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The austerity assault

Governments across the globe are cutting or planning to cut spending, with social protection measures, public sector wages and key public services set to end up on the chopping block. Yet this wave of austerity that will hurt millions is not inevitable, given the availability of funding alternatives to replenish public coffers.

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"Stonewalling" tactics by North on TRIPS decision extension

A looming debt crisis is threatening global health security

The false promise of public-private partnerships

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"Stonewalling" tactics by North on TRIPS decision extension

Due to lack of support from developed countries, the WTO appears unlikely to reach a decision to ease intellectual property constraints on production of COVID-19 treatments and tests by a 17 December deadline.

by D. Ravi Kanth

GENEVA: The credibility of the decisions adopted at the World Trade Organization's 12th Ministerial Conference (MC12) in June appears to be very low, with members seemingly set to miss the deadline on extending the 17 June Ministerial Decision on the TRIPS Agreement to COVID-19 diagnostics and therapeutics due to "stonewalling" tactics adopted by major developed countries on behalf of Big Pharma, said people familiar with the development.

At a meeting of the WTO's Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS) on 22 November, it became increasingly apparent that the deadline in paragraph 8 of the Ministerial Decision on the TRIPS Agreement – which states that "no later than six months from the date of this Decision [i.e., by 17 December], Members will decide on its extension to cover the production and supply of COVID-19 diagnostics and therapeutics" – is unlikely to be met, said several participants who asked not to be quoted.

Major developed countries which harbour Big Pharma such as the United States, the European Union, Switzerland, Japan and the United Kingdom. among others, showed no urgency in meeting the deadline.

It has all along been an open secret since the conclusion of MC12 in June that countries representing the interests of Big Pharma will not comply with paragraph 8 to extend the limited Ministerial Decision to COVID-19 diagnostics and therapeutics, as it is more likely for developing countries to use the decision to produce and supply therapeutics and diagnostics, unlike vaccines, said a TRIPS negotiator who asked not to be quoted.

From the numerous questions raised by Switzerland, Mexico, the EU, Japan and the UK about whether there is a need to extend the Ministerial Decision to diagnostics and therapeutics, it seemed clear that developed-country members would even "stonewall" any attempt to extend the 17 December deadline, the negotiator said.

Despite several meetings between, on the one side, the lead negotiators of the huge coalition of developing countries which had first demanded a TRIPS waiver in 2020 and, on the other side, those opposing any decision on extending the Ministerial Decision to diagnostics and therapeutics, the divide continued to persist, said another person who asked not to be quoted.

Apparently, several members have suggested that the WTO General Council should be convened before the 17 December deadline.

Although the WTO calendar has yet to confirm the dates of the General Council meeting, according to sources, presently the General Council is expected to meet only after the extension deadline, on 19-20 December.

Lack of time

During the 22 November TRIPS Council meeting, Indonesia reportedly said that there cannot be any delay in complying with paragraph 8 while millions of people have died due to a lack of diagnostics and therapeutics.

Indonesia said the adoption of the Ministerial Decision on the TRIPS Agreement has politically helped enhance cooperation with the framework of the World Health Organization (WHO), the Coalition for Epidemic Preparedness Innovations and the G20.

As noted by WHO Director-General Tedros Adhanom Ghebreyesus, "the manufacturing capacity for medicines, diagnostics, vaccines, and other tools is

concentrated in [a] few countries," and as a result, many developing countries continue to have less access, Indonesia said.

It argued that intellectual property (IP) flexibilities are crucial for protecting public health, including access to medicines for all during emergencies.

It is against this backdrop that diagnostics and therapeutics can play a major role in addressing the COVID-19 pandemic, which remains a major public health threat.

Given the paucity of time, Indonesia said it is important to support the extension of the Ministerial Decision to therapeutics and diagnostics, emphasizing that it is "only through recovering together, that we could recover stronger."

China said the discussion on paragraph 8 "has yet to witness any substantial progress."

Expressing sharp concern over the continuing COVID-19 pandemic, with developing countries including China being the worst hit, China said "the accessibility and affordability of diagnostic and therapeutic products remain a big challenge for many developing members, and China is no exception."

"Therefore, we fully understand the concerns and requests raised by proponents, and call for effective and prompt solutions in this regard," China said, adding that "to fulfil our mandate within the remaining limited time, we have to accelerate the discussion in a more pragmatic and focused manner, and do not let perfect be the enemy of good."

China expressed hope that "the entrenched camps could meet each other halfway, and through our collaborative hard work, we will be able to harvest the expected outcome by the deadline."

Some members have apparently floated the idea of agreeing to a limited extension based on the configuration of a list of products covering both therapeutics and diagnostics.

Naysayers

The "naysayers" to therapeutics and diagnostics, such as Singapore, Switzerland, Japan, South Korea and the EU, continued with their earlier positions demanding concrete evidence that intellectual property rights pose barriers before considering an extension to therapeutics and diagnostics, said people familiar with the discussions.

The US did not make a statement at the TRIPS Council meeting. However, according to various sources, the US has neither supported nor rejected the call for extension, and since 17 June has only indicated that it is undertaking domestic consultations.

When asked to comment on the EU's stand, an official said that Brussels is "ready to engage constructively with Members on this issue."

In a joint submission, Switzerland and Mexico argued that "we do not face a situation where we have an IP-induced lack of access to or a lack of manufacturing capacity of COVID-19 therapeutics and diagnostics. As a consequence, no adjustments to the IP system seem to be required".

However, in an analysis on the joint submission, Brook Baker, Professor of Law at Northeastern University and a senior policy analyst at Health GAP, both based in the US, has pointed out that it relies heavily on data supplied by Big Pharma, focusing on false evidence of suppressed demand rather than actual need.

The joint submission refers to the numerous voluntary licences (VLs) signed, he said, but in fact these VLs exclude supply to a significant number of developing countries with large populations and that have suffered some of the most damaging rates of infection. In addition, VLs often have additional troubling restrictions; for example, Pfizer's licence prevents research and development on combination regimens, co-formulation and even co-packaging.

The submission suggests that "tier pricing" sufficiently addresses concerns about affordable access, but Baker said that "tiered prices are not necessarily affordable and are in almost all instances significantly more expensive than what competitive generic prices would be".

He gave the examples of the COVID-19 drug molnupiravir, which was priced at $300 in Thailand for a course of treatment, and the price of nirmatrelvir+ritonavir, reported to be near $250 for a course of treatment in Brazil. Even though these countries have per capita GDP that is a fraction of that in the US, they are asked to pay more than 40% of the US price.

In his analysis, Baker stated: "Instead of bragging that demand for tests and treatments is suppressed and thus that everything is okay, Switzerland and Mexico should be hanging their figurative heads in shame that HICs [high-income countries] have had broad and affordable access to out-patient antiviral medicines for nearly 10 months while LMICs [low- and middle-income countries] have barely received any supplies or global support for a robust test-and-treat rollout." *(SUNS9697)*

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Third World ECONOMICS No. 758, 1-15 November 2022

A looming debt crisis is threatening global health security

Failure to resolve the debt woes plaguing developing countries will put public health worldwide at risk.

by Jaime Atienza and Charles Birungi

In this moment of profound challenge in international relations, it was understandable that the conclusion of the G20 summit in Bali in November left leaders feeling relieved that the meeting took place without a breakdown. Leaders were justifiably proud too of important steps forward they made including the launch of the new pandemics fund.

But G20 leaders did not manage to resolve the fiscal crisis which threatens many low- and middle-income countries, and which risks undermining global health security because it is driving countries to slash investments in essential health services.

As the world approaches the end of 2022, no resolution mechanism to properly resolve the debt crisis has been established by either the International Monetary Fund (IMF) or the G20. In 24 months, the "G20 common framework" has delivered a debt relief agreement for just one country, Chad.

The UNAIDS (Joint United Nations Programme on HIV/AIDS) report "A pandemic triad" shows how growing debt burdens across developing countries are impairing their ability to fight and end AIDS and COVID, and their readiness for future pandemics. Half of the low-income countries in Africa are already in debt distress or at high risk of being so.

Across the world, the 73 countries which are eligible for the Debt Service Suspension Initiative have been recorded as spending on average four times as much on debt servicing as they have been able to invest in the health of their people. Only 43 of those countries have seen even a temporary suspension – totalling less than 10% of the money they continued to pay back.

Two-thirds of people living with HIV are in countries that received absolutely no support from the Debt Service Suspension Initiative at all during the critical 2020-21 period.

The seven Debt Service Suspension Initiative eligible countries with the largest population of people living with HIV – Ethiopia, Kenya, Malawi, Mozambique, Uganda, Tanzania and Zambia – saw their public debt levels grow from 29% in 2011 to 74% in 2020.

According to the World Bank, "interest payments will constrain the capacity of low-income countries to spend on health, on average by 7%, and in lower middle-income countries by 10%, in 2027."

Austerity will mean dangerous reductions in health expenditure.

110 out of 177 countries will see a drop or stagnation in their health spending capacity and are not set to be able to achieve pre-COVID spending levels by 2027.

During the COVID-19 pandemic, deficits increased worldwide, and debt accumulated much faster than it did in the early years of other recessions including the Great Depression and the Global Financial Crisis. The scale is comparable only to the 20th century's two world wars.

Government expenditure cuts are expected to take place across 139 countries in the coming years. In the case of the 73 countries that were eligible for the Debt Service Suspension Initiative, primary expenditures are expected to decline an average of 2.8% of GDP between 2020 and 2026.

This comes at a moment when economic forecasts have been downgraded by the IMF for the fourth time in a year.

Austerity will mean dangerous reductions in health expenditure. To even restrain the damage will require a systemic re-prioritization of public resources towards health systems.

There is a direct correlation between deepening fiscal problems and worsening health outcomes. The COVID-19 crisis is dragging on. The impacts of the war in Ukraine on the global economy are making things worse. The HIV response is in danger, with the promise to end AIDS by 2030 under threat.

The world is not prepared today for the pandemics to come. The international response to resolve the health financing crisis is nowhere close enough. Even as developing countries struggle with the debt crisis, the Ukraine war has led several donors to cut aid.

But there is a way out. With bold action, the health and development financing crisis can be overcome. Barbados Prime Minister Mia Mottley's Bridgetown Agenda for action on debt, expansion of multilateral finance and effective reallocation of Special Drawing Rights (SDRs) sets out the order of magnitude of response required.

There is an urgent need for debt cancellation for countries in fiscal distress, and for an effective and fast mechanism to deal with debt restructuring at scale. Health and education must be central considerations in debt negotiations.

Vital too is an expansion of the use of existing SDRs from high-income countries for investments in lower-income countries of at least twice the 100 billion committed.

The G20 leaders' work has not ended in Bali. The consequences of an unresolved debt crisis, and the lack of additional resources, would be disastrous for lives, livelihoods and health security. We don't have time. No one is safe until everyone is safe. *(IPS)*

Jaime Atienza *is the Director of Equitable Financing at UNAIDS.* ***Charles Birungi*** *is the Senior HIV Economics, Finance and Policy Advisor.*

End austerity: Budget cuts in 2022-25 and alternatives

Governments around the world are cutting back on public expenditure at a time when it is most needed. Not only do such budget reductions cause great social harm, write *Isabel Ortiz* and *Matthew Cummins*, they are also far from necessary.

The report *End Austerity: A Global Report on Budget Cuts and Harmful Social Reforms in 2022-25* sounds an alert on the dangers of the post-pandemic austerity shock. Drawing on the report, this article presents a summary of: (i) the incidence of austerity cuts (or "fiscal consolidation") based on International Monetary Fund (IMF) fiscal expenditure projections in 189 countries until 2025; and (ii) the main austerity measures being considered by finance ministries and the IMF in each country, based on a review the latest 267 IMF country reports. Instead of harmful austerity cuts, governments must urgently identify alternative financing options to support populations in this time of multiple crises. Austerity cuts are not inevitable, there are alternatives even in the poorest countries.

Countries projected to cut public expenditure in GDP terms in 2022-24

Source: Ortiz and Cummins, 2022. *End Austerity: A Global Report on Budget Cuts and Harmful Social Reforms in 2022-25*, based on the IMF's *World Economic Outlook* (April 2022)
Note: Data unavailable for Afghanistan, Lebanon, Syria, Tunisia Ukraine and Venezuela

Today the world faces an austerity pandemic. The high levels of expenditures needed to cope with COVID-19, the resulting socioeconomic crisis and other shocks due to structural imbalances combined with reduced tax rates have left governments with growing fiscal deficits and indebtedness. Starting in 2021, this initiated a global drive towards fiscal consolidation whereby governments began adopting austerity approaches exactly when the needs of their people and economies are greatest.

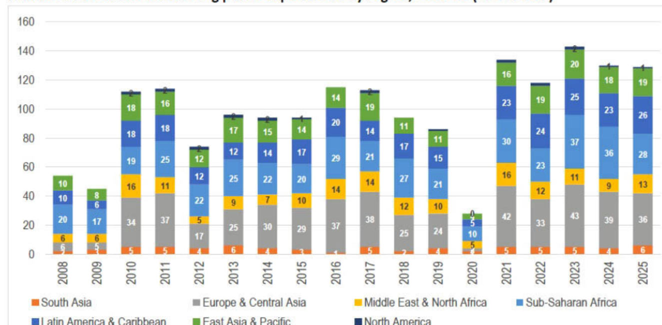
Persons affected by austerity/public expenditure cuts in GDP terms, 2020-25 (in millions of persons, by income group and region)

Income group/region	2020	2021	2022	2023	2024	2025
Low income	309	309	186	352	325	204
Lower middle income	649	2,587	2,362	3,010	2,491	2,883
Upper middle income	144	2,401	392	2,214	2,338	2,204
High income	0	1,023	1,174	1,136	760	676
East Asia & Pacific	8	2,019	786	2,154	1,910	1,843
Europe & Central Asia	90	765	553	638	783	694
Latin America & Caribbean	58	549	222	522	526	554
Middle East & North Africa	266	326	161	263	118	317
North America	0	370	372	374	40	40
South Asia	198	1,803	1,656	1,820	1,634	1,890
Sub-Saharan Africa	484	488	364	942	903	631
World	1,103	6,320	4,114	6,713	5,913	5,968

Source: Ortiz and Cummins, 2022. *End Austerity: A Global Report on Budget Cuts and Harmful Social Reforms in 2022-25*, based on the IMF's *World Economic Outlook* (April 2022)

Analysis of IMF expenditure projections shows that the adjustment shock is expected to impact 143 countries in 2023 in terms of GDP or 85% of the world population. Most governments started scaling back public spending in 2021, and the number of countries slashing budgets is expected to rise through 2025. One of the key findings is that the developing world will be the most severely affected. In 2023, 94 developing countries are projected to cut public spending versus 49 high-income countries. Moreover, the average overall contraction is much bigger than in earlier shocks – 3.5% of GDP in 2021. More than 50 countries (27% of the sample) appear to be adopting excessive budget cuts, defined as spending less than the (already low) pre-pandemic levels, including countries with high developmental needs like Equatorial Guinea, Eswatini, Guyana, Liberia, Libya, Sudan, Suriname and Yemen. In terms of the human impact, austerity affected 6.3 billion persons in 2021 or more than 80% of the global population, a figure which is expected to rise to 6.7 billion people or 85% of humanity in 2023.

Number of countries contracting public expenditure by region, 2008-25 (as a % GDP)



Source: Ortiz and Cummins, 2022. *End Austerity: A Global Report on Budget Cuts and Harmful Social Reforms in 2022-25*, based on the IMF's *World Economic Outlook* (April 2022)

Austerity bites

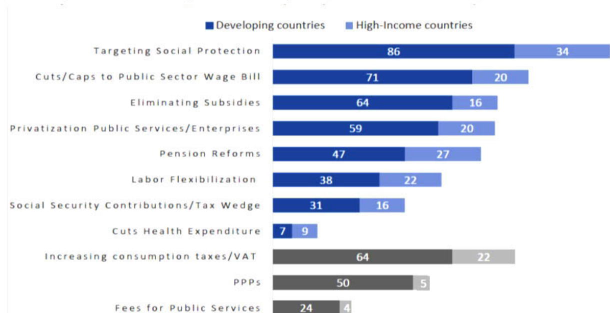
A long list of austerity measures is being considered or already implemented by governments worldwide. This includes 11 types of austerity policies that have negative social impacts on their populations, especially harming women:

1. **Targeting and rationalizing social protection:** The review indicates that 120 governments in 86 developing and 34 high-income countries are considering rationalizing spending on social assistance or safety nets, often by revising eligibility criteria and targeting to the poorest, excluding vulnerable populations in need of support. Rationalizing social protection has been commonly implemented by slashing programmes for children and families, women, the unemployed, the elderly and persons with disabilities, as well as targeting scarce resources to only the extreme poor. Rather than scaling down social assistance to achieve cost savings, countries must scale up social protection systems

and floors for all persons.[1]

2. **Cutting or capping the public sector wage bill:** As recurrent expenditure, such as salaries for teachers, health workers and local civil servants, tends to be the largest component of national budgets, an estimated 91 governments are considering reducing their wage bill in 71 developing and 20 high-income countries. This can translate into salaries being reduced or eroded in real value at a time of high inflation, payments in arrears, hiring freezes and/or employment retrenchment, all of which can adversely impact access to and the quality of public services, with disproportionate negative impacts on populations, especially on women. Additionally, most teachers, health personnel and social workers are women. The number and salaries of civil servants must be increased, not decreased, to achieve human rights and the Sustainable Development Goals (SDGs).[2]
3. **Eliminating or reducing subsidies:** Overall, 80 governments in 64 developing and 16 high-income countries are limiting subsidies, predominantly on energy (fuel, electricity), food and agricultural inputs. This adjustment measure is being implemented at a time when the prices of many basic goods and services are hovering near record highs; if basic subsidies are withdrawn, energy, food, fertilizer and transport costs will increase and become unaffordable for many households. While the climate crisis demands urgent progress with the phasing out of fuel subsidies, it is important that this be carried out taking into account the risks of further eroding the disposable income of families (at this time of high inflation) and job losses (due to slowing economic output). Priority should go to developing sustainable agriculture and energy alternatives. Adequate compensation must be provided to all through universal social protection systems, not just a small safety net for the poorest segments, to ensure that food, transport and energy remain affordable for populations.[3]
4. **Privatization of public services/reform of state-owned enterprises (SOEs):** Despite the many privatization failures recorded in recent years (and recent re-nationalizations in water, transport, energy, pensions and others), privatization is being considered by 79 governments in 59 developing and 20 high-income countries. Sometimes SOEs are reformed as a precursor to privatization, without prior analysis of the social impacts. While sales proceeds produce short-term gains, the losses over the long term can be significant due to lost future revenues; further, when states are faced with the need to re-nationalize, this most often comes at a high cost. Privatization risks include layoffs, tariff increases, and unaffordable and/or low-quality basic goods and services. Instead, governments must invest in affordable quality public services, from education and health to water supply and transport.[4]

Austerity measures with negative social impacts (in number of countries)



Source: Ortiz and Cummins, 2022. *End Austerity: A Global Report on Budget Cuts and Harmful Social Reforms in 2022-25*, Based on analysis of 267 IMF country reports published in 2020-22.

5. **Reforming pensions:** Reforming old-age pensions with a fiscal objective is one of the most common adjustment measures, being considered by 74 governments in 47 developing and 27 high-income countries. Pension reforms can include raising workers' contribution rates, decreasing employers' social security contributions, lengthening eligibility periods, reducing pension tax exemptions, prolonging the retirement age, lowering benefits, eliminating/penalizing early retirement, freezing or lowering pension indexation below inflation levels, and modifying calculation formulas downwards. Despite the failures of pension privatization, some governments are also considering structural changes such as introducing individual accounts, eliminating defined-benefit (collective) pensions and replacing with defined-contribution (individualized savings) schemes. Pension reforms often violate international standards. As a result, future pensioners are expected to receive lower benefits, and old-age poverty and inequalities are increasing in many places. Instead of undermining public pension systems, they should be strengthened in accordance with international standards, including by adequate employers' contributions and formalizing workers in the informal economy to ensure sustainability, with benefits that guarantee dignity in old-age retirement.[5]
6. **Labour flexibilization reforms:** These include restraining the minimum wage, limiting salary adjustments, decentralizing, limiting or eliminating collective bargaining, increasing the ability of enterprises to fire employees, and making it easier to hire workers on temporary/atypical and precarious contracts. Some 60 governments in 38 developing and 22 high-income countries are considering some form of labour flexibilization, at a time when high inflation is further reducing real wages, increasing the cost-of-living crisis and contributing to social unrest. Labour flexibilization is aimed at increasing competitiveness and supporting business in the context of recession. However, available evidence suggests these reforms will not generate decent jobs; to the contrary, in a context of economic slowdown, they are likely to generate more precarious labour markets, depress domestic incomes and ultimately hinder recovery efforts. Instead, countries must increase wages and decent jobs for people.
7. **Reducing employers' social security contributions ("tax wedge"):** At least 47 governments in 31 developing and 16 high-income countries have waived or reduced employers' social security contributions to support enterprises during the COVID-19 pandemic. This is a highly regressive policy since these contributions are a deferred wage of workers, part of their compensation, not a tax. If employers' contribution rates were waived/reduced, they must subsequently be increased again and all arrears paid back to social security, to ensure its sustainability and protect workers' rights.[6]
8. **Cutting health expenditures:** While most governments were advised by the IMF to temporarily increase health allocations to fight the COVID-19 pandemic, some reports contain advice to reduce health expenditures once the pandemic is

over. Cuts are being discussed by 16 governments in seven developing and nine high-income countries. Typically, health reforms include increased charges for health services, reductions in medical personnel, cost-saving measures in public healthcare centres, discontinuation of allowances, phase-out of treatments and services, and increased co-payments for pharmaceuticals. Yet countries need more than just a temporary increase in health expenditure to deal with the COVID-19 emergency; their populations need sustained investments to implement universal access to quality healthcare.[7]

9. **Increasing consumption taxes/value-added tax (VAT) on goods and services:** This includes increasing or expanding VAT rates or sales taxes or removing exemptions in as many as 86 governments in 64 developing and 22 high-income countries. Increasing the cost of basic goods and services, however, erodes the already limited incomes of vulnerable households and stifles economic activity. Moreover, because this policy does not differentiate between consumers, it is regressive. Consumption-based taxes reduce poorer households' disposable income, which further exacerbates existing inequalities. In contrast, alternative, progressive tax approaches should be considered, such as taxes on personal and corporate income, including on the financial sector, wealth, inheritance, property and digital services, or putting an end to "special economic zones" and other tax exemptions/breaks to big corporations.[8]
10. **Strengthening public-private partnerships (PPPs):** Fifty-five IMF country reports suggested strengthening PPPs as a way forward, including for 50 developing countries and five high-income countries. However, there are many downsides to using PPPs, including their high costs, increased public and consumer spending, high contingent liabilities, efficiency issues and adverse impacts on workers. There is good evidence that PPPs strengthen the private partner at the expense of the public partner, creating a public subsidy flow to the private sector. Governments should resist pressures and consider cost-effective public infrastructure and services.[9]
11. **Fees/tariffs for public services:** As many as 28 governments, in 24 developing and four high-income countries, are advised to introduce or increase fees or tariffs for public services. Note that the actual number of countries raising fees and tariffs is already much higher, as the practice is prevalent in countries that have privatized or reformed their public services. Rate hikes may lead to goods and services being unaffordable for populations – this is particularly pertinent for access to essential services such as water, education, health, energy and transport.[10]

"New normal"

Rather than investing in a robust post-pandemic recovery to bring prosperity to all citizens, governments are considering austerity measures that will harm populations. These adjustment measures are not new: the same policies have been advised over the years by the international financial institutions (IFIs). Austerity is an outdated policy that has become the "new normal", an IFI strategy to minimize the public sector and the welfare state in order to support the private sector.

Countries constrained by debt and deficits are told to adopt fiscal consolidation or austerity measures rather than identify new sources of fiscal space. Once budgets are contracting, governments must look at policies that minimize the public sector and expand PPPs and the private delivery of services, often promoted and/or assisted by multilateral development banks. These policies principally benefit corporations and the wealthy – they are "pro-rich policies" that exacerbate inequalities. To compensate for the negative social impacts, particularly on women, the IFIs often advise a small safety net targeted to only the poorest populations, which excludes the vast majority of people, punishing the low and middle classes. Pro-corporate policies accompanied by a small safety net targeted to the poorest do not serve the mainstream population; they are detrimental to the majority of citizens, especially women. The worldwide propensity towards fiscal consolidation is expected to aggravate social hardship at a time of high development needs, soaring inequalities and social discontent.

It is alarming that trillions of dollars are used to support corporations while the costs of adjustment are thrust upon populations. Governments should aim to bring prosperity and welfare for all. The dangers of overly aggressive austerity are clear from the past decade of adjustment. From 2010-19, billions of lives were upended by reduced pensions and social protection benefits; cuts to programmes for women, children, the elderly, persons with disabilities, informal workers and ethnic minorities; lower wages for teachers, health workers and local civil servants; less employment security for workers, as labour regulations were dismantled; and by lower subsidies and higher prices due to consumption taxes, which further reduced disposable income following the significant job losses caused by lesser economic activity.

Austerity cuts are not inevitable, there are alternatives. There is no need for populations to endure adjustment cuts: instead of cutting public expenditures, governments can increase revenues to finance a people's recovery. There are at least nine financing alternatives, available even in the poorest countries. These fiscal space financing options are supported by policy statements of the UN and the IFIs, and have been implemented by governments around the world for years. They include: (1) increasing progressive tax revenues, (2) restructuring/eliminating debt, (3) eradicating illicit financial flows, (4) increasing social security contributions and coverage, including adequate employers' contributions and formalizing workers in the informal economy with decent contracts, (5) using fiscal and foreign exchange reserves, (6) reallocating public expenditures, (7) adopting a more accommodating macroeconomic framework, (8) lobbying for official development assistance and transfers, and (9) new Special Drawing Rights (SDRs) allocations.

Fiscal decisions affecting the lives of millions of people must not be taken behind closed doors, but in national social dialogue. The decisions to inflict cuts to public expenditures are currently taken by a few technocrats in ministries of finance, with the support of the IMF and without any serious assessment of the policies' social impacts, without any national consultation or discussion of alternative policy options. These decisions affect most citizens and must not be taken behind closed doors but agreed transparently in national social dialogue. It means that governments must negotiate agreements transparently with input from a range of stakeholders including representative trade unions, employer federations and civil society organizations, as part of good governance.

A fundamental human rights principle is precisely that states must utilize the maximum amount of resources to realize human rights. There is a global campaign to stop austerity measures that have negative social impacts: the End Austerity campaign.[11] It is imperative that governments and international financial institutions redress austerity and other policies that benefit few, and instead explore all possible alternatives to expand fiscal space to ensure a post-pandemic people's recovery, and achievement of human rights and the SDGs.

The above is based on [End Austerity: A Global Report on Budget Cuts and Harmful Social Reforms in 2022-25] *by Isabel Ortiz and Matthew Cummins. The report was published by ActionAid, Arab Watch Coalition (AWC), Eurodad, Financial Transparency Coalition (FTC), Global Social Justice, International Trade Union Confederation (ITUC), Latindadd, Public Services International (PSI), Bretton Woods Project, Third World Network (TWN) and Wemos.*

***Isabel Ortiz** is Director of the Global Social Justice Program at Joseph Stiglitz's Initiative for Policy Dialogue, and former director at the International Labour Organization (ILO) and the UN Children's Fund (UNICEF). **Matthew Cummins** is a senior economist who has worked at the UN Development Programme (UNDP), UNICEF and the World Bank.*

Notes

1. https://www.hrw.org/news/2022/04/14/imf/world-bank-targeted-safety-net-programs-fall-short-rights-protection; https://www.developmentpathways.co.uk/publications/hit-and-miss-an-assessment-of-targeting-effectiveness-in-social-protection/
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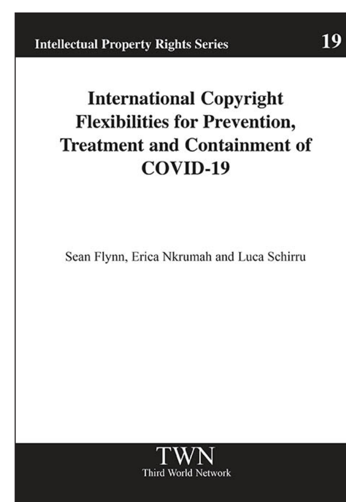
11. https://www.endausterity.org/

TWN Intellectual Property Rights Series No. 19

International Copyright Flexibilities for Prevention, Treatment and Containment of COVID-19

By Sean Flynn, Erica Nkrumah and Luca Schirru



Most policymaking attention with respect to intellectual property barriers to COVID-19 prevention, treatment and containment has been focused on patents. This focus is reflected in the World Trade Organisation (WTO) Ministerial Decision on the TRIPS Agreement, adopted on 17 June 2022, which provides a limited waiver of TRIPS rules on compulsory licences for production of COVID-19 vaccines. The original WTO proposal for a TRIPS waiver, however, explicitly applied to all forms of intellectual property, including copyright. This paper outlines the numerous ways in which copyright can create barriers to addressing COVID-19. It also provides a description of international copyright treaty provisions that permit uses of copyright materials in response to the barriers identified, despite the exclusion of copyright from the final TRIPS waiver.

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The false promise of PPPs

Keenly championed by international financial institutions, public-private partnerships (PPPs) in infrastructure and service provision are however costly, risky and largely unable to deliver equitable access to essential services, as the following excerpt from a new civil society report reveals.

In early 2020, the outbreak of the COVID-19 pandemic exposed the failures of austerity policies and the detrimental consequences of systemic underfunding of public services. It also highlighted how market-based models cannot be relied upon to deliver on human rights, such as health, education and water provision, and the fight against inequalities. In 2022, the upsurge in the cost of living, the energy crisis and increasingly frequent extreme weather events associated with the climate emergency further highlight the failures of the current economic model, and the urgent need to build a different one.

The necessity for public investment in goods, services and infrastructure is more evident than ever before. And yet, calls for an increasing role for the private sector – including through public-private partnerships (PPPs) – in the financing of infrastructure and public services continue to grow.

What are public-private partnerships?

There is no universally agreed definition of PPPs. The most accepted definition, and the one used in this article, is that PPPs are long-term contractual arrangements where the private sector provides infrastructure assets and services that have traditionally been provided by governments, such as hospitals, schools, prisons, roads, airports, railways and water and sanitation plants, where there is some form of risk sharing between the public and private sectors.

The vast literature on the subject describes up to 25 different types of PPPs, depending on the arrangement or sharing of responsibility between the public and private sector partners. The use of specific types varies greatly across sectors and countries. In the last decade, an increasing number of countries have included their own definition of PPPs in national laws and policies.

PPPs as a silver bullet for development

The involvement of the private sector in public service provision is not new. However, its promotion has increased in recent decades, particularly after the adoption of the Sustainable Development Goals (SDGs) in 2015. SDG17, in particular, refers to PPPs as a "means of implementation" of the goals, including a call to "encourage and promote effective public, public-private and civil society partnerships". The importance of PPPs in support of development objectives was also established in the 2015 Addis Ababa Action Agenda, at the Third UN Conference on Financing for Development.

PPPs are being promoted as a financing tool to deliver infrastructure, social services and, increasingly, climate-change-related projects, on the rationale that they may help overcome some key challenges, including insufficient funds, poor planning and project selection, inefficient implementation and inadequate maintenance. Arguments in support of PPPs focus on the capacity of the private sector to deliver high-quality investment and efficiency in infrastructure and social services delivery, while private finance also reduces the need for the state to raise funds upfront to develop and manage these projects, particularly in a context of budget constraints. Notably, the role of the private sector in financing development is promoted in conjunction with repeated allegations about the limitations of the public sector's capacity to deliver high-quality public services, which cannot be dissociated from decades of structural adjustment and austerity policies, and inadequate public finance for development. The latter is exacerbated by the unmet commitments from rich countries to spend 0.7% of national income on official development assistance (ODA) and their unwillingness to tackle tax dodging and illicit financial flows effectively.

The promotion of PPPs is happening through a vast array of tools and a wide range of institutions, including bilateral donor agencies, multilateral development banks (MDBs), United Nations agencies, global accounting firms and the World Economic Forum.

The World Bank, in particular, continues to be at the forefront of the promotion of PPPs, and of the use of private finance in development more generally. Far from using the COVID-19 and subsequent crises as an opportunity to rethink a broken economic model and put public services at the core of its response, the World Bank has continued to adhere to its blueprint for development: a vision that reserves a central role for private finance, and puts macroeconomic stability and fiscal balance ahead of human rights.

In 2022, the World Economic Forum placed PPPs at the heart of the pandemic recovery. As they argued in January, "again and again, private-public partnerships have created change where policy alone would have fallen short. With so many climate transition and inclusive growth challenges facing us today, such innovation is not a 'nice to have,' it's a 'must have.'" The United Nations Economic Commission for Europe (UNECE)'s 6th International PPP Forum reinstated its ongoing support for the global promotion of PPPs as a means for achieving sustainable infrastructure. The Forum "concluded on the need to deliver green, circular, inclusive, and resilient infrastructure projects to meet the SDGs". And, former Inter-American Development Bank (IDB) President Mauricio Claver-Carone argued in July that "public-private partnerships offer a major opportunity to expand markets, create jobs, and contribute to the region's economic recovery and growth, since they foster sustainability, efficiency and innovation".

This positive image of PPPs is not reflected in the experiences of many communities around the world who live with projects on a daily basis. In fact, PPPs represent a very concerning policy trend and risk compromising the urgent need to deliver for

people and the planet.

What the figures on global trends of PPPs show…

Reliable data on the total volume of PPPs around the world – and the public and private funds allocated to them – is hard to find. Different definitions of PPPs result in confusing and fragmented reporting practices. For developing countries, the World Bank's Private Participation in Infrastructure Projects Database collects data on 137 low- and middle-income countries. However, this only includes data on so-called economic infrastructure, such as energy, transport, water and sewerage. For Europe, the European Investment Bank (EIB) conducts an annual review of the PPP market, as it hosts the European PPP Expertise Centre. However, the situation becomes even more challenging when analyzing social sectors. Relevant data on PPPs in social sectors may be available at a national level, but reliable data on a global scale for PPPs in health and education is difficult to obtain as no official institution compiles this information.

Previous analysis by the European Network on Debt and Development (Eurodad) of the World Bank's Private Participation in Infrastructure Projects Database showed that global trends of money invested in PPPs experienced two clear waves in the Global South. The first wave occurred during the early 1990s, in times of deregulation and heavy reliance on private finance; while a second wave started in 2004 and peaked in 2012. Today's analysis shows that, since 2012, the amount of money invested in PPP projects in the developing world has been volatile. The onset of the pandemic in 2020 led to a drastic decline in investments in PPP projects, in line with the slowdown in the global economy – from $99 billion to $57 billion, which represents a 42% decline. While in 2021 there were signs of a recovery ($63 billion), this does not indicate a substantial upward trend.

The impact of the pandemic on PPPs was noted at several stages of the PPP project cycle: planning, preparation and procurement. However, the World Bank also admits that the reasons for cancellation and delay were not limited entirely to the impact of the pandemic, but that COVID-19 triggered the inevitable decline for projects that were already in trouble.

Meanwhile, over the past decade the amount of money invested in PPP projects in Europe experienced a different pattern. While it was also volatile, peaks were seen in both 2013 and 2018, years in which there was a decline in investment in developing countries. In the case of Europe, the decline due to the COVID-19 crisis was less severe.

While these figures help to illustrate the scale of the PPP phenomenon in the infrastructure sector, the reality indicates that – despite the efforts of donors and governments – the financial impact of PPPs to date has been small and the public sector continues to dominate. Little private investment takes place in low-income countries, with just a handful of large projects in a select number of countries. For instance, the World Bank reported that, in 2019, private participation in infrastructure projects in sub-Saharan Africa stood at $6.2 billion, representing just 6.4% of the total in that year. This is consistent with previous World Bank figures – in 2017, 95% of all investment in infrastructure in sub-Saharan Africa was publicly financed. That does not come as a surprise. PPPs tend to be more common in countries with large and developed markets to allow for a faster recovery of costs and more secure revenues. As the literature on PPPs shows, this implies a selective bias in PPPs, known as "cream-skimming", which also occurs within countries, with investment directed towards affluent urban areas.

…and what is beyond the global figures

The rise in the promotion of private finance, and of PPPs in particular, has implications that reach far beyond the relatively small value of funds raised, and the impact of each single project.

MDBs, led by the World Bank Group, are devoting considerable attention to advising countries in their use of PPPs. They are not putting the same (visible) effort into improving the quality and effectiveness of publicly financed infrastructure and public services. Over the years, the World Bank Group has produced different tools, including model language for PPP contracts, which have been criticized for favouring private sector interests, often to the detriment of the public partner. Regional development banks, such as the Asian Development Bank, the African Development Bank and the Inter-American Development Bank, have approved strategic frameworks, set up networks or dedicated offices to support countries on how to deliver PPP projects.

As a result, PPP advocacy has led to concrete changes in laws and regulatory and policy environments at the national and local levels. Many developing countries have enacted PPP laws and set up "PPP Units" to scale up their capacities to implement PPP projects, including in health and education, in line with loan conditionalities and policy guidance emanating from the World Bank, the International Monetary Fund (IMF) and regional development banks. Developing countries have also included PPPs in national development plans that seek to scale up infrastructure and public service provision. All this has entailed a problematic redefinition of the policy space for public service provision, prioritizing attracting private investors – an agenda that Professor Daniela Gabor terms the "Wall Street Consensus". As Gabor argues, the Wall Street Consensus implies "an elaborate effort to reorganize development interventions around partnerships with global finance", in which PPPs play a central role.

What is the problem with PPPs?

The reality of PPPs is far more complex than what is suggested by the narrative put forward by its promoters. In 2018, the Eurodad-coordinated joint civil society report *History RePPPeated: How Public-Private Partnerships Are Failing* highlighted the negative impacts of the PPP model for the delivery of infrastructure and public services. Through 10 case studies from different regions and sectors, it illustrated that PPPs often come at a high cost for the public purse, an excessive level of risk for the public sector and, therefore, a heavy burden for citizens. It also illustrated the negative impacts of PPPs on democratic governance, as they often lack transparency, are prone to corrupt practices, and/or fail to consult with affected communities.

In recent years, the evidence of the failures of PPPs has continued to pile up. Indeed, there is mounting evidence of the fiscal and human costs of PPPs, which in the current context can exacerbate existing vulnerabilities – including climate vulnerabilities – and lead to social unrest, as citizens feel the need to claim back their rights.

Why PPPs are still not delivering

PPPs are a real buzzword in Europe and globally. We are surrounded by claims that the private sector is more efficient and better placed to deliver public services like energy, education, health, water and sanitation. But is this really the case? A 2020 study commissioned by the European Federation of Public Service Unions (EPSU) and Eurodad reviewed the experience of PPPs in Europe and argued that, in fact, the contrary is true. There are eight main reasons why PPPs are not working:

1. PPPs do not bring new money – they create hidden debt.
2. Private finance costs more than government borrowing.
3. Public authorities still bear the ultimate risk of project failure.
4. PPPs do not guarantee better value for money.
5. The search for efficiency gains and design innovation can result in corner-cutting.
6. PPPs do not guarantee projects being on time or on budget.
7. PPP deals are opaque and can contribute to corruption.
8. PPPs distort public policy priorities and force publicly run services to cut costs.

The fiscal cost of PPPs

PPPs have increasingly been in the spotlight for their high fiscal costs. The empirical evidence shows that PPPs are, in most cases, an expensive and risky way of financing projects and delivering public services, and there is poor evidence in support of the claimed efficiency gains.

The high costs of PPPs come from: the high cost of capital; the profit expectation of the private partner; the high transaction costs associated with the negotiation of complex PPP contracts; and the high likelihood of renegotiation. Importantly, the evidence shows that the borrowing costs of the sovereign government are lower than those of a private borrower of the same jurisdiction, and that, in the case of developing countries, the returns required by investors are higher than in developed countries, due to more perceived risks.

The problem of hidden indebtedness of PPPs to the host governments remains unaddressed and is a source of concern, particularly in the context of a growing debt crisis and a forecast of a global recession. PPP operations are often recorded off the balance sheet and they frequently lack transparency and accountability, in part due to the cloak of commercial confidentiality. This helps create a "fiscal illusion" that prevents a careful assessment.

Several reviews, including from the IMF Fiscal Affairs Department, concluded that the fiscal risks of PPPs "are sizeable" and have to be managed properly. For instance, a 2018 staff note from the Department referred to a survey of 80 advanced and emerging market economies showing that "the average fiscal cost of PPP-related contingent liabilities that crystallized during 1990-2014 was about 1.2 percent of GDP, while the maximum cost was 2 percent of GDP". In a context where there are political demands to cut public spending, including through IMF programmes, the high costs associated with PPPs create greater threats to spending on public services. As the authors of the IMF note also state, "while spending on traditional public investments can be scaled back if needed, spending on PPPs cannot. PPPs thus make it harder for governments to absorb fiscal shocks, in much the same way that government debt does." This is a particular source of concern in the context of austerity programmes, as the high costs of PPPs can drain governments' resources to the extent that they can result in further cuts in public spending, constraining even more fiscal resources to face climate change.

These warnings, however, have not prevented the IMF from backing PPPs at the country programme level, advocating austerity measures that push governments towards expanding PPPs because of constrained budgets, and even raising the potential of PPPs to address the climate crisis.

The focus on PPPs as a tool to fight climate change is a relatively new but problematic trend, as it implies – among other things – the creation of climate asset classes, which can increase financial vulnerability in the Global South, while doing little to achieve climate-aligned development and address climate justice issues. This trend is also present in the "MDB reform agenda" that has emerged to respond to the climate crisis, included in the outcome statement of the recent COP27 UN climate conference. The statement encourages MDBs to "define a new vision and commensurate operational model, channels and instruments that are fit for the purpose of adequately addressing the global climate emergency". Given the evidence, new public finance instruments must rule out PPPs as a solution to climate finance.

Furthermore, while PPP promoters claim that they deliver better "value for money" than traditional public procurement, the empirical literature shows inconclusive (or even negative) evidence of efficiency gains, as illustrated in recent research by the African Forum and Network on Debt and Development (Afrodad) on Ghana's Sankofa gas project. Where efficiency gains are made, they are very context-specific, as they depend on the design of the project, the scale and the regulatory and governance environment of the country. In some cases, efficiency gains come at a very high cost, for example, as a result of a lack of investment by the private sector partner to deliver services to an adequate standard or by lowering costs, which in some cases mean cutting jobs and hiring unqualified employees to deliver services like education.

The human cost of PPPs

Academics and civil society organizations (CSOs) around the world have been pushing against the use of PPPs for the delivery of infrastructure and public services because of the human cost they entail. Private sector participation in public service provision usually puts private profit ahead of the common good. Private companies are ultimately accountable to their shareholders, not to citizens, while regulating and monitoring private sector practices can be a difficult task for public sectors that are already constrained and, in some cases, prone to corporate capture.

A growing body of evidence demonstrates that PPPs usually imply higher direct and indirect costs for citizens in accessing services. A major reason for this is that public services delivered through PPPs usually come with user fees – i.e., a payment

required for the primary purpose of covering the cost of providing a service. This is particularly problematic in the case of social services because it makes the right to health, education and water, for instance, dependent upon people's capacity to pay for that service. As a result, there are growing concerns that PPPs could become a mechanism for maximizing private sector accumulation rather than reducing poverty, thereby further increasing existing inequalities and compromising global commitments to deliver on the SDGs.

Research also suggests that PPPs may exacerbate gender inequality in various ways. Their high fiscal cost can usher in cuts in public services, which are more often used by women and which are also a source of decent work for them. PPPs are less likely to provide equal access to quality services, focusing on more profitable services and easy-to-serve communities.

Especially problematic are PPPs in the health sector, where the introduction of commercial imperatives in the delivery of healthcare can undermine the right to health. Before the pandemic, a study found that there is weak evidence that health PPPs are able to address the challenges that most Latin American countries face to deliver on Universal Health Care (UHC), including fragmentation and inequalities within the health system. In fact, the reliance on health PPPs risks undermining progress on UHC altogether, as PPPs are likely to worsen people's access to essential health services. The insistence on PPPs in healthcare provision is even more misplaced in light of the poor performance of private health providers in ensuring equitable access to quality healthcare during the COVID-19 pandemic. Countries that relied more on private health financing tended to do worse in reducing COVID-19 mortality. In some countries, patients were refused by private hospitals when they could not afford the costs, while others were overcharged. During the 2021 COVID-19 surge in Uganda, private actors charged exorbitant prices before providing emergency care, and held patients and dead bodies hostage until fees were cleared, undermining the country's overall pandemic response.

In the education sector, the COVID-19 pandemic resulted in a crisis of unprecedented proportions. Continuity of PPP-based education facilities was severely disrupted during the pandemic, with a considerable amount of education providers choosing to close shop and lay off teachers to cut their losses. Significantly, the World Bank – a lead financier of the education sector – has recently taken an important decision that could mark an important shift in its approach to public education. In June 2022, it announced that its private sector lending arm, the International Finance Corporation (IFC), will permanently end its investments in K-12 (kindergarten through grade 12) private schools. The decision followed a critical report by the World Bank's Independent Evaluation Group (IEG) arguing that the IFC's business model as applied to schools overlooked important measures of education access, equity and quality. This decision was welcomed by CSOs that have been monitoring and raising awareness for years about the negative impact of for-profit commercial schools on the achievement of the right to education, especially for the most disadvantaged and vulnerable groups and for girls.

The premature termination of the Queen Mamohato PPP hospital in Lesotho

One of the most emblematic examples of the failure of the PPP model is the World Bank-supported Queen Mamohato hospital in Lesotho, a country with one of the lowest human development indicators in the world. The project first came under the spotlight due to the rapid escalation of its initial cost, to the point that the hospital PPP ended up consuming more than half of the country's health budget. In 2021, at the height of the COVID-19 pandemic, all nurses at the hospital were sacked for their strike action that was calling for equal pay to government-employed nurses. This and numerous other disputes, and financial challenges, led to the premature termination of the PPP contract. Netcare, the biggest company in the PPP consortium, was accused of sabotage and looting equipment as the hospital was being transferred back to the government. The significant financial and health sector ramifications of the PPP collapse have still not been investigated. However, the IFC shows no signs of publicly questioning this model.

A call to action

In the wake of multiple and interconnected crises, the promotion of PPPs is a false solution that needs to be challenged with a strong call for public services.

The following policy recommendations align with civil society and trade union demands aimed at national governments and development finance institutions (DFIs). They seek to influence discussions on the financing of infrastructure and public services at the national, regional and global levels.

- ***Halt the aggressive promotion and incentivizing of PPPs.*** We call on UN member states and the shareholders of the World Bank, the IMF, regional development banks and all DFIs to ensure that these institutions halt the aggressive promotion and incentivizing of PPPs, with a particular emphasis on PPPs in social services – the right to health, education, and water and sanitation cannot be subject to market practices, nor to people's capacity to pay.
- ***Public recognition of the fiscal and other significant risks that PPPs entail is essential and long overdue.*** We invite all UN member states to recognize the poor developmental outcomes of PPPs, and we call on them to refrain from engaging in these financing arrangements. We also invite the governments of developed countries – which are often overrepresented in the aforementioned international economic institutions – to ensure that these institutions effectively support the ownership of democratically driven

national plans in a way that is conducive to sustainable development. This means supporting countries to find the best financing method to deliver infrastructure and public services that are responsible, transparent, gender-sensitive, environmentally and fiscally sustainable, and in line with countries' human rights obligations and climate-related commitments.

- ***Informed public consultations and broad civil society participation, including by local communities, feminist organizations, trade unions and other stakeholders, should always be pursued*** before any PPP in infrastructure and public service provision is agreed. This includes upholding the right to free, prior and informed consent, and ensuring the right to redress for any affected communities.
- ***Apply rigorous government regulation of private actors and high transparency standards***, especially in relation to accounting for public funds, the contract value of a PPP and its long-term fiscal implications for national accounts, and project impacts. The public interest must be placed ahead of commercial interests. Contracts and performance reports of social and economic infrastructure projects should be proactively disclosed, and DFIs should not provide support to any projects unless transparency is guaranteed.

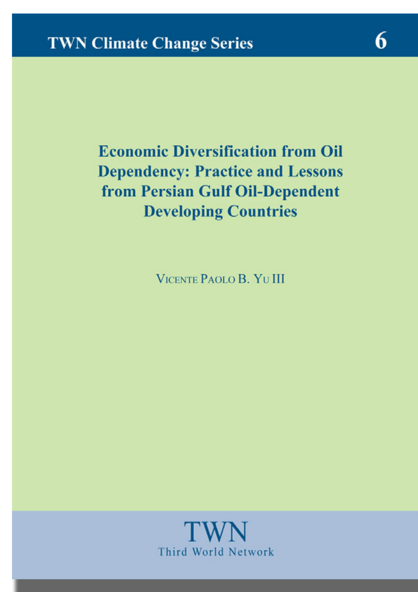
It is vital to resist the increasing use of PPPs as a preferred financing tool to deliver infrastructure and public services. Instead, we call for the promotion of high-quality, publicly funded, democratically controlled, gender-sensitive and accountable public services, based on the fulfilment of human rights and the protection of the environment. The future of our societies depends on it.

The above is excerpted from History RePPPeated II: Why Public-Private Partnerships Are Not the Solution, a report coordinated by Eurodad (European Network on Debt and Development) and endorsed by 18 civil society organizations (December 2022).

TWN Climate Change Series No. 6

Economic Diversification from Oil Dependency: Practice and Lessons from Persian Gulf Oil-Dependent Developing Countries

By Vicente Paolo B. Yu III



A key need in tackling climate change is the shift of a country's income sources away from vulnerable towards low-emission, climate-resilient sectors. The challenge of economic diversification is however especially pronounced for developing countries reliant on production and export of oil and other fossil fuels for revenue. Drawing on the experience of oil-dependent countries from the Persian Gulf region, this paper highlights the importance of strategic and proactive national development policies to drive structural economic transformation. Additionally, international cooperation through financial support, technology transfer and conducive multilateral rules is also required to promote the transition to a climate-friendly development pathway.

Available at https://twn.my/title/climate/climate06.htm