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# Advance Edited Version

Distr.: General  
17 February 2023

Original: English

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## Human Rights Council

### Fifty-second session

27 February–4 April 2023

Agenda item 3

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

## Visit to Argentina

**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<sup>\*</sup>, <sup>\*\*</sup>**

### *Summary*

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, Attiya Waris, conducted a visit to Argentina from 26 September to 5 October 2022. The present report contains her findings and recommendations to the Government of Argentina.

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\* The summary of the report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in the language of submission and Spanish only.

\*\* The present report was submitted after the deadline in order to reflect the most recent developments.

## Annex

# **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 on her visit to Argentina**

## **I. Introduction**

1. Pursuant to Human Rights Council resolution 43/10, 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, Attiya Waris, conducted a visit to Argentina from 26 September to 5 October 2022, at the invitation of the Government.

2. The Independent Expert expresses her sincere gratitude to the Government of Argentina for the standing invitation to conduct a country visit and for its excellent cooperation to ensure that she could make the most of the visit. She is grateful for the frank and constructive discussions that she held with the officials of the federal Government and the provincial governments of Buenos Aires and Jujuy.

3. The Independent Expert had the privilege of holding discussions with members of Congress and the Attorney General of the Treasury. At the federal level, she met with representatives of the Ministries of Foreign Affairs, Labour and Social Security, Economy, Health, Education, Women, Gender and Diversity, the Secretariat on Human Rights of the Ministry of Justice and Human Rights, the Central Bank and a number of former government officials. At the provincial level, she held meetings with the authorities of the city of Buenos Aires and the provinces of Buenos Aires and Jujuy.

4. The Independent Expert also exchanged views with representatives of the business sector, trade unions, civil society, indigenous communities, academics, international organizations and United Nations agencies. She would like to thank the individuals and organizations that opened their offices to her and shared their experience and expertise, and she is appreciative of the open and frank discussions with all the interlocutors she met. She is also grateful for the crucial support provided by the Human Rights Adviser of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the assistance provided by the Office of the Resident Coordinator and the United Nations country team.

## **II. Background**

5. Since 1956, the International Monetary Fund (IMF) has been obliged to make numerous lending commitments to Argentina, including 22 standby arrangements and 3 extended facilities. A number of these loans (particularly between 1976 and 1983) were not only extended during the period of military dictatorship but their sustainability and legality were placed into question. Between 1991 and 2001, a total of five loan arrangements were provided by the IMF, of which two were extended fund facilities, in 1992 and 1998, and three were standby arrangements, in 1991, 1996 and 2000. Since the mid-1980s, Argentina has undergone recurrent cycles of unsustainable sovereign debt.

6. To manage the hyperinflation from the mid-1980s the IMF proposed instituting an exchange-rate system tied in with many neoliberal economic reforms. Those reforms included trade liberalization, deregulation of capital and market controls and privatization of public assets, institutions and services and others, thus opening the country to external shocks.<sup>1</sup> Backed by the World Bank, the country also partly privatized the social security

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<sup>1</sup> See [A/HRC25/50/Add.3](#).

system in 1994, despite unemployment levels reaching as high as 18.4 per cent.<sup>2</sup> From 1997, Argentina annually allocated 9 per cent of the country's gross domestic product (GDP) to servicing debt payments.<sup>3</sup> The situation was progressively worsened by the Asian financial crisis of 1997, followed by the global economic downturn of 2000.

7. After nearly four years of recession, in December 2001, Argentina halted its debt repayments of \$21.6 billion.<sup>4</sup> Pausing interest payments to creditors, the Government also delinked the peso from the dollar. Public debt alone rose from 45.7 to nearly 166.3 per cent of GDP in the course of 2002, in part due to the devaluation of the currency. Official figures on unemployment were estimated to be around 21 per cent, which left 60 per cent of the population outside the purview of the social health insurance system. The country had already experienced a fiscal deficit of 3 per cent in 2001, manufactured by the semi-privatization reforms of social security in 1994.<sup>5</sup> As a policy response to the crisis, the Argentine authorities implemented a contractionary fiscal policy, recommended by the IMF, which triggered nationwide social unrest. Further, budgetary allocations for traditional social security were slashed by 13 per cent in September 2001, intensifying existing inequality. The crisis also severely affected the public health system, with hospitals suffering a serious shortage of basic supplies and prices of medicines soaring, in particular affecting women and children.

8. Argentina underwent debt restructuring twice more, in 2005 and 2010, which included the cancellation of the debt with the IMF in 2006. By 2012 the overall public debt had declined. That decline allowed for increased public spending by all tiers of government in crucial sectors such as education, health and social security.<sup>6</sup> The voluntary debt swaps carried out in 2005 and 2010 had a participation rate of 93 per cent among bondholders, in which \$62.3 billion worth of bonds were exchanged for \$35.3 billion. Eight per cent of the 2001 debt, including bonds, remained in vulture funds. As some creditors refused to participate in the bond restructuring, in 2014 a joint allegation letter by the Special Rapporteur on extreme poverty and human rights and the Independent Expert on foreign debt was sent to NML Capital Ltd. over lawsuits against Argentina in court in the United States of America, invoking the *pari passu* clause, or equal treatment clause, in bond contracts.<sup>7</sup> The ruling of the United States lower court and the Supreme Court in favour of the vulture funds had serious consequences, not only for the ability of Argentina to fulfil its human rights obligations but also for future possibilities of debt restructuring with creditors.

9. After 2015, the government increasingly relied on external financing of its growing current account and budget deficits. As the country's reserves (including the amount drawn by the IMF) suffered, in the period 2015–2019 there was a capital flight of \$45 billion by the private sector and \$11 billion of speculative capital flight and almost \$37 billion in public and private debt payments.<sup>8</sup> No effective measures were taken to reduce capital flight.<sup>9</sup> As the country ran into another financial crisis, in 2018 a loan arrangement or standby agreement of \$56 billion was negotiated with the IMF – the highest amount ever provided to a country in the institution's history – of which \$44.5 billion was disbursed. Despite the size of the loan, Argentina had to continue resorting to external markets to finance its debt at increasingly higher interest rates until market access was closed in August 2019.

10. The ex-post evaluation published by the IMF concluded that the programme had failed to deliver its core objectives of establishing macroeconomic stability and improving

<sup>2</sup> See Sebastian Galiani and others, "Persistence and regional disparities in unemployment Argentina (1980–1997)", *Regional Science and Urban Economics*, vol. 35, No. 4 (July 2005).

<sup>3</sup> See Joseph Stiglitz, "Argentina's collapse incited the largest default in history" (January 2002).

<sup>4</sup> At the time, the country owed, among other obligations, private investors bonds with a face value of \$81.8 billion, the Paris Club countries \$6.3 billion and the IMF \$9.5 billion. See [A/HRC/25/50/Add.3](#).

<sup>5</sup> Dean Baker and Mark Weisbrot, "The Role of social security privatization in Argentina's economic crisis", Centre for Economic and Policy Research (April 2002).

<sup>6</sup> See [A/HRC/25/50/Add.3](#).

<sup>7</sup> OTH 10/2014.

<sup>8</sup> Banco Central de la República Argentina, "Foreign Exchange Market, Debt and Build Up of Foreign Assets 2015–2019".

<sup>9</sup> See IMF country report No. 21/279, *Ex-post Evaluation of Exceptional Access under the 2018 Standby Arrangement* (December 2021).

structural imbalances to boost market confidence.<sup>10</sup> IMF by-laws state that a loan grant or aid to a country cannot exceed the 50 per cent limit of the available funds allocated. In the case of Argentina, the 2018 loan exceeded 60 per cent of IMF lending capacity, thus breaching the by-laws and articles of agreement.<sup>11</sup> According to provisional estimates, between 2018 and 2019 public spending in Argentina on education, culture and science and technology fell by 4.8 per cent, on drinking water and sewerage by 11.7 per cent and on housing and urbanism by 13.1 per cent.<sup>12</sup>

## A. Impact of the coronavirus (COVID-19) pandemic

11. The COVID-19 pandemic exacerbated the economic and social pressures already facing the country. According to the National Institute of Statistics and Census, in the first semester of 2021 nearly 40 per cent of the urban population was living in poverty and struggling to make basic ends meet (54 per cent of those aged between 0 and 14 years). Extreme poverty levels reached 10 per cent of the population.

12. The authorities adopted emergency packages and several relief measures to mitigate the sudden and immediate impact of the pandemic. The implementation of a wide network of pre-existing social plan coverage (universal child allowance, among others) was significantly expanded, with emergency measures, such as decrees No. 310/2020 on emergency family income, No. 309/2020 on the extraordinary bonus and No. 332/2020 on the emergency assistance programme for work and production. Additional resources were allocated for social programmes and food banks, including at schools. The Government also announced price ceilings for essential products under resolution No. 1/2020, which included sanitary products. These measures helped to moderate the disproportionate effects and the drop in the population's income caused by the recession. Sustaining these efforts, the Government requested additional financing of \$500 million from the World Bank in 2020 to purchase COVID-19 vaccines and "technical assistance to strengthen the immunization system in the country".<sup>13</sup> In 2021, economy recovered after the recession of 2020 brought about by the restrictive measures of a long period of quarantine imposed on account of the COVID-19 pandemic.<sup>14</sup>

## B. Maximum available resources

13. Argentina has ratified the main international human rights treaties and continues to progress in their implementation. The international legislation on human rights, and all other international treaties ratified or due to be ratified by Argentina, is deemed to hold an equal status to the Constitution as supreme law.

14. According to these international engagements Argentina has committed to take steps to the maximum of its available resources with a view to achieving progressively the full realization of economic, social and cultural rights.<sup>15</sup> It is for this reason, and in line with the guiding principles on human rights impact assessments of economic reforms, that Argentina is required to design and implement fiscal, tax, debt, trade, aid, monetary and environmental policies in conjunction with other measures, so that they are deliberately directed towards the realization of human rights. Every effort must be made to mobilize all available resources, even in times of economic crisis.<sup>16</sup>

<sup>10</sup> See Karina Patricio Ferreira Lima and Chris Marsh, "The IMF's 2018 stand by-arrangement with Argentina: an ultra vires act?" (January 2022).

<sup>11</sup> See Alan Cibils and Germán Pinazo, "The IMF gambled and lost: why pay them back?", North American Congress on Latin America (10 December 2021).

<sup>12</sup> See [https://www.argentina.gob.ar/sites/default/files/gasto\\_publico\\_consolidado\\_1980-2020.xls](https://www.argentina.gob.ar/sites/default/files/gasto_publico_consolidado_1980-2020.xls) (in Spanish only).

<sup>13</sup> World Bank, *Argentina - COVID 19 Emergency Response Project Additional Financing* (2021).

<sup>14</sup> Naciones Unidas Argentina, "Reporte anual 2021" (in Spanish only).

<sup>15</sup> International Covenant on Economic, Social and Cultural Rights, article 2.

<sup>16</sup> [A/HRC/40/57](#).

## 1. Most recent IMF loan arrangement and debt restructuring

15. In 2022, IMF staff and the Argentine authorities reached a staff-level agreement for a 30-month extended fund facility arrangement for \$44 billion, accompanied by a range of structural, monetary and fiscal policy reforms.<sup>17</sup> This agreement is meant to cover the maturities of the 2018 standby arrangement, obtain budget support to partially fund the needs of the National Treasury and reinforce the Central Bank reserves. The agreement also included quarterly reviews tied to the disbursements.

16. The first review under the extended fund facility (for the first quarter of 2022), which assessed the commitment of the authorities to the programme objectives (fiscal, monetary, financing etc.) in circumstances of increased global uncertainties recommended tighter fiscal policies in the second half of 2022 to meet the primary fiscal deficit target of 2.5 per cent of GDP. It was jointly agreed in the second review that the extended fund facility would provide support to the balance of payments, strengthening the public finances, including a review of corporate tax incentives, strengthened revenue compliance and boosting regulatory frameworks to combat tax evasion and money-laundering.<sup>18</sup>

17. The Argentine authorities stated that in addition to repaying a part of the 2018 loan, they planned to enhance repayment terms in order to reduce the debt burden and put the debt on a sustainable path that should allow resources to be generated to strengthen the State's safety net for the most vulnerable populations and support the fulfilment of human rights. The extended fund facility aimed to achieve the stable conditions necessary to face structural challenges and build the foundations for sustainable and inclusive growth. The objective would be to facilitate the creation of new jobs, greater economic stability and more equity in how opportunities would be distributed. The authorities added that the agreement, which had been approved by the National Congress, made it possible to establish a common diagnosis of the challenges faced by the country and outline a road map with the main steps in the country's economic policy.

18. In the opinion of the Independent Expert, the country's long tryst with the cycles of sovereign debt may be prolonged owing to the emergence of the multiple crises that the world continues to experience. Fulfilling human rights and mitigating the impacts of those crises requires a steady flow of resources.

19. The Independent Expert learned that the State has negotiated a 10-year repayment period with a grace period of 4.5 years.<sup>19</sup> According to what the Independent Expert was told, this arrangement, coupled with macroeconomic stability and expected higher export capacity, should enable Argentina to meet its financial needs and issue new debt in the capital markets.

20. The expected export growth is premised primarily on increasing production of oil and gas and lithium, copper and other mining products, boosting the food industry, the knowledge industry and green hydrogen and other forms of renewable energy, all sectors that according to the State have significant growth potential. As part of the reform suggested by the IMF, incentives in the form of partial exemptions or tax credits could be provided to key strategic sectors. However, the expansion of exports through the incentives recommended in sectors such as mining, agro-industry and hydrocarbons have the largest socioenvironmental and ecological impacts. Further investment in such activities may expand extractive activities into new territories and communities in situations of vulnerability (such as in the case of the drive towards offshore extraction in the Argentine Sea) and hinder medium- and long-term planning processes to redirect the economy towards a low-carbon emission path, in accordance with the international commitments assumed in the Paris Agreement on climate change.

21. The economic, social, cultural and environmental consequences of such activities and the adverse effects on the enjoyment of human rights, particularly for the communities inhabiting the areas where these extractive activities may take place, where water may be scarce, should be taken into consideration. Human rights and environmental impact

<sup>17</sup> See <https://www.imf.org/en/News/Articles/2022/06/24/pr22226-argentina>.

<sup>18</sup> Ibid.

<sup>19</sup> <https://agorapublicaffairs.com/argentina-agrees-with-imf-fractures-opportunities-and-risks/>.

assessments should be requested for the export strategy that is a part of the agreement with the IMF. These assessments must be carried out in line with the guiding principles on human rights impact assessments of economic reforms, including among others principle 12.10, which states that: “The environmental assessment implies an analysis of the commitment of the country’s natural resources, mainly its strategic resources such as minerals and water. The social impact, the environmental remediation and the contribution to climate change must be established in the case of public debt payments based on the extraction of natural resources.” Further, principle 8 of the framework principles on human rights and the environment states: “To avoid undertaking or authorizing actions with environmental impacts that interfere with the full enjoyment of human rights, States should require the prior assessment of the possible environmental impacts of proposed projects and policies, including their potential effects on the enjoyment of human rights.”<sup>20</sup>

22. In the province of Jujuy, the Independent Expert welcomed the information she was given on linking the resources obtained by national and international loans to fund specific projects that aim to fulfil diverse goals of the 2030 Agenda for Sustainable Development. That practice could be extended nationwide.

23. The share of Argentine debt held by private creditors should not be discounted. As has been evidenced during past financial crises, negative ratings from credit rating agencies often end up affecting the policy options available to Governments, such as restricted access to international capital markets. That may also reduce the fiscal space of countries, leading to limited investments in social protection, food, health, education or anti-poverty measures.<sup>21</sup>

24. Small, micro and medium-sized enterprises, individuals and households seeking external finance in the country also face expensive interest payments. Household debt in Argentina reached \$19.6 billion in October 2022.<sup>22</sup>

## 2. Surcharges

25. Countries with loans of three or more years or above the IMF country quota of 187.5 per cent are subjected to a surcharge of 2 per cent on the outstanding debt balance.<sup>23</sup> The issue of surcharge payments must also be questioned as it runs prima facie counter to a State’s obligation to use the maximum of its available resources for the realization of human rights. In 2021, Argentina was requested to make surcharge payments that exceeded the total budget allocated to the Ministry of Justice and Human Rights and the Ministry of Environment and Sustainable Development combined. As a result of the 2018 agreement, between 2021 and 2026 Argentina would pay around \$4 billion in surcharges, which exceeded the \$3.6 billion in charges and commissions relating to the loan itself. In other words, the surcharges more than doubled the cost of credit by 113 per cent.<sup>24</sup> A joint letter was sent to the IMF by a number of special procedure mandate holders in August 2022 over the need to assess the “regressive and procyclical character of the surcharge policy” and its impact on the realization of human rights and on recovery from the pandemic on countries that were already in severe debt distress.<sup>25</sup>

## 3. Budget

26. Fiscal policy is a tool that Governments use to raise and spend public money to achieve certain economic and social objectives, reflecting their political priorities. One of the key documents is the budget, which sets out how much money a State intends to generate through taxation, government business (dividend and profits), disinvestment targets, loan

<sup>20</sup> A/HRC/37/59.

<sup>21</sup> See A/HRC/46/29.

<sup>22</sup> CEIC, “Argentina household debt: % of GDP” (2022).

<sup>23</sup> At the time of drafting of the present report, loans above 187.5 per cent of a country’s quota at the IMF were subject to a surcharge of 2 per cent on the outstanding debt balance. The IMF adds an extra 1 per cent to outstanding debt after 36 months – 51 months in the case of credit outstanding under the extended fund facility. See IMF policy paper *Review of Access Limits and Surcharge Policies* (April 2016) and <https://www.brettonwoodsproject.org/2022/04/what-are-imf-surcharges/>.

<sup>24</sup> See <https://link.springer.com/article/10.1057/s41301-022-00340-5>.

<sup>25</sup> AL OTH 85/2022.

recoveries and borrowing (revenue), from what sources and how it will be spent (allocations, interest payments, debt, deficits etc.). As part of the extended fund facility, one of the structural requirements for Argentina is the submission of a draft 2023 budget consistent with the agreed fiscal deficit target of 1.9 per cent of GDP for 2023.

27. In 2022, Argentina had to operate on the basis of the 2021 budget and administrative decisions, which was not an efficient use of available resources, both generally and for the realization of human rights, particularly considering the series of crises, some global, that Argentina had to face between 2021 and 2022.

28. On 3 November 2022, the national executive power sent the draft budget for the year 2023 to the Congress. The draft budget contemplated a reduction in total expenditure of almost 3 per cent, year on year in constant currency, and by 1 percentage point in terms of GDP. Owing to lower subsidies and social benefits (family allowances, social security benefits and non-contributory pensions), at the time of the Independent Expert's visit, primary expenditure was expected to fall by 4.3 per cent year on year. On the other hand, the allocation for the payment of debt interest implied an increase of 15.1 per cent year on year.<sup>26</sup>

29. The reduction in spending on social services (which includes policies aimed at drinking water and sewage, science and technology, education and culture, social promotion and assistance, health, social security, labour, and housing and urban planning) and economic services (which includes policies aimed at agriculture, commerce, tourism, communications, ecology and environment, energy, fuels and mining, industry, insurance, finance and transportation) resulted in reductions of 1 per cent and 3 per cent, respectively, in the share of those items in the total draft budget.

30. At the time of the Independent Expert's visit, the proposed draft budget for 2023 contemplated an increase of 15 per cent in debt interest payments. On the other hand, investment in energy subsidies would have been cut by 16 per cent and investment in social programmes by 12 per cent (both in real terms). Among the items to be reduced were those destined to support families in the upbringing of their children (first years programme), to the protection of victims of violence, to the construction and improvement of kindergartens, to the food allowance or card, to non-contributory pensions and to student scholarships, among others.

31. The debate on the budget takes place in the Budget and Finance Committee of the Chamber of Deputies. The Committee is fundamental in analysing and discussing the allocation of adequate resources for public policies aimed at guaranteeing rights and reducing socioeconomic inequalities. During the analysis and debate, participants should consider that compliance with fiscal deficits in the annual budget should not imply a cut in the protection and enjoyment of human rights.

#### 4. Tax system

32. The tax system is an important source of revenue generation that can be allocated to the public services and institutions essential for the realization of human rights. In that regard the Independent Expert was informed by a number of stakeholders that the tax system and administration in Argentina could be improved by, for example, undertaking tax reforms such as implementing taxes on excess profits and on wealth, and reviewing tax incentives. In fact, the Government has acknowledged the need to review tax incentives, but concrete and decisive measures remain to be taken.

33. Revenue generation in Argentina relies heavily on the taxation of consumption of goods and services. While there seems to be a low level of tax on personal property, concerns were raised around an unjustified tax incentive regime. According to the information received, the tax on personal property amounted to 2.53 per cent of total tax revenue in 2021, while value added tax (VAT) on consumption contributed 29.4 per cent, which is a regressive tax policy that particularly affects people with no or low incomes. In addition, the lost revenue attributable to tax exemptions may have amounted to 2.67 per cent of GDP in 2021.

<sup>26</sup> See <https://www.opc.gob.ar/en/budget-law/general-description-of-the-contents-of-the-2023-national-government-budget-bill/>.

34. It is important to note that the Government introduced some redistributive policies during the pandemic by levying an extraordinary contribution on the wealthy (the “solidarity contribution”) in December 2021, raising taxes by 1.5 per cent for assets exceeding Arg\$100 million and 1.75 per cent for assets over Arg\$300 million. The decision to collect a wealth tax during the pandemic was welcomed by the Independent Expert. It raised nearly \$2.4 billion in additional revenues to support the early stages of the pandemic, including medical equipment and subsidies to small enterprises, among others. However, it seems that 25 per cent of that revenue was dedicated to natural gas projects, missing the opportunity to accelerate the energy transition, in contradiction of the country’s own climate policy of decarbonization. While it was important as an extraordinary measure, it was of limited duration and as a result did not impact the overall regressivity of the tax system.

35. The Argentine authorities acknowledged that VAT represented an important element of tax collection. They claimed that since income tax and social security resources made up the largest percentage, the regressivity of VAT was dimmed, due to the progressivity of income tax in terms of total tax resources. Since December 2019 and through Law No. 27.541 on social solidarity and productive reactivation, the reimbursement scheme to vulnerable sectors has been deepened, expanding the range of beneficiaries (which also takes into consideration gender issues), with the objective of attenuating the negative characteristics of VAT. However regressive taxes, no matter how they are managed or rebalanced, reduce the amount of money in the pockets of the most vulnerable disproportionately and should be avoided.

36. The Independent Expert observed that the current tax incentive regime lacked clear guidelines for review, a basis for approval and an impact evaluation in the sectors in which it had been applied. Within total tax expenditure there are exemptions from income tax for magistrates and officials of the judiciary, for mining companies and individuals residing in the country obtaining income from the purchase and sale of shares and other securities traded on stock exchanges; VAT exemptions for lottery agency services and others operated by the State; and from personal property tax for rural real estate and deposits in financial institutions.

37. The Independent Expert considers that there is a need to review the tax expenditures. According to the Economic Commission for Latin America and the Caribbean (ECLAC), the mechanisms used for granting privileges to some sectors has generated a system highly prone to tax evasion and corruption and have had a negative impact on equality by benefiting high-income sectors and forcing the Treasury to depend on regressive taxes.

38. Argentina suffers a total annual tax loss of around \$2.6 billion due to corporate tax abuse and offshore tax evasion by individuals who transfer their earnings into or through tax havens or secrecy jurisdictions.<sup>27</sup> Of that amount, \$2.3 billion in transfers is by multinational and Argentine corporations with offshore businesses and the remainder of \$0.3 billion is by individuals who transfer their undeclared income abroad, thus reducing the amount of money circulating in the economy, as well as paying fewer taxes.<sup>28</sup>

39. In relation to improving banking transparency and peeling the veil off corporate secrecy, the authorities stated that the Government had submitted to Congress a multilateral instrument corresponding to action 15 of the Organisation for Economic Co-operation and Development base erosion and profit shifting project, which contains important clauses to mitigate such impact and achieve greater traceability, without prejudice to the control activity carried out by the Federal Administration of Public Revenues and the information exchange agreements already signed with the United States and other countries as part of the common reporting standard.

40. In 2020, the Federal Administration of Public Revenues amended the annual information regime, using its general resolution No. 4697/2020, whereby local entities must provide ownership information on partnerships, shareholders, associated entities and individuals, including related foreign persons and entities. Article 90 of Law No. 27.260 provides for the creation of a register of foreign passive entities under the responsibility of

<sup>27</sup> Global Alliance for Tax Justice and others, *The State of Tax Justice 2020 : Tax Justice in the time of COVID-19* (November 2020).

<sup>28</sup> Ibid.



the Federal Administration of Public Revenues. The ultimate beneficial owner is identified as a human person who owns the capital or voting rights of a company, legal entity or other contractual entity or legal structure, regardless of the percentage of participation, or that by any other means, exercises direct or indirect control of the said legal person, entity or structure.<sup>29</sup> While there is no central register on real estate, the Federal Administration of Public Revenues stated that the provinces report to them the ownership of real estate. Decentralized information at the provincial level is accessible to lawyers and other professionals.<sup>30</sup>

41. The Independent Expert commends the country's progress in addressing financial secrecy and tax abuse through such reforms. However, the beneficial ownership register is yet to be made open to all.<sup>31</sup> A public register on ultimate beneficial ownership must cover all legal entities, instruments and arrangements, such as companies (listed or unlisted, assets or holdings), foundations, trusts, associations (unincorporated or incorporated or body of persons), different classes of investment funds, cooperative societies and limited liability partnerships.

42. In line with action 13 of the base erosion and profit shifting project, through general resolution-E 4130/2017 of the Federal Administration of Public Revenues on tax on earnings, multinational companies with annual consolidated revenues equal to or higher than 750 million euros should submit country-by-country reports annually to the Federal Administration of Public Revenues. As such reports also include financial information on how much profit is earned and tax is paid in each jurisdiction of operation, the country could consider lowering this threshold to also include companies with a significant regional or local economic presence corresponding to the size of the GDP of Argentina and making country-by-country reports public for wider scrutiny.

## 5. Inflation and exchange rates

43. Inflation has been triggered by the multiplicity of global crises that have had an impact on international prices (in the case of Argentina, such as the drought in South America and the outbreak of war in Ukraine, which have contributed to an additional increase in food and energy prices internationally), reliance on exports and multiple exchange rates. Between 2021 and 2022, Argentina reached 70 per cent inflation and at the time of the Independent Expert's visit was feared to be approaching 95 per cent for 2022. Multiple exchanges rate practices, consisting of an unstable black market (blue dollar) rate and several official rates, also have the effect of contributing to increasing inflation and reducing certainty, predictability and stability.

44. In order to address inflation, the authorities are implementing a series of policies and measures, which include a comprehensive macroeconomic plan; reconciling fiscal and monetary policies; exchange rate, price and income policy coordination; and a commitment to meet the fiscal deficit target of 2.5 per cent of GDP in 2022, in accordance with the second IMF review. The economic programme is based on the principle of fiscal order and consolidation, involving policies such as segmenting electricity, gas and water tariff subsidies which, in addition to allowing significant fiscal savings, should encourage the efficient use of energy resources while protecting the income of vulnerable populations. Other measures include a programme to strengthen reserves and the trade surplus, through the development of generating foreign currency from strategic sectors and the monitoring of imports.

45. In order to address the negative impacts of inflation, the authorities have implemented a set of price agreement policies, such as, *precios cuidados*, *cortes cuidados*, *canasta de frutas y verduras*, *super cerca* and *fideicomiso del trigo*,<sup>32</sup> as well as several sectoral agreements, such as the one for medicines, aimed at protecting the purchasing power of the population. The authorities have also included a set of policies aimed at protecting the purchasing power of vulnerable populations, such as the productive recovery and sustainability programme; the employment promotion programme; employment

<sup>29</sup> See <https://www.boletinoficial.gob.ar/detalleAviso/primera/227833/20200415> (in Spanish only).

<sup>30</sup> See <https://fsi.taxjustice.net/country-detail/#country=AR&period=22>.

<sup>31</sup> See general resolution No. 4697/2020.

<sup>32</sup> "Careful pricing", "careful cuts", "fruit and vegetable basket", "super close" and "wheat trust fund".

enhancement; the food benefit and progress programme; the bridge to employment programme; and the 1,000 days food support programme; as well as the Arg\$18,000 income booster, extra sums for retirees and family allowances, among others.

46. The macroeconomic variables described above, and the way they have correlated in Argentina, do not seem to be conducive to an environment where the maximum of available resources can be directed to the realization of human rights. Despite the measures adopted by the authorities to mitigate the effects of inflation, particularly for the most vulnerable populations, it has become one of the main drivers of poverty according to some interlocutors and there seems to be a high level of dispersion of resources that could be otherwise utilized. Groups living below the poverty line, including in situations of extreme poverty, are disproportionately affected by inflation. Low-income groups dedicate an increasingly larger proportion of their spending to food and other basic necessities as the prices of these goods respond to changes in inflation rates, often overnight. In that regard, the basic food basket increased by 6.7 per cent during the months of July and August of 2022. Malnutrition and obesity in children living in poverty, due to poor nutrition, remains a concern that both federal and provincial administrations should keep in focus. The Independent Expert was glad to note that the statistics on maternal mortality and child mortality rates were positive.

47. It seems that the rise in inflation may be a challenge to building State reserves and maintaining State liquidity, possibly because savings are not being banked or invested and currency-related speculation persists. Societal perceptions of lack of trust in the State are reflected through these actions.

### III. Human rights impact

48. During her visit, the Independent Expert was concerned about the living standards of a considerable part of the population. The impacts of the recurrent economic crises, the massive external indebtedness, financial deregulation and the austerity measures applied since December 2015 have led to an increase in poverty levels and food insecurity, among other issues, while leading to a reduction in income in real terms.<sup>33</sup>

49. Since the second semester of 2018, more than 30 per cent of the population has been living below the poverty line. These numbers rose to over 40 per cent during the pandemic (in 2020 and the first semester of 2021). According to the National Institute of Statistics and Censuses permanent households survey, during the first semester of 2022, 36.5 per cent of the population (10.6 million people) lived below the poverty line, of whom 8.8 per cent of the population (2.6 million people) were in a situation of extreme poverty. Of particular concern for the Independent Expert are the poverty levels in children. Among those living in poverty, according to the National Institute, more than half (50.9 per cent) are children aged between 0 and 14 years. In parallel, Argentina has a severe inequality gap, with the wealthiest 20 per cent of the population accumulating nearly 50 per cent of total income.

50. During her visit, the Independent Expert received information that since 2016 there has been a reduction in the purchasing power of wages. Before the pandemic, between 2015 and 2019 the overall loss in purchasing power of all wages rose to 16 per cent and the number of workers registered in the private sector declined. The situation deteriorated as strict lockdowns were imposed to manage the spread of COVID-19, which were among the longest in the Latin American region. The pandemic impacted particularly the human rights of vulnerable groups. Gender, ethnic, education and socioeconomic-related inequalities were aggravated. In 2021, with the economic and employment recovery, the purchasing power of wages started to increase. However, during 2022 there has been a further loss of purchasing power. Argentina is facing the phenomenon of the working poor.

51. Unemployment levels in the country were approximately 7 per cent, as reported in the second quarter of 2022, in an economy where the informal sector accounted for nearly 40 per cent in the first three quarters of 2022.

<sup>33</sup> Naciones Unidas Argentina, "Reporte anual 2021".

52. Education is key to growth and development and requires public investment in youth to offer institutional support. Revenue generated from a wealth tax could fund programmes, such as university education and fellowship programmes, for students belonging to lower income groups.

53. In 2021 and 2022, Argentina dedicated 3 per cent of its GDP to social assistance. However, the levels of assistance and benefits provided, coupled with the negative effects of inflation and a two-year-old federal budget have not had much impact on reducing poverty levels. The country also dedicated 8 per cent of its GDP to pensions. However, retirement and economic benefits are not sufficient to maintain an adequate standard of living for many pensioners. According to the Ombudsperson for the Elderly, nearly three out of every four retirees in Argentina receive an income that does not cover the basic basket of goods for the elderly, many of them struggling to obtain basic items such as food, clothing or medicines.<sup>34</sup> Pensioners are also affected by inflation, since the increases in pension are below the inflation level.

54. The Independent Expert was also informed that administrative decision No. 826/2022, provided for cuts in important programmes, such as territorial planning and development and in the education and housing sectors, may undermine the achievement of the targets set by these programmes.

55. Disparities in the distribution of qualified personnel, including in the health sector, between the provinces (there are different salary scales in each province) need to be part of the discussion on how to use the different human resources across the country equitably and most efficiently. The Independent Expert was informed about the lack of skilled labour across the provinces, especially among remote and marginalized communities. She recognizes the need for federal financial support to overcome these challenges. In Jujuy, the Independent Expert welcomed information from the authorities about their efforts to address primary health-care needs, mental health support and underlying determinants on health, for example through an integrated nutrition programme aimed at achieving universal health coverage. She also welcomed the positive steps taken on homelessness.

56. The Independent Expert observed that there were few or no Indigenous people in the federal and provincial governments, which is not reflective of the rights of the marginalized and minorities. Statistical and census data need to include categories for all minorities and communities, including Roma. According to the information received, the Argentine authorities have never allocated funds for the support and development of the Roma people and apparently there are no plans in this regard.

57. The Independent Expert regrets that Argentina has failed to appoint an Ombudsperson (Defensor del Pueblo) since 2009. The Office of the Ombudsperson stopped operating normally in 2013 when the mandate of the then deputy expired. The Office has seen its ability to protect human rights limited and it has not been able to exercise its powers to document and investigate acts by the Government.

## A. Gender

58. Several important challenges remain in gender equality, such as the gender pay gap for both formal and informal employment. According to the information received, for the first quarter of 2022 registered male workers earned 21.3 per cent more than registered female workers, whereas in the informal sector, men appear to earn 38.2 per cent more than women. Women also bear the burden of most of the unpaid care in the family and the community.

59. However, Argentina can be proud of its progress on gender equality, including at the institutional level. Besides the many programmes led by the Ministry of Women, Gender and Diversity, including injecting a gender perspective into indebtedness processes, the Ministry of Economy has, for the first time, established an office whose task is to provide a gender perspective on all economic policies. Among its tasks, the development of gender responsive

<sup>34</sup> See <http://cesyac.org.ar/canasta-basica-de-jubilados/item/1175-en-un-ano-la-canasta-basica-de-jubilados-de-jubilados-aumento-un-76-75>.

budgets is prominent. It is promising that there are discussions and ideas around introducing a gender analysis and perspective in the collection and mobilization of tax revenues. The Government reported that the memorandum of economic and financial policies incorporates a gender and diversity approach in the agreement with the IMF.<sup>35</sup> The Independent Expert calls on the Ministry of the Economy to consider broadening the mandate of the office providing a gender perspective to include the full spectrum of human rights, a mandate which would be carried out in collaboration with the other executive departments with a specific mandate on human rights.

60. Another good example is the investigative work of the Directorate General for Economic and Financial Advisory Services in Investigations, which provides technical assistance on economic and financial matters in the investigation of organized crime and relevant criminal conduct. The Directorate has started some interesting work on investigating economic violence against women and needs to have security of tenure, as well as holistic government support.

## **B. Right to a healthy environment and debt-related climate swaps**

61. In Argentina, most exports come from the agricultural, mining and fossil fuel sectors. As the agreement with the IMF includes an expansion in exports, the special incentive regimes granted to these sectors should undergo review and impact assessments to avoid accelerating the negative environmental consequences of the extractive sector.

62. A senior expert meeting on the sustainable development of lithium in Latin America, organized by ECLAC in 2010, concluded that lithium extraction through brine evaporation in salt flats can have significant impacts on the delicate balance of water supplies. Comprehensive environmental impact studies and monitoring are essential to prevent, minimize and mitigate any negative impacts on the flora, fauna and ecosystems of the salt flats and adjoining areas. In that regard, the precautionary principle should be applied in the lithium mining projects in Cuenca de Salinas and Laguna de Guayatayoc. The guiding principles on human rights impact assessments of economic reforms and the framework principles on human rights and the environment should also be taken into consideration.

63. In 2021, the authorities launched a proposal for a debt-for-climate action swap mechanism, also supported by the IMF. The proposal seeks to respond to the debt and environmental crises. Such a mechanism should respond to local needs included in climate action plans or environmental policies designed with the participation of civil society that aim at a comprehensive socioecological transition. The Independent Expert noted that while debt-for-climate action swaps and debt standstills are positive steps, they are short-term solutions. A legitimate, independent and fair mechanism on sovereign debt restructuring under the United Nations, which especially includes private creditors, is still the need of the hour.

## **C. Indigenous Peoples in Jujuy**

64. The Independent Expert welcomes the 1994 amendment of the Constitution recognizing Indigenous Peoples.<sup>36</sup> However, they continue to face obstacles in accessing justice, land, education, health care and basic services, as well as in the fulfilment of free, prior and informed consent to activities that may affect their rights. They also continue to experience difficulties in gaining access to water, compounded by the lack of titling of their lands and the activities of companies that exploit natural resources.<sup>37</sup>

65. The Independent Expert also takes note of some of the positive steps being taken in the province of Jujuy, such as including Indigenous Peoples and supporting access to land and its resources, as discussed in the Atacama negotiations. She encourages the federal State

<sup>35</sup> [https://www.argentina.gob.ar/sites/default/files/memorandum\\_de\\_politicas\\_economicas\\_y\\_financieras.pdf](https://www.argentina.gob.ar/sites/default/files/memorandum_de_politicas_economicas_y_financieras.pdf).

<sup>36</sup> Article 75 of the Constitution.

<sup>37</sup> See [CERD/C/ARG/CO/21-23](#).

to reflect on those positive steps. However, she would like to emphasize that there are many communities that still lack their collective titles to the land, so it is urgent to accelerate the process of formal recognition of land titles.

66. The Independent Expert noted with satisfaction that, according to the information received from authorities, the Indigenous Peoples, on whose land the Cauchari solar project on the Puna plateau sits, receive a percentage of the benefits generated by the project and she hopes that support is being provided on issues of financial management to those communities.

67. However, in the same province, the communities of Salinas Grandes and Laguna de Guayatayoc have been fighting for their right to participation and to free and informed prior consultation for 14 years. The Independent Expert was informed of the pressure these communities face from the Government and companies to approve projects, such as on lithium mining. In 2019, they filed a legal action before the Supreme Court to enforce their environmental and indigenous rights, in particular to achieve participatory decision-making based on an interjurisdictional water system, integrating the precautionary, preventive and “pro aqua” principles, among others.<sup>38</sup> In the Olaroz-Caucharí salt flats, consultation processes were carried out that did not comply with the international standards set forth in the Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the United Nations Declaration on the Rights of Indigenous Peoples.

68. During her visit, the Independent Expert received information regarding incidents of excessive use of force by the security forces during evictions and the discrimination suffered by Indigenous communities in defence of their territories, with a special emphasis on the institutional and gender violence to which Indigenous women are exposed. She was informed about the eviction and detention of the women of the Ocloya people in September 2022 while they were carrying out a peaceful protest, as well as the eviction and repression endured by the women of the Tusca Pacha de los Alisos community in October 2020.

#### **D. Access to information and transparency**

69. The Independent Expert was informed that access to information legislation and practices are fairly efficient in Argentina. There is a law on the right of access to public information (Law No. 27.275/2016) and a law on the regime of free access to public environmental information (Law No. 25.831/2004). However, challenges remain. The Independent Expert was informed about difficulties in accessing information regarding the environmental impacts of extractive activities, such as those related to unconventional gas and oil production or lithium mining. In some cases, the information was only obtained after a request was made to the courts.

70. The Independent Expert was also informed about the limitations to accessing fiscal and financial information generally. In addition, the tax legislation still allows for financial secrecy as it predates other legislation upholding the principles of transparency and access to information. While this discrepancy is overcome in some cases through administrative or judicial decisions, such as general resolution No. 4697/2020 of the Federal Administration of Public Revenues addressing secrecy regarding offshore accounts, there is still scope for aligning the tax legislation with more recent resolutions on public beneficial ownership and public country-by-country reporting by multinational companies.

71. According to the information received, there seems to be a lack of information in areas such as the impact of tax policy on human rights; the level of the tax burden born by different sectors of the population; the beneficiaries of fiscal exemptions, benefits and waivers and the amounts concerned; the names of offshore account holders in tax havens; and public estimations of tax avoidance and evasion. The lack of information also relates to public officials who are currently allowed to hold foreign bank accounts in tax havens; however, the Independent Expert understands there is a bill pending in the Congress (the integrity and public ethics bill) that focuses on strengthening budget transparency, public procurement,

<sup>38</sup> See <https://farn.org.ar/piden-a-la-corte-suprema-que-se-respete-el-derecho-a-un-ambiente-sano/>.

public financial management and the ethical conduct of public officials that could change this position.

72. The Independent Expert also received information regarding the lack of access to information related to the 2018 IMF loan, even for documents that are required by Argentine legislation. This matter was still the subject of litigation at the time of drafting the present report. There were also similar concerns about community access to information raised at the provincial levels in both Buenos Aires and Jujuy.

## **E. Accountability and justice**

73. In accordance with the standby agreement signed by Argentina with the IMF in 2018, the IMF transferred around \$45 billion, equivalent to 10 per cent of GDP and close to 1,000 per cent of the country's IMF quota, making it the largest loan ever granted to a country. The agreement, which was negotiated in record time, not only failed to reach its own objectives of correcting the macroeconomic and structural imbalances and improving market confidence, as evaluated by the IMF, but also contained a number of irregularities, including a failure to follow existing internal approval procedures, such as obtaining authorization from the National Congress and the documents being available in Spanish.

74. Given the country's history, there should be accountability regarding the foreign debt, including the 2018 debt agreement. There have been a number of access to information requests around the 2018 agreement that have been filed with the relevant government departments and the judiciary, but to no avail at the time of drafting the present report. These files remain pending a Supreme Court ruling. The Independent Expert also noted that use of limitation of action clause on cases in the judiciary seems to be a common feature, resulting in no actual conclusions or decisions being released on key cases that seek to uphold accountability. The Independent Expert regrets that she was unable to pose these questions to the judiciary as no discussions were held with representatives of the judiciary during her visit.

75. A permanent Bicameral Commission for follow-up and control of the management of the contracting and payment of the national foreign debt was established in 2016 through Law No. 27.249, replacing another similar Commission established in 2014, which however was found to be non-operational. The Commission decided to investigate foreign debt and capital flight, but the investigation has not moved forward and the Commission seems to have been inert thus far. It is also unfortunate that the mandate of the 2016 Commission was limited to investigating the current foreign debt and not that of the past. Given that the root of the Argentine debt problem cuts across several different political regimes and dates back to the times of the dictatorship, and considering all the efforts made by the State to provide redress and reparation to victims of human rights violations committed during that time, a mechanism should be established to conduct enquiries into the debt process. That would be important for collective memory and guarantees of non-repetition of the financial abuses that took place in that context.

76. In 2021, the Anti-Corruption Office filed a criminal complaint against a former President of Argentina, two former Presidents of the Central Bank and other administration officials in relation to the 2018 IMF loan. The complaint is based on alleged fraud and unfaithful administration, aggravated by being committed to the detriment of State property and the embezzlement of public funds. The complaint also claims that the IMF was complacent both in granting the loan and in monitoring its execution. While this is a welcome step, it should be recognized that after almost 200 years of history of sovereign debt in Argentina, it is only the second complaint of this type. That brings into question the responsibility of all branches of the State, as the federal judiciary should play its part in holding those responsible for taking on unsustainable debt to account for and seek repatriation of State assets.

## IV. Policy coherence

77. Policy coherence requires continuity, clear timelines and indicators that contribute to effective and adequate policy implementation, monitoring and review, which in turn can contribute to furthering the realization of human rights. The work of the legislature, executive and judiciary all need to move towards this type of clarity and this needs to be well communicated to society, moving towards a unified whole-country approach.

78. The Independent Expert was informed about the work of the Anti-Corruption Office in driving policies to supervise business conduct, promote integrity and transparency, and prevent corruption in the private sector. As a result of these policies, the Integrity and Transparency Register for Companies and Entities has been created.

79. The Register is a platform promoted by the Anti-Corruption Office, with the support of the Inter-American Development Bank and the United Nations Development Programme, to contribute to the development and improvement of integrity programmes, the exchange of good practices and the promotion of a transparent environment for business and markets. It takes a two-pronged approach: the Register itself, which will allow companies and entities to make visible their commitment to ethical business, and the Toolbox, to accompany the development of integrity and allow public agencies across the country dealing with procurement-related matters to have a better understanding of the integrity of companies involved in and applying for public contracts.

80. The Independent Expert was informed about the development by the Anti-Corruption Office of the national integrity strategy, with the participation of an Advisory Council composed of representatives of civil society organizations, the private sector, academic institutions, international and multilateral agencies, and experts in their personal capacity. The Anti-Corruption Office has also taken measures to guarantee the coherence of public policies on integrity and transparency with the creation, for example, of the National Integrity and Transparency Board, where specialized agencies work to coordinate public integrity and transparency policies throughout the country.

81. It was noted that there was continued stability in the electoral cycle, which is quite short. The time between elections leaves only a short period for implementation of policy and results often occur in subsequent electoral periods. This process could be reformulated.

## V. Conclusions and recommendations

82. **Argentina has struggled with multiple debt, economic and financial crises for nearly 40 years. Prior to the COVID-19 pandemic, the country was once again embroiled in a new economic and debt crisis which ended up impacting negatively on human rights situation in the country.**

83. **Notwithstanding the recurring crises, Argentina has shown resilience, owing to a legal and institutional framework anchored in a Constitution that recognizes human rights and elevates the human rights instruments that it has ratified to the constitutional rank. A vibrant and committed civil society and academia that have never stopped demanding accountability and transparency have also contributed to the country rebounding after every crisis. In the Independent Expert's view, there is still room for progress to maximize the use of resources for the realization of human rights and avoid any retrogression.**

84. **The interlocutors with whom the Independent Expert met talked about the widespread lack of trust in the ability of the economy and State institutions to handle economic and financial crises. It seems that there is a long-standing tradition for Argentines to keep their savings in United States dollars and outside official financial circulation. While the relevant branches of the executive have established a road map aimed at developing a local capital market in order to boost trust, the Independent Expert also heard that measures aimed at creating well-remunerated employment and productivity should be strengthened in parallel.**

85. Argentina has great potential in all types of resources which, if well directed and targeted, should take the State a long way towards fulfilling its human rights obligations in all spheres of life. The Independent Expert therefore hopes that her assessment and recommendations, issued in a spirit of recognition of the immense efforts that the authorities have made over the past 40 years and with a view to a constructive dialogue, will support all branches of the State in advancing promptly towards the common objective of realizing all human rights of everyone in the country.

86. The Independent Expert reiterates the recommendations of the report from the mandate on the need to reform the international debt architecture, as well as the need to follow the guiding principles on human rights impact assessments for economic reform policies when dealing with credit rating agencies about debt management.<sup>39</sup> She makes the following recommendations to the State and the provinces:

(a) Design and implement fiscal, tax, debt, monetary and trade policies in conjunction with other measures in way that it is deliberately directed towards the realization of human rights. In that regard, compliance with the fiscal deficit in the 2023 budget should not imply a cut in the protection and enjoyment of human rights;

(b) Mobilize the maximum available resources to progressively achieve the full realization of economic, social, cultural and environmental rights;

(c) Integrate and effectively implement the guiding principles on human rights impact assessments of economic reforms in legislation, policies, sovereign debt negotiations and reforms;

(d) Work towards a more progressive federal and provincial tax system, in order to increase revenue generation, that eradicates discrimination, promotes equality and does not result in retrogression in the realization of human rights;

(e) Ensure that tax expenditures are subject to monitoring that includes human rights, social and environmental cost-benefit analyses and timely reviews that promote fiscal transparency and accountability;

(f) Provide up-to-date, timely and detailed information on the costs, expected benefits and beneficiaries of tax expenditures; institutionalize evaluations that allow for evidence-based decisions on whether to continue or revise them and eliminate those that are unjustified or inequitable. Encourage public disclosure of annual financial statements and information, particularly from extractive companies, on a country-by-country basis and make information public on the ultimate beneficial ownership to crack down on financial secrecy;

(g) Increase the availability of resources in progressive, sustainable and equitable ways, for example by reviewing opaque or unjustified tax benefits, including those that seek to incentivize export activities, combating tax avoidance and evasion and activities that produce illicit financial flows, and incorporating direct taxes such as taxes on wealth and excess profits;

(h) Strengthen efforts and measures to ensure policy coherence among State institutions to facilitate the realization of human rights, including environmental rights, as well as oversight of business conduct, in particular regarding taxation. In that regard, the State should foster institutional spaces for the discussion and adoption of fiscal solutions to unresolved human rights issues, install adequate information systems with a human rights approach at the federal and provincial levels, and strengthen the technical capacity and decision-making power of other ministries to engage with the Ministry of Economy;

(i) Explicitly integrate the right to a healthy environment as part of a range of human rights criteria to assess how export activities, such as extractive activities, that contribute to the repayment of debt commitments can in turn generate human rights impacts;

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<sup>39</sup> A/HRC/46/29.



(j) Consider issuing specific regulations to improve transparency and public participation in the process of undertaking sovereign debt reform with private creditors, including credit rating agencies, as they share responsibility with the State in not only averting conditions imposed by creditors around unsustainable debt, but also have a role in resolving the crisis;

(k) Take measures to facilitate and institutionalize access to information on economic and debt policies, negotiations, reviews and agreements and enhance the participation of civil society, academia and other important sectors;

(l) Ensure that debt-for-climate action swaps undergo human rights impact assessments through a social, gender and environmental lens;

(m) Conduct an audit of irregularities relating to the 2018 IMF loan and take steps to adjudicate financial responsibility for those irregularities;

(n) Establish and put into operation the Permanent Bicameral Commission for the follow-up and control of the management of the contracting and payment of the national foreign debt;

(o) Ensure that the monitoring of debt operations and debt stock by the Budget Office of the Congress is in line with the guiding principles on human rights impact assessments for economic reforms and the guiding principles on foreign debt and human rights;

(p) Ensure that there is a fair and just sharing of resources across all provinces and municipalities, using a human rights approach;

(q) Engage with Indigenous communities to include, support and reflect their ways of living in all areas of human rights, especially as regards formal recognition and guarantees of entitlement to their lands and their rights to water and a healthy environment;

(r) Create a sovereign wealth fund or a social welfare fund to ensure the inclusion and participation of minorities, including Indigenous Peoples, Roma and people of African descent;

(s) Ensure that a new Ombudsperson (Defensor del Pueblo) is appointed;

(t) Ensure that all levels of government work collectively to rebuild the social contract and trust of society, especially among Indigenous communities, women, girls and those in informal settlements.

87. In addition, the Independent Expert makes the following recommendations to the IMF:

(a) As a specialized agency of the United Nations, comply with the human rights provisions of the United Nations and, accordingly, demonstrate that IMF policies, practices and the economic reform measures it proposes, including to Argentina, will serve to fulfil, not undermine, its human rights obligations. In order to do so, the IMF should:

(i) Carry out ex-ante and ex-post assessments of the potential foreseeable human rights impacts of its actions;

(ii) Incorporate a human rights dimension in its debt sustainability analyses;

(iii) Avoid retrogressive measures and conditionalities affecting the realization of human rights, including by continuing reform of the IMF quota system;

(iv) Ensure the environmental sustainability of debt repayment strategies, that human rights in those activities are incentivized and that they are aligned with long-term climate policy planning;

(v) Consult with the people and communities most affected by the IMF measures, and with civil society, and improve the transparency of the agreements entered into with the country, facilitating participation in their design, review and evaluation;

(vi) **Grant debt relief without conditionalities to middle-income countries, such as Argentina. Such countries cannot fully pay back the debt, unless it is refinanced, without significantly compromising their ability to guarantee human rights, especially economic, social and cultural rights, particularly in the post-pandemic recovery transition.**

(b) **In light of multiple and intersecting crises, the IMF must consider ending its surcharge policy for countries that are already facing liquidity constraints and are in debt distress. That policy may force countries to prioritize additional payments over investing in public services and must be reviewed, in particular in the case of Argentina as the largest borrower.**

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