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

## Visit to the Plurinational State of Bolivia

### **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\***

#### *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, Juan Pablo Bohoslavsky, conducted an official visit to the Plurinational State of Bolivia from 6 to 15 May 2019. The purpose of the visit was to examine the impact of debt and illicit financial flows on the enjoyment of human rights and to assess the effectiveness of macroeconomic policies, including fiscal, tax, monetary, social and infrastructure policies, in contributing towards the full realization of human rights.

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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.



## 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 his visit to the Plurinational State of Bolivia**

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## I. Introduction

1. Pursuant to Human Rights Council resolutions 34/3 and 37/11, 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, Juan Pablo Bohoslavsky, conducted an official visit to the Plurinational State of Bolivia from 6 to 15 May 2019. The purpose of the visit was to examine the impact of debt and illicit financial flows on the enjoyment of human rights and to assess the effectiveness of macroeconomic policies, including fiscal and tax policies, in contributing towards the full realization of human rights.

2. During his visit, the Independent Expert met with the Minister of Foreign Affairs, the Minister of Economy and Public Finance, the Minister of Labour, Employment and Social Security, the Minister of Development Planning, officials from the Ministry of Education, the Ministry of Health, the Ministry of Labour, Employment and Social Security, the Ministry of Justice and Institutional Transparency, the Central Bank of Bolivia, and the National Tax Service, and members of the Plurinational Legislative Assembly. During his visit to Sucre, the Independent Expert met with a judge of the Supreme Court, and officials from the autonomous departmental government of Chuquisaca and the autonomous municipal government of Yamparáez. He also met with the Ombudsman and representatives of the United Nations country team, international financial institutions, multilateral development banks, civil society organizations, academic institutions, trade unions, the diplomatic community and the private sector.

3. The Independent Expert is grateful to the Government for its full cooperation before, during and after his visit. The Independent Expert's visit was carried out in a spirit of cooperation, which fruitfully resulted in a series of constructive dialogues with the Government. The Independent Expert hopes to continue the dialogue, with a view to providing any necessary technical advice to the Government in the future.

## II. Overview of the current context

4. Under the leadership of the President, Evo Morales, between 2006 and 2019, the political, economic and social model in the Plurinational State of Bolivia has gone through radical changes over the past decade or so. Mr. Morales, who was the first indigenous leader of the country, spearheaded the adoption of the new Constitution in 2009 and founded the Plurinational State of Bolivia, which explicitly recognized pluralism and the rights of indigenous peoples. The Constitution also cemented the central role of the State in economic planning and development and in the management of natural resources. Leaving behind its "colonial, republican and neo-liberal" past,<sup>1</sup> the Government decisively nationalized key industries and sectors, most notably hydrocarbons. The export boom in the mining and hydrocarbon sectors, coupled with increased public investment and household consumption, has helped the Bolivian economy grow at an unprecedented pace. Between 2005 and 2017, the gross domestic product (GDP) grew almost fourfold from \$9.5 billion to \$37.5 billion.<sup>2</sup> Once a heavily indebted low-income country, the Plurinational State of Bolivia is now a middle-income country with the fourth highest economic growth in the Latin America and the Caribbean region.<sup>3</sup>

5. One of the unique elements of the economic model is that the Government has strategically increased revenue through the introduction of a direct tax on hydrocarbons. Due to the export boom, the fiscal revenue increased at an annual rate of 17 per cent

<sup>1</sup> Constitution of the Plurinational State of Bolivia (2009), preamble.

<sup>2</sup> World Bank, "Bolivia", DataBank. Available at <https://data.worldbank.org/country/bolivia> (accessed on 24 December 2019).

<sup>3</sup> Economic Commission for Latin America and the Caribbean (ECLAC), *Economic Survey of Latin America and the Caribbean, 2018* (United Nations publication, Sales No. E.18.II.G.4), p. 98.

between 2006 and 2014,<sup>4</sup> which underpinned the Government's success in achieving macroeconomic stability.<sup>5</sup> Furthermore, the increased revenue was directly channelled to public investments and social programmes. The Government steadily increased social spending by approximately 10 per cent annually between 2006 and 2017,<sup>6</sup> which included public investments in education, health, and infrastructure such as roads, electricity, water and sanitation facilities. It encouraged a flow of private capital to the social sector by requiring that private banks spend a minimum of 60 per cent of their portfolio on loans to the social housing and production sectors, with the latter representing at least 25 per cent of the total portfolio.<sup>7</sup> The interest rates for such loans are capped at 5.5 to 6.5 per cent for social housing,<sup>8</sup> and at 6 to 11.5 per cent for the production sector.<sup>9</sup> This policy has also benefited the financial sector, in which total credit has significantly grown, at an average of 16 per cent per year since 2008,<sup>10</sup> and which gained \$1.6 billion from 2013 to 2018.

6. A number of conditional and universal cash transfer programmes, such as the *Renta Dignidad* ("dignity" pension), the Juancito Pinto grant and the Juana Azurduy grant, were introduced between 2006 and 2009. These programmes were designed to improve the living conditions of certain groups in vulnerable situations, such as older persons, children, and pregnant women and mothers. The Government has also consistently raised the minimum wage above inflation. The minimum wage grew from 440 bolivianos per month in 2006 to 2,122 bolivianos per month in 2019,<sup>11</sup> and in real terms, it increased by 153 per cent from 2000 to 2019.<sup>12</sup> This also had an effect of raising real labour income, not only in the formal sector, but also in the informal sector.<sup>13</sup> In addition, the Government in 2018 provided a second annual bonus for workers, as the target of achieving annual economic growth of at least 4.5 per cent had been met. Although the redistributive impact of the second bonus has not been empirically analysed, the increase in labour income has contributed to enhancing the purchasing power of the population, stimulated domestic demand and boosted household consumption, which was another key driver of the economic growth. It has been also shown that the increase in labour income, particularly among the poorest 40 per cent of households, has significantly contributed to a reduction in poverty and inequality.<sup>14</sup>

7. In 2014, the Government's revenue matrix came under threat, with a sudden plummet in the international oil and gas prices. As an economy that heavily relied on export of natural resources for its revenue stream, the State faced increasing challenges in sustaining the level of fiscal revenue and, correlatively, the public investment rhythm. However, instead of resorting to austerity, as the mainstream neoliberal dogma may

<sup>4</sup> Nelson Chacón and Horacio Valencia, "Combating poverty with efficiency: the new role of social transfers in Bolivia in a less favourable context", in *Growth, Inequality and the Challenge for Sustainability in a Post-boom Scenario in the Andean Region*, Bettina Schorr, Gerardo Hector Damonte Valencia and Iván Omar Velásquez-Castellanos, eds. (Konrad Adenauer Stiftung, La Paz, 2018), pp. 106–107.

<sup>5</sup> Andrés Arauz and others, "Bolivia's economic transformation: macroeconomic policies, institutional changes, and results", Center for Economic and Policy Research, October 2019, p. 8.

<sup>6</sup> International Monetary Fund (IMF), "Bolivia: 2018 article IV consultation – press release and staff report" December 2018, p. 14.

<sup>7</sup> Supreme Decree No. 1842 (18 December 2013), art. 4.

<sup>8</sup> *Ibid.*, art. 3.

<sup>9</sup> Supreme Decree No. 2055 (10 July 2014), art. 5.

<sup>10</sup> Arauz and others, "Bolivia's economic transformation", p. 12.

<sup>11</sup> Ministry of Economy and Public Finance, "Incremento salarial llegará al sector público pero no beneficiará al Presidente, Vicepresidente, ministros, viceministros y directores generales", 1 May 2019.

<sup>12</sup> Comments of the Ministry of Economy and Public Finance on the draft report of the Independent Expert on his visit to Bolivia (28 November 2019) (on file).

<sup>13</sup> Jose P. Mauricio Vargas and Santiago Garriga, "Explaining inequality and poverty reduction in Bolivia", IMF Working Paper, No. WP/15/265 (Washington, D.C., IMF, 2015), p. 22.

<sup>14</sup> Verónica Paz Arauco, "Brechas de género y política tributaria en Bolivia: apuntes para un debate", Friedrich Ebert Stiftung, July 2018, p. 4.

dictate,<sup>15</sup> the State pursued alternative policy choices: it continued to expand public investments by tapping accumulated international reserves and increasing external borrowing.

8. Despite the economic slowdown, the State still dedicated 15 per cent of GDP to public investment in 2016 and 13 per cent in 2017, which was the highest in the Latin America and the Caribbean region.<sup>16</sup> As implied in paragraph 11.9 of the guiding principles on human rights impact assessments of economic reforms (A/HRC/40/57) – which were recently endorsed by the Human Rights Council, in its resolution 40/8 – the balanced use of foreign reserves for the purpose of social spending and public investment is an important measure for the realization of human rights, particularly at times of economic downturns.

9. The dedicated public investments since 2006 have been translated into significant improvement in a number of social indicators. According to official statistics, between 2005 and 2018, the poverty rate fell from 59.6 per cent to 34.6 per cent, and the extreme poverty rate declined by more than half, from 36.7 per cent to 15.2 per cent.<sup>17</sup> The Gini coefficient of income inequality has also followed a downward trend, from 0.61 in 2002 to 0.45 in 2017.<sup>18</sup> According to the Ministry of Education, the indicators in education have improved and the school dropout rate at the primary level has been halved from 4.53 per cent in 2005 to 2.02 per cent in 2015.<sup>19</sup> The State has also made important strides in improving the health indicators. The infant mortality rate was reduced from 46.0 to 29.0 per 1,000 live births between 2005 and 2016.<sup>20</sup> The maternal mortality rate recorded a decline from 305 to 206 per 100,000 live births between 2005 and 2015.<sup>21</sup>

10. These figures and statistics uniquely demonstrate the ability of developing countries to create the necessary fiscal space to realize human rights through targeted macroeconomic policies. They also provide empirical evidence that structural adjustments based on the neoliberal and orthodox ideology, such as fiscal consolidation, privatization, deregulation of markets and labour flexibilization, are not necessarily the only or optimal policy option for economic growth and sustainable development.

### III. Sustainability of the revenue matrix

11. Despite these impressive achievements, the Plurinational State of Bolivia still faces challenges in achieving sustainable development and the realization of human rights for all its population. According to regional statistics, it remains one of the poorest countries in the region.<sup>22</sup> Various estimates suggest that the incidence of multidimensional poverty is high and exceeds 50 per cent,<sup>23</sup> while the human development indicators still fare poorly compared to those of other countries in the region.<sup>24</sup>

<sup>15</sup> Isabel Ortiz and others, “The decade of adjustment: a review of austerity trends 2010–2020 in 187 countries”, Extension of Social Security Working Paper, No. 53 (Geneva, International Labour Office; New York, Columbia University; Geneva, South Centre, 2015).

<sup>16</sup> Comments of the Ministry of Economy and Public Finance.

<sup>17</sup> National Institute of Statistics data (see [www.ine.gob.bo/index.php/podreza-desarrollo/introduccion-2](http://www.ine.gob.bo/index.php/podreza-desarrollo/introduccion-2), accessed 24 December 2019).

<sup>18</sup> *Social Panorama of Latin America, 2018* (United Nations publication, Sales No. E.18.II.G.7), p. 18.

<sup>19</sup> Figures provided by the Ministry of Education (on file).

<sup>20</sup> United Nations Development Programme (UNDP), “Mortality rate, infant (per 1,000 live births)”, Human Development Data (1990–2018). Available at <http://hdr.undp.org/en/indicators/57206> (accessed on 24 December 2019).

<sup>21</sup> UNDP, “Maternal mortality ratio (deaths per 100,000 live births)”, Human Development Data (1990–2018). Available at <http://hdr.undp.org/en/indicators/89006> (accessed on 24 December 2019).

<sup>22</sup> *Social Panorama*, p. 78.

<sup>23</sup> Silvia Escóbar de Pabón and others, *Desigualdades y pobreza en Bolivia: una perspectiva multidimensional* (La Paz, Centro de Estudios para el Desarrollo Laboral y Agrario, 2019); and UNDP, *Multidimensional Progress: Well-being Beyond Income – Regional Human Development Report for Latin America and the Caribbean* (New York, 2016), p. 100.

<sup>24</sup> See, for example, World Bank Group, “Reducing maternal and infant mortality: a multi-project evaluation of 16 years of World Bank support to the health sector – Bolivia”, Project Performance

12. The laudable Patriotic Agenda 2025 and the national Economic and Social Development Plan envisage large-scale public investment to boost the economy and to significantly improve the well-being of the population. However, given the falling revenue from gas and oil, there is a legitimate question as to whether the current economic and social model is sustainable in the medium and long terms.

13. The Government has turned to the use of international reserves and external borrowing to sustain the level of fiscal revenue. While this policy choice has been prudent in the circumstances, international reserves have been diminishing at a fast pace. The percentage of international reserves to GDP has dwindled from 45.5 per cent in 2014 to 22 per cent at the end of 2018.<sup>25</sup> The external debt-to-GDP ratio has been rising since 2014 and has reached 24.9 per cent of GDP at the end of 2018.<sup>26</sup> While this level of external borrowing is still considered to be non-critical, some observers have rung an alarm bell over the rising level of total public debt. Total public debt includes loans from the Central Bank to State-owned enterprises and is projected to reach 54 per cent of GDP in 2023.<sup>27</sup> While the public debt to the private sector still remains at a reasonable level, at 33.5 per cent of GDP, the sustainability of the current revenue matrix is increasingly being questioned, particularly in light of the growing fiscal deficit, which now exceeds 7 per cent.<sup>28</sup>

14. The State has long sought to overcome its historical dependence on the export of raw materials, but its current economic model is still associated with “extractivism”, and the export of hydrocarbons and oil continues to be a significant source of revenue. Over the period from 2009 to 2017, mining and hydrocarbon-related revenues contributed an average of 30 per cent of annual total fiscal revenues,<sup>29</sup> although tax revenues from other sectors, such as commerce, financial services and communications, have been increasing. In recent years, the Government has taken a number of steps to promote industrialization and economic diversification, including investing in a variety of sectors, such as agriculture, hydroelectric power, renewable energies and lithium production. In particular, the Government has identified lithium production as one of the five strategic industrial productions to be prioritized,<sup>30</sup> and has invested in the exploitation of lithium deposits in the Uyuni salt flat. However, large-scale exploitation of lithium resources has not taken place, partly due to a lack of interest from private investors with the appropriate technical experience.<sup>31</sup> The pilot plant in the Uyuni salt flat reportedly produced only 250 ton of lithium carbonate in 2018, although the Government had pledged to produce over 10,000 ton per month by 2015.<sup>32</sup>

15. There appear to be a number of historical obstacles to the successful diversification of the economy. One of the factors most commonly identified by experts and stakeholders is a lack of robust private investment. Total private sector investment has been consistently low and growing at a much slower pace,<sup>33</sup> in stark contrast with public investment, which

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Assessment Report, No. 126362 (Washington, D.C., 2018), p. 82 (health indicators for Bolivia and Latin America and the Caribbean, 1991–2015); and *Social Panorama*, pp. 157–158 (indicators on access to adequate sources of drinking water and sanitation, 2002 and 2016).

<sup>25</sup> IMF, “Bolivia: 2017 article IV consultation – press release, staff report and statement by the authorities of Bolivia” (December 2017), p. 23; and comments of the Ministry of Economy and Public Finance. See also *Preliminary Overview of the Economies of Latin America and the Caribbean, 2018* (United Nations publication, Sales No. E.19.II.G.2).

<sup>26</sup> Banco Central de Bolivia, *Informe de la deuda externa pública al 31 de diciembre de 2018* (La Paz, 2019), p. 5.

<sup>27</sup> See IMF, “Bolivia: 2018 article IV consultation”, annex I.

<sup>28</sup> *Ibid.*, p. 5.

<sup>29</sup> *Ibid.*, at 61.

<sup>30</sup> Economic and Social Development Plan, 2016–2020.

<sup>31</sup> Economist Intelligence Unit, “Chinese investment will fund new mineral extraction project”, 26 February 2019.

<sup>32</sup> *Ibid.*

<sup>33</sup> Ministry of Economy and Public Finance, “En los últimos 13 años la inversión pública supera la inversión privada”, 24 June 2019.

doubled from 7 per cent of GDP in 2005 to 14 per cent of GDP in 2015.<sup>34</sup> This relatively low level of private investment is owing to a variety of factors, including the burdensome tax system and the uneven regulatory framework for private companies.<sup>35</sup> A number of interlocutors also identified rigid labour regulation as one of the obstacles for robust private investment, although evidence has proven worldwide that the erosion of collective and individual rights does not lead to further growth and employment.<sup>36</sup> In light of these obstacles, the climate for doing business in the State has been considered “problematic” by the international financial institutions.<sup>37</sup> The Government has been taking measures to facilitate private sector participation in the economy, such as digitizing business processes.<sup>38</sup> It has also been exploring, and has already implemented in some cases, agreements with private corporations to jointly develop strategic areas of the economy, such as agribusiness and lithium production. In the field of lithium production, for example, State-owned Yacimientos de Litio Bolivianos has recently established a joint venture with ACI Systems, a German company, to extract lithium hydroxide from the Uyuni salt flats, and another \$2.3-billion joint venture with Xinjiang TBEA Group, a Chinese consortium, to extract lithium from the Copiasa and Pastos Grandes salt flats.<sup>39</sup> If successful, these measures may contribute to diversifying the economy and sources of fiscal revenue.

16. A related factor hindering economic diversification is a lack of sufficient investment in research and development. Research and development expenditures have been consistently low, amounting to an average of only 0.2 per cent of GDP between 2005 and 2015.<sup>40</sup> As highlighted by the United Nations Conference on Trade and Development (UNCTAD), technological learning and research and development activities are an important engine of productivity growth.<sup>41</sup> While manufacturing is one of the strategic sectors for the State, the manufacturing industries are increasingly being digitized globally, which may put at a disadvantage developing and least developed countries in terms of trade competitiveness.<sup>42</sup> Thus, unless appropriate investments in innovation and technology are made, the contribution of the manufacturing sector to the Bolivian economy may remain limited and create an additional obstacle to the goal of economic diversification.

17. The fixed exchange rate system is also relevant to the issue of economic diversification. Since 2011, the Central Bank has maintained the fixed exchange rate of \$1 to Bs6.96 for the purposes of controlling inflation and boosting domestic consumption, and this policy has successfully served its purposes. However, the other side of the coin is that the exchange rate has become overvalued, hurting the State’s competitiveness and causing a balance of payment deficit. While the Central Bank justifies its action on the basis that it offers more benefits than costs, open discussions and debates on whether or not adjustments are necessary are overdue and warranted. As stated in principle 11 of the guiding principles of human rights impact assessments of economic reforms, monetary policies should be coordinated and consistent with other policies with the aim of respecting, protecting and fulfilling human rights. Inflation and employment targets, among other targets, need to be in line with the State’s human rights obligations in order to avoid any economic impermissible retrogressive measures (A/HRC/40/57, para. 11.7).

<sup>34</sup> Yehene Endegnanew and Dawit Tessema, “Public investment in Bolivia: prospects and implications”, IMF Working Paper, No. WP/19/151 (Washington, D.C., IMF, 2019), p. 5.

<sup>35</sup> IMF, “Bolivia: 2018 article IV consultation”, p. 17.

<sup>36</sup> See A/HRC/34/57.

<sup>37</sup> IMF, “Bolivia: 2018 article IV consultation”, p. 17; see also World Bank Group, *Doing Business 2019* (Washington, D.C., 2019).

<sup>38</sup> IMF, “Bolivia: 2018 article IV consultation”, p. 23.

<sup>39</sup> Economist Intelligence Unit, “Country report: Bolivia”, 15 March 2019, p. 5.

<sup>40</sup> UNDP, “Research and development expenditure (% of GDP)”, Human Development Data (1990–2018). Available at <http://hdr.undp.org/en/indicators/52306> (accessed on 24 December 2019).

<sup>41</sup> See *Trade and Development Report, 2016* (United Nations publication, Sales No. E.16.II.D.5).

<sup>42</sup> See UNCTAD, “Rising product digitalisation and losing trade competitiveness” (2017).

## IV. Challenges ahead in guaranteeing the full realization of human rights

18. In addition to the issue of economic diversification, a number of structural constraints in the economic and social model of the Plurinational State of Bolivia pose challenges in guaranteeing the full realization of human rights.

### A. Lack of progressivity in the tax system

19. The State's complex and regressive tax structure and system have major implications on the enjoyment of human rights. The main source of tax revenue is indirect taxes, mostly in the form of value added tax (VAT) levied at a rate of 13 per cent. VAT alone brings the largest contribution, accounting for approximately 34 per cent of total tax revenue in 2018.<sup>43</sup> As widely demonstrated elsewhere, however, VAT tends to be highly regressive and impose disproportionate tax burdens on households at the lower end of the income distribution.<sup>44</sup> In the context of the Plurinational State of Bolivia, a number of studies have found that the indirect taxes offset the positive effects of various cash transfer programmes and in fact contribute to an increase in poverty.<sup>45</sup>

20. While direct income taxes are generally progressive in their primary impact and play a positive role in promoting redistribution,<sup>46</sup> they are not integrated as main elements of the Bolivian tax system. There is effectively no wealth or personal income tax in the State, apart from limited taxes on real estates and cars at a municipal level. A lack of personal income or wealth taxes is surprising, given the philosophical and economic rationale of the 2009 Constitution. Although complementary VAT is nominally categorized as a form of personal income tax, it is far from it, as it levies a flat rate of 13 per cent on wages and interest income, and taxpayers can deduct VAT paid on their purchases.<sup>47</sup> The complementary VAT system has not been very effective and has brought very little revenue, as the presentation of fraudulent VAT invoices is reportedly common and it is administratively costly to enforce compliance.<sup>48</sup> Complementary VAT contributes approximately 0.8 per cent only to the total tax revenue,<sup>49</sup> and "adds little progressivity to the tax system".<sup>50</sup>

21. Direct tax bases are extremely narrow. The main forms of direct taxes are hydrocarbons taxes, levied at 32 per cent, and corporate income tax, at a rate of 25 per cent. They account for approximately 13 per cent and 14 per cent of total tax revenue respectively.<sup>51</sup> A total of 30 per cent of revenue from hydrocarbons taxes is earmarked for

<sup>43</sup> Based on figures provided by the National Tax Service (on file).

<sup>44</sup> ECLAC and Oxfam, "Time to tax for inclusive growth" (March 2016), p. 8.

<sup>45</sup> See, for example, Sergio G. Villaruel Böhr, "Tributación y equidad en Bolivia: estadísticas y revisión de estudios cuantitativos", Friedrich Ebert Stiftung, July 2018; Verónica Paz Arauco and others, "Explaining low redistributive impact in Bolivia", *Public Finance Review*, vol. 42, No. 3 (May 2014); and Nora Lustig and others, "The impact of taxes and social spending on inequality and poverty in Argentina, Bolivia, Brazil, Mexico, Peru and Uruguay: an overview", Society for the Study of Economic Inequality, November 2013, p. 21.

<sup>46</sup> See ECLAC and Oxfam, "Time to tax for inclusive growth".

<sup>47</sup> Giorgio Brosio, "Reducing reliance on natural resource revenue and increasing subnational tax autonomy in Bolivia", IDB Working Paper Series, No. IDB-WP-298 (Washington, D.C., Inter-American Development Bank, 2012), p. 34.

<sup>48</sup> *Ibid.*, p. 35.

<sup>49</sup> Figures provided by the National Tax Service (on file). See also Emmanuelle Modica, Sabine Laudage and Michelle Harding, "Domestic revenue mobilisation: a new database on tax levels and structures in 80 countries", OECD Taxation Working Papers, No. 36 (Paris, Organization for Economic Cooperation and Development, 2018).

<sup>50</sup> IMF, *Bolivia: Selected Issues*, IMF Country Report, No. 07/249 (Washington, D.C., 2007), p. 28.

<sup>51</sup> Figures provided by the National Tax Service (on file).

the *Renta Dignidad*, a universal, non-contributory old-age pension scheme.<sup>52</sup> While the targeted use of hydrocarbons taxes for social protection measures is unique and positive,<sup>53</sup> it implies that the social protection system heavily relies on revenues from natural resources, which are susceptible to external shocks.<sup>54</sup> Furthermore, in the absence of progressive direct taxes, the redistributive impact of hydrocarbons taxes appears to be offset to some extent by the weight of indirect taxes, making the tax system highly regressive overall,<sup>55</sup> and one of the least redistributive systems in the region.<sup>56</sup>

22. The complexity of the tax system also creates difficulties in maximizing the collection of taxes. The payment of taxes is cumbersome and complex, requiring on average 42 payments per year, compared to the regional average of 27.<sup>57</sup> This is reportedly one of the factors that discourage private investments and hinder the optimal collection of taxes. Furthermore, according to some stakeholders, there is deep-rooted distrust of public institutions, and there is no “tax culture” that encourages all people to pay taxes on the basis of the social compact with the State. As discussed below, the lack of institutionalization of taxation, coupled with the informal economy, reportedly contributes to the high incidence of tax evasion and avoidance.

23. At present, there seems very little political scope to broaden the tax base or to revamp the tax system in order to increase its progressivity and improve tax collection. The violent demonstrations in 2003 against a proposal to introduce income tax are still vivid in the minds of many,<sup>58</sup> and they fear that the idea of income tax may create unnecessary discord in the ways in which the economy and society operate. In the long run, however, it is critical to consider simplifying the tax system and introducing more progressive forms of taxation, such as personal income tax and wealth tax, so that the scale of collection and the redistributive power of taxation can be maximized. As recommended in the guiding principles on human rights impact assessments of economic reforms, direct and progressive taxes should be prioritized (A/HRC/40/57, para. 11.4). If tax policy is to promote the redistribution of wealth and reduce inequality, a variety of tax reform measures should be considered, including: taxing higher-income categories and wealth more strongly; taxing certain financial transactions; shoring up the tax base; and enhancing tax collection, the efficiency of the tax administration and the fight against tax evasion and avoidance (ibid., para. 11.5).

## B. Informal economy

24. Informal markets are deeply embedded in the political, economic and social structure. While there is no comprehensive and accurate data on the scale of informality, various studies have estimated it to be in the range of 60 per cent of GDP.<sup>59</sup> Although a more recent analysis by the International Monetary Fund has suggested that informality has been considerably reduced from 65 to 46 per cent between 2005 and 2015,<sup>60</sup> it confirms that the scale and influence of the informal economy are still considerable. In the field of

<sup>52</sup> Marcelo Ticona Gonzales, “The dignity pension (renta dignidad): a universal old-age pension scheme”, in UNDP, *Sharing Innovative Experiences: Successful Social Protection Floor Experiences* (New York, 2011), p. 52.

<sup>53</sup> See International Labour Office, “Financing social protection through taxation of natural resources: Bolivia”, August 2016.

<sup>54</sup> Ticona Gonzales, “The dignity pension (renta dignidad)”, p. 52.

<sup>55</sup> Arauco and others, “Explaining low redistributive impact in Bolivia”, p. 337.

<sup>56</sup> Cristina Arancibia and others, *Income Redistribution in Latin America*, (Helsinki, United Nations University World Institute for Development Economics Research, 2019), p. 4.

<sup>57</sup> See World Bank Group, *Doing Business 2019*.

<sup>58</sup> Villarroel Böhr, “Tributación y equidad en Bolivia”, p. 12.

<sup>59</sup> See Friedrich Schneider, Andreas Buehn and Claudio E. Montenegro, “Shadow economies all over the world: new estimates for 162 countries from 1999 to 2007”, Policy Research Working Paper, No. 5356 (Washington, D.C., World Bank, 2010); and Leandro Medina and Friedrich Schneider, “Shadow economies around the world: what did we learn over the last 20 years?”, IMF Working Paper, No. WP/18/17 (Washington, D.C., IMF, 2019).

<sup>60</sup> IMF, “Bolivia: 2018 article IV consultation”, p. 19.

employment, the figure is staggering: the International Labour Organization (ILO) estimates that 83.1 per cent of total employment is informal employment, which encompasses employers and own-account workers operating an informal enterprise, employees holding informal jobs and contributing family workers.<sup>61</sup>

25. The informality of markets, encompassing both economic and labour markets, has significant implications on the protection of human rights. From a fiscal perspective, informality clearly implies lost tax revenue for the State. Many stakeholders, particularly those from the private sector, spoke of punitively high taxes on the formal sector and their inability to compete with virtually “tax-free” informal businesses, which creates disincentives for private investments. The informal economy also facilitates tax evasion, tax avoidance and money laundering, as there is no comprehensive oversight of taxable transactions. It also reportedly creates opportunities and avenues for tax evasion and money laundering by the formal sector.

26. The large degree of informality also means that the majority of workers are exposed to often precarious and temporary jobs without pensions, social or health insurance. According to an analysis based on the 2007 household survey, 70 per cent of workers are not covered by any social security.<sup>62</sup> While informal workers have an option to make voluntary contributions to the individual capitalization funds, they often do not exercise this option: only 1 per cent of informal workers do so.<sup>63</sup> Moreover, employment in the formal sector does not necessarily guarantee social security coverage, as 15 per cent of workers in the formal sector are reportedly without coverage due to their employers evading compulsory contributions.<sup>64</sup>

27. While there are a number of universal and conditional cash transfer programmes, they only benefit groups in vulnerable situations at certain points in their life cycle, such as older persons, children and mothers. The social protection system has a clear gap for working-age adults and lacks a whole life-cycle approach to ensure the social protection floor for all. Earlier this year, the Government launched the Universal Health System to provide health insurance to approximately 5 million people who had been previously without any health insurance coverage. However, it remains to be seen if this ambitious programme, at a cost of \$400 million, will be effective in achieving its goal and fiscally sustainable in the long run.

28. Given how rooted informality is, there seems to be no adequate incentive to change the status quo. As highlighted by a variety of stakeholders, the universe of informality is far from homogeneous: there are various forms of informality, ranging from genuine family, community and cooperative relations to large business enterprises operating outside the contour of national laws and regulations. There are also wide differences among workers in informal employment, in terms of income level, status in employment, sector, type and size of enterprise, location of workplace and degree of social protection coverage.<sup>65</sup> While this diversity should be fully recognized and taken into account, it is critical that conscious and continuous efforts be made to facilitate the transition from the informal economy to the formal economy, based on full respect for the human rights of those operating in the informal economy. As acknowledged by ILO, the high incidence of the informal economy poses a major challenge for the rights of workers social protection, decent working conditions, inclusive development and the rule of law and has a negative impact on the development of sustainable enterprises, public revenues and Governments’ scope of

<sup>61</sup> ILO, *Women and Men in the Informal economy: A Statistical Picture*, 3rd ed. (Geneva, 2018), appendix B.

<sup>62</sup> Javier Monterrey Arce, “Social protection systems in Latin America and the Caribbean: Plurinational State of Bolivia”, ECLAC, September 2013, pp. 16–17.

<sup>63</sup> Ibid.

<sup>64</sup> Ibid. See also Committee of Experts on the Application of Conventions and Recommendations, Observation (adopted 2009). Available at [www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100\\_COMMENT\\_ID:2321021](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:2321021).

<sup>65</sup> ILO, *Women and Men in the Informal Economy*, p. 1.

action.<sup>66</sup> The transition from the informal to the formal economy is an important step to achieve sustainable and inclusive development, and to fully realize the human rights of all workers, including the rights to decent work and to social protection.<sup>67</sup>

### C. Illicit financial flows

29. Curbing illicit financial flows is essential for maximizing fiscal space to realize human rights and achieve sustainable development.<sup>68</sup> Illicit financial flows may result from a variety of illegal transactions, such as tax fraud, bribery, corruption, drug trafficking, trafficking in persons and other criminal activities. There are no official statistics or data to estimate the origin and the scale of illicit financial flows in the country. However, there are a number of indications that the volume of illicit financial flows may be significant and there is an urgent need to collect accurate and comprehensive data and develop an appropriate policy response to address the issue.

30. A few studies have reported a high rate of tax evasion. Gómez Sabaini and Jiménez, for instance, have observed that a combination of factors, such as the high degree of informality, the fragmented capacity to collect payment of taxes and the low level of tax morale, lead to a high rate of tax evasion, which is a common trend in the region.<sup>69</sup> Enforcing compliance with VAT in particular appears to pose challenges, given the size of the informal economy and the frequent use of fraudulent invoices.<sup>70</sup> The estimated evasion rate for VAT is 29 per cent, which is slightly above the regional average of around 27 per cent.<sup>71</sup> It is also worth noting that a think tank, Global Financial Integrity, estimated that the average annual volume of illicit financial flows in the country between 2004 and 2013 was \$627 million. However, this is most likely an underestimate, as figures were not available for some of the years during this period.<sup>72</sup>

31. The so-called “Panama Papers” in 2016 revealed the prevalence of tax evasion through the use of tax havens.<sup>73</sup> An investigation by the International Consortium of Investigative Journalists suggested that Bolivian businesspersons and politicians were linked to 127 offshore companies, mainly registered in Panama and the British Virgin Islands.<sup>74</sup> Following this revelation, the Plurinational Legislative Assembly established the Joint Special Commission for the Investigation of the Panama Papers to investigate 11 cases involving Bolivians.<sup>75</sup> The Commission found that in 2016, \$989 million had been transferred from the country to tax havens, which was equivalent to 2.9 per cent of GDP in the same year.<sup>76</sup> This amount reportedly consisted of \$662.6 million in tax evasion.<sup>77</sup>

<sup>66</sup> ILO, *Transition from the Informal to the Formal Economy Recommendation*, 2015 (No. 204), preamble.

<sup>67</sup> ILO, *Women and Men in the Informal Economy*, p. 2.

<sup>68</sup> See A/HRC/31/61.

<sup>69</sup> Juan Carlos Gómez Sabaini and Juan Pablo Jiménez, *Tax Structure and Tax Evasion in Latin America* (Santiago, ECLAC, 2012), p. 10.

<sup>70</sup> See Juan Carlos Zuleta, “Combating corruption in the revenue service: the case of VAT refunds in Bolivia”, Chr. Michelsen Institute, May 2008. See also Roberto Ugarte Quispaya, “Análisis sobre la baja capacidad recaudatoria del IVA en el sector de los pequeños contribuyentes: el caso de Bolivia”, Inter-American Center of Tax Administrations, February 2015 (which finds that the current system of VAT does not suit the country, with its large informal economy).

<sup>71</sup> Gómez Sabaini and Jiménez, *Tax Structure and Tax Evasion*, p. 34.

<sup>72</sup> See Dev Kar and Joseph Spanjers, *Illicit Financial Flows from Developing Countries: 2004–2013* (Washington, D.C., Global Financial Integrity, 2015).

<sup>73</sup> See A/HRC/37/54/Add.2, paras. 33–38.

<sup>74</sup> International Consortium of Investigative Journalists, “Panama Papers investigation reveals Bolivia’s offshore connections”, 29 October 2017.

<sup>75</sup> La Razón Digital, “Informe sobre paraísos fiscales revela daño de aproximadamente \$US 1.000 MM e incluye a Doria Medina”, 11 December 2017.

<sup>76</sup> Cámara de Senadores, “Anuncian tratamiento de un proyecto de ley de Lucha Contra el Uso de Paraísos Fiscales”, 31 July 2019.

<sup>77</sup> La Razón Digital, “Confirman millonarias transferencias a paraísos fiscales y plantean medidas para contener esta práctica”, 12 December 2017.

32. The Government has been making dedicated efforts to eliminate corruption and curb illicit financial flows. It has long been committed to zero tolerance towards corruption and established the Vice-Ministry for Institutional Transparency and the Fight against Corruption. The Vice-Ministry has implemented various measures focusing on prevention, including establishing a computerized system to receive reports from the public and developing anti-corruption guidelines for municipal authorities. The investigation into the cases of tax evasion by the Joint Special Commission for the Investigation of the Panama Papers has also led to the drafting and ongoing consideration of a bill on combating the use of tax havens.<sup>78</sup>

33. However, one critical component missing in the existing framework to combat corruption, tax evasion and other illicit transactions is the protection of witnesses and whistle-blowers, in line with article 32 of the United Nations Convention against Corruption. Without an effective legal framework to protect witnesses and whistle-blowers, efforts to combat the incidence of corruption, tax evasion, smuggling and other illicit transactions would be rendered futile. Establishing a legal framework that adequately protects those who wish to provide information to the authorities would be a fundamental step towards ensuring proper investigation and prosecution of such crimes.

#### D. Persistent gender inequality

34. The Plurinational State of Bolivia stands out as a gender equality champion for its strong commitment to this principle and it is one of very few countries in the world to have achieved gender parity in parliament.<sup>79</sup> While this in itself is a positive achievement, gender parity has not been achieved in the judiciary or the executive, or at the municipal level. Furthermore, the State still lags behind in terms of economic and labour inclusion of women. The labour force participation rate of women in the formal labour market is much lower than for men (56.6 per cent for women, compared to 79.4 per cent for men),<sup>80</sup> which reflects the many challenges for women to obtain formal employment opportunities, such as a lack of education and skills, care responsibilities and domestic violence. As a result, women often end up with precarious jobs in the informal and low-productivity sector, and the vast majority of them (97.9 per cent) are not affiliated to or paying into the pension system.<sup>81</sup>

35. The country has a policy of gender budgeting, and departmental and municipal governments are authorized to allocate up to 5 per cent of their general budget to gender equality.<sup>82</sup> However, a study shows that in 2017, the municipalities allocated on average only 3.37 per cent of their budget to gender equality and some municipalities even spent zero per cent.<sup>83</sup> While the same study shows that municipalities have increased investments in facilities and programmes that provide for care services, there remains a critical need for further investment in order to encourage better distribution of domestic and care-related work and to promote women's contributions to the economy.

36. Of various forms of inequality worldwide, women's unpaid domestic and care-related work is a crucial and yet often neglected consideration in the design of policies and economic reforms. Mainstream economic thinking does not take into account the value of unpaid domestic and care-related work and its contribution to the economy.<sup>84</sup> In the

<sup>78</sup> Cámara de Senadores, "Anuncian tratamiento".

<sup>79</sup> UNDP, "Share of seats in parliament (% held by women)", Human Development Data (1990–2018). Available at <http://hdr.undp.org/en/indicators/31706> (accessed on 24 December 2019).

<sup>80</sup> UNDP, "Country profile: Bolivia (Plurinational State of)", Global Human Development Indicators. Available at <http://hdr.undp.org/en/countries/profiles/BOL> (accessed on 24 December 2019).

<sup>81</sup> *Social Panorama*, p. 194.

<sup>82</sup> Plurinational State of Bolivia, "Informe del Estado Plurinacional de Bolivia", national-level review of implementation of the Beijing Declaration. Available at [https://sustainabledevelopment.un.org/content/documents/13013Bolivia\\_review\\_Beijing20.pdf](https://sustainabledevelopment.un.org/content/documents/13013Bolivia_review_Beijing20.pdf).

<sup>83</sup> See Plataforma de Justicia Fiscal desde las Mujeres, "Ranking municipal en igualdad y equidad de género 2017", 2017.

<sup>84</sup> See A/73/179.

Plurinational State of Bolivia, many women are fulfilling unpaid responsibilities at home in addition to their paid work. While official statistics on gender distribution of domestic work were not made available, research conducted by regional organizations and academic institutions point out that most unpaid domestic work falls on women.<sup>85</sup> The disproportionate burden of unpaid work on women and girls constitutes a significant barrier to their full realization of the rights to work, social security, health and education. Furthermore, Coello Cremades and Fernandez Cervantes point out that unpaid work on women exacerbates the regressive nature of the tax system and creates a clear gender bias in taxation, as more women perform unpaid work than men but they are subject to VAT regardless of their income or ability to pay.<sup>86</sup>

## **E. Lack of an adequate legal framework to prevent the negative impacts of infrastructure projects on human rights**

37. Over the past 10 years or so, a number of infrastructure projects have flourished throughout the State. Under the national Economic and Social Development Plan, the Government has vigorously pursued mega-infrastructure projects, such as the construction of highways, cableways, roads, dams and hydroelectric power plants. In particular, as part of the strategy to diversify the economy, the Government has pledged to turn the State into an energy hub in the region and has increasingly invested in hydroelectric power plants. Many of these projects have been financially supported by multilateral and bilateral lenders and donors, as well as by the central Government.

38. Infrastructure projects can have a positive impact on the economy and generate real benefits to the entire population. However, a critical precondition to ensure that such projects do not result in violations of human rights is that robust human rights impact assessments are properly undertaken, with meaningful consultations with affected communities and individuals. This helps prevent or minimize their negative human rights effects, which, in turn, reinforces the environmental and social sustainability of the projects.

39. Some infrastructure projects have met opposition by affected indigenous and local groups, which demonstrates that this precondition may not have been met in some cases or that there is at least room for improvement in more effectively carrying out prior consultations with the communities and a proper environmental, social and human rights impact assessment.

40. The Constitution explicitly acknowledges the rights of indigenous peoples to prior obligatory consultation by the State with respect to the exploitation of non-renewable natural resources (art. 30), and the rights of people affected by the exploitation of natural resources in a particular territory to free, prior and informed consultation (art. 352). However, the legal framework prescribing processes of prior consultation with affected communities is ad hoc, and its application is limited to the gas and oil sectors. Furthermore, the legal framework that applies to those sectors does not appear to adequately meet the international human rights standards, as spelt out in the United Nations Declaration on the Rights of Indigenous Peoples. The law does not explicitly require that the free, prior and informed consent of indigenous peoples be obtained as a precondition in certain cases – such as in the case of relocation of indigenous peoples from their lands or territories (as provided for under art. 10 of the Declaration) or the storage or disposal of hazardous materials in their lands or territories (art. 29 of the Declaration) – or that the obtaining of free, prior and informed consent be the objective of the consultations in any project affecting their lands or territories and other resources (art. 32 (2) of the Declaration). The distinction between the exploitation of “non-renewable” and “renewable” resources is also artificial and nebulous, and should not be used as a criterion for whether consultations with

<sup>85</sup> Pan American Health Organization, *The Invisible Economy and Gender Inequalities: The Importance of Measuring and Valuing Unpaid Work* (Washington, D.C., 2010), p. 141.

<sup>86</sup> Raquel Coello Cremades and Silvia Fernandez Cervantes, “Análisis de género de la política fiscal boliviana: propuestas para la agenda pendiente del proceso de cambio”, *Revista de Economía Crítica*, no. 18 (2014), p. 145.

affected communities are required. In many cases, the exploitation of “renewable” resources – such as hydroelectric power – entails a significant impact on human rights and the environment. Although a bill on free, prior and informed consultations was prepared and presented to the Plurinational Legislative Assembly in 2014, it has not been further considered since then.

41. Many of the infrastructure projects are financed by international financial institutions and multilateral development banks, such as the World Bank, the Inter-American Development Bank and the Development Bank of Latin America. For such projects, the Government is required to comply with their environmental and social safeguards. However, their environmental and social safeguards do not explicitly refer to human rights or include a comprehensive human rights impact assessment, but deal with specific environmental and social issues, such as the environment, gender, involuntary settlement and indigenous peoples, in a piecemeal manner. Furthermore, while those environmental and social safeguards tend to focus on “up-front” requirements, prior to the approval of loans, there have been reported cases in which loans were approved even before the necessary environmental and social impact assessments had been carried out.<sup>87</sup>

42. Bilateral lenders such as the Chinese development banks are increasingly important players in infrastructure projects. China has supported a number of strategic infrastructure projects, such as the San José hydroelectric power plant and the construction of roads in Rurrenabaque, El Espino and El Sillar. The growing importance and influence of China is also evident from the fact that it is now the country’s biggest bilateral creditor and one of the biggest among all external creditors.<sup>88</sup> However, while it has significantly improved in recent years, the regulatory framework aimed at preventing and mitigating any negative environmental impact of the Chinese international lending and outbound investment, a comprehensive framework for explicitly ensuring respect for and protection of human rights is still lacking.<sup>89</sup>

43. The implementation of infrastructure projects should be based on adequate human rights impact assessments and the free, prior and informed consent of affected communities. There is a clear need for comprehensive and robust legislation on human rights impact assessments for infrastructure projects, based on international human rights norms and standards, in order to ensure transparency and participation of and consultation with potentially affected people in any project affecting their lands or territories and other resources – whether they concern non-renewable or renewable resources.

## **F. Insufficient and uneven distribution of revenue to subnational governments**

44. In a decentralized system of administration, the central Government has the responsibility to ensure that subnational governments have adequate resources to fulfil their obligations to provide essential goods and services to the population. Pursuant to Law No. 31 on autonomy and decentralization, the administrative structure has been significantly decentralized and departmental and municipal governments bear substantial responsibilities to provide for public infrastructure and services. However, the level of responsibilities does not appear to be fully commensurate with the level of available resources. The departmental and municipal authorities have limited ability to raise their own revenue and are almost entirely dependent on transfers from the central Government. Departmental governments’

<sup>87</sup> See, for example, John Redwood, *Managing the Environmental and Social Impacts of a Major IDB-Financed Road Improvement Project: The Case of Santa Cruz–Puerto Suarez Highway in Bolivia* (Washington, D.C., Inter-American Development Bank, 2012), pp. 4–5; and Rebecca Ray Kevin P. Gallagher and Cynthia Sanborn, “Standardizing sustainable development? Development banks in the Andean Amazon” (Boston, Global Development Policy Center, 2018), pp. 7–10.

<sup>88</sup> Central Bank of Bolivia, figures as of 28 February 2019 (on file).

<sup>89</sup> See Juan Pablo Bohoslavsky, “A human rights focus to upgrade China’s international lending”, *Chinese Journal of Global Governance*, vol. 5, No. 1 (15 March 2019); and Ray, Gallagher and Sanborn, “Standardizing sustainable development?”.

revenue mostly consists of funds from the Special Tax on Hydrocarbons and its Derivatives and royalties collected by the central Government, whereas municipal governments obtain the bulk of their revenue from national taxes (fiscal co-participation) and direct taxes on hydrocarbons. While municipal governments are able to collect some municipal taxes, such as taxes on rural property, urban real estate, vehicles, and transactions of these goods, they often do not have sufficient capacity to collect taxes, and the contribution of municipal taxes to the total revenue is rather insignificant.<sup>90</sup>

45. The main factors that determine the allocation of revenue to subnational governments is hydrocarbon production and population size. While the hydrocarbons tax revenue is distributed more or less equally among the producing and non-producing departments (with the exception of Tarija), only the four hydrocarbon-producing departments of Cochabamba, Chuquisaca, Tarija and Santa Cruz receive royalties according to their level of production, and two non-producing departments, Beni and Pando, which are also the most remote departments, receive a small portion as “less favoured” regions.<sup>91</sup> The three most populous departments, La Paz, Cochabamba and Santa Cruz, also receive allocations from a compensation fund, sourced from the hydrocarbons tax revenue. This formula gives rise to an uneven and unequal distribution of resources, whereby the producing department of Tarija receives one of the largest shares, despite its relatively small population size.<sup>92</sup> While the departments with a larger population size, such as La Paz, Santa Cruz and Cochabamba, receive larger shares of the pie compared to other departments, they receive the smallest amounts of resources per capita.<sup>93</sup> The formula does not take into account the different departments’ requirements in terms of resources to reduce poverty and inequality and to improve other human development indicators. As emphasized under principle 4 of the guiding principles on human rights impact assessments of economic reforms, the central Government should implement appropriate cross-government coordination mechanisms and processes, so that subnational governments have the necessary resources to fulfil their human rights obligations (A/HRC/40/57, para. 4.2). The ongoing negotiations on the fiscal pact should take into consideration the scale of the challenges that each department and municipality faces in terms of poverty alleviation when determining the allocation of fiscal resources from the central Government.

## G. Limited transparency and access to information

46. The principle of participation is a fundamental pillar of the Plurinational State of Bolivia and the 2009 Constitution firmly guarantees the right of the people to participate in the design of public policies and the administration of public fiscal resources (art. 241). The right to participate is inextricably linked to the right of access to information, as informed and meaningful participation is not possible without the appropriate information. Article 21 of the Constitution thus also guarantees the right of access to information.

47. However, there are some signs that the principle of participation has been limited in some cases, as necessary information to participate in public policymaking has not been readily available. A lack of access to information has been observed in a variety of cases, ranging from macroeconomic policymaking to the planning of infrastructure projects. In particular, some stakeholders pointed out that data and figures on important indicators may not be available publicly or in a timely manner, or that, in many cases of infrastructure projects, information relating to the projects, conditions for loan approval and any environmental and social impact assessment carried out are not publicly disclosed, rendering the stakeholders’ participation in decision-making futile.<sup>94</sup> There are a number of

<sup>90</sup> Lykke E. Andersen and Luis Carlos Jemio, “Decentralization and poverty reduction in Bolivia: challenges and opportunities”, Development Research Working Paper Series, No. 01/2016 (La Paz, Institute for Advanced Development Studies, 2016), p. 9.

<sup>91</sup> *Ibid.*, p. 14.

<sup>92</sup> *Ibid.*, p. 11.

<sup>93</sup> *Ibid.*, pp. 11–12.

<sup>94</sup> See, for example, Fundación Solón, “Megahidroeléctricas, ¿energía limpia o negocio sucio?”, *Tunupa*, No. 107 (December 2018); Plataforma Energética, “La ruta de la presencia china en

factors that may contribute to limited transparency and limited access to information, including the antiquated information management system, a low level of digitization in public administration, a lack of capacity in collecting accurate, comprehensive and disaggregated data, and limited public disclosure of information.

48. There is currently no legislation specifically regulating the scope and operational aspects of the right of access to information. As underlined in principle 20 of the guiding principles on human rights impact assessments of economic reforms, the Government should ensure that both quantitative and qualitative data concerning planned economic policies are available, accessible and delivered in a timely and transparent manner. More effective social control would surely contribute to more efficient public spending in all areas, including State-owned corporations and infrastructure projects.

## H. Democracy, the rule of law and development

49. The aftermath of the presidential elections on 20 October 2019 has revealed the fragility of the fabric of democracy in the Plurinational State of Bolivia. Mr. Morales's proclamation of his victory, amid allegations of electoral fraud, triggered protests and violent clashes between opposing groups and between protesters and security forces in several regions of the country. After three weeks of intensifying civil unrest, the Government called for new elections. Nevertheless, the military high command made a statement suggesting that Mr. Morales should resign, which he did the same day. Mr. Morales fled to Mexico, Cuba and then Argentina, where he has been granted asylum along with other senior members of his Government.

50. The unnecessary and disproportionate use of force by the police and army against the protesters after the elections – in particular after the resignation of Mr. Morales – has been widely reported and condemned by regional and international observers.<sup>95</sup> The most violent repression of protests by the police and military forces, in Sacaba and Senkata on 15 and 19 November 2019 respectively, have resulted in the killings of at least 18 persons, many of whom were reportedly unarmed protestors supporting Mr. Morales.<sup>96</sup> According to the Ombudsperson, the post-election violence has, to date, left 35 people dead and 832 people injured and resulted in the arrest and detention of 106 people.<sup>97</sup>

51. The downfall of Mr. Morales has unleashed racist and discriminatory attacks against indigenous peoples, fuelled by long-simmering sentiments. Indigenous peoples have been reportedly killed, attacked and humiliated in a number of cases and subjected to hate speech and acts of hostility, such as the burning of the Wiphala flag.<sup>98</sup> The Permanent Council of the Organization of American States has specifically condemned the racist and discriminatory acts of violence against indigenous peoples.<sup>99</sup> Furthermore, a number of senior leaders of the Movimiento al Socialismo party have been prosecuted for or accused of serious crimes, such as crimes of sedition and terrorism,<sup>100</sup> creating fears of a witch-hunt among the party's leaders and supporters.

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Bolivia", *Cuadernos de Coyuntura*, No. 21 (December 2018); and Ray Gallagher and Sanborn, "Standardizing sustainable development?".

<sup>95</sup> Office of the United Nations High Commissioner for Human Rights, "Bachelet says repression as well as unnecessary and disproportionate use of force risk inflaming situation in Bolivia", 16 November 2019.

<sup>96</sup> Organization of American States (OAS), "CIDH presenta sus observaciones preliminares tras su visita a Bolivia, y urge una investigación internacional para las graves violaciones de derechos humanos ocurridas en el marco del proceso electoral desde octubre de 2019", 10 December 2019. Available at [www.oas.org/es/cidh/prensa/comunicados/2019/321.asp](http://www.oas.org/es/cidh/prensa/comunicados/2019/321.asp).

<sup>97</sup> Ombudsman's Office, "Afectación a derechos en conflicto elecciones 2019". Available at [www.defensoria.gob.bo/contenido/afectacion-a-derechos-en-conflicto-elecciones-2019](http://www.defensoria.gob.bo/contenido/afectacion-a-derechos-en-conflicto-elecciones-2019).

<sup>98</sup> OAS, "CIDH presenta sus observaciones preliminares".

<sup>99</sup> Permanent Council of OAS, resolution CP/RES. 1142 (2268/19) rejecting violence in Bolivia and calling for full respect of the rights of the indigenous peoples in the Plurinational State of Bolivia, 18 December 2019.

<sup>100</sup> OAS, "CIDH presenta sus observaciones preliminares".

52. Full respect for due process and human rights is critical to rebuilding democratic institutions and the rule of law, pursuing national reconciliation and achieving sustainable development in the Plurinational State of Bolivia. As highlighted in the guiding principles on human rights impact assessments of economic reforms, all human rights are indivisible and interdependent. Full respect for civil and political rights is the key to ensuring that policymaking processes are truly inclusive, participatory and representative, in turn laying the foundation for sustainable development and the realization of economic, social and cultural rights.

## V. Conclusions and recommendations

53. In light of the latest political developments in the Plurinational State of Bolivia, it is worth recalling that democracy, the rule of law and full respect for human rights are the building blocks of inclusive growth and sustainable development. The brutal acts of repression and violence against the population by State agents in the aftermath of the presidential elections – in particular after the resignation of Mr. Morales – painfully attest to the fact that those building blocks have been destroyed. There is no place for sustainable and inclusive development unless democratic institutions are restored on the basis of full respect for human rights.

54. The Plurinational State of Bolivia has been remarkably successful in turning itself into one of the thriving economies in the region. The export boom in hydrocarbons, coupled with strong and continuous public investment and increased domestic consumption, have been the engine of economic growth. The Government has in recent years determinedly dedicated increased fiscal revenues to public investments, which has contributed to a significant reduction in poverty and inequality, as well as to social inclusion.

55. After many years of success in expanding the economy and promoting social inclusion, the growth of fiscal revenue slowed down due to the fall in commodity prices in 2014. Nevertheless, instead of turning to austerity measures, the Government maintained the high level of public investment and resorted to international reserves and external borrowing as alternative sources of finance. There is an emerging need to reassess the economic sustainability of the prevailing model, in view of the fiscal imbalance caused by the rapid loss of international reserves and the increased public debt. The change in the fiscal revenue matrix has further accentuated the existing structural constraints in the economic and social system, including limited economic diversification, the regressive tax system, the large degree of informality and the uneven distribution of fiscal revenue to subnational governments. For the model to contribute to the full realization of human rights, its structural constraints need to be evaluated and addressed on the basis of a human rights framework. As highlighted in the guiding principles on human rights impact assessments of economic reforms, fiscal, monetary, tax, social labour market and other public policies must be coherent and coordinated, so that they contribute to the ultimate goal of achieving the greater respect for protection and promotion of human rights.

56. Furthermore, while economic growth has brought many benefits to the population, there is a need for deeper reflection on rising tensions in relation to different values and goals, such as: mass consumption and the concept of living well; property and collective rights and solidarity on the one hand, and individualism propelled by the market economy on the other; and extractivism and the protection of *Pachamama* (Mother Earth) in line with the vision of the Patriotic Agenda 2025. Reflection on these values and goals is all the more urgent and critical in light of the latest political developments in the country.

57. Under international human rights law, States have an obligation to progressively realize the economic, social and cultural rights of people within its territory, including the rights of everyone to an adequate standard of living and the continuous improvement of living conditions. These rights cannot be reduced to exponential economic growth and mass consumption of goods and services, and an

economic and social model prominently based on such objectives will not contribute to sustainable development in the long term. Unless development processes are fully anchored in a human rights framework, economic development will not enhance the realization of the people's rights. To that end, States need to comprehensively and regularly assess the impact of economic policies and reforms on human rights, particularly the human rights of groups and persons in marginalized and vulnerable positions, and mitigate or remedy any negative effects of the policies.

58. The transition to a new Government should be based on democratic processes and full respect for human rights and the rule of law. Any reform measures that a new Government may adopt should build on the significant advances made in the last decade in the realization of economic, social and cultural rights, and seek to address the existing fiscal and macroeconomic challenges highlighted in this report, using the guiding principles on human rights impact assessments of economic reforms as a guidance.

59. The Independent Expert makes the following recommendations to the Government, in order to maximize the contribution of its economic and social model to the full and equal realization of human rights for all:

(a) The current revenue matrix, which heavily depends on VAT and hydrocarbons taxes, is highly regressive and has a limited redistributive value. The direct tax bases should be broadened and more progressive forms of direct taxes considered, such as personal income tax and wealth tax, particularly in view of the fact that hydrocarbons tax is vulnerable to external price volatility and its redistributive impact limited;

(b) It is crucial, as a first step, to collect and study comprehensive, accurate and disaggregated data on the scale of informality and its impact on the economy and the human rights of the population. On the basis of objective evidence, the Government should make targeted efforts to achieve a transition to the formal economy and a comprehensive social protection system;

(c) In light of numerous and divergent indications of a significant volume of illicit financial flows, the Government should urgently address the clear shortcomings in official estimates and analysis of data related to illicit financial flows and take such data into account in formulating policies in this area;

(d) The Government should establish a legal framework governing the protection of witnesses and whistle-blowers, in line with article 32 of the United Nations Convention against Corruption;

(e) While acknowledging the Government's strong commitment to gender equality, the economic inclusion of women has not gone far enough. In particular, unpaid care and domestic work should be recognized as valuable work, taking into account the actual economic value and contribution of such work to the economy and including it in national accounts. The Government should invest more public funds in the care economy – that is, care for people with disabilities, children and older persons, as well as health care – and ensure that high-quality care services are accessible and affordable to all, taking into account all possible family structures without any kind of discrimination;

(f) The existing legal framework governing processes of prior consultation with affected communities falls short of international human rights standards and does not comprehensively cover all infrastructure projects that may have a significant impact on the human rights of such communities, particularly the human rights of indigenous peoples. The Government should establish comprehensive and robust legislation that mandates a full human rights impact assessment for any infrastructure project and meaningful consultations with potentially or actually affected communities, in line with international human rights law and standards;

(g) More generally, human rights impact assessments should be integrated as an essential component of economic policymaking. To this end, human rights indicators that are being jointly developed by the Ministry of Justice and the National

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**Institute of Statistics should include indicators on human rights impact assessments of economic reforms;**

(h) **In terms of the effective distribution of resources, the fiscal pact should take into account the different needs and challenges that each department and municipality faces in determining the allocation of revenue at the subnational level. It should also consider possibilities for broadening their capacity to raise their own revenue;**

(i) **In terms of increasing transparency and access to information, the Government should adopt legislation that clearly provides for the right of access to information and processes to seek such access, as well as institutional and operational measures to enhance the management and disclosure of information;**

(j) **In integrating a human rights framework into development processes, it is critical that all public institutions legally recognize and uphold human rights in the implementation of economic policies. Given the explicit recognition of economic, social and cultural rights in the Constitution, and the international human rights commitments that the State has made, the judiciary should play a more active role in cases in which the enforceability of economic and social rights is at stake.**

60. **The Independent Expert further recommends that international financial institutions and multilateral and bilateral development banks put in place adequate environmental, social and human rights safeguards. Such safeguards should include a comprehensive human rights impact assessment in determining the approval of loans, and monitoring and reporting of human rights impacts during project implementation. Through human rights impact assessments at all stages of the project cycle, institutions and banks should ensure that the projects that they finance do not contribute to human rights violations, and take appropriate measures to mitigate any negative impact on affected communities.**