Global Initiative for Economic, Social & Cultural Rights

FfD4: GI-ESCR's Position Paper

Zero Draft version to be discussed at FfD4 3rd Pre Com (10-14 February 2025)

While the Zero Draft for the outcome document of the Fourth International Conference on Financing for Development (FfD) under discussion certainly presents some constructive elements that help push the development financing agenda in a human rights-compliant direction, GI-ESCR believes that, in the face of multiple overlapping crises affecting the global community, it still lacks ambition to profoundly re-shape the systems that perpetuate inequality by failing to create a structure that fosters development while respecting planetary boundaries.

1. Public services

In Paragraph 18, the Zero Draft states: "It is imperative to urgently and systematically address the funding shortfalls in education and health." The draft correctly identifies that adequately financing education and healthcare systems is a necessary condition for guaranteeing basic human rights. However, the issue is not just about increasing funding—it is about ensuring that this funding is directed towards public services that are crucial to adequately fulfil the human rights obligations of the States.[1]

Scandal after scandal has demonstrated that the privatization of public services leads not only to a decline in service quality and increased barriers to access but also to blatant human rights violations. For example, in 2024, the International Finance Corporation (IFC) ceased its funding to New Globe Schools, better known as Bridge International Academies, following a series of complaints, including violations of labour rights, child sexual abuse, and inadequate health and safety measures that resulted in the tragic death of one child and the injury of another.[2] Similarly, this year, another investigation revealed a series of human rights violations in World Bank-funded for-profit

[1] *Article 2 (1) of the International Covenant on Economic, Social and Cultural Rights stipulates the obligation of States parties to take steps, to the maximum of their available resources, for the progressive realization of the rights recognized in the Covenant, by all appropriate means. In its general comment No. 3 (1990) on the nature of States parties' obligations, the Committee on Economic, Social and Cultural Rights noted that measures that could be considered appropriate means for the purposes of article 2 (1) included administrative, financial, educational and social measures. Such measures can also be interpreted to include public service delivery.*

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[2] *GI-ESCR. (2023, April 21). World Bank deals blow to privatisation in education with divestment from BIA. https://gi-escr.org/en/our-work/on-the-ground/world-bank-deals-blow-to-privatisation-in-education-with-divestment-from-bia*

hospitals in Africa and Asia, where patients were detained or denied care due to an inability to pay.[3]

These are not isolated incidents or a case of "a few bad apples". While the World Bank and other development banks continue to finance for-profit schools and hospitals, mounting evidence shows their detrimental implications for human rights. In the case of education, the neoliberal logic that promotes private education as a cost-efficient alternative has exacerbated segregation and discrimination,[4] eroded the right to free education, diluted curricula,[5] and failed to meet minimum quality standards.[6] Similarly, the increasing privatization of healthcare has meant that more people are paying for their healthcare out-of-pocket, often with catastrophic consequences.[7]

A lack of accountability is a key driver of these injustices. Over the past several decades, many governments worldwide have outsourced public services to the private sector without strengthening oversight mechanisms. Instead of reinvesting in necessary infrastructure and service improvements, profits have been siphoned off for corporate gain. The encroachment of the private sector follows decades of financialization, where capital shifts toward financial investments have led to chronic underinvestment in essential services.

The consequences of this systematic underfunding extend beyond education and healthcare, deeply affecting care systems. The 1995 World Summit for Social Development in Copenhagen acknowledged the need to promote gender equality and shared responsibility in care work, commitments that were later reflected in the SDGs. However, nearly three decades later, progress remains insufficient. SDG target 5.4, which calls for recognizing and valuing unpaid care and domestic work through public services, infrastructure, and social protection, highlights a persistent reality: globally, people spend 16 billion hours on unpaid care work daily, with women shouldering 2.5 times more of this burden than men.

While Paragraph 19 proposes to recognize the value of the care economy and redistribute care work, it is important to also recognize that the erosion of public services due to privatization and austerity disproportionately impacts women and girls, who often step in to fill the gaps left by inadequate healthcare, education, and social protection. Without sufficient public investment in care systems, these unpaid workloads remain invisible, perpetuating gender inequalities. A well-funded and sustainable care economy—anchored in universal public services and comprehensive social protection—is essential for closing gender and social gaps, fostering inclusive economic growth, and upholding human rights. Investments in public education, healthcare, and social protection directly reduce women's unpaid care workload by shifting responsibilities from households to the State and other co-responsible sectors. actually "procedural roadblocks" which reflect the reluctance of conservative OECD countries to relinquish control of global tax governance.

Fortunately, the UN process includes mechanisms to prevent a handful of countries benefiting from the status quo from imposing consensus rules to obstruct the urgent tax reforms necessary to achieve broader goals, such as sustainable finance and equitable global development.

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[3] *Finch, G., Taggart, K., & Kocieniewski, D. (n.d.). Patients Detained, Denied Care at Hospitals Funded by World Bank. Bloomberg. https://www.bloomberg.com/news/features/2025-01-16/world-bank-funded-hospitals-in-africa-asia-detained-patients-and-denied-care?accessToken=eyJhbGciOiJIUzI1NiIsInR5cCI6IkpXVCJ9.*

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[4] *UNESCO. (2022). Non-state actors in education. https://www.unesco.org/gem-report/en/non-state-actors*

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[5] *PEHRC (2023, January 16). Civil society organisations highlight limitations of new study on Bridge International Academies' education model, and urge caution in interpreting findings. https://www.educationbeforeprofit.org/civil-society-organisations-highlight-limitations-of-new-study-on-bridge-international-academies-education-model-and-urge-caution-in-interpreting--findings/*

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[6] *Realizing the Abidjan principles on the right to education. (2021, May 21). Edward Elgar Publishing. https://www.e-elgar.com/shop/gbp/realizing-the-abidjan-principles-on-the-right-to-education-9781839106026.html*

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[7] *Marriott, A., Hamer, J., Oxfam International, British International Investment, Proparco, Deutsche Investitions- und Entwicklungsgesellschaft, International Finance Corporation, & TPG. (2023). Sick Development: How rich-country government and World Bank funding to for-profit private hospitals causes harm, and why it should be stopped. In OXFAM BRIEFING PAPER [Report]. Oxfam GB. https://doi.org/10.21201/2023.621529*

The overwhelming support for this resolution demonstrates a global appetite for tax reform. Civil society organisations and advocacy groups, long excluded from OECD processes, now have an opportunity to play a vital role in shaping the negotiations. Their contributions will ensure that the framework aligns with broader global priorities like reducing inequality, fostering sustainability, and guaranteeing human rights.

2. Debt

In Paragraph 47, the Zero Draft states: "Maintaining sustainable debt levels is the responsibility of the borrowing countries. We also acknowledge that lenders have a responsibility to lend in a way that does not undermine a country's debt sustainability."

This framing should be challenged as it places the majority of the burden on borrowing countries while failing to fully recognize the responsibilities of developed countries and international financial institutions (IFIs). The current debt infrastructure results in a massive transfer of resources from the Global South to the developed countries of the Global North. This transfer has profound consequences not only for development but also for human rights, as it diverts essential resources away from providing citizens in developing countries with basic services that uphold their rights.

It also neglects illegitimate debts rooted in historical structural inequalities –even some derived from colonialism- and the debt burdens that countries have taken on to mitigate the effects of climate change. A strong FfD process must explicitly acknowledge the extraterritorial obligations of developed countries regarding debt and the legal responsibilities of international financial institutions as subjects of international law.

As highlighted throughout the Zero Draft, achieving sustainable development requires significant financial resources. However, there should be greater emphasis on ensuring that most of these resources do not come in the form of debt. Even when debt is utilized as a financial instrument to provide broaden fiscal space, it must not rely solely on for-profit and market-based logics, since, differently from typical private borrowing and lending, the consequences of a State's unsustainable indebtedness impact the human rights of its population through the shrinking of public services, potential currency devaluations with an inflationary impact, and other likely consequences of fiscal adjustment. While we acknowledge that some of the proposals for reforming the international financial architecture are steps in the right direction —such as Paragraphs 48(a), 48(b), 48(g), 50(e), 53(a), and 53(d)—, the severity of the current debt crisis and the high levels of debt distress in the developing world render these measures are insufficient.

In particular, we propose further clarifications regarding the human rights obligations of IFIs. We support the position that, as specialised UN agencies, both the IMF and the World Bank should integrate human rights considerations into their analyses. Currently, IFI legal frameworks and practices prioritise economic considerations and creditor interests over human rights, leading to policies that exacerbate social and economic inequalities without accountability for their human rights impacts. While the IMF has begun acknowledging "macro-criticality"—recognising that political or social issues affecting macroeconomic stability warrant consideration—this has not yet translated into meaningful accountability for human rights violations.[8]

Regarding the idea of "debt sustainability", it is important to emphasise that, debt or debt service cannot be said to be sustainable if the amounts needed to pay back the debt would reduce the fiscal space of States so decisively that insufficient funds would remain to protect core economic, social and cultural rights or to ensure progress

[8] *Salomon, M. E. (2024). The Trojan Horse of sovereign debt. Transnational Legal Theory, 15(1), 1–33. https://doi.org/10.1080/20414005.2024.2337524*

in attaining the SDGs[9]. It is therefore important to include human rights impact assessments as part of their due diligence when evaluating the sustainability of debt.

Regarding the proposal to establish a UN framework convention on sovereign debt, we welcome the initiative but stress that, for it to be effective, it must:

- Explicitly define States' obligations regarding debt and human rights.
- Clarify the binding human rights obligations of IFIs.
- Establish an effective and actionable oversight mechanism capable of holding States, IFIs, and private actors accountable.
- Ensure transparency and meaningful and inclusive participation of civil society.
- Bolster effective mechanisms to counter unequal negotiating leverage between lender countries and highly indebted States throughout the process of negotiation, ensuring that all positions are substantively considered with no risk of potential retaliation.

3. Climate financing

The urgency to address the climate emergency becomes ever more pressing after each failed attempt to swiftly increase climate financing at the multilateral level. The unambitious results of COP 29 in Azerbaijan -where the decision on the New Collective Quantified Goal (NCQG) on Climate Finance fell short of meeting the financing demands of developing countries-[10] underscore the need to advance in a paradigm shift that puts common but differentiated responsibilities, the polluter pays principle, and international assistance and cooperation obligations effectively into play in terms of the reallocation of adaptation and mitigation burdens on a global basis.[11]

In that line, we welcome the Zero Draft's recognition of the need to "take urgent actions to adapt to and build resilience against climate impacts, improve access to climate finance, provide new and additional financial resources, and facilitate the transfer of technology to address the global climate change challenge" -Paragraph 22-. Furthermore, we celebrate that the draft envisages the need for "effective mobilization of new and additional grant-based or highly concessional finance and non-debt creating instruments for just and equitable transitions, biodiversity conservation, and restoration" -Paragraph 39-. Nevertheless, it is critical to complement this commitment with concrete financing modalities that not only ensure the USD 1.3 trillion in annual finance requested by developing countries at COP 29 but also provide actionable guarantees in terms of human rights, sustainability and access.

On the point of modalities, it is concerning that, when referring to Official Development Assistance (ODA) in Paragraph 38, the Zero Draft does not indicate that these resources should come by way of concessionary grants and not profit-based loans. As introduced in the previous subsection, this further promotes a current situation in which developing countries receive insufficient resources to finance climate action, which are later on subject to capitalised repayment. Developed

[9] *Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights. 5 August 2016. A/71/305*

[10] *See GI-ESCR's analysis on the results of COP 29 in the following link: https://gi-escr.org/en/our-work/on-the-ground/29th-session-of-the-conference-of-the-parties-to-the-united-nations-framework-convention-on-climate-change-cop29-wrap-up*

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[11] *For a detailed analysis regarding the interplay between these legal obligations and their actionable implications in terms of climate finance, see GI-ESCR, 'Boosting Ambition Through Legal Obligations: The Added Value of Integrating Human Rights to the Climate Financing Discussion' (November 2024).*

countries, mostly responsible for historical and current excess emissions, make profit out of it. This form of neo-colonialism infringes the economic, social, and cultural rights of the population in heavily indebted States impacted by the climate emergency and should be explicitly addressed during FfD4. In particular, Paragraph 39(b) of the Zero Draft should be modified to explicitly underscore the need to actively avoid loan-based climate financing. Just transition should not be understood as a commodified profit-based business for the Global North, but rather as the compliance of binding international legal obligations ratified by those same States on the matter.

As to quantum, we welcome the Zero Draft's inclusion of the NCQG decision in Paragraph 39(a), while highlighting that reaching USD 1.3 trillion per year by 2035 should not only be considered as a 'desirable outcome' (in comparison to the agreed goal on USD 300 billion per year), but rather as the principal and concrete target which would allow for a timely and effective climate transition. Identifying the upcoming COP 30 in Brazil as a critical forum in which to determine a concrete roadmap toward meeting this objective would be a much-welcomed addition since it would create a powerful political mandate for States and their negotiating delegations.

Paragraph 46 of the Zero Draft correctly identifies the potential of critical minerals to drive economic development in resource-rich developing countries. However, the draft fails to account for how mineral extraction practices risk perpetuating global inequalities and human rights violations and environmental degradation.

In effect, the urgent need to reduce emissions and address the climate crisis has significantly increased the demand for green energy technologies, which rely heavily on minerals for their development. However, both small- and large-scale mining often come with severe environmental consequences and frequent human rights abuses, particularly the dispossession and exploitation of Indigenous Peoples and local communities. This mirrors a broader pattern where climate solutions favour wealthy nations while deepening socio-economic exclusion and further environmental degradation in the Global South. To move away from fossil fuel dependence and ensure a just and equitable transition, human rights standards must guide every stage of the critical transition minerals' life cycle—from extraction and refining to manufacturing, use, and end-of-life processing. Specifically, governments, as well as businesses must identify and assess potential human rights risks across the entire critical mineral value chain and implement measures to prevent and mitigate those risks. States should implement measures according to the precautionary approach to protect the environment against the harmful activities of the mining sector. Moreover, States should guarantee that essential mining activities contribute to environmental and socioeconomic well-being by promoting the sharing of benefits from mineral exploration and facilitating economic diversification into emerging green industrial sectors

In this line, the trade in critical minerals must abide by the Principles to Guide Critical Energy Transition Minerals Towards Equity and Justice issued by the UN Secretary-General's Panel on Critical Energy Transition Minerals which establish essential guidelines that build struct between governments, local communities and industry by addressing key issues related to equity, transparency, investment, sustainability and human rights.

4. Taxes

The Zero Draft explicitly endorses in Paragraph 7 the idea of national development efforts being supported by 'an enabling international economic environment, including coherent and mutually supporting world trade, monetary and financial systems, and strengthened and enhanced global economic governance.' To achieve this outcome, advancing progressive fiscal reforms, such as those being promoted at the current negotiations of the UN Framework Convention on International Tax Cooperation and at the local level in many parts of the globe, becomes an essential prerequisite. While raising public revenue from taxes to enlarge the fiscal space needed to finance public policy conducive to the realisation of the SDGs is certainly a critical part of the equation, the specific way in which these resources are collected and later allocated is not immune to its own equity and sustainability considerations.

Even though tax revenue has certainly increased in developing countries, as recognised in subsection II. A. "Domestic public resources", it is important to note that many of the tax systems in the Global South are highly regressive. For example, in Latin America and the Caribbean, for every US Dollar collected as taxing revenue by States, individuals belonging to the poorest 50% of the population contribute around 0.45 cents due to their high degree of consumption of goods and services subject to direct taxes (such as Value Added Tax) with regards to their overall spending. On the contrary, individuals belonging to the top 1% contribute less than 0.20 cents as taxes for every dollar of their overall income.[12] Additionally, tax exemptions (many times even promoted by IFIs and the conditionalities attached to the repayment of their loans)[13] have persisted throughout time with limited to no effective oversight.[14] Progressive fiscal reforms, therefore, should be urgently implemented to effectively amend and counter this existing injustice.

While we welcome the zero draft's recognition of the need to advance in integrating gender and climate considerations into tax systems and enhancing the progressivity of tax policies (Paragraph 29), it is critical that this is further unpacked into a concrete set of policy recommendations that place human rights at their core. Proposals on the promotion of gender- responsive budgeting and taxation, usage of environmental and climate considerations in fiscal programming in line with national considerations, and the rationalisation and elimination of inefficient and harmful subsidies -Paragraph 29(f)(g)(h)- can serve as sensible tools by which to give compliance to international human rights obligations, and should therefore include concrete guidelines for potential implementation, specific and actionable policy proposals.

As to international tax cooperation, we welcome the Zero Draft's recognition of the dire situation that the globalised financial architecture has created with regards to revenue recollection in the developing world by failing to safeguard their tax basis -Paragraph 30-. Moreover, advancing on commitments such as ensuring that all companies pay taxes to the countries where economic activity occurs and value is created -Paragraph 30(b), strengthening country-by-country reporting –30(e)-, establishing a global beneficial ownership registry –30(f)- and engaging constructively with the United Nations Framework Convention on International Tax Cooperation –30(c)- are critical in order to ensure a fair, egalitarian and sustainable redistribution of taxing rights among States which may effectively serve as an instrument for fiscal space consolidation and subsequent funding of economic, social and cultural rights.

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[12] OXFAM, 'Econonuestra: Es tiempo de una Economía para Todas y Todos' (July 2024), p. 27 (available in Spanish).

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[13] The cases of Argentina and Pakistan may serve as to ilustrate this point. See Recourse, Fundeps, Alternative Law Collective, Policy Research Institute for Equitable Development Private Limited, 'Mixed messages: IMF loans and the green transition in Argentina and Pakistan' (September 2022), p. 9, 31.

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[14] For a wider analysis with a concrete example, see ACIJ, 'Adding Fuel to the Fire: Debt and Climate Change in Argentina - Executive Summary (August 2023)

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5. The role of the private sector

The amount of resources necessary to finance development in a sustainable way that corrects present inequalities is greater than what countries can mobilize on their own. This means that the inclusion of the private sector is going to be a necessary part of this process. However, the Zero Draft offers insufficient regulation in this area. We consider it important to emphasize that the maximization of profit by private actors cannot supersede Human Rights.

The rise of "multi-stakeholder processes" particularly in multilateral spaces has, in most cases, meant the corporate capture of these platforms. While the rationale behind these types of instances is to "bring everyone to the table", in reality, they lack basic principles of democratic accountability, allowing those with the most resources to dominate decision-making and producing false solutions that rarely benefit those most affected by our current crises.[15]

In terms of accountability for private actors, the document does mention the Guiding Principles on Business and Human Rights. According to these principles. However, this document should recognize that businesses are accountable for human rights violations under international and regional instruments.[16] This is something that is not adequately addressed in the Guiding Principles and the main reason Civil Society has been advocating for a Binding Treaty on Business and Human Rights. The negotiations around this treaty are now entering its 11th year and have stagnated because of lack of commitment from states and an ongoing process of corporate capture.

We are concerned about the call in the Zero Draft for "blended finance initiatives". While it says that these effort should "ensure that both the risk and rewards are shared fairly between the public and the private sector" the experience around the globe of public-private partnerships show that, in a significant number of cases the participation of the public sector is only to de-risk the private activity and guarantee its profit margin. All while failing to provide quality services and infrastructure which leaves gaps in the realization of human rights.[17]

6. Mechanisms for investor-state dispute settlements

We welcome the suggestion in paragraph 43(h) to "undertake reform to the mechanisms for investor-state dispute settlements in trade and investment agreements". The current system is clearly biased against developing countries and fails to consider both the obligations of these states to protect the human rights of its citizens, and the human rights impacts of the rulings.

As reforms to investor-State dispute settlement mechanisms are considered, it is imperative that human rights obligations be explicitly integrated into investment law frameworks. Ensuring that states retain sufficient regulatory space to protect public interests—without fear of excessive investor claims—will be crucial in fostering a more just and equitable international economic order.

The main arbitration forum is the International Centre for the Settlement of Investment Disputes (ICSID) which is cited in more than 2400 Bilateral Investment Treaties. 934 claims were registered with the ICSID between 1996 and 2024, compared to only 35 over the previous 30 years.[18] In 2023 (the

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[15] Time for a Democratic Reset – Global Crises Need Global Governance in the Public Interest https://www.cognitoforms.com/MultistakeholderismActionGroup

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[16] Bilchitz, D. (n.d.). The Moral and Legal Necessity for a Business and Human Rights Treaty. https://media.business-humanrights.org/media/documents/49f31037d985e5313f617a3d29493412314e4b28.pdf

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[17] See for example: Global Policy Forum. Why Public-Private Partnerships don't work. https://www.globalpolicy.org/en/article/why-public-private-partnerships-dont-work eurodad. (n.d.). History RePPPeated II - Why Public-Private Partnerships are not the solution. https://www.eurodad.org/historyrepppeated2?utm_campaign=newsletter_1_12_2022&utm_medium=email&utm_source=eurodad

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[18] International Centre for Settlement of Investment Disputes. Cases Registered under the ICSID Convention and Additional Facility Rules. https://icsid.worldbank.org/sites/default/files/publications/ENG_The_ICSID_Caseload_Statistics_Issue%202024.pdf

year for which the latest data is available) there were 57 new claims. Of these, only 6 were against western Europe countries and 1 against Canada. In 55% of the cases the claims were partly or fully upheld. Which is even higher than the historical 48%. However, under ICSID rules only where both parties have consented are proceedings made public, so the actual number of investor-State disputes is unknown. In addition to this, awards are binding and highly enforceable because the multilateral conventions backing them up while there is no option of appeal.[19]

In most of these rulings the Tribunals refuse to take into account the human rights obligations of States. States have a duty under International Human Rights Law to adopt effective public policy measures that ensure the full realisation of the rights of their populations. This necessitates a protected regulatory space to implement these policies without undue constraints. Former ICJ Judge Bruno Simma has emphasised that international investment protection and human rights are not "separate worlds." Rather, human rights compliance is an essential element of any responsible state's public policy agenda and inevitably affects its regulatory space in relation to foreign investors.[20]

Legal scholars have pointed out that states have an obligation to respect the human rights of all individuals within their territories. At times, these obligations may conflict with investment protection commitments, requiring careful interpretation and reconciliation of state actions. Balancing private property rights with public interest considerations is now a key challenge in international investment law, similar to domestic legal frameworks where courts and tribunals must weigh individual rights against broader societal needs.[21]

[19] The elephant in the room: Addressing international investment conditions to improve human rights. (2024, May 15). IHRB. https://www.ihrb.org/latest/commentary-international-investment-conditions-human-rights

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[20] Bimma, Brunno, "Foreign Investment Arbitration: A place for human rights?" International and Comparative Law Quarterly, vol. 60, July 2011, p. 584

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[21] Dupuy, Pierre-Marie, "Unification Rather than Fragmentation of International Law? The Case of International Investment Law and HumanRights Law", in P-M Dupuy, F Francioni and E-U Petersmann (eds), Human Rights in International Investment Arbitration (Oxford University Press, Oxford 2009) pp. 45-62.