account for 46 per cent of government expenditure, which is equivalent to total UK spending on defence, education, social services, welfare and housing.[27] There is little proof that SAPs do anything more than help bankers to collect interest. Some countries are now paying more than their exports bring in. SAPs are generally accompanied by net financial outflows to service debts, including payments to the IMF and World Bank. As will be shown later, LDCs have repaid their debts many times over in interest, yet the principle continues to grow. Since 1983, the net flow of capital from North to South has actually been reversed, such that the South now subsidises the North. The Brazilian labour leader, Luis Ignacio Silva, has said that interest is "a weapon more deadly than the atom bomb, more shattering than a laser beam".[28] In 1989, LDCs paid out $52 billion more in debt service than they received in new investment and loans.[29] From 1980 to 1989, the net income of the World Bank alone increased from $588 million to $1.1 billion, an increase of some 86 per cent. Between 1986 and 1987, Africa paid the IMF one billion dollars in debt servicing.[30]

In 1989, severely-indebted countries paid 7.1 per cent GNP to service their debts, compared to the 4 per cent GDP paid in reparations by Germany after World War One which resulted in economic turmoil and the emergence of the Third Reich.[31] This, combined with the historically weak position of LDCs in the global economy, makes the claim that developing countries are "living beyond their means" largely fatuous. Americans, for example, spend $30billion a year on Coca-Cola and burgers, which is fifteen times the gross national product (GNP) of Burkino-Faso.

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24 B Carty 'You Can't Eat Flowers' (1990) 214 *New Internationalist* 18.
25 Neal n 3.
26 DL Sparks 'Economic Trends in Africa South of the Sahara' in *Africa South of the Sahara 1994* (1993) 23rd ed Europa Publications England, 10.
27 Clark & Davies n 8, 5.
28 n 11.
29 UN Economic Survey 1989 in 'World Bank — the Facts' (1990) 214 *New Internationalist* 16 at 17.
30 United Nations Economic Commission for Africa *African Alternative Framework to Structural Adjustment Programmes for Socio-Economic Recovery and Transformation* (1989) in S Shaw 'Burden of Hope: Africa in the 1990s' (1990) 208 *New Internationalist* 4, 6.

The Importance of 'Economic' Human Rights

Professor Philip Alston has lamented the failure of human rights activists to regard economic, social and cultural rights as a real human rights issue. At best these rights are regarded as utopian, at worst they are branded uneconomic, interventionist and totalitarian. While governments may be prepared to accept a right not to die from hunger, and a right to have shelter, they do not agree on how these rights should be implemented. In defending structural adjustment programmes, World Bank President Lewis Preston said that "pain often precedes gain". A Bank World Development Report has said that health spending in LDCs should be increased once SAPs "start paying dividends".[32]

Alston has pointed out that economic rights are not for the good times, but for the bad times. Economic hardship is thus no justification for limiting such rights. The 1948 *Universal Declaration of Human Rights* (UDHR) does not impose preconditions on the enjoyment of rights, nor does it prioritise some rights above others. A number of resolutions and declarations since then have affirmed the indivisibility of human rights. Most recently, the Vienna Declaration stated:

> 5. All human rights are universal, indivisible, and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis.

The *International Covenant on Economic, Social and Cultural Rights* (ICESCR) provides concrete obligations which States are required to meet. The Covenant is concerned with a basic, minimum level of rights that are legally binding. While the author acknowledges that the right to development, as expressed in the *Declaration on the Right to Development* (DRD), also grants important rights, its status in international law remains controversial. The article consequently limits itself to those rights found in the ICESCR. It attempts to show which of these are being violated by SAPs, drawing on the interpretive principles expounded in the *Limburg Principles on the Implementation of the International Convenant on Economic, Social and Cultural Rights* (the Limburg Principles).

Role of World Financial Institutions in Ensuring Compliance with Economic Human Rights Obligations

Strictly speaking, the World Bank and IMF have no legal obligations under the ICESCR because they are not contracting parties. The Vienna Declaration and Programme of Action, however, recommended to the Secretary-General:

> that high-level officials of relevant United Nations bodies and specialised agencies at their annual meeting, besides coordinating their activities, also assess the impact of their strategies and policies on the enjoyment of all human rights.

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31 Clark & Davies n 8, 18.
32 'Critics say World Bank Policies Harm Health' (1993) October *Africa Recovery* 15.

Articles 22 and 23 of the ICESCR emphasise the cooperative relationship between the Economic and Social Council and other organs of the United Nations, their subsidiary organs and specialised agencies. The Economic and Social Council may in fact bring any matters arising out of its reports to the attention of these organs.

There has been considerable controversy in recent years as to the precise relationship between the United Nations and the Bretton Woods institutions.[33] Because the South has an overwhelming majority of the votes in the United Nations, it believes that the UN should be allowed to review IMF and World Bank policies. Developed countries, on the other hand, hold the majority of voting power in the IMF and World Bank, so believe these institutions should remain independent, and that the UN should not interfere in the exercise of their responsibilities, or discuss their activities. The view of developing countries is supported by the aforementioned articles from the ICESCR, as well as Articles 63 and 64 of the UN Charter, which are substantially the same. While I do not intend to discuss here the strict legal responsibility of the IMF or World Bank, it should be noted that the United Nations has, in the past, discussed broad questions of World Bank and IMF policy, and has made recommendations. If these institutions are infringing upon the economic, social and cultural rights of LDC citizens, it is unquestionably appropriate for the UN to intervene.

Effects of SAPs

Introduction

The World Bank initially insisted that structural adjustment would only take a couple of years.[34] When it imposed cuts in health and education, food subsidies, wages and jobs, it gave little thought to the impact this would have on the poor, the section of the population which carries the heaviest SAP burden. Economists at the IMF and World Bank tend to concentrate on economic resources to the exclusion of environmental and human resources, developing their policies in isolation from sociological and environmental concerns. Indeed, it appears difficult for the science of economics to deal with such concepts as 'equity' and 'compassion'; they cannot be factored into an economic equation, and are often seen as costly or inefficient emotional responses.

The Limburg Principles acknowledge:

> that the Covenant affords to a State party a margin in selecting the means for carrying out its objects, and that factors beyond its reasonable control may adversely affect its capacity to implement particular rights.

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33 S Dell 'The Future of the International Monetary System' in JP Renninger (ed) *The Future Role of the United Nations in an Interdependent World* (1989) Martinus Nijhoff Publishers Dordrecht, 133.

34 D Hellinger 'The Art of Poverty' (1990) 214 *New Internationalist* 21.

It is submitted that SAPs involve factors and effects that are within the reasonable control of those who advocate and implement them. Often these effects are in fact anticipated. While the Covenant affords a State party a margin of discretion in selecting the method for implementing the treaty, it does not grant the right to temporarily suspend economic, social and cultural rights, even if they are ostensibly in the pursuit of some long-term goal. This section examines the human and economic effects of this approach to debt reduction. Attention is given to some of the measures advocated under SAPs such as reduction in government expenditure and devaluation of the currency.

General Effects of SAPs

When considering the merits or otherwise of structural adjustment programmes the preceding points on the reasons for underdevelopment and nature of Third World debt need to be remembered. SAPs are imposed in the face of declining export prices, and net financial outflows to service debts. Is there really no alternative to IMF restructuring? While there is considerable debate on the precise effect that structural adjustment may have on people in LDCs, there is little dispute that they are generally negative in the short term. In fact, they are designed to be negative. A fall in general consumption, for instance, is both expected and desired, together with a compression of real earnings.[35] UNICEF, which has been particularly concerned with SAPs, has found that average incomes have fallen by 20 per cent in more than 30 countries where SAPs have been followed, and that spending on health care has been cut by half, and on education by a quarter.[36] SAPs may also increase unemployment in the short term. The Organisation of Rural Associations for Progress believes that SAPs have worsened conditions for people in urban and rural areas.[37] These findings are supported by the Economic and Social Council's summary of the survey of economic and social conditions in Africa (1992-1993). The summary states that "adjustment programmes have had a negative effect on social conditions in Africa".[38] Slum-dwellers in Harare have renamed Zimbabwe's SAP, 'Extended Suffering for African People'.[39]

Article 11 of the ICESCR generally recognises the rights of everyone to an adequate standard of living, "including adequate food, clothing and housing, and to the continuous improvement of living conditions", and the right "to be free from hunger". State parties are required to take all appropriate steps for the realisation of this right. Article 11(2) provides for methods for food production, conservation and distribution.[40] Elsewhere in the ICESCR are provisions relating

35 Kola n 13, 1337.

36 UNICEF *State of the World's Children* (1990) in 'World Bank—the Facts' (1990) 214 *New Internationalist* 16, 17.

37 'African NGOs Focus on Mobilisation' (1992) November *Africa Recovery* 27.

38 Economic and Social Council (ECOSOC) *Summary of the Survey of Economic and Social Conditions in Africa 1992-1993* (18 May 1993) E/1993/53, 9.

39 NK Bentsi-Enchill 'NGOs widen anti-adjustment action' (1992) November *Africa Recovery* 26.

40 See discussion at page XR.

to, inter alia, the right to work, the right to the enjoyment of just and favourable conditions of work, the right to social security, the right to the highest attainable standard of physical and mental health, the right to education, and the right to take part in cultural life.

West Africa believes that the 1980s, dominated by IMF and World Bank policies, "will go down as the decade when a gradual but steady impoverishment of [Africa] was completed".[41] A Canadian all-party sub-committee on international debt concluded that structural adjustment "has been tried and found wanting".[42] Williams notes that SAPs "have been associated with declining living standards for urban people, blatant inequalities in incomes, and intense competition for access to limited resources available".[43] This has resulted in anti-SAP riots from Nigeria to Costa Rica.[44]

> President Ibrahim Babangida even called off a state visit to France because he was so alarmed by the speed with which the protests spread through Nigeria's southern cities. "SAP is death", "We say no to SAP" and "We are hungry" were the rallying cries of the rioters. They burnt government buildings, and caused frightened men in uniform to undress and scurry back to their barracks and police stations in mufti.[45]

These protests are largely driven by hunger, a symptom that the right to freedom from hunger in Article 11(2) is being violated. Many Nigerians now make do with one meal a day. Malnutrition has become a leading cause of death among patients at the Lagos University Teaching Hospital. A quarter of all Nigerian children are victims to it, 16 per cent needing immediate medical attention.[46]

The social costs of Ghana's SAP has been also been high: consumer prices rose some 30 per cent between 1983 and 1987; there has been a loss of earning power, accompanied by an increase in hunger, infant mortality and illiteracy.[47] While these factors may have existed before the imposition of the SAP, there is no doubt they have been accentuated. Ghana is worse off than it was before adopting the World Bank's SAP. During the 1980s Ghana had a negative growth rate of 1.8 per cent, and its debt burden doubled from $1.3 billion to $3.1 billion.[48]

According to the *New Internationalist*, many African countries have ended up worse off as a result of following SAPs, and the social costs have been enormous. Since it is health and education schemes, subsidies and services that are cut, the cost of SAPs are almost entirely borne by the poorest section of the population.

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41 Kola n 13, 1337.
42 Neal n 3.
43 Williams n 12, 6.
44 E Obadina 'Sapping Nigeria's poor' (1990) 208 *New Internationalist* 22, 22.
45 Obadina n 44.
46 Obadina n 44.
47 RR Bissio (ed) *Third World Guide 91-92* (1990) Instituto del Tercer Mundo Montevideo, 326.
48 Bissio n 47.

Austerity measures have increased poverty and unemployment in Brazil, yet in 1989 alone the World Bank took $724 million more out of the Brazilian economy than it put back in.[49] As a result of Mexico's SAP, unemployment rose from 1 million in 1982 to more than 4.5 million in 1987, while the purchasing power of the minimum wage fell by half.[50] The SAP imposed on Costa Rica, a country with a relatively high level of democracy, development and social progress, resulted in increasing injustice and a loss of sovereignty.[51] In Uganda, cuts in government expenditure can go no further.

> One-third of the public sector has been laid off, bribery is endemic, and the north of the country now runs on a barter economy.[52]

SAPs generally increase malnutrition among children, since they adversely affect real incomes, food production and government expenditure. The Economic and Social Council has concluded that malnutrition is a direct reflection of falling incomes.[53] Since women are eating less, they are also giving birth to under-weight babies which are vulnerable to disease.[54] In Jamaica, the result has been that measles and previously eradicated diseases like malaria and typhoid have returned.[55] Education also suffers, since it is hard for malnourished children to concentrate and learn. Article 12 of the ICESCR, which recognises the right to the highest attainable standard of physical and mental health, requires States to take steps necessary for "the prevention, treatment and control of epidemic, endemic, occupational and other diseases" and for the "healthy development of the child". These provisions are discussed at greater length at page XR.

UNICEF regards a country's under-five mortality rate (U5MR) as an important social indicator because it reflects many aspects of national life.

> The U5MR is known to be the result of a wide variety of inputs: the nutritional health and the health knowledge of mothers; the level of immunisation and ORT use; the availability of maternal and child health services (including prenatal care); income and food availability in the family; the availability of clean water and safe sanitation; and the overall safety of the child's environment.[56]

The under-five mortality rates of LDCs are considerably greater than those enjoyed by the West. African children die at 10 times the industrial country rate.[57] Zambia's SAP, which has lowered incomes, pushed up food prices and cut health and nutrition programmes, has resulted in rising infant deaths; there was a 25 per cent increase between 1980 and 1991.[58]

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49 Shaw n 2, 5.
50 'World Bank—The Facts' (1990) 214 *New Internationalist* 16, 17.
51 Carty n 24, 19.
52 Shaw n 2, 5.
53 ECOSOC n 38, 9.
54 Kola n 13, 1338.
55 J Ross Frankson 'Hagglers, Higglers and Empty Stomach' (1990) 214 *New Internationalist* 20, 21.
56 United Nations Children Fund *State of the World's Children 1993* (1993) UNICEF New York.
57 'New Drive to Protect Africa's Children' (1992) November *Africa Recovery* 14 at 17.
58 n 57.

SAPs can also lead to an increase in emigration among badly paid professionals, nurses and teachers, thereby resulting in a 'brain drain'.

> Emigration — now 30-40,000 people a year — is a main avenue of escape for [Jamaican] nurses and teachers who can get a visa to the US or Canada.[59]

In this respect, Article 13(2)(e) of the ICESCR provides that "the material conditions of teaching staff shall be continuously improved".

Faced with such evidence, SAP proponents claim that there are considerable long term benefits. SAPs, it is argued, ensure sustained development. World Bank evidence suggests that economic reforms have in general led to improved economic performance.[60] According to World Bank President Lewis Preston,

> doubt and disillusion can set in as pain often precedes gain, but history documents the benefits of perseverance.[61]

Yet the World Bank has acknowledged that "no country undergoing rescheduling has significantly improved its debt ratios".[62] The *New Internationalist* claims that the economies of 19 countries with 'strong' adjustment programmes contracted by an overall average of 1.5 per cent a year between 1980 and 1987, while 12 countries with 'weak' or no programmes expanded by an average of 1.2 per cent a year. This is supported by more recent findings of the Economic and Social Council:

> Real GDP growth rate declined in the African least developed countries by 0.9 per cent in 1992, after a drop of 0.4 per cent in 1991. . . . [63]

At meetings of the IMF and World Bank, African ministers have also expressed doubts about the gains of structural adjustment even though these institutions insist that they are working.[64] UNCTAD's 1993 Trade and Development Report found that despite intensive application of SAPs in sub-Saharan Africa, per capita income fell over 15 per cent in 1980-92, with average income growth one-half to one-third that of all developing countries.

When one considers the more substantive issues, such as the real source of LDC balance of payments problems, it becomes increasingly difficult to justify SAPs even in the long term. The citizens of LDCs are essentially required to forgo their economic rights in order to guarantee western living standards for the future, and to pursue a promise of development that may or may never come.

Even if one were to place all the blame for underdevelopment on internal mismanagement, it would still fail to justify the suspension of the economic,

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59 Ross Frankson n 55.
60 Sparks n 26, 11.
61 'Africans Dispute Adjustment Gains' (1992) November *Africa Recovery* 25.
62 World Bank *World Debt Tables* (1989) World Bank Washington DC in Clark & Davies n 11, 18.
63 ECOSOC n 38, 6.
64 n 61.

social and cultural rights of people in LDCs. The indivisibility of human rights is often put forward to counter the arguments of some governments that civil and political rights are somehow conditional upon the realisation of economic, social and cultural rights. It would likewise seem odd if a suspension of basic economic rights could be justified as a necessary result of 'adjusting' the economy of a nation. The morality of an economic system that tolerates the yearly death of 500,000 children as an ordinary consequence of its workings cannot be upheld.

Principle 72 of the Limburg Principles states that a party will be in violation of the ICESCR, inter alia, if "it deliberately retards or halts the progressive realisation of a right, unless it is acting within a limitation permitted by the Covenant or it does so due to a lack of available resources or force majeure". SAPs deliberately retard the progressive realisation of rights in the alleged hope of eventually improving those rights. Article 4 of the ICESCR permits a restricted limitation of rights "for the purpose of promoting the general welfare in a democratic society". This, however, must be read in the context of the minimum standards provided elsewhere in the Covenant. Principles 46 and 47 of the Limburg Principles state that Article 4 "was primarily intended to be protective of the rights of individuals rather than permissive of the imposition of limitations by the State [and that] the article was not meant to introduce limitations on rights affecting the subsistence or survival of the individual or integrity of the person". If a State wilfully fails to meet a generally accepted international minimum standard of achievement, provided it is capable of meeting that standard, it will violate the Covenant.

"Promoting the general welfare" has additionally been interpreted as "the well-being of the people as a whole". It is open to considerable debate whether SAPs are for the purpose of promoting general welfare, or for the purpose of promoting a free market philosophy, or ensuring debt repayments.

The World Bank and IMF programmes fail to acknowledge that human resources are a source of economic growth, and that investment in health and education is vital. Low levels of education and training, and poor physical health lead to low levels of labour productivity. And since SAPs, by design, are focused purely at the economic level, they likewise fail to appreciate the various social indicators of growth such as the extent of poverty, improvements in health, life expectancy, literacy rates, and the level of political freedom. Export industries may produce growth but not necessarily development, especially when considering the export increase/price fall dichotomy. While it has been shown that wealth does not necessarily 'trickle down', poverty certainly does, such that a national economic debt problem becomes a family level debt crisis.[65]

Reduction of Government Expenditure

As noted earlier, Professor Philip Alston has pointed out that economic rights are for the bad times, not the good times, and that economic hardship is no

65 Clark & Davies n 8, 7.

justification for limiting those rights. Related to this is the recognition that economic rights are not simply aspirational and not merely government charity. They are fundamental human rights in every sense of the word. This approach is consistent with the well accepted view that all rights — civil, political, economic, social and cultural — are universal and indivisible. Any adjustment measure that calls for reduced government expenditure, particularly in the provision of social services, must be closely scrutinised. It is also true that a government's capacity to govern is impeded by forced reductions in its expenditure.

SAP cuts in expenditure on social services have directly resulted in increased rates of disease, malnutrition and child mortality.[66] The Economic and Social Council has found that meningitis and malaria have been on the increase in Africa.[67] Article 12 of the Covenant recognises "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health", and that States shall take steps necessary for:

> (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
> (b) The improvement of all aspects of environmental and industrial hygiene;
> (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
> (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Education and health spending increased significantly after the independence of many African countries. Child mortality steadily dropped, while life expectancy and literacy rose.[68]

> African countries raised health, education and other standards to levels that industrialised nations took more than a century to achieve.[69]

Declining import capacity, however, and falling government revenues in the 1980s, threatened or reversed the gains, particularly with the introduction of SAPs which require general budget austerity. Levels of immunisation, for example, have been diminished.[70] Ninety per cent of Africa's population does not have access to clean, piped water, an alarming statistic given that some 80 per cent of illness in Africa's LDCs can be associated with inadequate water supplies or poor sanitation.[71] African levels of health services and education remain the lowest in the world, and the health care that is provided is unevenly distributed, most of it centred in urban areas.

Most of Nigeria's 21 states have abolished free health care and drastically reduced the already inadequate resources allocated to public hospitals.[72] The

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66 Clark & Davies n 8, 5.
67 ECOSOC n 38, 9.
68 Williams n 12, 4.
69 'New Drive to Protect Africa's Children' (1992) November *Africa Recovery* 14 at 15.
70 Sparks n 26, 11.
71 Sparks n 26.
72 Obadina n 44.

cost of health care in Jamaica has also soared, while the service itself has declined sharply as a result of SAP cuts in government expenditure.

> Of the 40 or so daily births at Victoria Jubilee [Jamaica's only specialist obstetrics hospital], more than half are unattended.[73]

A 1992 UNICEF survey found that one year of SAP saw a 100 per cent increase in the number of women dying in childbirth recorded in Harare.[74] Article 11 of the ICESCR specifically recognises that:

> [s]pecial protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be paid leave or leave with adequate social security benefits.

Education, particularly primary education, is another service which has tended to be cut back by austerity measures. This tends to ignore the fact that cuts in education are usually a negative factor for economic development.[75] Even where free primary education exists, as in Nigeria, many children have been withdrawn from schools, and put to work simply because their parents cannot afford to live without the additional income.[76] In Jamaica, large numbers of school-age children clean windscreens at traffic lights. Lowly-paid teachers are resigning, and as teaching standards have fallen, so too has the performance of children.[77]

Article 13 of the ICESCR recognises the right of everyone to education and provides for free and compulsory primary education, with the progressive introduction of free secondary and higher education. Article 13(2)(e) states:

> The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

By imposing cuts in government expenditure that undermine the minimum standard for education provided for in the Covenant, SAPs clearly violate the right to education.

> In the educational sector [in Africa], the spectre of school closures and completely run-down educational infrastructure loomed large in 1991-1992, with the result that school enrolment and attendance ratios declined in a number of countries. The educational systems of most African countries have increasingly had to cope with shortages of teaching materials and even teachers.[78]

Public transport cuts in Nigeria, another example of SAP reduction in government expenditure, have been acutely felt by Nigerians. School children can

73 Ross Frankson n 55, 20.
74 n 32.
75 Sparks n 26, 11.
76 Obadina n 44, 22.
77 Ross Frankson n 55, 21.
78 Bentsi-Enchill n 39, 9.

endure up to four hours walking to and from school; either they spend their money on breakfast or on bus fare.[79] On the commercial side, a major impediment to farming in Africa has been the deterioration of roads and railway due to SAP-induced budget cuts.

The object of curtailing government expenditure is to reduce the budget deficit. Public wages, government subsidies and social sector programmes are cut to achieve this, even though such subsidies and programmes are insignificant in comparison to those enjoyed in the West. Low income countries on average spend 8 per cent of government budget on social spending, while industrialised countries spend around 56 per cent.[80] Subsidies account for 6 per cent of GDP in low income countries, and 18 per cent in industrialised countries.

As a result of cost recovery schemes in the delivery of formerly free services such as health and education many workers have lost their jobs. Because there is no social security to pick them up, they and their dependants become destitute or economic refugees in already over-crowded urban centres. This is despite the fact that Article 9 of the ICESCR recognises the right of everyone to social security, including social insurance. Denying poor people the right to the subsidies and social services on which they depend propels them further into poverty.[81]

While the IMF has insisted on the withdrawal of subsidies from social services, it has given free reign to military expenditure and huge construction projects handled by western countries.

> Officials of the IMF and the World Bank have always recoiled from directly explaining the reason their agencies ignore military budgets when prescribing conditionalities.[82]

Much capital works expenditure has also been of questionable value to the majority of the population, and has over-stretched the financial and administrative capacities of recipient countries.

Sudan provides a good example of the absurd double-standards of IMF conditionalities. The list of large, expensive and inappropriate Sudanese projects includes:

- Kenana Sugar Project (estimated cost: US$750 million)
- Jonglei canal in Southern Sudan (estimated cost: more than US$1 billion)
- the planned crude oil pipeline from Kosti to Port Sudan which is to carry oil pumped by the US firm, Chevron, on to the world market (estimated cost: US$900 million)
- the planned oil refinery in Kosti (estimated cost: US$1 billion)
- the planned Meroe Fill Dam (estimated cost: US$600 million)

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79 Obadina n 44, 22.
80 J Clark *Democratising Development: The Role of Voluntary Organisations* (1991) Earthscan, 213.
81 Clark & Davies n 8.
82 Kola n 13, 1344.

- Rahad Irrigation Project, co-financed by the World Bank (estimated cost: US$346 million).

The questionable nature of these projects has been ignored by the IMF, which nevertheless has insisted on the total withdrawal of subsidies from health and education.

> Africa is a graveyard of 'black elephants'; development monuments of little economic value built with wealth extracted from the peasants to satisfy the megalomaniac proclivities of their rulers. . . . For decades while Africa's peasants were being exhorted to tighten their belts, elite *bazongas* or raiders of the public treasury were loosening theirs with fat bank balances abroad.[83]

NGOs argue that big projects rarely reduce poverty and usually make it worse, since they do little to alter the relationships and power structures within the countries where they are promoted.

A further point that needs to be considered is that in the drive to encourage foreign investment LDCs are also encouraged to grant generous investment incentives such as 'tax holidays'. This in turn leads to a loss of tax revenue and the loss of foreign exchange through profit repatriation. LDCs also provide cheap services and cheap labour. Foreign companies therefore benefit at the expense of the local population.

In interpreting the phrase "to the maximum of its available resources" in Article 2(1) of the ICESCR, Limburg Principles 25 and 28 provide that "minimum subsistence rights" and "the provision of essential services" are a *priority* obligation which State parties must observe "regardless of the level of economic development". Principle 27 requires "equitable and effective use of and access to the available resources", while Principle 26 defines 'available resources' as both the resources within a State and those available from the international community. IMF and World Bank insistence on cuts in the provision of essential services, while military and project expenditure is left unchecked, would appear to be in breach of these principles. Principle 23 further provides that the obligation of progressive achievement of economic, social and cultural rights "exists independently of the increase in resources". State parties are required to effectively use their current resources through equitable distribution.

While adjustment policies have turned the Jamaican government's deficit into a surplus, for the vast majority of Jamaicans the policies "have meant a sharp and painful decline in living standards".[84]

It should be noted that international relief agencies are being increasingly called upon to meet the shortfalls created by reductions in State provided social

83 G Ayittey 'Guns, Idiots, Screams' (1990) 208 *New Internationalist* 8 at 8.
84 Ross Frankson n 55, 20.

services, particularly in the health sector. NGOs are used to help 'mitigate the social costs' of SAPs.

> Many NGOs feel this compromises them because it implies their acceptance of World Bank/IMF structural adjustment policies. They also feel that this kind of involvement in social welfare programmes is token and does not lead to the depth of dialogue required for 'true' participation.[85]

Devaluation and Unification of the Exchange Rate and Elimination of Exchange Controls

The fundamental feature of most SAPs is a radical devaluation of the exchange rate. Since devaluation increases the cost of imported goods, and deprives governments of the capacity to allocate foreign exchange and imported goods, it is often resisted.

Devaluation is said to encourage agricultural production by raising the prices of exports and imported foods. But while currency devaluation may temporarily increase the earnings of cash crop producers there are attendant increases in the price of farm inputs and transport costs which compress agricultural credit to the small farmer, thus favouring the large commercial farmer, intermediaries and agro-industrial exporters.

While SAPs may encourage official agricultural exports and facilitate modest improvements in the use of industrial capacity, they constrain further expansion by suppressing consumer demand and increasing the cost of imported materials.[86] Under Nigeria's SAP, the price of cement rose from 50 cents a bag to $16.88 per bag in 1989.[87] If SAPs are to generate sustained economic growth without high inflation and further devaluations, a net inflow of foreign exchange is needed.

It should be noted that promotion of agriculture for export is itself a suspect aim, given that Africa's food shortage is often the result of too much land being devoted to cash crops for exports at the expense of domestic food production. As more production is oriented towards the export market, there are fewer goods for domestic needs and inflation rises. Article 11 of the ICESCR, which deals with the production, conservation and distribution of food is discussed below.

In some countries, as in Senegal, devaluation has not even helped exports in the short term, given that export production is already at full capacity, and some natural resources such as fish have been completely depleted.[88]

A fall in manufacturing capacity can also follow devaluation due to declining access to the means to import machinery and materials. Many LDC industries

85 Clark & Davies n 8, 15.
86 Williams n 12, 4.
87 Obadina n 44, 22.
88 O Ntemfac 'Devaluation Hits the Cameroon' (1994) 318 *New African* 27.

rely on imports of essential components from the West. This also results in rising costs and the lay-off of workers. The share of manufacturing in production fell in most African countries in the 1980s.[89]

The cost of medical supplies has increased dramatically due to enforced devaluation. According to a health care worker in Lusaka, "devaluation has hurt supply of drugs and medical equipment because their costs have escalated between 50 and 300 per cent", so clinics have had to do without many of the basics.

> Our clinics are run down, dirty and germ-laden because we can no longer purchase detergents, soaps and rubber gloves. Our equipment rusts for want of spare parts and since bills can no longer be paid regularly, many clinics lack electricity, telephones and water.[90]

Jamaica has also witnessed massive increases in the cost of drugs.[91]

In Zimbabwe, the price of maize increased by 300 per cent after a 45 per cent currency devaluation in late 1991.[92] After the CFA franc was devalued by 50 per cent throughout the Franc Zone area in January 1994, there was an immediate price rise.

> Basic commodities like rice shot up from 6,000 CFA to 12,000 CFA reflecting the full effect of devaluation. Nursing mothers panicked as the price of baby milk jumped. The Union of Pharmacists suspended the delivery of drugs altogether pending negotiations about prices with the Ministry of Commercial and Industrial Development.[93]

Similar results have been reported in Senegal, where price increases of 30 per cent have put food out of the range of many citizens in the capital Dakar. African NGOs also claim that devaluation has 'killed' many of their development projects because of the attendant increase in the cost of fertiliser, pesticides and equipment, and sharply rising living costs.[94]

Rising prices cannot be compensated for by raising wages and government expenditure, since these would lead to further inflation and devaluations, or to a renewed discrepancy between the exchange rates in official and parallel markets.[95] Stringent control of government spending and the money supply are required. Government spending on health and education will consequently be cut.

89 Williams n 12, 4.
90 Kola n 13, 1338.
91 Ross Frankson n 55, 20.
92 Bentsi-Enchill n 39.
93 Ntemfac n 88.
94 Bentsi-Enchill n 39.
95 Williams n 12, 6.

> The burden of SAPs will therefore fall most heavily on wage and salary earners, who cannot pass the effects of rising prices on to others, and on students and other consumers of public services.[96]

Students in Mali have rioted to protest the lack of increases in their grants to offset the rise in the cost of living following the devaluation of the CFA franc.[97]

The alternative would be to reduce government expenditure in other areas, such as the military budget, or to have effective instruments and policies for taxing high incomes.

Market Liberalisation and the Export Drive

Market liberalisation requires the elimination of subsidies and price controls which protect local industries. According to *West Africa*, trade liberalisation in Nigeria, Zambia and Cote d'Ivoire resulted in the collapse of industrial production geared towards the internal market and disengagement of real productive capital. Liberalisation of banking services meant that central banks in Africa lost control over monetary policy.

One of the reasons for Zimbabwe's agricultural success has been a consistent pricing policy and the increase of credit available to peasant farmers. If Africa is to feed itself, government expenditure on agriculture must be sustained. Peasant farmers need incentives to diversify and grow more. Farming necessities such as fertiliser and seed need to be subsidised, and farming loans should be more readily available. Zimbabwe's Agricultural Corporation, which controls loans to peasant farmers, insists less on collateral and more on the viability of the project. Improved extension services or back-up have also been vital in Zimbabwe's agricultural revolution, and agricultural training facilities have expanded since 1980. If cheap, high-yield seeds that suit African conditions are to be developed, agricultural research needs to be funded. Finally, good prices for food crops are essential.[98] Domestic food production can only be guaranteed if farmers are paid more for doing it and receive the back up they need.

When the Agricultural State Marketing Organisation (ADMARC) was dismantled in Malawi it had both negative and positive effects. ADMARC, which bought food from farmers in rural areas and provided essential emergency food reserves in times of crisis, was regarded as inefficient, so the IMF urged privatisation. While the resultant increase in the price of basic food was to the advantage of small scale farmers, there was no longer a buffer against hunger for the poor.[99]

Under Article 11(2) of the Covenant, States are required to take measures

96 Williams n 12.
97 Ntemfac n 88.
98 L Morna 'A Maize Miracle' (1990) 208 *New Internationalist* 10, 11.
99 Clark & Davies n 8, 14.

(a) to improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilisation of natural resources;
(b) taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

By requiring States to dismantle or privatise parastatals involved in the distribution of food, the IMF and World Bank have curtailed the gains made in this area.

In Costa Rica, where the World Bank encouraged the growth of new export crops like flowers, ornamental plants, strawberries and melons, farmers who were unable to sell the new crops went bankrupt or abandoned farming.[100] The Bank claimed that the small farmers were inefficient and so pressured the government to stop subsidising them. Price supports were withdrawn and credit was transferred to the largely foreign-owned, export-oriented agribusiness companies.[101] These companies were granted tax breaks and subsidies. Small farmers were unable to switch to the new crops because they lacked the necessary technical expertise and finance. This resulted in the elimination of a whole class of small farmers. Costa Rica has now begun to import staple items like rice, beans and corn. The World Bank argues that these crops can be grown more efficiently in the West. This ignores the fact that Costa Ricans have the right to determine the way in which they want to develop. The World Bank also argues that the new crops provide a foreign-exchange advantage. The foreign-exchange advantage, however, tends to be absorbed by transnational corporations. Not only that, but non-traditional exports are also 'desert' crops, items which are the first to suffer consumer cut-backs during a recession. Added to this is the problem of oversupply, given that many other Central American and Caribbean countries have been encouraged to grow the same crops.

The problem of oversupply is a critical feature of the debt cycle. Since developing countries often produce the same sorts of exports there is a glut on the world market. As prices for these exports drop, countries fail to earn sufficient foreign exchange to meet their expenditure, and are forced to increase their exports once again, which leads to a further drop in world prices. Countries which are forced to rely on food imports are also particularly vulnerable to effects of devaluation.

As Jamaican farmers have increased their export production, there has been less food available for domestic consumption. Nutritional standards have accordingly dropped, and health problems have increased.[102]

> Even today the Bank insists that countries in the South compete against one another for Northern markets that are essentially closed to them. It hectors them to produce goods that sell in world markets at rock-bottom prices. And it forces them to ravage their

100 Carty n 24, 18.
101 Carty n 24, 18.
102 Ross Frankson n 55, 20.

environment and allow the poor to go hungry in pursuit of this dead-end export strategy.[103]

Competition for scarce export markets mean that commodity prices and attendant LDC wages remain low. Western consumers and multinational corporations are the main beneficiaries. SAPs thus maintain the flow of wealth from North to South and reinforce global inequality.

Compression of Real Earnings and De-indexation of Wages

The Economic and Social Council has found that in the majority of African countries where SAPs have been implemented, real minimum wages have declined and the distribution of wealth has become more inequitable.[104] For example, in Cameroon which has undergone eight years of IMF structural adjustment, 86 teachers went on strike in November 1993 over a pay cut of between 30-65 per cent. These teachers had their salaries suspended and told they would only be reinstated if they returned to work.[105] The compression of real earnings means that individuals have to work overtime. This in turn has a deleterious effect on family life and social structures. Yet public sector wages in low income countries account for 2.4 per cent of GDP, compared with 4 per cent in industrialised countries.[106] Article 7(a) of the ICESCR requires that all workers be provided "fair wages and equal remuneration for work of equal value" and "a decent living for themselves and their families". SAPs openly pursue a policy of wage reduction which is incompatible with these rights.

Diokno argues that wage cuts and the promotion of free export production zones have led to the suppression of labour laws, a ban on strikes, persecution of workers' leaders, no job security, and the non-observance of labour legislation. In this respect, Article 8 of the ICESCR ensures "the right of everyone to form trade unions and join the trade union of [their] choice", "the right of trade unions to function freely subject to no limitations other than those prescribed by law", and "the right to strike". While these rights may be limited in the interests of national security or public order or for the protection of the rights and freedoms of others, these limitations have been narrowly interpreted in Limburg Principles 59 to 69.

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103 Hellinger n 34.
104 ECOSOC n 38.
105 Ntemfac n 88.
106 Clark n 80, 213.

Privatisation

The privatisation of parastatals has often led to reductions in the work force and in the provision of social services, and the suppression of labour laws. Privatisation of agricultural land through the issuing of land title to farmers supported by the World Bank has also resulted in the forfeiture and/or mortgaging of land by small-scale farmers, growth of the agro-business sector and the formation of a class of landless farmers.

Effect on Women

Article 3 of the ICESCR requires State Parties to "ensure the equal rights of men and women to the enjoyment of all economic, social and cultural rights" set forth in the Covenant. The Committee for the Elimination of Discrimination Against Women (CEDAW) has been particularly concerned with the effect of SAPs on women in developing countries. It has found that "poor women have become poorer, more women are poor, and women are now poorer in relation to men".[107] CEDAW has concluded that

> the economic crisis and resultant austerity policies [SAPs] undertaken by developing nations mean achieving equality for women will be even harder than it has been.

The Committee believes that ordinary women in LDCs are expected to fulfil their traditional responsibilities, even though changing social and economic circumstances may make this impossible. Bank policies secretly factor in women's time and labour, while outwardly ignoring their economic worth.

> This is a serious problem with far-reaching implications, for if policy planners do not take women's multiple roles and needs into consideration, the "adjustment" programmes may actually backfire, undermining attempts to improve the health of the economy and put it on a path of sustainable growth. Indeed, this is precisely what some experts are arguing happened in Jamaica when, despite increased levels of investment in the 1980s, the overall output of the economy in real terms was lower in 1981-87 than in 1976-80.[108]

Nearly a third of Jamaican households are led by women and another 60 per cent rely heavily on women's incomes.[109]

> Cutbacks in [Jamaican] health and education and the near collapse of the local garment industry have pushed a large number of women onto the streets. But the export industry has not absorbed them. Officially, the female unemployment rate is 26 per cent. But for those between 16 and 25 it's more like 70 per cent.[110]

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107 Committee for the Elimination of Discrimination Against Women (CEDAW) *Women in Developing Countries: Invisible Victims of the Economic Crisis* United Nations Department of Public Information DPI/1014-41113-November 1989-10M.

108 CEDAW n 107.

109 Ross Frankson n 55, 20.

110 Ross Frankson n 55,.20.

Those who manage to find work in the export industry are paid incredibly low wages because they are classified as unskilled. Seventy per cent have to work overtime to make enough to survive.[111] This has detrimental physical and emotional effects. Additionally, working conditions are poor and company production targets are ever-increasing.

> By imposing structural adjustment policies on Jamaica the World Bank and its IMF partner have reversed the old rule about women and children being saved first. In this new ocean there are no lifeboats — and women and children must simply sink or swim.[112]

As a result of SAPs, women in LDCs are forced to assume greater burdens to ensure the survival of their families. Dropping nutritional standards and increasing health problems, for example, place more pressure on the women who have to deal with them. Falling wages have resulted in the rise of female poverty, which is exacerbated by existing sexual differentials in wages. To compensate for the decreased purchasing power of family incomes, more women also look for work outside the home. They spend more time shopping, in the search for cheaper items, more time preparing food because they are unable to buy as much processed food, and more time walking because public transport fares become unaffordable. They are increasingly called upon to care for the sick and assume greater child-care responsibilities because of cuts in social services. SAPs additionally diminish educational and economic opportunities for young women, thereby reinforcing pre-existing inequalities. This drain on the resources of women also inhibits their ability to participate in political life. These effects are confirmed by UNICEF studies.[113]

Conclusion

It is clear that SAPs are not working. The Regional Meeting for Africa of the World Conference on Human Rights expressed concern

> at the difficulties which the African States are encountering in the consolidation of democracy due to the impact of economic adjustment measures on the realisation of human rights and development.[114]

As has been shown, the social effect of SAPs on the economic, social and cultural rights has been deleterious and they have not delivered the promise of vigorous growth. Indeed, the current level of global inequality makes a mockery of human rights standards.

The overwhelming thrust of the evidence would appear to support the claim that World Bank and IMF policies are violating human rights. The practical

111 Ross Frankson n 55,.20
112 Ross Frankson n 55, 21.
113 CEDAW n 107.
114 World Conference on Human Rights *Report of the Regional Meeting for Africa of the World Conference on Human Rights* 24 November 1992, A/CONF.157/AFRM/14, 15.

effects of these polices reveal little discernible respect for rights set out in the ICESCR.

> Rather than listening to the poor, [the World Bank] takes its cue from the money markets and investment bankers in London, New York and Washington.[115]

The IMF and the World Bank have been more concerned to deflect the mounting criticism of their structural adjustment policies but have not really addressed the underlying concerns of these criticisms. Their approach does not reveal and appreciable understanding their own contribution, and that of the global economic system, to world poverty. The Bank is increasingly looking to NGOs to help protect the poor from its policies, basically to help 'mop up the damage'. However, NGOs which criticise the underlying policies are excluded from further dialogue.[116]

NGOs have been collaborating in an effort to build up international opposition to the devastating economic, social and environmental impact of SAPs.[117] In mid-September 1992 NGO representatives from 46 countries met at a forum in Washington to begin planning campaigns leading up to this year's fiftieth anniversary of the IMF and World Bank.

Critics and organisations are also proposing alternatives to SAPs in the search for a new order. The *West Africa* has, for example, called on the West to write off African debts, and for multinational companies to pay fair prices for African commodities and exports. UNICEF has likewise called for Africa's debt to be struck off, labelling the debt "a new slavery that has shackled the continent".[118] Writing off LDC debts would appear to be a fairer solution to the problems of LDCs, and one that would impose a less onerous task upon the poor.

Clark and Davies believe that a whole new approach and attitude is needed, a process of structural *transformation* as opposed to adjustment.[119] This transformation would look beyond mere economic growth as a goal, to one that "serves the needs of people, the planet and peace — and leads to a fairer world". It would address the international impediments to Third World development, and ensure that the economic rights of citizens are not violated or compromised in the pursuit of growth.

According to Clark and Davies, just and sustainable development depends on development of infrastructure, economic growth, poverty alleviation, equity, natural resource conservation, democracy and accountability and social justice. Some of their recommendations, and how they compare with the current thinking of Structural Adjustment Programmes, are shown in the table below.

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115 Hellinger n 34.
116 Clark & Davies n 8, 16.
117 Bentsi-Enchill n 39.
118 'Strike Off Chains of Africa's Debt' (1991) December *Africa Recovery* 48.
119 Clark & Davies n 8, 19.

Table 2: ***Structural transformation***[120]

Particular Ingredient	Relationship with Structural Adjustment
Less export emphasis	Opposite
Regional cooperation	Could be compatible
Development of internal markets	Opposite
Better, rather than less, intervention	Opposite
Maintain and improve imports	Objective the same
Curb inflation	Objective the same
Reduce debt service	Somewhat different
Enhance democracy and accountability	Could be compatible
Ensure there no net losers amongst the poor	Somewhat different
Develop human capital	Objective the same
Ensure the access of the poor to assets	Could be the same
Ensure equity - especially gender equity	Could be compatible
Ensure environmental conservation	Could be compatible
Ensure human rights	Somewhat different

A number of NGOs have tried to develop alternative policies along these lines which are based on local priorities rather than the "global agenda of the elite".[121]

CEDAW believes the IMF and World Bank need to rethink their approaches to development:

> As the detrimental consequences of the crisis and various policies become more manifest, policy-makers may become aware of the need to see that taking women's concerns into consideration and improving women's status are integral to successful development.

The International Labour Organisation (ILO) has called for a fundamental review of SAPs and their consequences for employment and income distribution, and believes social objectives should become an integral part of adjustment policy.[122]

The UN Economic Commission for Africa (ECA) has proposed an African Alternative Framework to Structural Adjustment Programmes for Socio-Economic Recovery and Transformation which takes issue with World Bank and IMF structural adjustment programmes.[123] According to the Alternative Framework,

> the crisis overwhelming Africa must be seen first and foremost as a human one, and not merely in terms of macro-economic disequilibrium, and that developmental concerns — such as the alleviation of abysmal levels of health, nutrition, education and

120 Clark n 80.
121 Clark & Davies n 8.
122 'ILO Calls for Equitable Adjustment' (1989) December *Africa Recovery* 25.
123 'Africa's Adjustment Concerns Gaining Support' (1989) October *Africa Recovery* 1.

productivity — cannot be put on hold while resources are consumed by the need to correct economic imbalances.[124]

The problem with current World Bank and IMF programmes is that they concentrate solely on the economic sphere to the exclusion and detriment of the human and environmental spheres. It is time the World Bank and IMF did more than pay mere lip service to the way in which their policies affect fundamental human rights. It is necessary for world financial institutions, governments, policy makers and human rights lawyers and activists to recognise that rights contained in the ICESCR are not simply aspirational but are in fact as concrete and deserving of recognition and enforcement as civil and political rights. Citizens should be encouraged to exercise their rights to participate in their society through such bodies as trade unions. They should concern themselves with programmes for development which ensure that human rights are observed and which guarantee that everyone benefits from economic growth.

124 n 123.