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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Centre Europe - tiers monde, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[03 February 2020]

* Issued as received, in the language(s) of submission only.



Austerity measures and Human Rights violations in Ecuador¹

Between 2007 and 2017, Ecuador experienced a prolonged period of growth and political and macroeconomic stability that allowed for a significant decrease in poverty and inequality. Indeed in that period of time poverty fell from 37,7% to 23,1%, extreme poverty from 16,5% to 8,4% and the Gini coefficient decreased from 0.551 to 0.463.² From December 2017 to date (June 2019), poverty has increased up to 25.5% of national population and extreme poverty has reached 9.5%. For its part, the Gini coefficient has risen to 0.478, what implies a clear increase in inequality. Moreover, poverty and extreme poverty in rural areas amount to 43.8% and 17.9% respectively.³

The above figures are linked to economic-social measures taken by the Government of Ecuador, in particular with the implementation of the agreement with the International Monetary Fund (IMF), although reforms began before such agreement was adopted. In particular, one of the first major economic measures taken by the government of President Lenin Moreno was carried out on the 20th August 2018 when the “Ley Orgánica para el Fomento Productivo, Atracción De Inversiones, Generación de Empleo, y Estabilidad y Equilibrio Fiscal” (Organic Law on Productive Promotion, Investments Attraction, Job Generation, and Fiscal Stability and Balance) was passed. This law meant a loss of income for Ecuador, of an estimated 1.2% of the 2019 GDP, that is to say, 1,310 million dollars for tax debt issuance and income tax exemptions for corporations. Simultaneously, the process of the labour market insecurity already started in 2017, with reforms focussed on reducing the labour inspection powers and to generalise temporary employment without cause as well as the relaxation of working hours. In addition, the reduction of public employment started before the signing of the IMF agreement. The national survey of employment, unemployment and underemployment, conducted by the National Institute of Statistics and Censuses, shows the loss of employment in the public sector since the public policy started to shift one year and a half ago. Indeed, 2017 ended with a public employment figure amounting to 717,232 people (at that time, 9.3% of the employed population). However, according to data from the same survey, by June 2019, public employment had reduced to 606,665 people, that is a 7.7% of the overall employed people. The 111,567 people difference corresponds to the reduction of public employees.

In return for a 10,2 billion dollar (USD) loan from the IMF in February 2019, the Ecuadorian government committed itself to implement a long series of measures resulting in a regression of social rights, contrary to the provisions in the Ecuadorian Constitution.

Such measures are placed in the area of fiscal policy, the external area of the economy, labour regulations and social security, the central bank and the monetary policy, fight against corruption and transparency among others. The IMF has recognised the social consequences carried by the adjustment and urges the government to establish support programs for extreme poverty.

The increase in poverty and vital insecurity of social majorities together with the refusal to the above mentioned measures have provoked a proliferation of social conflicts. Both the economic measures and those applied to contain and repress the protests constitute a continuous violation of human rights.

¹ This declaration was elaborated in collaboration with two ecuadorian organizations : the Union of People Affected by Chevron-Texaco (UDAPT) and the Center for Economic and Social Rights (CDES).

² National Institute of Statistics and Censuses: <https://www.ecuadorencifras.gob.ec/documentos/web-inec/POBREZA/2017/Junio/Informe%20pobreza%20y%20desigualdad%20-%20jun%202017%2014072017.pdf>

³ National Institute of Statistics and Censuses: https://www.ecuadorencifras.gob.ec/documentos/web-inec/POBREZA/2019/Junio-2019/Boletin_tecnico_pobreza_y_desigualdad_junio_2019.pdf

Violation of economic, social and cultural rights

After examining Ecuador's fourth periodic report, the UN Committee on Economic, Social and Cultural Rights issued some observations (October 2019)⁴ on the adoption of the austerity measures, the October crisis management and, among others, the Furukawa case. In fact, the Committee expresses its serious concern at the situation of forced labour in the Furukawa company case, which primarily involves people of African descent and by the lack of adequate measures to provide protection and full reparation to the victims.

Moreover, the Committee referred to Ecuador's obligations regarding economic and social rights, and urged the State to conduct a prior assessment of the impact that any measures to address the economic downturn may have on such rights so as to ensure that they do not disproportionately affect disadvantaged groups; not to reduce social spending in the areas of health and education from the levels achieved in 2018; to maintain budget lines related to social investment in respect of the most disadvantaged groups and facilitate effective and sustainable implementation of public policies. The Committee also reminded that retrogressive measures are compatible with the Covenant only if they are necessary and proportionate. As can be seen according to the cuts envisaged in the government's proposal for the State 2020 budget, none of these recommendations have been fulfilled. Furthermore, and bearing in mind what happened in October 2019, the Committee recommended Ecuador to guarantee the right of association and peaceful demonstration in relation to policies relevant to economic, social and cultural rights, and to encourage consultation processes as regards austerity measures, especially with vulnerable groups that might be particularly affected by such measures.

After receiving the observations, the government maintained the normative proposals of harsh budgetary adjustment affecting seriously social rights (restriction on education budgets for example) and failed to comply with the fundamental obligation to broadly spread the Committee's observations, which were not forwarded to other public bodies nor was it publicised.

Violations of civil and political rights

On the 1st October 2019, President Moreno announced a series of new economic and labour measures he was to undertake in the framework of the implementation of the agreement between Ecuador and the IMF, by issuing executive decrees and regulatory reforms. The measures he specifically announced consisted of policies of economic and social adjustment and labour flexibilisation with an impact on the vast majority of Ecuadorian population. The elimination of the fuel subsidy, in force in the country for the last 40 years, was the measure with a major social impact and was adopted instantly through Decree No. 883. With this measure, extra gasoline rose from US\$1.85 per gallon (3.8 litres approximately) to US\$2.30, while diesel rose from US\$1.08 to US\$2.27, with a rise of more than 120%, strongly impacting transportation, the countryside and the sectors with fewer resources. The poorest 75% of the population had to pay 78% of the cost of eliminating the subsidy, while the richest 25% only paid the remaining 22%. President Moreno announced another series of measures aimed at lowering the tax burden on economic groups, liberalising trade (withdrawing or reducing tariffs), reducing the foreign exchange exit tax on raw materials and a series of privatisations.⁵

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https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/ECU/CO/4&Lang=en

⁵ In fact, on the 9th October three executive decrees were issued (No. 890, 891 y 892) providing the liquidation of public companies FABREC and Cementera del Ecuador as well as the delegation of the extension of a national road in southern Ecuador to the private sector.

The protests that broke out from the following day were immediately countered by the government, both through the adoption of the State of Emergency decree (Decree 884) and through the use of the state security forces.

According to figures given by the Ecuador *Defensoría del Pueblo* (Ombudsman Office),⁶ between the 3rd and the 13th October in the framework of state repression of protests against the economic measures announced by the government 10 people were killed and 1,340 were injured. Furthermore, during the strike some media that were spreading information different from the line traced by the government as well as alternative and community media were threatened repeatedly.

The Defensoría del Pueblo also reported that until the early morning of the 14th October, 1,192 detainees had been registered. The vast majority of them was released immediately without charge. On of the issues of most concern are violations of due process and access to justice for people detained during the protest. During the detentions situations such as the following took place: inhuman and degrading treatment; impossibility of communication and denial of information as well as to access to relatives, lawyers and human rights organisations; breach of due process during detentions and hearings of flagrante delicto; no reading of rights, absence of translators into other constitutionally recognised languages, no access to the accusation notices; incommunicado and inhuman and degrading conditions during withholdings; no possibility to exercise the right to oral defence; impossibility to communicate with lawyers personally chosen; non-existence of reasoning on judicial decisions; no recording in such decisions of the detainees physical conditions which showed ill-treatment during detention; change in hours of detentions and notices, etc.⁷

Just immediately after the end of the National Strike, arrest warrants were issued to various opposition political leaders and detention orders were issued to many indigenous and social movement leaders. In particular, the Comisión Interamericana de Derechos Humanos (Inter American Commission of Human Rights – CIDH) adopted several precautionary measures aimed at protecting the rights to life and to physical security as well as the political rights of three people that were held under pre-trial detention accused of a crime of rebellion based upon political statements made on social networks during the strike.⁸ In its decision, the CIDH considers to be proven that the rights to life and to physical security of all of them are at great risk and that the conditions of seriousness, urgency, and irreparable damage, necessary for the adoption of the precautionary measures, concur and considers that the stigmatising statements made by the Ecuadorian government have increased the risk for these people to be attacked in prison. The criticism of criminalising political opposition is in line with what the UN High Commissioner for Human Rights highlighted.

On the 29th November 2019, the High Commissioner for Human Rights of the UN, Michelle Bachelet, issued a broad note⁹ on the October events calling, inter alia, for independent, impartial and transparent inquiries of the allegations of human rights violations and abuses in Ecuador, including killings, violations of international standards on the use of force, and arbitrary detentions. The note, that assumes that possible abuses and human rights violations occurred in the context of the protest responding to the austerity measures, includes the allegation of many arbitrary detentions and of a repeated use of tear gases and pellets shot at a short distance against the protesters by the police forces. In the text, she also states that the use of such weapons caused hundreds of injured people and possibly some deaths.

The High Commissioner urged authorities to, on the one hand, review all internal protocols regarding the use of force and for the authorities to make sure that such procedures are according to international standards and criteria. On the other hand, not to make any statements nor to take any other action which stigmatises indigenous peoples and foreign

⁶ <https://www.dpe.gob.ec/informes-tecnicos-sobre-paro-nacional-estado-de-excepcion-octubre-2019/>

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http://www.cedhu.org/images/cedhu/areas_accion/publicaciones/investigaciones/pdfs/Informe%20Final%20Alianza%20DDHH%20Ecuador%202019.pdf

⁸ See Resolution 58/2019, precautionary measure No. 938/19 adopted in the case of “Paola Pabón et al. v. Ecuador”.

⁹ <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=25368&LangID=S>

people, as well as journalists and political opponents, in order to avoid exposing them to additional risks.

She also asked the government to be in line with the above mentioned UN Committee on Economic, Social and Cultural Rights' opinion.

Until now the government has not undertaken any reparation action for the victims nor has it recognised the excessive use of force. The only answer to this note from President Lenin Moreno, during a long interview for the newspaper “El País”¹⁰ was to affirm that “what happened is that there were criminal sectors paid by the “correismo”, and furthermore there were also FARC and ELN agents salaried by Venezuelan President Maduro, who blended in among the nearly 4,000 Venezuelans who have entered the country as migrants, and common gang members that started to cause outrages as it had never been seen before”. Obviously, this implies a deliberate lack of awareness of the country reality and of the observations made by the UN human rights bodies.

In view of the above, the CETIM urges the Ecuadorian government to meet its international commitments on human rights and to apply recommendations made by the Committee on Economic, Social and Cultural Rights and the High Commissioner for Human Rights. The CETIM urges the Human Rights Council to intervene with the Ecuadorian government in this regard.

¹⁰ https://elpais.com/internacional/2019/12/03/actualidad/1575399823_212231.html