



## **The cases of Brazil, Peru and Argentina in Latin America:**

The Special Civil Society Organizations Rapporteur on the impacts of fiscal austerity policies to economic, social, cultural and environmental human rights as an assessment tool.

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## Presentation

The [Brazilian Human Rights Platform](#) is a civil society organizations (CSO) network of 40 human rights defenders organizations that develop actions to promote and defend human rights, as well as to redress rights violations. Its general objective is to contribute to the construction and strengthening of a culture of rights, developing strategies of enforceability and justiciability of economic, social, cultural and environmental human rights, as well as focusing on the formulation, implementation and control of social public policies.

For more than a decade, we have delivered several thematic Human Rights Rapporteurs, being the most recent one on the [Brazilian and Latin American context fiscal and economic reform and their collateral and/or direct impact in the local context and to the most vulnerable populations](#).

### 1. The objective of this statement

Our **central objective** here is to provide information to the the United Nations Independent Expert, **Mr. Juan Pablo Bohoslavsky**, on how many human rights protected by the international law and human rights agreements and in particular economic, social and cultural rights (DESC), are being systematically violated or jeopardized by the implementation of fiscal austerity in the Latin American region, mainly reflected in the drastic cuts or the freezing of the resources destined to basic and human rights protection in several countries, as well as in subnational contexts.

A **secondary objective** is to offer preliminary the results and evidence-based information through the Brazilian Human Rights Platform Special Rapporteur on the Impact of Economic Policies on Human Rights. Data and indicators has be mobilized, as well as concrete cases that demonstrate the relationship between the economic policies adopted by the Brazilian government starting in 2014 and the violations of rights. In addition, measures will be proposed to monitor and evaluate these policies and to remedy the damage already caused. We aim to highlight the violations of human, economic, cultural, social and environmental rights protected by the International Covenant on Economic, Social and Cultural Rights, among other national and international laws, as a result of the austerity economic policies adopted by the Brazilian government since 2014.

## 2. Importance and justification

In October 2015 a group of CSO held a thematic hearing in which the critical role of fiscal policy in ensuring the effective enjoyment of human rights in the region was brought to the attention of the Inter-American Commission on Human Rights (IACHR/OAS). At that hearing, it was pointed out that international and Inter-American human rights law provides the normative parameters for subjecting fiscal policies and budgets to the scrutiny of rights and the importance of the relevant monitoring bodies to carry out this task periodically. The IACHR has advanced to this end by sponsoring the holding of a parallel event at the sessions of April 2016 on Fiscal Policy and Human Rights in times of austerity and taking into account fiscal policies in the debates and analyzes carried out within the framework of the Report on Poverty and Human Rights in the Americas by DESC Unit.

However, austerity policies in the region have increased and deepened in recent years, and it is imperative that the United Nations Expert is aware of and warns of the human rights violations that such policies cause and which they can potentially generate in the near future. In countries like **Brazil and Argentina**, the change in political and economic context has coincided with a shift towards austerity policies that have involved drastic measures to cut or freeze social spending. In **Brazil**, for example, a constitutional reform was approved in December 2016, freezing the federal government's primary expenditures for a period of **20 years**, a reform considered by Philip Alston, the United Nations Special Rapporteur on Extreme Poverty and Human Rights Human Rights, as a radical measure, contrary to the obligations of the State in matters of social rights and "devoid of all measure and compassion".

The austerity policies have spread and threaten to be exacerbated in other Latin American countries. In the **Andean Region**, for example, the depletion of the model based on the exploitation of natural resources has generated a sharp fall in public revenues, which has begun to respond with either spending cuts or tax reforms that do not contribute tax revenues to correct social and economic inequalities. In **Colombia**, just to mention one symptom, the Executive administration has objected to several laws in social matters approved by Congress - such as the formalization of labor of community mothers - arguing that there is insufficient resources.

Impacts on human rights have to be considered in the evaluation and discussion of fiscal austerity policies. While fiscal policy is traditionally considered a discretionary issue of governments, it is as subject to the human rights obligations of States as any other administrative action. Inquiring into the way in which States mobilize, distribute and invest their resources is as much or more important for the guarantee of social rights as it is to ensure that adequate judicial remedies or other mechanisms are in place to demand them.

In addition, human rights principles would serve to underpin the three basic functions of fiscal policy: (a) generate resources to finance public policies and provide essential

services to the population, (b) redistribute income and wealth to mitigate or remedy Social inequalities, and c) strengthen accountability between the State and citizens.

In spite of this, the potential of fiscal policy to reduce poverty and inequality and contribute to the guarantee of human rights and the achievement of the Sustainable Development Goals (SDG) has been wasted in the region and, what is more If fiscal policy continues to be implemented without being subject to accountability mechanisms from a human rights perspective, it could generate huge setbacks in the achievements of the past decades and undermine the possibility of further progress. As has happened on previous occasions, these setbacks generate asymmetric and disproportionate impacts on the vulnerable and low income populations and a weakening of the redistributive policies that would allow them to be remedied.

In order to raise a series of warnings about the impacts that austerity policies are generating and could generate in the region, we consider it important to be able to present recent evidence to the United Nations Independent Expert. In view of the fact that, after several years of sustained decline, poverty has increased again in Latin America, making the call for contributions even more important and urge for the States to incorporate the human rights approach into the design and evaluation of public policies of a fiscal and other nature.

## Case 1: Brazil

### 1. Brazil, unprecedented austerity against the general population and maintenance of fiscal privileges for the richest.

A first case is what happened in Brazil. As of January 2017, Constitutional Amendment 95, also known as the spending ceiling amendment ("PEC do Teto"), which in real terms froze the federal government's primary expenditures for a **period of 20 years** came into force, with the exception of the expenses for the service of the debt and the transfers to local governments. Thus, only between 2016 and 2017, the payment of the debt went from 45% to 53% of the federal budget, displacing the weight of social spending and other components of primary spending. The component that has suffered the greatest rectorors within the federal budget is precisely that of "rights of citizenship" ("Rights of Citizenship"), which has been cut from 2.6 in 2016 to 1.6 billion reais In 2017, a drop of 37.1%. Within this, for example, the program to address gender violence and promote women's economic autonomy has suffered a 52% cut in resources. Likewise, the Ministry of the Environment, for example, will suffer a cut of 51.02% of its budget.

In order to comply with this spending rule, reforms are currently under way that would mean inadmissible setbacks in the guarantee of rights, such as Constitutional Amendment 287 (EC 287 or Pension Reform), which proposes measures such as raising the minimum age to receive A pension of 65 to 70 years and others that would dismantle

the main redistributive and social protection mechanism of the country, without which poverty among the population under 75 would not today be 8.76% but 65% of the population in This age group. In fact, it is estimated that with the reform of the spending ceiling primary spending will fall from 20% to 12% of GDP between 2016 and 2026, affecting mainly the budget of infrastructure and key social programs such as Bolsa Familia, which would receive From 8% to 3% of GDP during this period, which is socially unsustainable and would make unnecessary adjustment to the most vulnerable populations, while preserving fiscal and tax privileges for the benefit of the wealthiest sectors of the country.

## 2. Importance and Justification: the Brazilian case

On May 24, 2017, Marivelton Barroso indigenous representatives from the Baré (Amazonas), Luiz Eloy, Terena (Mato Grosso do Sul), Dinaman Tuxá, Tuxá (Bahia) people, Francisca Costa, from the people Arara (Acre) and Douglas Adilson of the Krenak (Minas Gerais) people, representing 30 indigenous, indigenous and human rights organizations in Brazil, participated in a public hearing of the 162nd session of the Inter-American Commission on Human Rights (IACHR) in Buenos Aires Aires, Argentina.

At that session of the IACHR, it was pointed out that the Brazilian State has acted systematically to remove constitutionally guaranteed rights, either by freezing and evasion of public responsibility to have the necessary resources for the realization of those same rights; Either by dismantling the state structure, institutions, and the capacities needed to realize them fully.

It is disturbing the apparent climate of "normality" defended by the representative of the Brazilian State, Mr. Alexandre Giuslene, envoy of the Ministry of Foreign Affairs, at the public hearing held in May in Argentina. According to participants at the 162nd session of the IACHR, Mr. Giuslene pointed out that the rights of all Brazilians and Brazilians should be protected, not only those of indigenous peoples, as there are several conflicts of interest in the demarcation of lands of these peoples in Brazil. However, it should be noted that disputes over the guarantee of rights are and have been cruel and asymmetrical in relation to indigenous peoples and other vulnerable populations. Thus, the State, instead of acting as a mediator of conflict, became the main fielder of the balance in systematic aggression, facilitating and creating conditions of instability and generalized violence.

However, it must be said that, in addition to indigenous causes, there are numerous violations of human rights suffered by the most vulnerable groups and populations in Brazil as a result of current economic and austerity policies, as well as the dismantling of social policies and public services Fundamentally guaranteed.

The network of human rights defenders organizations that make up the Brazilian Human Rights Platform has exhaustively denounced the systematic violation of rights

perpetrated by the Brazilian State and, since April 2017, we have initiated within the scope of the Platform a new human rights report that follows the Standard adopted by the IACHR, as well as by other international organizations: the Special Rapporteurship on the Impacts of Economic Policies on Human Rights in Brazil. The purpose of the Rapporteurship is to highlight the violations of rights arising from the austerity economic policy adopted by the Brazilian government from 2014.

Through the mobilization of economists, jurists, data analysts and indicators, in addition to conducting five in-locus missions to assess how economic choices impact daily and on the bodies, relations and conditions of population survival, Until October of this year final report that evidences the violations of rights executed by the Brazilian State. According to Article 22 of the Universal Declaration of Human Rights, "every person, as a member of society, has the right to social security; And can legitimately demand the satisfaction of the indispensable economic, social and cultural rights, thanks to national effort and international cooperation, in harmony with the organization and resources of each country. "

Promulgated in Brazil by Decree No. 591 of July 6, 1992, the International Covenant on Economic, Social and Cultural Rights stipulates in article 2 that the signatory States adopt measures "both for their own efforts and for assistance and cooperation Economic and technical resources, to the maximum of their available resources, with a view to ensuring progressively, by all appropriate means, the full exercise of the rights recognized in the present Covenant, including in particular the adoption of legislative measures ".

On the basis of the above articles, international law provides normative parameters for human rights to be ensured independently of the economic policies pursued by the governments of the signatory countries, and such policies should be subject to permanent monitoring. In this sense, we emphasize the fundamental importance of the IACHR in this regard.

Inclusive development and inequality reduction policies since the 2000s have suffered a serious setback from the years 2014 and have worsened since 2015 until today, making it imperative for the Independent Expert to become aware of the non-compliance with human rights and to support the means for systematic violations to be repaired.

The developmental policies of Dilma Rousseff's first term (2011-2014) were replaced at the beginning of her second term in 2015 by orthodox economic policies - austerity policies - that are extremely damaging to the Brazilian population, especially to the poorest workers and Populations.

Justifying the resumption of growth and debt stabilization, the failed austerity plan implemented by then-farm minister Joaquim Levy aggravated the economic and political situation of the country, contributing to a new project of society being imposed on the population, which not only Led Brazil to the greatest recession of its history, as it plunged the country into a huge political crisis, carrying out the impediment of President Dilma Rousseff in 2016.

Backed by a mostly conservative Congress focused on the defense of a small elite that concentrates economic and political powers, interim President Michel Temer has continued on the agenda of austerity, presenting a series of measures that further aggravate the living conditions of Brazilians and Brazilians . In this context, race and gender inequalities have soared, unemployment rates have reached record levels, there has been a huge increase in violence in the countryside and in cities and the population has witnessed deterioration of their rights, as well as the scrapping of public education and the Cheers.

In December 2016, Constitutional Amendment 95, known as Ceiling PEC, was approved. This measure provides for a ceiling on the primary expenditures of each power, with its base set at the amount of expenditure paid in 2016. Inflation will be corrected each year over twenty years and the primary expenditure will be frozen in the real value of 2016 , Without the possibility of greater investments. The government's cruel choice to limit investments in public policies to release funds for interest payments, with the financial system as a priority, is reflected in data presented by INESC: while primary expenditures fell from 55% to 47%, expenditures on The financial sector rose from 45% to 53%, representing 1.85 trillion reais in 2017.

On March 30, 2017, the Federal Government promulgated a Contingency Decree for about 42 billion *reais* (R\$) in the federal public budget, generating a reduction of approximately 50% of resources in organs that already had a reduced budget. The Ministry of Social Development, for example, had a cut of about 44% of those engaged, Culture 41% and Education 18%. As explained in the article also published by INESC, these cuts are made on discretionary expenses - such as water, electricity, equipment purchase, public calls, service execution - from the choice of each agency or manager. It is the discretionary expenses that enable the realization of public policies for vulnerable populations, peoples and traditional communities, affirmative actions and investments in universities, among many others.

As a result of this decree, universities and federal institutes, for example, had a cut of 15% in the budget for own funding and 40% in the amount for the works in relation to that predicted for the year 2017. The data become even more evident if we take into account that the budget for 2017 had already suffered a drastic reduction compared to the previous year.

The impacts on human rights have to be considered by the State in the evaluation and discussion of the austerity policies. Questioning how the state mobilizes to distribute its wealth and reduce inequality in the country is as fundamental as the creation of adequate judicial mechanisms to enforce elementary human rights. Otherwise, we run the risk of retreating towards the hard-won rights of the last decades, and further aggravate the living conditions of the most vulnerable population, contributing in particular to widening class, gender and race disparities.

Taking into account the setbacks and violations of rights that are already under way in the country, we consider it extremely important to present evidence to the UN

Independent Expert. In addition, since many years of poverty reduction and inequality are in danger of retaking the poor indicators of past decades, the call made by the IACHR in its Report on Poverty, Extreme Poverty and Poverty is even more urgent. Human Rights, in order to ensure that the State incorporates the human rights approach in the design and evaluation of its public policies of a fiscal nature and that questions the economic policy framework in relation to the processes of democratization.

### 3. Special Rapporteur on the Political Economy and Austerity impacts in Human Rights in Brazil: the Objectives of this assessment tool

Inspired by the UN Rapporteurs the Brazilian Human Rights Platform together with other organizations, initiated in 2002 an unprecedented work for the realization of human rights in the country, the series of Human Rights Rapporteurs. To date, more than 100 missions to the territories have been carried out, evidencing violations of indigenous rights, traditional peoples and communities, state secularism, education, penitentiary system, among others.

Given the current situation and the economic policies imposed by the federal government from 2014, the Brazilian Human Rights Network has started in April 2017, with the support of its affiliated network, the Special Rapporteur on the Impacts of Economic Policies on Human Rights, Economic, Social and Cultural Rights in Brazil, under the coordination of Denise Carrera and Julia Dias. The publication of the Report will take place until the end of October of this year (2017).

The objective of the Special Rapporteur is to investigate the impacts of the economic policy adopted by the Brazilian government as from 2014 on the violation of the economic, social, cultural and environmental human rights of the population, as well as the intensification of economic and social inequalities in the country, especially those Referring to gender, race, field / city, generational and between regions of the country.

#### **To this end, five fronts comprise the Special Rapporteur:**

- 1) Realization of the 5 missions in the territories;
- 2) Indicators - production of data and systematization of studies that show the impacts of economic policies in the DESC, especially from 2014;
- 3) Economics: diagnostics and alternatives;
- 4) Strategic litigation: legal and political actions;
- 5) Communication, Popular Education and Social Mobilization.

#### **The 5 missions in the territories:**

Within the framework of this Rapporteur, five on-site missions are planned with the purpose of demonstrating concretely how economic austerity policies affect the lives of

people/communities, affecting their bodies, relationships and conditions of survival. And also, what are the resistances to these setbacks. Special attention should be paid to inequalities in gender and race.

Within the scope of the Special Rapporteur on the Impact of Economic Policies on the DESC, five missions will be carried out in the territories. The results may serve as a subsidy for the discussion at the proposed Hearing. The missions will be:

- 1) Land conflicts | Goiás:** the dismantling of the national policy of agrarian reform, the national policy of family agriculture, INCRA and the growth of violence in the countryside.
- 2) Indigenous | Brasília:** the attack on indigenist policies in Brazil, especially the weakening of Funai (National Indian Foundation)
- 3) Street Population and Urban Occupations | São Paulo:** the impact of austerity policies on the lives of people living on the streets and in housing occupations, associated with the growth of hygienist policies that deny the right to the city and systematically violate human rights.
- 4) Triple Epidemic | Pernambuco:** the dismantling of the Single Health System and the Single Social Assistance System and its repercussions on the community life conditions affected by the triple epidemic (Dengue, Chikunguia and Zika), especially the impact on the lives of women and children.
- 5) Police Violence | Rio de Janeiro:** the alarming growth of police and state violence in the favelas of Rio de Janeiro.

## Case 2: Peru

1. Peru: Stagnation of public expenditure, fiscal privileges and effects on the quality of indigenous education and access to treatment of female cancer patients.

The second case is Peru. Despite sustained progress in social matters, Peru continues to lag behind several basic social indicators compared to the Latin American average. For example, according to agencies such as OECD and WHO, Peru is the Latin American country in which a greater percentage of the population lacks any kind of insurance (19%) and infant and child mortality rates are above the regional average. In education, the great challenge is the quality of education. In international PISA educational performance tests, Peru scored one of the lowest scores in the Reading Comprehension assessment. For the mathematical evaluation, Peru was below the regional average, with about 60% of its 15 year old students in level 1 in which "students have a limited scientific knowledge that can only be applied in a few situations that they know".

Inequality goes through the exercise of rights in these and other fields. According to ECLAC, for example, in Peru infant mortality gaps are the highest in the region due to ethnic status: an indigenous child is three times more likely to die before age five than a non-indigenous one; While almost a third of the women have had a mammogram in the last 2 years, that percentage is only 4% in rural areas. Educational quality tests also reveal enormous discrimination against the rural and indigenous population: in 2015, only 26.5% of these students achieved a satisfactory level of reading comprehension compared to 49.8% for the general population .

Fiscal policy is a key factor in explaining both the worst performance in social indicators and the existing discriminations against vulnerable groups in Peru. In fact, according to data from the OECD, Peru has a tax pressure below the average in Latin America, and social spending is one of the lowest in the region. Public expenditure per capita in both health and education is below the regional average. Between 2014 and 2016 the government has incurred a growing fiscal deficit, however, it has completely stopped the upward trend in health spending, having to incur emergency expansions. These measures are disproportionate and unnecessary, bearing in mind that, for example, it is estimated that the tax cost of exemptions, reduced tax rates and other preferential treatment in 2016 was 2.1% of GDP, equivalent to about 4,000 Million soles and higher than the budget for health. Losses due to tax evasion and smuggling are estimated at 7.5% of GDP, which in 2016 would mean some 50,000 million soles, twice the entire budget for public education.

### Case 3: Buenos Aires, Argentina

#### 1. City of Buenos Aires: Setbacks in school infrastructure, despite a serious shortage of vacancies.

The third case, as an illustration of the impacts of austerity at the subnational level, is that of the Government of the City of Buenos Aires (GCBA). Although the City of Buenos Aires has a high coverage and quality in educational services compared to the rest of the country, three phenomena at the budget level stand out that have an impact on the exercise of the right to education according to data collected by The Public Ministry of Defense of the Autonomous City of Buenos Aires. First, there is a serious trend towards a reduction in public investment in education in relation to the total GCBA budget, from 26% in 2008 to 18.5% in 2017. On the other hand, there is a decrease in the percentage funds allocated to School infrastructure, which have fallen by 67% since 2011, reaching only 1.5% of the sector budget. Finally, a very high level of transfer of resources to privately run schools is observed with concern. This situation is alarming considering that in the middle of the year 2016 the Ministry of Education informed the local Legislature of the existence of 11,432 applications without allocation of vacancies, that

is to say of children who have been excluded within the school system due to lack of Quotas

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