Preface

Unsustainable debts have been an important development barrier and a heavy burden for most Southern countries (SCs), restricting their policy space and causing avoidable misery to the poorest. Over decades creditors have dictated ‘solutions’ unhampered by the Rule of Law or basic legal principles and without solving the problem. Interestingly Southern sovereign debtors were once treated fairly decently: before the Bretton Woods Institutions and the Paris Club, a creditor cartel took over as ‘debt managers’. The present financial crisis caused by neoliberal greed and ‘liar loans’ (in the USA, not the South) is likely to impact very negatively on Southern debtor nations.

Adequate protection of debtors in distress, their human dignity and human rights, part and parcel of any civilized legal system, were totally denied to the South over decades. The ‘lemon squeezer’ model of debt management put debt service over human needs, causing part of the misery the MDGs are now to reduce. Changes for the better have occurred recently. Anti-poverty measures have become part and parcel of creditor dominated ‘solutions’. After being forced by creditors to introduce school fees or cost recovery schemes in the basic health sector in order to be capable of repaying a few dollars more, SCs are meanwhile encouraged by the same creditors to reduce or abolish these charges. Official creditors continue to deny the fundamental right to neutral and disinterested judges to SC debtors and the globe’s poorest, the cornerstone of the Rule of Law and a matter of course for anyone else. Legal standards at the time of debt slavery or even in very ancient Rome were perceptibly higher than those that official creditors uphold vis-à-vis SCs nowadays. Public creditors have been eager to benefit from debtors’ duress, creating a new form of dependency, which one may call neo-Listian.

This book shows how debt management should be reformed to prevent debts from crowding out development and human needs, to facilitate reaching the Millennium Development Goals (MDGs). An analysis of the history of sovereign Southern debts shows the differences in SC debtor treatment before 1945 and describes debt accumulation after World War II as a Ponzi scheme that eventually crashed. Proposals on how to solve the never-ending debt story are discussed, especially Rule of Law-based sovereign insolvency. It is shown that fundamental legal principles are
still not observed when it comes to SCs. The MDGs are interpreted as a generally agreed and accepted minimum standard of debtor protection that must be reached. In line with official declarations by public creditors, financing the MDGs must therefore enjoy priority. The important role of non-governmental organizations (NGOs) and civil society in bringing about reforms for the better, largely against recalcitrant official creditors, is described. Basic concepts such as sustainability, macroeconomic forecasts, ownership and preferred creditor status are analysed in view of their relevance to the MDGs. Finally the question of how best to finance these Goals is tackled. A caveat regarding the reliability of official data produced by creditors, used by virtually everyone, be they academics or political decision makers, is presented in the Annex.

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