

Ecuador at the cross-roads. For an integral audit of public indebtedness.

This collective work was carried out in July 2007 at the request of AFRODAD (www.afrodad.org) by a team at the CADTM composed of Benoît Bouchat, Virginie de Romanet, Stéphanie Jacquemont, Cécile Lamarque and Eric Toussaint.

It was revised by Myriam Bourgy, Damien Millet and Renaud Vivien.

The English translation was done by Elizabeth Anne, Vicki Briault, Judith Harris and Christine Pagnouille.

Chapter 1: Ecuador's Illegitimate Debt

- A. Financial and economic crime against human development
- B. Rafael correa's government: towards a sovereign debt policy
- C. The doctrine of illegitimate debt
 - 1. Odious debt
 - 2. Illegitimate debt
- D. The origins of Ecuador's debts
 - 1. The process of indebtedness in Ecuador
 - 2. The illegitimacy of debts and payments in Ecuador

Chapter 2 : Legal and institutional issues concerning illegitimate debt

- A. The context
- B. Ecuador's illegitimate debt
- C. The non-respect of legal provisions
- D. Textbook cases
 - Odious loans to the dictatorship
 - Unacceptable loans
 - Inappropriate loans
 - Unacceptable conditions
 - Conditions violating internal law

Chapter 3: Information and statistics in Ecuador

- A. Debts and creditors
 - Loans from other Countries
 - Loans from private credit organisations
 - Loans from multilateral credit organisations
- B. Objectives and results

Chapter 4: The socio-economic impact of the debt

- A. An unsustainable debt burden imposed by the creditors
- B. Economic policies imposed by the creditors
- C. The social and economic consequences
 - Increasing poverty, rising inequalities and worsening living conditions
 - Mass emigration
 - Destruction of the environment
 - Non respect of commitments

Chapter 5: Renegotiating the debt

- A. Moratoria: wasted opportunities
- B. Exchanges and rescheduling
 - The Brady Plan
 - Global Bonds
 - Restructuring the bilateral debt with the Paris Club
- C. Debt cancellations
 - The HIPC initiative and Ecuador
 - The decision of the Norwegian government in October 2006: an unprecedented acknowledgement by a creditor State of its responsibility in bad lendings

Chapter 6: Conclusions and recommendations

- A. Identifying Ecuador's illegitimate debt as a prelude to political sovereignty
- B. The right of governments to determine the illegitimacy of a debt
- C. The World Bank and the IMF are legally responsible!
- D. Actions by creditors of the North
- E. Actions by the United Nations
- F. Alternatives defended by social movements and some Latin-American governments against the debt

Chapter 1: Ecuador's Illegitimate Debt

Indebtedness in developing countries presents a specific feature which has to be set at the heart of public debate: it results from an ongoing policy of deprivation and subordination of these countries by more industrialised countries, transnational corporations (TNCs) and international financial institutions, with the elites of the South aiding and abetting.

Like other indebted countries in the third world, Ecuador is the victim of criminal over-indebtedness: while it is one of the countries in Latin America with the most natural wealth, its resources, mainly oil and bananas, have been systematically plundered by TNCs, creditors and landowners. A massive and criminal indebtedness has worked as the main mechanism through which resources are stolen.

As a consequence, Ecuador is the Latin American country devoting the highest part of its budget to paying back its debt, which has an impact on public expenditure, notably health and education. In 1980, 40% of the budget went to health and education expenses and 15% to servicing the debt. In 2005 the situation was reversed: the government spent 40% of the budget on servicing the debt while health and education expenses amounted to no more than 15%!¹ These figures clearly indicate the priorities of successive former governments when they distributed resources: those who had to be satisfied first were the creditors, no matter if it was detrimental to the most fundamental needs of the people. In the face of such an outrageous situation it is essential to take action.

A. FINANCIAL AND ECONOMIC CRIME AGAINST HUMAN DEVELOPMENT

The financial haemorrhage started under the military dictatorship of Guillermo Lara (1972-1976) and Alfredo Poveda (1976-1979), with the oil boom in the 1970s that marked the beginning of the process through which the country slipped into indebtedness. It further deteriorated with the rise in interest rates, unilaterally decided by the United States in 1979, and by the process of “sucretisation” (chapter 2). For nearly twenty years, successive governments all followed the same path. They all implemented the austerity measures that the IMF and the WB imposed in order to grant new loans and pay back old ones, thus feeding the vicious circle of the debt. Implementing those neo-liberal policies – drastically reducing social expenses, privatizing key industries such as oil, gas, electricity and telecommunications, suppressing subsidies for essential commodities – had disastrous social and economic consequences: 80 % of the population lived on less than 2 dollars a day, workers were more vulnerable because of an increasingly “flexible” labour market, the unilateral opening of markets and the *dollarization*² of Ecuador’s national currency in 2000 led to thousands of small and medium-sized companies, both in farming and in manufacture, becoming bankrupt because they could not compete with commodities that were imported at a lower price thanks to heavy subsidies. This resulted in such massive unemployment that millions of people left Ecuador to migrate to Europe or the United States.

We can thus understand the sense of frustration and the determination to bring about a radical change that can be found in an increasingly large proportion of the population, particularly since the beginning of the 1990s: general strikes and governmental and revolutionary crises followed fast one upon the other, leading to the downfall of three heads of state within a few years and mirroring the growing awareness of the ills of capitalism, which can be perceived in recurring protest against the interference of IFIs, against US imperialism and against the free trade agreement.

These neo-liberal policies condemned Ecuador to under-development and the loss of its sovereignty. Development, making poverty history, and fighting illiteracy were some of the official motives invoked for contracting loans over the past thirty years, but they were used to conceal the reality of the debt and its effects: social, cultural, economic and political deterioration of the country, as constraints resulting from the external debt increased.

¹ « Auditoría ciudadana de la deuda ecuatoriana », a lecture by Hugo Arias during the First International Symposium on Public Debt, Caracas, Venezuela, 22-23-24 September 2006.

² In 2000, Ecuador abandoned its own currency for the US dollar

The present paper intends to shed light on Ecuador's illegitimate debt and to highlight some moments in its political and economic history when decisions were taken that led to the present situation, namely heavy indebtedness, economic and financial dependence, and increasing inequalities. Yet a new element occurred in November 2006, which accounts for a most particular context: people elected Rafael Correa as president of the Republic.

As soon as he took office in mid-January 2007, the new president subscribed to fundamental commitments, such as refusing that the country become part of the FTAA (Free Trade Area of the Americas) and refusing to renew the lease for the US military base in Manta.³ He showed a deep commitment to Latin-American integration, notably by actively participating in the creation of the Bank of the South,⁴ giving priority to social and productive investments, protecting the environment,⁵ and organising the election through universal suffrage of a Constituent Assembly in charge of the democratization of the country.⁶ A leading commitment of the new government is restructuring the external and internal public debt and carrying on the debt auditing process initiated by former President Alfredo Palacio. To this end, on July 5th 2007 President Correa signed the presidential order setting up a Commission for the Integral Audit on Public Credit (Comisión para la Auditoría Integral del Crédito Público - CAIC). The Commission, that held its first meeting on 23rd and 24th July, has a mandate for one year, renewable if necessary. The CAIC is authorised to “conduct the audit and to elucidate all cases of indebtedness of State institutions (“está autorizada para auditar y transparentar todos los procesos de endeudamiento de las instituciones del Estado”). It is composed of four representatives of State and government at the highest level, six representatives of social and citizens’ organisations in the country, and three international representatives of non-governmental organisations specializing in debt⁷.

Ecuador is thus a perfect illustration of a government that takes the sovereign decision to audit the debt process in order to achieve the cancellation of those debts that the auditing process will show to be illegitimate.

Since the election of Rafael Correa as president the balance of power has changed. Consequently, governments of rich countries, multilateral institutions, financial markets, allied Latin-American governments and anti-globalization movements have developed a keen interest in what is going on in Ecuador. Creditors are on the lookout: what kind of measures will the Correa government take concerning its debts?

³ The agreement according to which the US can use a military base on Ecuadorian soil runs out in 2009 and will not be renewed.

⁴ Correa's government has whole-heartedly adhered to the "Bank of the South" project launched by Venezuela and Argentina in February 2007, and contributed to defining its orientations. This Bank of the South should be created by the end of 2007. It will support peoples of the South in the re-appropriation of their natural resources and help finance projects in the fields of health care, education, infrastructures, manufacture, etc. For Correa this initiative does not only mean the chance to end their country's dependence on international loan bodies such as the IMF and the WB but also an opportunity to adopt a common currency. The Bank of the South project will contribute to solving social, commercial and economic difficulties while remaining outside international financial and economic constraints and will thus participate in the retrieval of national and regional sovereignty.

⁵ The Ecuadorian government also launched an initiative to prevent oil extraction in the Yanusi National Park. It tried to raise funds at an international level to compensate for half of the revenues that oil drilling would have generated. If it is actually implemented this innovative policy would represent a historic precedent in the quest for alternatives to a productivist model that destroys the environment.

⁶ In the referendum that took place in April 2007, 82% of the population voted in favour of the election of a Constituent Assembly, to be held in October 2007.

⁷ Including Eurodad, Jubileo Sur, CADTM, Latindadd.

B. RAFAEL CORREA'S GOVERNMENT: TOWARDS A SOVEREIGN DEBT POLICY

Rafael Correa has committed himself to putting a stop to the absurd vicious circle of debt payment and the various kinds of refinancing agreements. To this end he wants to carry on the auditing process set up by the former president Palacio with the Special External Debt Auditing Commission" (CEIDEX).⁸

Having been given a very short time (6 months), the CEIDEX analysis only examined a few cases, though among the most representative, its conclusions are unequivocal: it found many irregularities in the way debts were renegotiated, new loans granted, and funds used, so that a large part of the debt turns out to be illegitimate.

The Correa government intends to push investigations further and identify illegitimate debts, whether to multilateral creditors such as the WB, the IMF, or the IDB, or to bilateral creditors.⁹ On the basis of what the audit will show, Ecuador will renegotiate the payment of its external debt, refusing to pay any debts that did not benefit its population or were contracted in a criminal way and are consequently illegitimate, and bringing legal action against those who were responsible for the current situation of indebtedness. Correa's position is clear: the country's external debt will be paid only in so far as it does not jeopardize the priorities required by national development, which may include a moratorium if the economic situation makes it necessary. The government thus takes up the position of a creditor country in the face of a debt that has largely been paid back and a significant part of which is illegitimate, a fact which justifies not paying it back at all.

In February 2007, according to figures provided by Ecuador's Central Bank, the country's external debt amounted to USD 16 800 million, of which USD 10 483 million had the backing of the public authorities. This meant that if the government agreed to bleed itself dry to pay back it would have had to make an unsustainable effort in 2007: the predicted debt service was some USD 2 800 million (i.e. 38% of the national budget).

But the Correa government chose another alternative: in order to use the country's resources for social and productive expenses, it decided on a significant reduction of the portion of the budget dedicated to paying and servicing the external debt, namely from 38% in 2006 to 11.8 % in 2010. During the same period human investment will rise from 22 to 38.4% and productive investment from 6.4% to 11%.¹⁰ Implementing these fundamental budget objectives will partly depend on the audit's results and the repudiation of illegitimate debts. It is thus essential to determine which debts can be challenged in order to subsequently cancel their payment.¹¹ Otherwise, the Ecuador government will have to pay huge amounts to its creditors, as already happened back in February when it had to pay close to USD 1000 million to creditors. Ecuador paid back its USD 11.4 million external debt to the IMF and Correa does not consider calling upon this institution to obtain a loan. With the same determination to assert its independence, Correa expelled the WB representative in Ecuador in April 2007, which drew the attention of the international media. He had not forgotten that in 2005, when he was minister for the economy in the Palacio government, the WB blocked a promised USD 100 million loan by way of reprisal for the reforms initiated by the FEIREP (Stabilisation,

⁸ The commission's mandate was to check whether the external debt was legitimate, to analyse the social and economic consequences of renegotiations, to examine whether projects had been carried out and objectives met, to define recommendations about debt policies that turn out to be responsible for the country's indebtedness. However, it had no power to launch any legal action against national or international people or bodies identified as bearing such responsibility.

⁹ The country has over 15 bilateral creditors for an amount of USD 2 billion, i.e. 20% of Ecuador's public external debt. Its main creditors are Spain, Japan, Brazil and Italy.

¹⁰ The government finances about 35% of its budget with oil revenues, oil being its main export commodity. Under the Palacio administration, the hydrocarbons reform law made it possible for the government to tax multinational oil companies more heavily. Correa and his minister for energy, Alberto Acosta (who resigned from this post on 15 June to run as a candidate in Correa's party "Movimiento País" for the Constituent Assembly), plan stronger government control of the oil industry and renegotiation of agreements with foreign companies so as to increase revenues and to ensure that the country's oil resources, which so far have been used to pay the debt, also be used for development purposes.

¹¹ The new auditing commission was officially launched at Guayaquil on 23 July 2007.

Social and Productive Investment and Public Debt Reduction Fund), which recommended that oil revenues should be used to develop social policies rather than to pay back the debt.

More recently, IMF representatives were also invited to leave the offices they occupied in the country's Central Bank and indeed leave the country altogether, with 15 July as a deadline set by the minister Patiño.¹² "We never want anything to do with international bureaucracy again," Correa said, bringing to an end two decades of submission to the perverse recipes of the IMF and the WB.

Correa has thus stopped the interference by international financial institutions which he rightly considers to be responsible for the country's disastrous social and economic situation, to support national and regional sovereignty.

If the economic and social reforms that Correa and his government¹³ announced are actually implemented, if he can reduce the US influence on his country, if the audit makes it possible to cancel significant debt amounts, as it should, then it is possible for us to hope that a fairer distribution of riches will improve living conditions for all in this country of glaring inequalities. Indeed Correa's commitment to the cancellation of illegitimate debts via the auditing process, a necessary step on the road to another model of socially fair development, is part of a more general project of radical change and assertion of a sovereign national policy.

Ecuador has entered a transition period and nobody can tell how it is going to end: in order to achieve his purpose, Correa will need wide popular support because destabilization campaigns by right-wing parties and the local oligarchy, determined not to give away any of their privileges and strongly supported by international finance and by the U.S. government, will have to be vanquished. Nothing is guaranteed in advance, Rafael Correa and his government may vacillate, like so many other governments, and lack boldness. What will be decisive is the population's ability to become a direct agent of change. Support from the social and citizens' movements of the world will also be a factor of success.

C. THE DOCTRINE OF ILLEGITIMATE DEBT

In our definition of key notions on debt, we will first discuss those that legal doctrine and jurisprudence call "*odious debt*," before considering the larger category of "*illegitimate debts*", i.e., debts that do not meet the population's needs and expectations, that generate human, social, environmental and political disasters, etc.

1. ODIIOUS DEBT

The doctrine of odious debt was first formulated by Alexander Nahum Sack, a Russian jurist and former minister of Nicholas II in 1927. He wrote:

If a despotic power incurs a debt not for the needs or in the interest of the State, but to strengthen its despotic regime, to repress the population that fights against it, etc., this debt is odious for the population of all the State.

*This debt is not an obligation for the nation; it is a regime's debt, a personal debt of the power that has incurred it, consequently it falls with the fall of this power.*¹⁴

This doctrine introduces an exception to the principle of "*continuity of the State*" as stated by the Convention of Succession of State in respect of State Property, Archives and Debts. According to this rule in international relations, a State has to honour international obligations independently of changes in its regime. Sack claimed that in the case of odious debt, the later government can forfeit the former's obligations: "[Such] debts do not fulfil one of the conditions that define the regularity of a State debt, namely that State debts must be contracted and funds thus acquired must be used to the end of meeting the needs and interests

¹² *El FMI deja sus oficinas del Banco central*, (The IMF leaves its offices in the Central Bank) Argenpress, 15 July 2007, <http://www.argenpress.info/nota.asp?num=044989&Parte=0>

¹³ For more information, see the 2007-2010 plan proposed by Rafael Correa's government, which can be accessed on the portal of the minister for the economy, www.mef.gov.ec

¹⁴ Quoted by Patricia Adams in Chapter 17 of her book *Odious Debts: Loose Lending, Corruption, and the Third World's Environmental Legacy*, found on <http://www.odiousdebts.org/odiousdebts/index.cfm?DSP=subcontent&AreaID=3>

of the State.” Any debt can thus be considered odious if it was contracted by an illegitimate government and/or if it was not used to meet the needs and interests of the people. Moreover, Sack argues that lenders are responsible: if they know the borrower's intentions, they are guilty of “*a hostile act against the people*” and run the risk of not being paid if the regime falls. They cannot then claim their money back.

Sack used a number of historical precedents to elaborate the notion of odious debt: thus the law has merely ratified an existing situation.

Some historical precedents¹⁵

Mexico was the first country to repudiate odious debt. In 1861 Benito Juarez announced a two-year freeze on repayment of Mexico's external debt (notably contracted by dictator Antonio Lopez de Santa Anna. Some fifteen years later Mexico voted the 18 June 1883 law called "settlement of the national debt", which repudiates as void and odious debts that were contracted between 1857 and 1860 and from 1863 to 1867.

The odious debt doctrine was again called upon three decades later with regard to Cuba. In 1898 Cuba was freed of Spanish domination as a result of the Spanish-American war, and the United States took control of the island. Defeated Spain claimed from the US the payment of the debt owed by Cuba. The US refused to pay, claiming that this debt was odious since it had been imposed by Spain without the Cuban people's consent. In 1898 the Paris Treaty ratified this interpretation, and the debt was cancelled. The notion of "odious debt" was thus at least implicitly acknowledged.

In 1919 the Versailles Treaty cancelled the debt Germany claimed from Poland since it had been used to colonise the country. Article 255 says: “*In the case of Poland that portion of the debt which, in the opinion of the Reparation Commission, is attributable to the measures taken by the German and Prussian Governments for the German colonisation of Poland shall be excluded from the apportionment [to be paid to Germany].*” Similarly, after the Second World War the 1947 peace treaty between France and Italy states that it is “*unthinkable that Ethiopia should bear the burden of debts contracted by Italy in order to ensure its domination on Ethiopian territory*”.

The legal case that opposed Costa Rica and Great Britain in 1923 is one of the few instances when a court had to make a decision. Considering the way dictator Federico Tinoco had embezzled funds lent by the Royal Bank of Canada (a British bank), the Costa Rican government passed the Law of Nullities in 1922, a law that cancelled all contracts undertaken by Tinoco's government from 1917 to 1919. Britain challenged this law and the dispute was taken to the International Court of Arbitration, chaired by Justice Taft, Chief Justice of the Supreme Court of the United States, who sanctioned the Law of Nullities and declared: “*The case of the Royal Bank depends not on the mere form of the transaction but upon the good faith of the bank in the payment of money for the real use of the Costa Rican Government under the Tinoco regime. It must make out its case of actual furnishing of money to the government for its legitimate use. It has not done so.*”¹⁶

More recently, the doctrine of odious debt was invoked to support demands for debt cancellation in Rwanda, Iraq, and Nigeria.

En 1998 the *British House of Commons' International Development Committee* pointed out the odious nature of Rwanda's debt in favour of its cancellation: “*the bulk of Rwanda's external debt was incurred by [a] genocidal regime . . . Some argue that loans were used by the genocidal regime to purchase weapons, and that the current administration, and ultimately the people of Rwanda, should not have to repay these "odious" debts . . . We urge the Government to insist that multilateral debt relief for Rwanda be implemented as rapidly*

¹⁵ CADTM, *Le droit international, un instrument de lutte ? Pour une justice au service des peuples*, CADTM/Syllepse, Liège/Paris, 2004.

¹⁶ <http://www.threegorgesprobe.org/probeint/OdiousDebts/doctrine.htm>

as possible. We further recommend that the Government urge all bilateral creditors, in particular France, to cancel debt incurred by the previous regime.”¹⁷

In 2003, after the military invasion of Iraq by the United States and their allies, and the collapse of Saddam Hussein's regime, the United States called for the cancellation of Iraq's debt – defined as odious – so as to spare the new regime they had just set up the burden of paying it back. But they soon realized the danger of creating a precedent and dropped the odious debt argument. On the other hand, they had the Paris Club agree to an 80% cancellation of Iraq's debts without any reference to its odious nature.¹⁸

In early 2005, when the high price of oil gave Nigeria a hold on its creditors, the Nigerian Parliament asked the government to repudiate a debt that had been largely inherited from various military dictatorships, notably under Sani Abacha (1993-1998). Here too, President Olusegun Obasanjo preferred negotiating with the Paris Club, and was granted a 60% reduction of the Nigerian debt in exchange for an advance payment of the remaining 40%, that is, USD 12 billion.

Since Sack's legal developments, and apart from work on this issue produced within the CADTM,¹⁹ several authors have written on odious debt, notably Patricia Adams²⁰, Joseph Hanlon²¹, or the Canadian authors Jeff King, Ashfaq Khalfan and Bryan Thomas²² of the Centre for International Sustainable Development Law (CISDL). According to the latter, a debt is odious if it simultaneously meets the three following criteria: there must be absence of consent of the population, absence of benefit to the population, and lastly the lenders must be aware of absence of consent and benefit.²³ If a debt meets those criteria then it can be called odious. If a debt is odious, it is null and void and cannot be claimed from a given country once the contracting regime has fallen.

2. ILLEGITIMATE DEBT

An "illegitimate debt" has, strictly speaking, no legal definition, yet a definition emerges from various cases that can be encountered in the history of indebtedness. It is reasonable to classify as illegitimate a debt which goes counter to law or public policy; a debt which is unjust, inappropriate or abusive; a debt which an indebted country should not be forced to repay because the loan, or the conditions attached to the loan, violate a country's sovereignty and infringe human rights. The debts of the countries of the South frequently meet this definition. The loans granted by the IMF and the World Bank, conditioned by the enforcement of structural adjustment policies, can thus be considered illegitimate.

It is clear that the notion of illegitimate debt is based first and foremost on a moral judgment. The concept of "illegitimate debt" was first mentioned in an official verdict in 2000 : the Olmos¹⁷ verdict (so named after the journalist who lodged a complaint against the dictatorship of Jorge Videla) pronounced on 13 July 2000 by the Argentine Supreme Court, served to reveal the illegitimate nature of the external debt contracted during the dictatorship (1976-1983) and the liability of the creditors and debtors.

At the end of 2006, Norway invoked this concept to allow a number of its debtor countries (including Ecuador as it happens) to forgo repayment of certain debts. This

¹⁷ Report of the British International Development Committee, May 1998, see also <http://www.odiousdebts.org/odiousdebts/index.cfm?DSP=content&ContentID=14638>

¹⁸ See D. Millet, « La dette de l'Irak n'a jamais existé » (The Iraqi Debt Never Existed), *Le Monde*, 23 November 2004

¹⁹ See www.cadtm.org

²⁰ Patricia Adams, *Odious Debt*, Earthscan, 1991. Patricia Adams has also developed a website on the issue, see odiousdebt.org

²¹ Joseph Hanlon, *Dictators and debt, 1998 ; Defining Illegitimate Debt and Linking its Cancellation to Economic Justice*, Open University for Norwegian Church Aid, June 2002.

²² Khalfan, King & Thomas, *Advancing the Odious Debt Doctrine*, Centre for International Sustainable Development Law, Montréal, 2003.

²³ See <http://www.cisdsl.org/debtlegitimacy.html>, executive summary.

²⁴ [The full text can be downloaded at http://www.cadtm.org/IMG/rtf/sentencia_olmos.rtf.](http://www.cadtm.org/IMG/rtf/sentencia_olmos.rtf)

innovative approach will be discussed in Chapter 5.

The notion of illegitimate debt is evolving and becoming more precisely defined thanks to the contributions of a number of authors and social movements.

Joseph Hanlon proposes four conditions that render a loan illegitimate: a loan granted for the purpose of reinforcing a dictatorial regime (unacceptable loan); a loan with excessive interest rates (unacceptable conditions); a loan granted to a country while being aware of its incapacity to repay (inappropriate loan); a loan dependent on IMF-imposed conditions, creating an economic situation that makes repayment more difficult still (inappropriate conditions).

In 2000, the Canadian Ecumenical Jubilee Initiative²⁵ took up the moral argument: "Repayment of the debt leads to serious deprivation which threatens the cohesion of the community. In such a situation, the debt is illegitimate. The justice of a contract may not be guaranteed if the relationship between the parties is too unequal. Similarly, a contract may not be legally binding if it endangers the health or the life of one of the parties. Ending a contract, or in this case cancelling or repudiating a debt, can be a moral response to what would be an immoral or illegitimate situation, should it continue." The Canadian Initiative continues its definition of illegitimate debt, no longer placing it in the moral sphere, but in the context of politics, economics and structural problems caused by the present financial architecture, declaring that the debt "is not an aberration, but one key mechanism of exploitation. Where the system itself is illegitimate, the fruit of that system – debt - is also illegitimate, and the term 'illegitimate debt' becomes a means of questioning the system itself. In this context, debt cancellation is a necessary but insufficient step; systemic change is required."

The Latin-American Parliament has, in its turn, developed four grounds for illegitimate debt:

- A. The origin of the debts, given that in many cases they have been fraudulently and criminally contracted. For example, the conversion of private debts into public debts.
- B. The unilateral increase in interest rates, initiated in 1979.
- C. The Brady Plan agreements, which forced the governments of indebted countries to renegotiate debts and in the process obliged them to recognize illegitimate debts.
- D. The co-opting of negotiators within the government, who sign the agreements and soon after, leave their post to take up another one in the financial institution that benefits from these agreements.

More recently, the studies carried out by the Debt Observatory in Globalization and the book by Laura Ramos²⁶, published by the Observatory, bring new arguments and justifications to support the concept of "illegitimate debt" and its repudiation. They explain the distinctions between, for example, debts of oppression, war, elitism, corruption, or debts for "rescue" purposes.

Finally, various collectives on debt in a number of countries organize seminars on the concept of illegitimate debt.

²⁵ <http://debt.socioeco.org/documents/6illegitime.htm>

²⁶ "Los Crímenes de la Deuda. La Deuda Ilegítima", (Debt Crimes. Illegitimate Debt) Laura Ramos, published by the Debt Observatory in Globalisation (ODG), Icaria, March 2006. The French version will be co-published by CADTM and Syllepse in 2007.

D. THE ORIGINS OF ECUADOR'S DEBTS

1. The process of indebtedness in Ecuador

The work being carried out by the Special Investigation Committee on Ecuador's External Debt retraces the pernicious process that has led to the country's present indebtedness, a general outline of which follows²⁷.

The origin and expansion of the debt

Starting in the 1970s, and with oil revenues soaring, Ecuador saw its external debt increase significantly. This situation was to become intolerable just a few years later. In 1978, a change in Ecuador's Constitution marked a real turning-point. From then on, Parliament had absolutely no say in the country's policy on debt, leaving the door wide open to corruption and clientelism.

In the early 1980s, following successive devaluations of Ecuador's currency (the sucre), a serious financial crisis broke out in the private sector. To remedy this, the State launched an operation to rescue the banking sector, which held the debts of national companies. This rescue operation went by the name of "sucretization", a process that in fact consisted of converting the private debt into a public one, and which multiplied the debt by 6, increasing it from USD 1 650 million to USD 7 500 million.

A significant number of the legal reforms were pushed through under the influence of the international financial institutions to ensure repayment of the debt. Examples include the decree recognizing unrepayable debts and the issuing of State currency bonds designed to buy back some of the private debt.

Refinancing the public external debt ...

With the relaxing of the legal and constitutional framework, Ecuador's indebtedness continued to rise in the 1990s with the issuing of new State bonds, including the *Brady* bonds²⁸. In 1993, the State issued bonds amounting to the total remaining external public debt – some USD 909 million. This was clearly an operation designed to finance the external debt which, in its turn, had served to finance the debt from 1983 to 1985. In 1994, a new decree authorized the issue of new bonds and agreements with foreign banks.

... and rescheduling it

After the financial crisis of 1999, a new rescue operation was launched. It consisted of exchanging "Brady" bonds for "global" bonds at interest rates from 10 to 12%. Two years later, a new law on accountability and fiscal transparency was brought in, ensuring the repayment of the public debt with oil revenues. Thus the debts contracted during the 1980s, many of them contracted for speculative purposes, were extended for a further term.

The proliferation of development project management departments

In this context of deregulation and relaxing of the legal framework, promoted by the multilateral organizations, countless departments sprang up in Ecuador for the purpose of managing projects financed by external credits, but acting with little coordination amongst

²⁷ Excerpt from the article by Eric Toussaint: « L'analyse de trente ans de debt extérieure de l'Ecuador » (An Analysis of Thirty Years of Ecuador's External Debt), www.cadtm.org/article.php3?id_article=2628

²⁸ In 1989, the Brady Plan (named after the United States Secretary of the Treasury) offered an exchange of commercial bank claims for bonds guaranteed by the US Treasury, on condition that the creditor banks reduce the amount of claims and put the money back in circulation. The beneficiary countries, on their part, undertook to consolidate part of their debt and sign structural adjustment programmes with the IMF. In this way the problem was solved as far as the banks were concerned, and merely prolonged for the debtors. Brady bonds represent a little less than half of Ecuador's public debt.

themselves and barely better coordinated with government. On the one hand, the poor management and malfunctioning of the system (which in the absence of an efficient planning and monitoring body, subordinated national standards to those of the IFI), and on the other hand the onerous conditions imposed on the country (not considered poor enough to benefit from more favourable terms) further increased Ecuador's debt burden.

2. The illegitimacy of debts and payments in Ecuador

Throughout this work, we will be analysing the illegitimacy of Ecuador's debt, both from a political and economic viewpoint.

Numerous legal arguments sustain the claim that Ecuador's debts are illegitimate or odious. The flagrant violation of human, economic, social and ecological rights caused by the debt makes it illegitimate, unjust, immoral and unrepayable. Since refusal to repay is the only means of ensuring the population's basic needs, the "state of necessity" must be invoked. Another argument justifying repudiation of the debt is the violation of national sovereignty, since all external debt should comply with the country's laws and the national interest.

The debt is odious because of the "aggressive indebtedness" organized under military dictatorships which started this pernicious process. The debts contracted to pay for old odious debts must also be declared null and void.

Contracts carrying excessively heavy interest rates also fall into the illegitimate category. Here one can invoke "force majeure", since the dramatic increase in interest rates decided unilaterally by the United States has modified the circumstances of the agreements made between Ecuador and its creditors. The UN International Law Commission defines it thus: "The legal impossibility (...) is the situation in which an event, either unforeseen or beyond the control of the person who invokes it, makes this person absolutely unable to respect his obligation by virtue of the principle that no-one is bound by what is impossible"²⁹.

The plethora of conditions for rescheduling and renegotiating debts, and the conditions attached to the granting of loans (the process of renegotiating Brady bonds as *global* bonds, the structural adjustment programmes imposed by the IMF and the WB, etc.) whose purpose is not to reduce the level of indebtedness but rather to perpetuate domination of the country via the debt – all these are grounds for cancelling Ecuador's debts.

Further instances of illegitimacy are the repayments demanded for projects in Ecuador that have never seen the light of day or which have been only partially completed, with complete disregard for specifications. From an overall viewpoint, Ecuador's debt has already been largely repaid, making Ecuador a "creditor country" vis-à-vis the countries of the North. The countries of the South have in fact financed the social and ecological debt by which the North holds the South to ransom.

²⁹ [http://untreaty.un.org/ilc/publications/yearbooks/Ybkvolumes\(e\)/ILC_1978_v2_p1_e.pdf](http://untreaty.un.org/ilc/publications/yearbooks/Ybkvolumes(e)/ILC_1978_v2_p1_e.pdf)
Document A/CN.4/315 « Force majeure » and « fortuitous event » as circumstances precluding wrongfulness : survey of State practice, international judicial decisions and doctrine ; p.61.

Chapter 2 : Legal and institutional issues concerning illegitimate debt

A. THE CONTEXT³⁰

As in all developing countries, Ecuador's external debt has exploded over the last few decades, rising from 241 million USD in 1970 to 16 995 million USD in June 2006. External debt per inhabitant has increased from 36 USD in 1970 to 1 460 USD in 2005.

How have things reached such a pass? Like so many other countries, Ecuador endured a long period of dictatorship, from 1968 to 1979. The regime was responsible for a very significant increase in the debt, and used illegitimate means, as we shall see. In nine years (1970-1979), the debt rose from 241 million USD to 2 554 million dollars³¹. During this same period, the public external debt multiplied by 8 while private external debt, which accounted for a quarter of the country's total external debt in 1980, multiplied by 37³².

After the return to democratic rule, the external debt continued its upward spiral, from 2 554 million USD in 1979 to 10 669 million USD in 1988. The reason for this is simple: when the debt crisis hit Ecuador at the end of 1982, the rise in interest rates (usury) forced the State to borrow in order to face this brutal and unexpected increase. The deadly spiral continued, greatly benefiting the creditors who have thus had the means to hold Ecuador in their grip until now.

Sucretization

This mechanism for converting private debt into public debt was used in 1983 and 1984. The private debts taken over by the State during Ecuador's "sucretization" significantly increased the public portion of the country's debt. In addition, these debts were illegitimate.

Using sucretization, the Ecuadorian oligarchy and its international allies arranged matters so that the private debt owed to international creditors - at that time 1 628 million USD - was taken over by the State, or in other words, by the people. This was done at an average exchange rate of 63.55 sucres to the dollar, which vastly increased the amounts to be repaid compared with the current exchange rate of the 1970s, which was 25 sucres to the dollar.

Between 1988 and 1992, when the debt was holding the State hostage to national and international bankers who could impose whatever economic measures they pleased, a series of legal and institutional changes of a neo-liberal tendency were introduced to reduce the scope and functions of the State. Collective services and strategic businesses were transferred to the private sector, or in other words, to multinationals. Public policy was decided in Washington by the IMF and the World Bank that dictated the letters of intent formally written by the government authorities in Quito. The fiscal policy drawn up by the IMF was designed primarily to ensure servicing of the debt. In a move to increase State revenues - not for development but for ensuring repayments at any price - the IMF imposed a civil service wage-freeze in 2002-2003 and the laying off of 30 000 employees in the public sector³³.

When financial crises occur, the IMF steps in with *stand-by* credits to bail out creditors, especially those who make risky investments knowing that the State will then be obliged to repay the debt, even if it was originally owed by a private company. The IMF in fact organizes a massive transfer of capital from the people of the country concerned towards rich creditors.

³⁰ The majority of facts contained in this study were taken from the reports of CEIDEX, the Special External Debt Audit Commission set up in March 2006 by the President of the Republic, Palacio, and which worked from July to December 2006.

³¹ <http://www.oid-ido.org/IMG/rtf/BettySilvaGavidiaEcuador.rtf>

³² Arias Palacios, H. "Impacto económico, social y ambiental de la deuda soberana del Ecuador y estrategias de desendeudamiento" (The economic, social and environmental impact of Ecuador's debt and strategies for getting out of debt), CEIDEX 3rd volume, August 2006.

³³ Idem, p.55

Through the intermediary of the debt mechanism, Ecuador has become an exporter of capital. Between 1982 and 2006, Ecuador paid creditors 119 826 million USD in principal and interest, whereas it received new loans to a value of 106 268 million dollars. This works out as a negative net transfer of 13,558 million dollars, whereas in the same period, the debt went from 6,663 million USD in 1982 to 16,698 million USD in June 2006. Thus we see that the entire Ecuadorian economy was being brutally squeezed to extract the substrate that would allow the country to pay back an illegitimate debt, regardless of the country's social indicators.

After the exchange of Brady bonds for Global bonds halfway through the year 2000, the external debt went down from 16 282 million USD to 13 565 million dollars. Yet by 2002, the level of indebtedness had returned to the same level. In fact, despite a 10% decline in external public debt, external private debt considerably increased, rising from 2 229 million USD in 2000 to 6 568 million USD in August 2006³⁴. In addition, the absence of external public credits brought no real reduction in the public debt because this absence was compensated by an increase in the internal debt, primarily in bonds, with higher costs of repayment, since these short-term credits carried higher interest rates than those of the external debt³⁵.

Between 1980 and 2000, Ecuador's real gross domestic product (GDP) increased 2% per year, which is insufficient in relation to its demography. In fact, GDP per inhabitant fell by 0.5% per year and has been more or less stable since 2000. However, behind this figure is an increasingly uneven distribution of wealth, with the rich taking an ever growing share.

In 2004, debt servicing represented 148% of oil tax revenues, and in 2006, 200%. If this trend continues, Ecuador will have exhausted its oil reserves in 25 years without investing any of this wealth for its own economic, social and environmental development. In addition, the damage caused by oil operations in the north-east of the country is estimated to have cost 50 times the amount of the national debt. During 30 years of intensive oil drilling, deforestation has destroyed huge areas of forests, the majority of rivers and underground water reserves have been polluted and the indigenous peoples of the region have lost their native habitats and territory.

B. ECUADOR'S ILLEGITIMATE DEBT

Several factors contribute to the definition of Ecuador's debt as being contrary to the interests of the Nation, and therefore illegitimate. The first of these is not specific to Ecuador but is at the heart of North-South relations. It is the system of unequal exchange, which means that third world countries export their raw materials and are obliged to import highly priced manufactured and processed products from the North. In this unequal relationship, the countries of the South have not been able to develop processing industries because the Northern countries have hung on to their monopoly of these very high added-value industries.

During the dictatorship period, State intervention in the economy appeared to grow, contrary to the neo-liberal policies forcibly imposed in the Southern Cone dictatorships (Argentina, Chile, Uruguay) and in Brazil. In Ecuador, the economic policy pursued by successive governments during the dictatorship contained clearly defined development objectives for the oil industry, with a view to increasing State revenues³⁶. However, the State, *in spite of its increased powers, still remained merely an appendage of the private sector*³⁷. Unfortunately, the very big increase in GDP (more than 11%) between 1972 and 1979 did not get used to put an end to the existing power structures³⁸ and to bring about progressive

³⁴ Idem, p.33

³⁵ Idem p.34

³⁶ Benalcazar, E., "Deuda externa privada con la banca privada internacionalizada", (Private external debt with the private bank internationalized), p.11, CEIDEX, 2nd volume, December 2006.

³⁷ Idem, p.17

³⁸ Ibid

changes, as Velasco Alvarado's military government in Peru had tried to do between 1968 and 1975, by nationalizing the oil sector and key sectors of the economy, carrying out a land reform, and implementing exchange and foreign trade controls.

After the return to democratic rule, Ecuador entered a process of currency devaluation. This is surprising in the sense that a bill had been drafted in 1979 to revalue Ecuador's currency from 25 sucres to the US dollar to 20 sucres to the dollar. Finally, this bill was forgotten, and never heard of again, and a reverse process took place in 1980. After a decade with a stable exchange rate of 25 sucres to the dollar, the rate went from 30.56 sucres to the dollar in 1980 to 98.69 sucres to the dollar in 1984.

Following the return to democracy, the Executive had full control over the monetary plan and was not accountable to Parliament, since Article 55 of the 1979 Constitution stipulated that "the form for establishing the international exchange rate of the monetary unit – sucre – is fixed and modified by the president of the Republic"³⁹. "Article 78 goes on to state that "the ability to authorize and to contract loans is the responsibility of the president of the Republic"⁴⁰. Consequently, the financial circles, which until 2006 controlled the President's decisions, had full control over loan policy and exchange parity conditions.

On 14 May 1980, the Monetary Council authorized dollar debts for local projects, which opened the way to speculative loans. Payment in US dollars was bound by the exchange rate in force on the date of payment, and as we have just seen, this rate was to become more and more unfavourable to borrowers as the devaluation process continued over the next decades.

The National Development Council (CONADE), created by Article 89 of the Constitution, had no organic law or statutes of its own during this key period from May 1980 to May 1985, and thus had no control over aggressive indebtedness. While the 1980-1984 development plan included 41 fundamental projects that should have brought change to the country, there was no sign in 1984 that any of these projects had been completed. It is clear that the real power was wielded by the Monetary Council and that the National Development Council was merely a façade designed to make the impoverished majority believe that the situation was going to get better.

This indebtedness, and the enforcement, from the beginning of the 1980s, of structural adjustment programmes designed to reduce spending on social sectors and allocate these savings to servicing the debt, were an infringement of national right. Article 71 of the 1979 Constitution stipulates that the budget should allocate major resources to public services and the execution of economic and social programmes, including 30% for education and the eradication of illiteracy⁴¹.

Article 37 refers to the supremacy of the Constitution. It states that other standards of a lower hierarchy must comply with the supreme law. International agreements and treaties that are in contradiction with the Constitution or that alter its rules have no validity.

It was in compliance with the spirit of this Constitution that, at the end of April 2007, President Correa expelled the World Bank representative, Eduardo Somensatto, as a reprisal for a World Bank decision of 2005 when Rafael Correa was Finance Minister under the Palacio government.

The World Bank had blocked a promised loan of 100 million USD as a reaction to reforms by FEIREP, the oil stabilization fund, which planned to use oil revenues to prioritize social policy rather than repayment of the debt. Correa chose to resign in protest against this interference from the international institution.

Correa gave the World Bank representative 48 hours to justify the decision taken in 2005. When no explanation was forthcoming, he expelled him. The President of Ecuador

³⁹ Idem, p.20

⁴⁰ Ibid

⁴¹ Pinto F., "Evolución de la normativa jurídica aplicable al endeudamiento público y su correspondencia con el marco constitucional, convenios y tratados internacionales y más estipulaciones legales", December 2006.

declared that the World Bank's suspension of the loan constituted a total lack of respect for the sovereignty of the country. This decision reflects the determination of the new president and a genuine desire for change.

C. THE NON-RESPECT OF LEGAL PROVISIONS

In addition to contravening the interests of the nation, certain measures have violated national right. The Monetary Council's agreement on 14 May 1980 to allow dollar indebtedness for local spending is in violation of Article 7 of the monetary regime law which states: "All type of payment obligations that must take place in Ecuador must be carried out in sucres". This violation obviously benefited the local banking and brokerage sector.

On 18 July 1985, a bill for reforming the monetary regime law was rushed through and published in the official register on 22 August 1985. Article 1, which replaced Article 7 of the previous regime, stipulated that "obligations must be paid in sucres, making the conversion in line with the market exchange rate corresponding to the currency concerned and at the rate of the day on the date for payment".

The fact is that for a period of 5 years and 3 months this difference in exchange rates had been applied, without any legal basis for it, which is totally illegal. When the operation in question is not part of an international treaty, it is the country's own financial law and the measures permitted by that law that govern external borrowing. On principle it is not therefore permissible to apply foreign legislation. The rules fixed by Article 7 of the monetary regime law - payment in sucres at a fixed rate of interest - should have been applied.

Various sectors engaged in dollar debts for local projects. This was the case for the local banking and brokerage sector and for international banking and offshore sectors. It was also the case for clients of the local banking and brokerage sector, who received loans in US dollars either for local expenses and non-financial purposes, or for financial speculation. It was the case, too, for the Central Bank of Ecuador, which generated internal credits in sucres through the local banking and brokerage sector.

D. TEXTBOOK CASES

Odious loans to the dictatorship

The regimes governing Ecuador between 1968 and 1979 were dictatorial regimes that indebted the country very considerably, as we have said at the beginning of this chapter. During the oil boom of the 1970s, the private sector contracted very heavy dollar debts with foreign creditors. This period, and in particular the years 1976-1979, when the external debt exploded (multiplying by 5 in three years) was called the period of "aggressive indebtedness". The share of private debt significantly increased, with very unfavourable terms: 75% of these debts had to be paid in less than a year, and 83% had been contracted at variable rates. Given the international context (the rise in interest rates, lower oil prices, etc.), the resulting over-indebtedness was bound to become intolerable.

Unacceptable loans

Sucretization

The circles wielding economic and political power in Ecuador urged the government to intervene financially to ensure their rescue, while the IMF and the World Bank, pursuing international banking interests, put pressure on the State to guarantee payment of this private debt. The State therefore took over the private debt by exchanging dollar bonds for bonds in sucres, with parity and interest-rate fixed at the signing of the contract. The result was that the private parties did not have to bear the cost of increased interest-rates and the devaluation of the sucre.

Through the sucretization process, the government transferred the greater part of the external private debt to the State. Thus the whole of Ecuadorian society paid for the private borrowers who had indebted themselves excessively.

The sucretization process involved 1 682.5 million USD of private sector debts. The local banking and brokerage sector took over the debt and sucretized without proper control from the Central Bank.

On the basis of the exchange rate alone, it is estimated that the State subsidized the private sector for an amount equivalent to 1 300 million dollars. The majority of the loans had been contracted at an average exchange rate of 25 sucres to the dollars, while the State take-over of these loans was made at an average rate of 63.55 sucres to the dollar.

This mechanism was reserved for an elite: 3% of the sucretized entities, representing only 95 beneficiaries, benefited from 75% of the total amount sucretized.

In addition, this debt transfer was made in an indiscriminate manner, without supervision or controls. No mechanism was set up to check if the debts concerned were paid or not. The accounts of the Central Bank of Ecuador reported only the registering of debts negotiated on the free market, and not their repayment. The State therefore assumed fictitious debts. Since the declared objective of sucretization was to avoid the bankruptcy of companies that made up the country's productive infrastructure, it is surprising to find, in the list of beneficiaries, the names of Ecuador's elite clubs, like the Quito Tennis y Golf Club, or the Club de la Banque du Pacifique. It is clear that sucretization did not serve the interests of the nation, but rather those of the big international and local banks and the economic and political elite of the country. How, in these circumstances, can the people of Ecuador, through their government, be justifiably called on to repay this debt?

One can go even further and ask why the private sector indebted itself in dollars. Were there not enough sucres available in the local banking sector? The reality is that the local banks' credit in sucres, from domestic savings accounts, was more than sufficient to finance operations and fixed investments in the productive and professional sectors and even in the international tourism sector.

These dollar credits were exaction credits against the country, the Central Bank and the productive sector with a view to alienating oil for the benefit of the local banking and brokerage sector.

So it was that hundreds of millions of USD were incorporated into the sucretization process *without being inventoried*.

This laid the foundations for a thrust towards direct foreign investment⁴², a system different from the mixed companies existing up to then, and applied particularly vigorously in the oil sector. The Oil Law was reformed to favour service provider contracts, opening the door wide to the private sector on the pretext that the State had insufficient resources (thanks to the cost of debt servicing), and therefore could not bid for these contracts. This led to the weakening of the national oil company (CEPE), which subsequently became PETROECUADOR, with subsidiaries in exploration, drilling, transport, refining and marketing that had the profile of companies ripe for privatization. Because of trade union opposition, it was not easy for those seeking privatization to achieve their ends, which is why PETROECUADOR was deliberately under-financed.

To conclude on sucretization: Making a society responsible for the private debts of the rich is illegal, unjust and immoral. For this reason, this State-borne debt must be declared null and void. Such an act is criminal in many of the creditor countries, which makes it possible to simply demand the invalidity of this debt and the application of the corresponding legal codes.

⁴² Idem, p.48-49

The Brady Plan

It was on the initiative of the United States that the Brady Plan was implemented at the end of the 1980s in several developing countries defaulting on their debt repayments. The plan was to reduce the debt service burden by reducing the principal due. However, it was more a question of rescuing creditors from a largely unrecoverable debt whose value on the Ecuadorian market was not more than 10% of its face value. The issue of Brady bonds by Ecuador in 1994 can therefore be considered as a legitimization process for the whole of the commercial debt - a profoundly illegitimate act

It is useful to recall the shady circumstances in which this exchange took place. The government of Ecuador had suspended repayment of the external commercial debt in January 1987. This suspension of payment, which lasted almost five years, would have allowed Ecuador to ask for prescription of these debts in the courts of New York State and London. But in December 1992, just a short time before the eventual prescription date, an executive decree was published in which the Ecuadorian State confirmed its status as debtor to the banks and renounced its lawsuit. This decision proves once again the collusion of certain members of the government with the big banks, and a disregard for the national interest. Certain newspapers at the time reported that the then Finance Minister, Mario Ribadeneira, himself held securities for an amount of 300 million USD

So we see that while part of the debt could have simply been left unpaid, those in power chose to ignore this opportunity and thus opened the way to an exchange of debt bonds for Brady bonds. In reality, the Brady Plan merely postponed repayment problems, since high interest rates again made debt repayment unsustainable, forcing Ecuador to suspend payments during 1999. This was the most serious crisis in the country's recent history.

Global bonds

Between 1980 and 2000 the exchange rate went from 25 sucres to the dollar to 25 000 sucres to the dollar.

In response to this situation, on 10 January 2000 the sucre was replaced by the US dollar. This was dollarization. It was formalized by a law dated 13 March 2000 entitled "Act for economic transformation of Ecuador" organized by the local banking and brokerage sector. By this act Ecuador was deprived of any room for financial manoeuvring.

Ecuador then proceeded to negotiate the exchange of Brady bonds and Eurobonds (bonds issued in 1997 for an amount of 500 million USD with a 5 and 7 year term of maturity) for Global bonds in 2000 for a total amount of 5 570 million dollars. These Global bonds fall into two categories:

- Global bonds 12 concern 1 250 million USD, repayable over 12 years at an annual fixed rate of 12%.

- Global bonds 30 concern 4 500 million USD repayable over 30 years at an interest rate of 4% in 2001, increasing by 1% per year to reach 9% in 2006, then from 2007 to 2030 at an annual rate of 10%.

The conditions of this exchange, which will be dealt with in Chapter 5, were once again very costly for the Ecuadorian State. In view of the various irregularities committed throughout the process leading to the issue of these bonds, this debt should be qualified as illegitimate, and for several reasons: it has not served the national interest, its management has been dictated by the interests of a very few, which in its turn leads to the conclusion that these were unbalanced agreements with unacceptable conditions.

Debts⁴³ contracted for projects in the mining, agricultural and fishing sectors

An example of such debts concerns a project for mining development and environmental control called Prodeminca, implemented in 1993-1994. This project was financed for an amount of 14 million USD by the World Bank and 10 million USD by

⁴³ "Casos que vinculan la deuda externa con la generación de deudas sociales y ecológicas", Various authors, CEIDEX, 5th volume, December 2006.

Sweden and Great Britain. Its purpose was to promote private investment in mining development.

The Prodeminca project involved some modifications in mining legislation. Two laws (Trole I and II) created conditions for the plunder of resources by multinationals (exemption from the 3% of investments or net production paid back to the State, reduction of the role of the Minister of the Environment, the possibility of mining in protected areas).

Another part of the project envisaged the production of geochemical maps relative to authorized mining prospection in protected areas. Despite an appeal made before the Inspection Panel appointed by the World Bank, the latter did not carry out the compulsory ecological impact study. Sale of these maps to companies has been authorized, and several companies now have concessions in protected areas.

Another 1994 sectorial programme in the field of agriculture and fishing (Programa sectorial agropecuario - PSA), financed by the Inter-American Development Bank (IDB), resulted in modifications to agricultural legislation and the dismantling of the Ministry of Agriculture.

This programme led to the enactment in 1994 of a new law called the "agricultural development law" which made land a commodity and no longer a right, and which jeopardized any possibility of new land reform. Obviously, this reform benefits the big farmers of cash crops for export, who buy up a large part of the land to the detriment of small farmers.

The Inter-American Development Bank also provided 15.2 million USD to finance another land development programme designed to regularize and administer rural land (the PRAT Project) and which will enable the creation of a land property register. This programme has led to the expulsion of indigenous farmers who occupied this land without being in possession of a property title.

In addition, Ecuador began privatizing irrigation water, until then a public commodity, through a 20 million dollar technical assistance loan from the irrigation sub-sector (PAT Project) financed by the World Bank. The introduction of a tariff and concession system based on productivity once again worked in favour of the big farming operations and to the detriment of small farmers.

All these credits have undermined Ecuador's food sovereignty by depriving small and medium farmers of their access to basis resources like earth, water and seed. Agricultural production no longer meets the needs of the country's people, but those of the importing countries, a factor which has a big impact on the poverty level.

Inappropriate loans

The Jaime Róldos Aguilera multipurpose project

This project, which had been gestating since the 1950s, was driven by the IDA (International Development Agency) and the Inter-American Agricultural Cooperative Service. Preparatory studies were carried out by the Study Commission for the Development of the Guayas River Basin (CEDEGE).

This project, undertaken for a total cost of 1 638 million USD, 80% of it financed by external credits, included the construction of a dam, the provision of water to the town of Guayaquil, the Marcel Laniado hydroelectric plant, the irrigation project for the Daule valley basin, water transfer to the Santa Elena peninsula, and drinking water and sewerage services for the peninsula.

In 1980, before construction started, the feasibility study by the IDB showed that the project had a negative net value of 50 million dollars. Despite this, it granted the credit. In 2001, the University of Guayaquil made a new study of the project, which was already well under way, and found a negative net value of 130 million dollars. In other studies, Acción

ecológica discovered that the University of Guayaquil had only taken into account the benefits of water transfer and not its costs.

Out of the colossal sum of 1 638 million dollars, only 3% was allocated to environmental management and remedial measures for social and environmental damage. Social and environmental damage meant, among other things, dispossessing the peninsula's communities of 25 000 hectares of their lands and methane production. If this damage is included in the financial investment, the total cost of the project would then amount to

4 billion dollars⁴⁴.

The project's beneficiaries were the financiers, the builders and the operators. The water transfer objectives were not met since when water is taken from one side to provide for the other, on the one hand the land floods and on the other hand it dries up. The project has not met its fixed objectives. Although the project was supposed to irrigate nearly 44 000 hectares of the Santa Elena peninsula, in fact it had only irrigated a little under 6 000 hectares.

Unacceptable conditions

CEM

A telling example of unacceptable conditions is the CEM (Centros Educativos Matrices) Project, involving the World Bank (a loan of over 100 million dollars) and the IDB which provided significant funding during the government of Rodrigo Borja (1988-1992). This was a project aimed at creating central schools and satellite schools. For this project, *a great deal was invested in infrastructure but nothing at all in education.*

An important factor hindering progress in education is the loss of Unesco's influence for the greater benefit of the World Bank. The Bank sets itself up as the world's leading advisor on education. Even more than money, it is ideas that the Bank lends, or rather imposes on countries. These loans are dangerous because they lead to fundamental changes that a country cannot easily put into reverse at a future time. Examples include concepts of decentralization, assessment and payment by merit. The World Bank, and the IDB in its wake, always impose the same formulas, whatever the country – financier formulas that are totally alien to the terrain and its realities. Loans are conditioned by the implementation of certain reforms favourable to international investors and multinationals, in the sphere of education as in others.

In the CEM Project, the WB and the IDB demanded the creation of executive units for easier control. With these two autonomous executive units - EB-PRODEC (WB) and PROMECEB (IDB) - the WB and the IDB could bypass the Ministry of Education, while employing a more disciplined staff because salaries were 10 times higher than those of the Ministry of Education civil servants. This of course was a way of undermining the Ministry. While a project manager in the Ministry of Education earned between 300 and 600 dollars, his counterpart in an executive unit earned 6 500 dollars. Projects undertaken in this context are vectors of education merchandising driven by the international financial institutions.

Conditions violating internal law

The IMF and the World Bank seek to convert interventionist and regulatory States into minimal States. To achieve this, they have invented the notion of "good governance", which allows them to stress the notion of democracy while the real objective is to develop a government's capacity to implement measures imposed by the IMF and the WB. A "good government" can in this way neutralize social resistance without affecting the course of neo-liberal reform. It is easy to see the fundamental difference between a genuinely democratic State and a State in which the government sacrifices the population to the adoption of structural adjustment measures.

To increase the export capacity of borrower countries, and thus guarantee the payment of the external debt, the IMF forced debtor countries to devalue their currencies (in violation of what is stipulated in the constitutive document of the IMF). These devaluations

⁴⁴ Idem

have accelerated inflation and reduced salaries. This means that the IMF's adjustment policies were themselves responsible for severely destabilizing the borrowing countries.

Chapter 3: Information and statistics in Ecuador⁴⁵

In this chapter, we will first go over all the international debts that Ecuador has contracted during the last thirty years. We will address the following questions. Who are the creditors? How much debt does each creditor hold? How much has been paid back by Ecuador? Then we will attempt to show for what reason these debts were taken on and what results have been attained by the process of becoming indebted.

It is important to understand that the international creditors – States, multilateral credit organisations and banks – have invariably insisted that a *sine qua non* condition for the loans was that structural adjustment measures - which were elaborated by the multilateral credit institutions themselves - be applied by the State. These structural adjustment measures disrupted the institutional structure of the country in that it spread out the decision-making and prevented the political authorities from adopting a coherent and firm course of action. The competence for carrying out development projects was diluted - tangled up between the various decision-making bodies, here one national ministry, there a different one, or sometimes local authorities, other times bodies set up by the multilateral institutions themselves – executive agencies - and even in some cases, several of these decision-making entities at the same time. The result being that in the end, no one knows who is responsible to whom, and even on some occasions, no one is even really clear who is responsible for what. In fact the system has become totally opaque and inefficient – a situation which gives considerable power to the agencies which have been set up. Once this system was in place, it became easier for the international creditors to push the policy decisions towards the extraction industry (ore-mining and oil) and intensive farming. Servicing the debt is, then, only the most visible part of the process of transferring wealth towards the Northern countries, a process in which the multilateral companies are invited to join by their own countries, allegedly for the good of Ecuador, whereas in fact, Ecuador has been forced to renounce all real sovereignty, and to over-exploit its natural resources, thus generating considerable profits to the detriment of its own citizens.

A. DEBTS AND CREDITORS

Between 1976 and 2006, the total amount of loans incurred by Ecuador was 29 976.5 million USD. Tables 1 and 2 sum up the amounts borrowed, how much was actually transferred by the creditors, and how much was paid back by Ecuador.

The first table gives the government's main suppliers of hard currency per type of creditor. The multilateral credit organisations are by far the largest creditors in this category, followed by private banks⁴⁶. There is also a non-negligible contribution of government bonds, which have turned out to be a profitable investment, as was shown in Chapter 2.

The second table shows that the country has already paid 35 321.2 million USD in capital and interest to its creditors. Yet in April 2007, the balance of the external public debt was still 10 341 million USD⁴⁷.

The following table is a list of the multilateral credit organisations and banks who have invested in Ecuador's debt.

⁴⁵ This chapter is based on the report of the *Comision Especial de Investigacion de la Deuda Externa del Ecuador* (CEIDEX), which was ordered by President Palacios' government on the 29th March 2006 and published the same year on 9th December.

⁴⁶ As we will see below, some of the supposedly private banks are in fact national banks – this is the case for the Bank of Norway and the Bank of Brazil.

⁴⁷ Patiño Aroca, R. Ministro de Economía y Finanzas “Información al Congreso Nacional”, 16 mai 2007

Table 1 : Loans taken out by the public sector between 1976 and 2006

Creditors	Number of loans	amount (in millions)	(in USD %)
Multilateral organisations	286	12 500.3	42
Governments	114	4 271.7	14
Private banks	178	7 920.6	26
Government bonds	3	4 069.4	14
Suppliers	90	1 214.5	4
other	1	0	0
TOTAL	672	29 976.5	100

Source : Marcelo Herdoiza Y Cumandá Almeida, "De los creditos contratados por el Estado ecuatoriano", CEIDEX

Table 2 : Ecuador's external debt servicing between 1976 and 2006 (in USD millions)

Creditor	Amount borrowed	Amount disbursed	Capital repaid	Interest paid	Debt service
Multilateral organisations	12 500.31	10 921.4	7 641.2	4 318	11 959.2
Governments	4 271.65	3 762.4	3 677.4	1 940.9	5 618.3
Private banks	7 920.6	4 845	4 987.4	7 500.7	12 488.1
Government bonds	4 069.37				
Suppliers	1 214.53	1 108.7	1 292.9	490.5	1 783.4
other	0	5 338.5	2 275.6	1 196.6	3 472.2
TOTAL	29 976.45	25 976	19 874.5	15 446.7	35 321.2

Source : Marcelo Herdoiza Y Cumandá Almeida, "De los creditos contratados por el Estado ecuatoriano", CEIDEX

Loans from other Countries

Ecuador's bilateral debts can be divided into those which have been signed directly with the other country, and those which have been renegotiated within Paris Club agreements.

Table 3: Bilateral debts in July 2006 (in USD millions)

Source: Hugo Arias Palacios, « Impacto económico, social y ambiental », CEIDEX

Country	Original agreement	Paris Club agreement	Total	Percentage
Colombia	5.6	0	5.6	0.3
South Korea	8.4	0	8.4	0.4
China	8.4	0	8.4	0.4
Denmark	16	0	16	0.7
Belgium	16.4	0	16.4	0.7
Argentina	20.9	0	20.9	0.9
Canada	1	25.1	26.1	1.2
Norway	0	35.3	35.3	1.6
Germany	16.8	40.8	57.6	2.6
UK	0	102.7	102.7	4.7
USA	57	61.8	118.8	5.4
Israel	0	183.6	183.6	8.3
France	85.9	99.8	185.7	8.4
Brazil	316.8	0	316.8	14.4
Japan	220.3	118.1	338.4	15.4
Italy	66.5	292.9	359.4	16.3
Spain	381.9	20.1	402	18.3
TOTAL	1221.7	980.2	2201.9	100

The Paris Club is an informal group of 19 creditor countries (North America, Western Europe, Russia, Japan, Australia) founded in 1956, which deals with the problems of the debtor countries who have difficulties repaying bilateral debts owed to member countries, in such a way as to protect the profits of the creditors. The members can together agree to reschedule repayment of a loan possibly over tens of years at a different rate of interest. They can also decide to cancel part of the debts in question, but this is usually only considered in the case of heavily indebted poor countries (HIPC) - Ecuador is not included in this category - or in the case of strategic allies (like Pakistan in 2001). However, any agreement on rescheduling or cancellation must be preceded by the signing of an agreement with the IMF, which imposes structural adjustment reforms which have dramatic consequences for the poor of the country.

It must be added that rescheduling debts, like issuing state bonds, makes it possible to lose track of the origin of debts, which could have been illegitimate debts, and replace them by new loans which the creditors know will not be contested.

The Ecuadorian debt has been partially rescheduled eight times since 1983. And what has been the result on the indebtedness of the country? Quite disastrous, at least in the first ten years when there were the most rescheduling agreements; later, even if the situation did improve somewhat statistically, the effects of the domination imposed by the debt continued to make themselves cruelly felt.

Loans from private credit organisations

Which companies have invested in the development of Ecuador? In the list of credit agreements which Ecuador signed with “private” organisations between 1982 and 2006 (appendix 1), there are the following names: ABN-AMRO (111 million USD), BANCO BILBAO VIZCAYA (143), CHASE MB (800), CITIBANK (29). There are also Spanish banks, Latin American banks, and especially Brazilian banks. Some banks are in fact national banks, for example the Bank of Norway⁴⁸ (17.5). Also it is to be wondered what is behind mysterious names such as BANCOS (2 516) and CONSORCIO BANCOS (2.38) .

Loans from private credit organisations can be used to finance economic or even social projects. However, very frequently these banks provide loans which are destined to repay other earlier loans.

Loans from multilateral credit organisations

Loans contracted with the multilateral credit organisations totalled 12 500 million USD, and the amount remaining on this debt today is still 4 188,4 million USD. Table 4 gives the amount each organisation invested in the development of Ecuador.

⁴⁸ Voir Kjetil G. Abildsnes dans « Why Norway took Creditor Responsibility – the case of the Ship Export campaign ».

Table 4: Total amount borrowed from multilateral credit organisations between 1976 et 2006

Creditor	Number of loans	Amount borrowed (in millions of USD)	%
• Inter-American Development Bank (IDB)	111	3 804.2	30.4
• International Bank for Reconstruction and Development (IBRD)	59	2 421.1	19.4
Corporación andina de fomento (CAF)	101	3 493,5	27.9
• International Fund for Agricultural Development (IFAD)	5	45	0.4
• Fondo Latinoamericano de Reservas (FLAR)	5	1 308.4	10.4
• International Monetary Fund (IMF)	3	1 289.58	10.3
• Santo Domingo accord	1	47.4	0.4
• Others	1	91.2	0.7
TOTAL	286	12 500.3	100

Source : Marcelo Herdoiza Y Cumandá Almeida, "De los creditos contratados por el Estado ecuatoriano", CEIDEX

Very often, loans from multilateral organisations are linked to a specific development project. This can be building infrastructure, or else structural adjustment projects, such as a massive redundancy programme or wiping off the deficit of a public company just before it is privatised.

The amount loaned covers the greater part of the project, but often the government is required to add its own contribution, usually at a level of 10 to 50% of the total cost. Foreign governments can be associated in a given project by contributing a loan or a donation. But how exactly are these projects carried out?

Over the years, Ecuador's central government has lost its authority and competence to decentralised structures which are responsible for a given sector, or even sometimes for a specific project. The first obvious drawback of this dispersing of competence is the difficulty of drawing up coherent strategic planning which takes into account all the specificities of the country in order to determine which sectors should have priority for aid. The weakening of the central government means that large development projects (building roads, modernising health care, etc.) are managed by decentralised structures which have only a partial view of the whole situation.

The weakening of the government in Ecuador is the direct result of national governments losing their power of decision to the international credit organisations, which since the 1980s, have been organised by the IMF and the great powers. Ecuador has wasted much manpower because of its technicians working without any coherence between the various governmental bodies. Because of this, the country lacks an efficient negotiating team of experienced technicians able to defend the country's common good against these international credit organisations.

In fact, many projects have been launched without technical, economic, financial, social or ecological feasibility studies being carried out first. The people who imagined these projects did so within the rules of "good management" limited to their own field of responsibility, without any concern whatsoever for the community or the national interest, and with no need to justify resorting to foreign loans. Because of this lack of a general overview of the whole situation, weaknesses in development projects inevitably start to show. The contradictions between the clauses of loan agreements and Ecuadorian legislation come to the fore, generally leading to endless debates and costly legal proceedings. This then holds up the implementation, which leads to increasing costs for the debtor, namely Ecuador.

When the implementation phase does start, the debtor first has to request a "declaration of acceptance of credit in order to proceed with outlays"⁴⁹. At this stage the State

⁴⁹ « declaración de elegibilidad del crédito para los desembolsos ».

is all too frequently represented by people who do not have sufficient knowledge of all the various procedures of the credit organisations. That is why this stage generally takes far too long.

Once the “declaration” has been given, the project can be started. The creditor retains considerable control over the the project owing to the ongoing transfer of money. This mechanism, called “no objections”, is frequently used by the creditor as a means of exerting influence and pressure, on the basis that he, the creditor, has the greatest experience, and can at any time cut off the money.

The multilateral credit organisations oversee the implementation of projects by means of evaluation missions. These missions frequently uncover new elements, which can even be insoluble technical problems. In which case the project has to be modified, which once again takes time. When the deadline, which was fixed at the start of the project, is reached, the credits stop. The State has to start repaying the loan with interest plus a commission for the sum which was made available and not used – and this happens very frequently, in view of the endless delays on development projects in Ecuador. But the consequences of overrunning the deadline do not end there, since in order to complete the project, the government has to negotiate a new loan with a new deadline.

Take for example the project to develop the Baeza-Tena road, linking the Andes to the Northern region of the Amazonian forest. The first instalments of the loan arrived on the 28th June 2002 and were supposed to be spread over 36 months up to 28th December 2004. The Ministry of Public Works claimed that the delay was due to technical problems: the road surfacing had to be changed to asphalt; extra work was needed at certain places, for example, for drains; the question arose as to whether or not it was worth improving access to a given bridge since there would probably be a new bridge built shortly; and of course there were delays due to the extreme weather conditions. Basically , the lack of strategic planning at a national level hinders the development of projects which would really be in the country’s interest. It must also be said that many projects which are chosen are badly planned and become extremely costly for the State because of intolerable delays. The root of the problem is the IFI’s hold over the Ecuadorian economy and their demands for a significant withdrawal of the State’s presence in decision-making. Under the influence of the IMF and the World Bank, private interests are prioritised while the common good is barely taken into account. In these circumstances it is legitimate to pose the question: what benefit is there for Ecuador and the Ecuadorians in this process of increasing indebtedness? And is it not, at the end of the day, the best possible way to keep the Ecuadorian people to heel and appropriate their wealth?

B. OBJECTIVES AND RESULTS

The information available indicates that only 14% of the amount borrowed between 1989 and 2006 was used in development projects (drinking-water supplies, energy, irrigation, transport, telecommunications, social infrastructure, financial backing for companies). The remaining 86% were used to repay the capital and interests of the external debt. A closer look actually shows that 34% of this already small part was not actually used for the development projects themselves but rather, was used to “reform the financial sector”

Of the incoming international loans between 1989 and 2006, 4.5% was invested in physical infrastructure for the production sector (transports, telecommunications, energy, drinking water supplies, irrigation), 2.2% was used directly for the production sector (aquaculture, agro-industry, tourism, small industry and farming, foreign exchange market) 2.1% was spent on social infrastructures (education, urban development, sanitation, health, rural development) and finally 0.4% financed various reforms (internal security, modernising the State, etc.)

It is thus an understatement to say that the basic sectors, namely health and education, have not received much attention from the international creditors. Fundamental human rights, with access to education and health in the front line, have thus been ignored for years in Ecuador through lack of funds. And this penury was deliberately organised by the government under pressure from the IMF and the World Bank. Indeed, human development projects had to reduce their spending because of budget restrictions which were imposed by

the multilateral credit organisations as a prerequisite to obtaining loans, as shown by the following table.

Consequently it is essential to underline the absence of democratic legitimacy in this distribution of resources, centred on the exportation of capital, in a country whose population is poor.

Table 5 : Service of the public debt and social spending in the Chart of Accounts (CA) in USD millions

Year	Service of the public debt CA	Education and culture	Health and community development	Total spending CA	Part of CA (in %)			
					Debt servicing	Education and culture	Health and community development	other
1995	1806	590	201	4308	41.9	13.7	4.7	39.7
1996	1630	613	230	4451	36.6	13.8	5.2	44.4
1997	2392	690	191	5290	45.2	13	3.6	38.1
1998	1736	636	207	4385	39.6	14.5	4.7	41.2
1999	1801	525	171	3989	45.1	13.2	4.3	37.4
2000	1680	416	147	4035	41.6	10.3	3.6	44.4
2001	1828	493	189	5489	33.3	9	3.4	54.3
2002	2019	694	259	5506	36.7	12.6	4.7	46
2003	1951	676	310	6188	31.5	10.9	5	52.5
2004	1652	858	371	7323	36.2	11.7	5.1	47
2005	2828	946	423	7915	35.7	12	5.3	47
2006	2980	605	294	6222	47.9	9.7	4.7	37.7

Source : Leonardo Vicuña « Apendice Estadístico » CEIDEX

The actual results of the external investment, their impact on employment and on the living conditions of the inhabitants, are very difficult to evaluate at the present time since there has never been any structure within the country assigned to monitor this aspect. It would seem to be quite essential that such a structure should exist, and it is highly surprising that, among all the demands the multilateral credit organisations are making in view of “good governance”, there is never any mention of careful assessment of the impact of each policy decision, each project, on the economic and socio-cultural development of the country and also of the impact on the environment. In fact we believe that the total absence of such a requirement is indicative of the way the international credit organisations refuse to question their dogmas about development and actually try to hide just how meagre the observable results are, in order to continue plundering Ecuador’s resources and to keep the country down among the assisted states, in subservience to the major international powers.

This is why it is urgent that a full audit should be carried out and those responsible brought to account.

APPENDIX 1 : Loans from foreign banks between 1982 and 2006
(in USD millions)

Creditor	Amount
ABN AMRO BANK - N.V. - ESPAÑA	\$56,34
ABN AMRO BANK N.V. - DINAMARCA	\$22,62
ABN AMRO BANK N.V. - USA	\$20,44
ABN AMROBANK N.V.-BRASIL	\$11,63
AUSSENHANDELSBANK A.G.	\$1,73
BANCO BILBAO VIZCAYA - ESPAÑA	\$89,41
BANCO BILBAO VIZCAYA ARGENTARIA - ESPAÑA	\$53,69
BANCO DE COMERCIO EXTERIOR (BANCOLEX) - COLOMBIA	\$54,00
BANCO DEL BRASIL S.A.	\$63,30
BANCO EXTERIOR DE ESPAÑA S.A.	\$92,94
BANCO INTERNAC. SAO PAULO BRASIL	\$8,57
BANCOMER DE MEXICO S.N.C.	\$21,91
BANCOMEXT - MEXICO	\$20,00
BANCOS	\$2.516,00
BANK DE NORUEGA (TRAMO A)	\$12,72
BANK DE NORUEGA (TRAMO B)	\$4,78
BANK HEDERLAND H.V.Y.	\$10,63
BERLINER HANDELZ UND FRANKFURTER BANK	\$0,93
CACEX (BANCO DO BRASIL)	\$477,90
CHASE MANHATTAN BANK	\$300,00
CHASE MANHATTAN INTERNATIONAL LIMITED	\$500,00
CITYBANK N. A.	\$29,23
CONSORCIO BANCOS	\$2,3
CONSORCIO BANCOS FRANCESES (COFACE)	\$19,30
CONSORCIO DE BANCOS E.F. HUTTON	\$200,00
CREDIT COMMERCIAL DE FRANCE	\$118,92
DEUTSCHE AUSSENHANDELSBANK - ALEMANIA	\$5,00
DEUTSCHE AUSSENHANDELSBANK A.G. DABA	\$29,20
DEUTSCHE BANK S.A. - ESPAÑA	\$119,77
EXIMBANK JAPON	\$214,02
EXPORT IMPORT BANK DEL JAPON	\$23,11
F.M.O. - HOLANDA	\$2,75
FIRST NINCONSIN NAT. BANK MILNAUKEE	\$1,39
FIRST UNION NATIONAL BANK - USA	\$72,00
FIRST WISCOMSIN NAT. BANK	\$14,10
FRANCES LECT / CREDIT NATIONAL	\$2,15
GENERAL BANK DE BRUSELAS BELGICA	\$9,09
IBM WORLD TRADE CORP. DE LOS EE.UU.	\$3,03
KREDISTANSTAL BANKVEREIN DE VIENA	\$4,19
LIBRA BANK PLC. LONDRES	\$32,00
LLOYDS BANK INTERNAT LTDA.	\$63,36
LLOYDS INT. CORP.	\$431,20
MORGAN GRENFELL	\$50,43
MORGAN GRENFELL & CO.LTD. - REINO UNIDO	\$24,80
MORGAN GRENFELL LONDRES	\$64,54
NATIONAL BANK OF WASHINGTON	\$2,11
NATIONAL HESTNINSTER BANK EE.UU.	\$1,32
SVENSKA HANDELSBAKEN ESTOCOLMO SUECIA	\$60,00
THE BANK OF TOKYO JAPAN	\$130,00

Chapter 4 : The socio-economic impact of the debt

There have been encouraging signs since 2007 indicating that Ecuador wants to restructure its economy, especially its policies on debt, so that - at long last - the economy can actually serve the Ecuadorians.

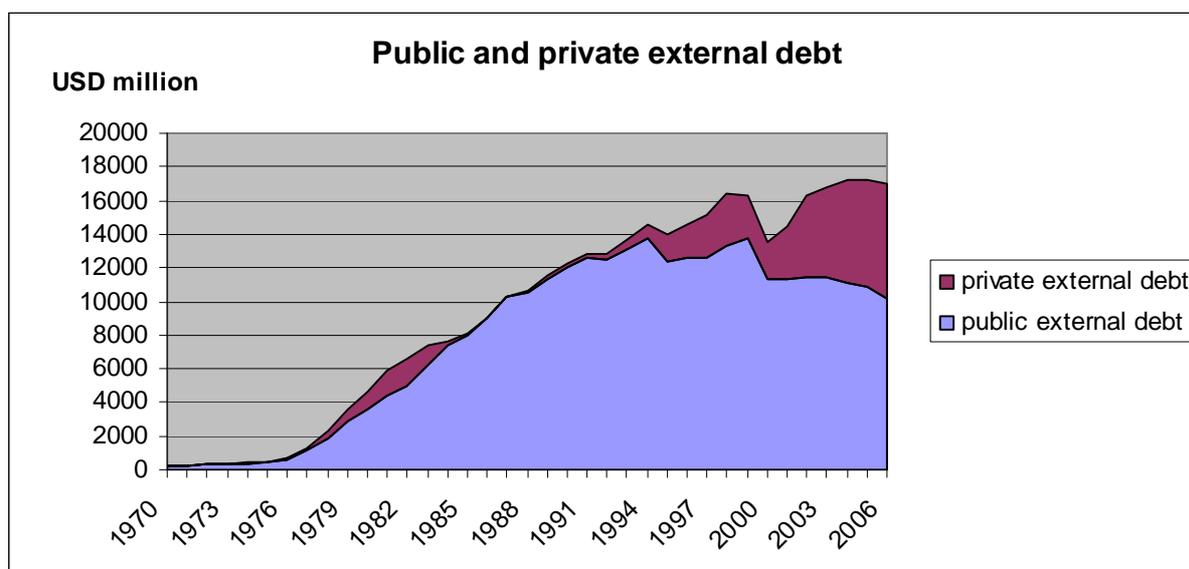
This about-turn comes after years of taking the country into massive debt under economic policies which have enriched a minority and impoverished the majority of the Ecuadorians and lead the country into its present state.

A. AN UNSUSTAINABLE DEBT BURDEN IMPOSED BY THE CREDITORS

Looking at the ratios which are most commonly used to analyse the debt of a country, leads to the conclusion that Ecuador's debt has reached unsustainable levels. For years, debt servicing has taken up the major part of the country's revenues. And the debt is relentlessly rising as the country continually borrows more to service existing debts.

Over the period 1970-2006, the external debt as a whole (private and public debts) rose consistently. Various minor rescheduling agreements never managed to stop its spectacular rise from 241 million USD in 1970 to 16 995 million USD in 2006.

This external debt has exceeded 40% of the GDP for the last two years, but actually the average over the whole 1970-2006 period was close to 61% of the GDP, which is 2.72 times the average export earnings. In fact, Ecuador is being bled dry, since by comparing the difference between the amounts received from foreign lenders and the amounts these lenders have received in repayment, we can see that the net transfer on debt is extremely negative for Ecuador. Over the period 1970-2006, more than 13.5 billion USD left Ecuador to fill the coffers of the various creditors as part of the external debt mechanism⁵⁰. It is clear that the debt has become a tool of domination and a means of looting the debtor countries. It has been created by and for the creditors.



Source : Leonardo Vicuña Izquierdo and the Central Bank of Ecuador

Concentrating on the public part of the external debt shows that the net transfer on this part alone is just as negative. Between 1982 and June 2006, 13 558 million USD were transferred to foreign creditors⁵¹. Between 1982 and 2006, the State paid back 11 957 million USD to the multilateral organisations: the World Bank (WB), the Inter-American

⁵⁰ Leonardo Vicuña Izquierdo, *Apéndice estadístico*, p.15. CEIDEX, Tercer volumen

⁵¹ Hugo Arias Palacios, *Impacto económico and medium, social y ambiental de la deuda soberana del Ecuador y estrategias de desendeudamiento*, p.46. CEIDEX, Tercer volumen

Development Bank (IDB), the Andean Development Corporation (CAF), the International Monetary Fund (IMF) and others. At the same time the country received 10 920 million USD in new loans⁵². This means there was a negative net transfer of 1 037 million USD in favour of these organisations, while at the same time, the total debt stock actually went up. The figures make it difficult to believe that these organisations are really acting in the interests of the debtor countries as they would have us believe. It also has to be pointed out that concessional loans concern only a small part (14%) of the total 980 million USD debt⁵³ owed to the Paris Club member countries.

Servicing the external public debt has taken up a considerable part of the country's export revenues (an average 48% over the period 1970-2006). Since the year 2000, the weight of the external public debt compared to the GDP or export revenue has somewhat decreased, as can be seen in the following table:

Year	Ext Public Debt (USD millions)	Ext Public Debt : GDP (%)	Ext Public Debt : Export revenue (%)
1976	635.8	11.96	50.56
1986	8977.5	85.38	410.72
1996	12628	59.38	259.16
2000	11335.4	71.14	230.09
2001	11372.8	53.52	243.09
2002	11388.1	45.74	226.13
2003	11493.2	40.14	184.70
2004	11061.6	33.89	142.68
2005	10851	29.74	107.44
2006	10215.3	24.98	80.26

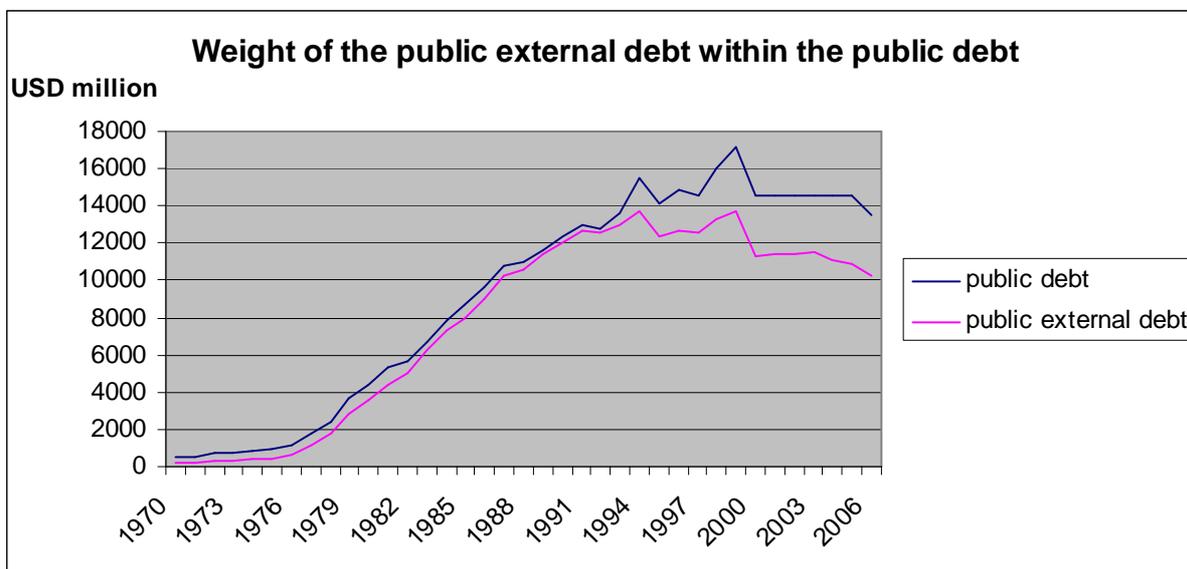
Source : Leonardo Vicuña Izquierdo and the Central Bank of Ecuador

However, it's not a simple as that, because in fact one of the reasons the external public debt went down was because the capital of the commercial debt was reduced in the year 2000 at the time the Brady Bonds were exchanged for Global bonds (see Chapter 5). However, the high interest rates of the Global bonds will cause the debt to increase rapidly over the next few years. Furthermore, the GDP was artificially inflated by "dollarisation", which gives the impression that the weight of the debt has gone down and that the situation is improving, whereas in fact it is not. Finally, this slight improvement of external debt indicators should not be allowed to hide other facts – namely the sharp rise in private foreign debts (the private part of the external debt went up from 16% to 37% between 2000 and 2005⁵⁴); and also the ongoing increase in the internal public debt. Basically, what has happened is that the State has replaced the long term external debt by short term internal debts at higher interest rates while at the same time the private actors are taking out heavy external debts. Obviously, this is not a healthy situation and it does not free the State from external pressures. As was seen at the time of the "sucretisation" (see Chapter 2), a state may nationalise the private part of the debt under pressure from the creditors, and become obliged to repay the foreign banks at a high rate in order to avoid the collapse of companies and the whole economy. Furthermore, the fact that the internal debt is at high interest rates over the short and medium term could create problems of creditworthiness for the State.

⁵² Hugo Arias Palacios, op. cit., p.39

⁵³ Ibid, p.42

⁵⁴ Ibid, p.33



Source : Leonardo Vicuña Izquierdo and the Central Bank of Ecuador

Thus, although the external public debt is going down, public debt servicing, which concerns both internal and external debts, has risen steadily in absolute terms between 2000 and 2005, rising from 1 680 to 2 828 million USD (i.e. 35.7% of the central government's budget in 2005!)⁵⁵.

This change in the composition of Ecuador's public debt, with the relative weight of the external debt becoming lower does not improve the sustainability of this debt since the servicing of the external debt remains a large item on the budget, while the amount needed to service the internal debt is going up.

Moreover, this new scenario does not mean that the external creditors will take the pressure off. On the contrary there will be no change in the pressure put on countries to repay the external creditors, which means the latter will continue to push for policies whose sole aim is to repay the creditors at any price, and with total disregard for the fundamental human rights of the population.

B. ECONOMIC POLICIES IMPOSED BY THE CREDITORS

The debt mechanism is a means of both looting and dominating debtor countries and Ecuador is a text-book example. Not only does debt servicing take up considerable resources, but the debt is also used as a means of imposing policies which make the country increasingly dependant. Measures are imposed which aim to enable the country to pay the creditors, to attract international investors and to stop auto-centred development so that the country remains connected to the world market and dependent on foreign capital.

Thus the IMF, by means of a series of letters of intention signed with Ecuador (9 since 1983) and its structural adjustment plans, and the World Bank, by means of aid strategies, have imposed the neo-liberal policies of the Washington Consensus. These policies – set up to maintain macro-economic stability - are clearly designed to benefit the creditor countries:

- fiscal discipline required from the State to free up sufficient public funds for the country to fulfil its obligations as debtor. This fiscal discipline means less State spending, hence budget reductions, privatisations etc. Thus, in 2003-2004, the IMF imposed policies which meant public sector workers had their wages frozen, 30 000 civil servants were made redundant, pensions were frozen, etc., as primary expenditure was not to increase by more than 3.5%. As for the tax reforms imposed, they were made up of the most unjust means of taxation since most of the tax revenue came from VAT, which hits the poor hardest. In 2008,

⁵⁵ Leonardo Vicuña Izquierdo, op. cit., p.31

50% of tax revenue came from VAT, while only 28%⁵⁶ came from income tax and tax on profits. In the same way, the steady price increase of public services, meant to generate revenue for the State, also impacts the poorer households more severely.

- opening up the market, financial market liberalisation and privatisations enable foreign companies to freely invest in the country. This competition is supposed to increase economic efficiency, but is in fact a source of instability. The free movement of capital encourages speculation -short term investments are free to enter and leave the country-and when longer term foreign investments are made, the profits generated are repatriated. Finally, privatisation and the free market have brought foreign companies and their products onto the market and ousted local producers who were unable to compete.

3. export incentives should provide the hard currency necessary to pay the debt, and at the same time ensure that the countries of the North have access to resources such as oil, agricultural products (shrimps, coffee, cocoa, etc.). Therefore in 2002, the IMF had the FEIREP created (Fondo de Estabilización, Inversión y Reducción del Endeudamiento Público - Stabilisation, Investment and Public Debt Reduction Fund) When the fund was created with the oil revenues, the law stipulated that 70% of the money was to be allocated to servicing the debt and buying up Global bonds to keep their rate high. Furthermore, there were successive devaluations which were intended to boost exports. However this type of growth - turned towards satisfying external needs - does not enable the local production system to grow nor to satisfy local needs. It is usually primary products which are required for export, and this involves both overexploiting the natural resources (oil, forests, etc) and wreaking havoc on the environment. Moreover, local demand is met by imported products which the free market makes available at prices so low that the national companies cannot compete with them. Devaluation, which aims to boost exports, makes the cost of imports and servicing the debt much higher.

These policies of the monetary funds are clearly a failure. Economic growth has remained extremely limited, and the GDP per capita even went down between 1985 and 2000, dropping from 1279.7 to 1259.9 in constant (2000) US dollars⁵⁷.

Although the situation seems to be improving since 2001 (the GDP per capita in 2005 was 1535 USD) it is above all because of the increase in both oil production and the price of oil. However, not all of the oil revenue goes to the State, since a large part remains with the foreign companies. If oil exports are excluded, it can be seen that the balance of trade was consistently negative between 2000 and May 2006⁵⁸. All of these policies imposed by the IMF have created structural imbalance and chronic instability which culminated in the 1999 crisis.

The debt is not only responsible for policies being put in place whose sole aim is to ensure debt servicing, but it also deprives the country of resources that normally should be invested in the development of the national economy. The budget is completely imbalanced and social spending is ridiculously low compared to the amounts spent on debt repayment.

The State budget is far too dependant on internal and external borrowing and the fact that oil revenue is so central to the budget is not good since oil prices are so volatile. Tax revenues are too small and unfair - due to the policies imposed by the international financial institutions (IFI) which impose reductions in progressive taxes such as the taxation of income and profits, while at the same time demanding an increase in the most regressive of taxes, namely VAT, which is proportionally much harder on the poorer people.

These unbalanced resources are complemented by unbalanced expenditures - servicing the external public debt over the period 1980-2005 took up on average 66% of the central government's budget.⁵⁹ As Hugo Arias Palacios so clearly sums it up, servicing the

⁵⁶ Ecuador's Ministry of Economy and Finance
http://mef.gov.ec/pls/portal/docs/PAGE/MINISTERIO_ECONOMIA_FINANZAS_ECUADOR/SUBSECRETARIAS/SUBSECRETARIA_DE_PRESUPUESTOS/PRODUCTOS/ESTADISTICAS_PRESUPUESTARIAS/ARCHIVOS_2006/CAIF_AG_IIT.PDF

⁵⁷ Hugo Arias Palacios, op. cit., p.61

⁵⁸ Ibid, p.63

⁵⁹ Leonardo Vicuña Izquierdo, op.cit., p.29

debt is a “leech endlessly sucking the financial resources and a straightjacket for the budget”⁶⁰

The percentage of the budget which went into servicing the public debt between 1995 and 2006 was always consistently higher than that of education, culture, health and communal development.

Budget spending (in USD millions)

Year	Spending (including amortisation and interest)	Education and culture	Health and communal development	Debt servicing
2000	4034.7	416.4	146.9	1680.3
2001	5488.5	492.8	188.6	1827.9
2002	5505.7	694.3	259	2019.9
2003	6187.7	675.7	309.9	1950.7
2004	7323	858.3	371.3	2652.4
2005	791.7	946	422.9	2827.6
2006	9022	967.2	469.8	3837.3

Source : BCE, Boletín Estadístico Mensual, February 2007

The ratios calculated by the IDO⁶¹ highlight a very worrying situation – for example, in 2001, the budget for debt servicing was almost 10 times higher than that for education and 6 times higher than the health budget. Other figures, which come from UNICEF as quoted by Alberto Acosta,⁶² show that the total 15.7 billion USD spent on debt servicing between 1990 and 1999 is equivalent to 135 years of governmental health spending!

This lack of social spending means that the State is actually in breach of its own constitution which guarantees the respect of human rights and makes this the highest duty of the State (art. 16 of the Constitution).

For the health sector, the Constitution says that “*the health budget will increase each year in the same proportion as the current revenue of the central government’s budget. There will be no reductions in health spending*”

This was not respected by the Mahuad government in 1999, when the current revenues increased by 40.66% between 1998 and 1999, whereas health spending increased by only 22.18%. The result was that the Centro de Derechos Económicos y Sociales⁶³ (Centre for Economic and Social Rights) made a legal appeal on the grounds that this was unconstitutional.

The situation is the same for education and the eradication of illiteracy, which, according to article 71 of the Constitution, should receive 30% of the current revenue of the State. In 2006, the budget for Education and Culture was 967.2 million USD, i.e. barely 25% of the current revenue.

Furthermore, the State has sidestepped its duties by manipulating the accounts. Simply underestimating the oil revenues in the budget by fixing a price far lower than that expected, meant that the excedent could be added to funds such as the FEIREP. On the 31 January 2003, the government also decided that only 10% of the budget allocated to education and health were to be included in the State’s general budget, and thus the remaining 90% were not under scrutiny from parliament⁶⁴.

⁶⁰ Hugo Arias Palacios, op. cit., p.53

⁶¹ International Debt Observatory, www.oid-ido.org

⁶² Alberto Acosta, “Deuda externa y migración: una relación incestuosa (I)”, 09/09/2002, http://www.lainsignia.org/2002/septiembre/dial_001.htm

⁶³ Centro de Derechos Económicos y Sociales, *Un continente contra la deuda: perspectivas y enfoques para la acción*. Quito: CDES, 2000. Annexe 3. The outcome of this affair was disappointing. In June 2000, the case was rejected by the constitutional court which declared itself incompetent in matters of budget, since there was no actual law which covered this point. It also declared that it was no longer relevant to make a decision concerning the 1999 budget, since this was no longer in effect.

⁶⁴ Alberto Acosta, « Al servicio de la deuda, en contra del país », 11/02/2005, http://www.cadm.org/IMG/pdf/DACOSTABonos_Global2005.pdf

C. THE SOCIAL AND ECONOMIC CONSEQUENCES

It is clear that the neo-liberal remedies of the creditors have not worked. The various injections of loans have kept the “patient” just sufficiently alive to be able service these loans. And the creditors are continuing to “bleed” Ecuador. The reduction in the Education, Health, Social Services and Agriculture budgets has seriously undermined the living conditions of the majority of Ecuadorians, and the State has systematically favoured enriching a small and already rich minority. The policies put in place during the 1999 crisis are a good example. While 1140 million USD⁶⁵ was being invested to save a small number of banks, peoples’ savings were frozen and nurses, doctors, teachers etc. were not paid their salaries!

Increasing poverty, rising inequalities and worsening living conditions

The result of these policies has been an increase in poverty and extreme poverty and the accumulation of wealth in the hands of an oligarchy. Over the period 1970-2005 poverty considerably increased. In 1970, 40% of the population was living below the poverty threshold, whereas this figure had reached 61% by 2005⁶⁶. Poverty considerably worsened during the 1999 crisis. Between 1995 and 2000, the number of poor rose from 3.9 million (i.e. 34%) to 9.1 million (i.e. 71% of the population), while extreme poverty doubled, and concerned 31% of the population in 2000. However, the rich have consistently become richer. In 1990, the richest 20% of the inhabitants received 52% of the revenues whereas 10 years later they monopolised 52% of the revenues. People in rural areas and especially smallholders are becoming poorer as they are most affected by the open market, increases in the cost of inputs, the privatisation of land etc.

According to a 2003 FAO report the poverty is creating problems of malnutrition, since although the food available in the country should be enough to cover the requirements of the inhabitants, the inequality in revenues means the poor cannot afford sufficient food⁶⁷.

This increasing poverty also affects access to health and education. Job insecurity, the increase in unemployment and the reduction in salaries leads to more and more children dropping out of the school system in order to help support their families. The low education budget means that access to education and the quality of education offered are deteriorating. Schooling lasts on average 6 years for the nation as a whole, but only 3.9 years in rural areas⁶⁸. The rate of secondary school attendance was only 52% in 2004⁶⁹. 25% of the population is functionally illiterate.

The data concerning public health are also worrying. At the level of the country as a whole 50% of the children suffer from chronic under-nourishment (70% in mountainous areas), 72% of babies under 1 and 40% of pregnant women are anaemic, only 7 out of 10 Ecuadorians have access to basic health care, and each year some 50 000 Ecuadorians who need hospital care do not get it⁷⁰.

Even the IMF agrees that insufficient means are invested in social services. In its June 1999 report entitled “Ecuador: Social Protection and the Economic Crisis” it said that “the social conditions – the level and distribution of revenues, health care and education – in Ecuador are below the Latin-American average.”⁷¹

⁶⁵ Centro de Derechos Económicos y Sociales, op. cit., p.283

⁶⁶ Norma Mena, *Endeudamiento, ajuste estructural, calidad de vida y migración*, p.13. CEIDEX, Tercer volumen

⁶⁷ <ftp://ftp.fao.org/docrep/fao/meeting/008/ad981s.pdf>

⁶⁸ Hugo Arias Palacios, op. cit., p. 66

⁶⁹ UNICEF <http://stats.uis.unesco.org/unesco/TableViewer/tableView.aspx>

⁷⁰ Hugo Arias Palacios, op. cit., p. 66-67

⁷¹ Centro de Derechos Económicos y Sociales, op. cit., p.418

Mass emigration

There has been a mass exodus from Ecuador for several years, especially just after the 1999 crisis when it was estimated that some 700 000 to 800 000 people fled the country i.e. more than 10% of the economically active inhabitants. This has obviously artificially lowered the unemployment figures. Most of the emigrants are educated people, and their leaving deprives Ecuador of a qualified workforce. It should be noted that these emigrants participate in the national economy through the money they send back. In the year 2000, this incoming money was estimated at 10% of the GDP, which in fact helped to maintain consumption within the country and thus filled the gap left by the State, who invested very little in social spending in order to service the debt. In 2000 and 2001, it is estimated that the amount sent to the country by Ecuadorian expatriates (1364 and 1430 million USD respectively) was greater than the revenue from exporting bananas, shrimps, coffee and cocoa (1167 and 1136 million USD in 2000 and 2001)⁷². Thus it can be seen that emigration acts as a safety valve which has helped the social situation from deteriorating farther. But it also has negative effects such as inflation, increasing imports (part of the money received from the migrants - 17% according to the IDB – is used to buy non-essential foreign-made consumer goods) and induces a dependence on external resources to satisfy internal needs. In fact, emigration enables the State to withdraw somewhat from social questions, since it softens the catastrophic effects (poverty, unemployment) generated by the crisis and the payment of an unsustainable debt.

Destruction of the environment

On top of the social debt supported by the Ecuadorian people, there is the environmental debt which must be considered too. The Ecuadorian external debt was used to finance projects with total disregard for the impact of those projects on the environment. The development of exports, imposed by IMF demands, leads to the overexploitation of natural resources, large scale production which totally destroys the natural ecosystems, threatening the traditional way of life of thousands of Ecuadorians and reducing their source of income.

Take for example oil, which has been over-exploited in recent years in order to be able to service the debt. This has in no way contributed to national development – quite the opposite in fact, since the cost of damage caused by oil extraction in the north-east of the country is 50 times as high as the value of the debt. The damage is of several kinds – deforestation, pollution of the waterways, soil erosion, resettlement of the local inhabitants, etc.

Another outstanding example of ecological damage is the production of shrimps, 90% of which are destined for export. This activity was enthusiastically encouraged by the IMF (increasing exports) and loans from various multilateral organisations were used to develop production. Shrimp farming has involved the destruction of the mangrove swamps (70% of which has disappeared today), a rich ecosystem which was a source of revenue for the local inhabitants, a natural barrier against both floods and salinity of the soil. Shrimp farming was even developed in areas where aquaculture was actually forbidden by law! Environmental defence movements such as Acción ecológica claim that Ecuador is owed an ecological debt much greater than the debt which is demanded from the State.

Non respect of commitments

The disastrous socio-economic consequences of servicing the debt beg the question of its legitimacy and the respect of a series of rights guaranteed by the Constitution and by various international texts which were signed by Ecuador. As has already been pointed out, by devoting more resources to servicing the debt than to education, health services and the

⁷² Alberto Acosta, “Deuda externa y migración: una relación incestuosa (II)”, 16/09/2002, http://www.lainsignia.org/2002/septiembre/dial_003.htm

reduction of poverty, the State is guilty of not respecting rights which are supposed to be guaranteed by the Constitution and the rules for budgets contained therein. It should be remembered that, according to the Constitution, defending human rights, creating sustainable economic growth, ensuring balanced equitable development for the benefit of all, eradicating poverty and promoting economic progress are all fundamental duties of the State. In fact, the Constitution holds the State the guarantor of rights included in international declarations, treaties and conventions.

Thus, by signing the ICESCR⁷³ - the International Covenant on Economic, Social and Cultural Rights in 1966, the Ecuadorian state agreed to guarantee the right of all persons to “an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.” the right to “be free from hunger” », the right to “the enjoyment of the highest attainable standard of physical and mental health” and the right to education and social security. All of these rights have been flouted because servicing the debt was given priority. Interpreting the obligations of this treaty, the UN Economic and Social Council declared “a member state in which a large number of individuals are deprived of basic foods, primary health care, decent clothing or housing or elementary education is not fulfilling its obligations as laid down by this Covenant”.

Ecuador also ratified the UN’s December 1986 Declaration on the Right to Development⁷⁴. In its introduction this Declaration states that “*development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals.*” This right to development supposes “*the right of peoples to self-determination* », and also «*the right of peoples to exercise, (...) full and complete sovereignty over all their natural wealth and resources*”. The State, who is the main actor in the implementation of this declaration, is to ensure that “*appropriate economic and social reforms should be carried out with a view to eradicating all social injustices.*”(article 8), while the development is to be founded “*on the basis of their (the population’s) active, free and meaningful participation in development and in the fair distribution of benefits resulting thereof*”.

Because of the debt and its repayment, the people of Ecuador have been deprived of their right to freely choose their mode of development, and also of sovereignty over their natural wealth. The IFI impose their conditions and – often with the complicity of the State – sell off the resources, make debt servicing a priority, carry out policies which benefit only a minority and neglect their duty to the majority of the citizens - in such a way that, when economic growth does occur, it deepens the inequalities. This is why the debt, and all the accompanying measures (structural adjustments, stranglehold on natural resources, etc.) seriously hinder the people’s right to development.

Finally, Ecuador pledged to achieve the Millennium Development Goals⁷⁵. Yet if nothing is done to reverse the existing trend, and if the State continues to devote more money to servicing the debt than to satisfying its citizens’ most fundamental needs, we can share Hugo Arias’s⁷⁶ fears that most of the Millennium Development Goals (to reduce by half the 1990 percentage of people living in extreme poverty, to ensure that children have an education up to the age of 10, to reduce by half the number of people without access to drinking water compared to the number in 1990...) – which it should be noted are far more modest than the ICESCR, or the Declaration on the Right to Development – will not be reached by 2015.

Considering all the direct and indirect negative effects brought about by the debt, repaying it is unlawful, unjust and immoral. In the holy name of debt repayment and access to

⁷³ The text can be seen at : <http://www.ohchr.org/english/law/cescr.htm>

⁷⁴ The text can be seen at : <http://www.ohchr.org/english/law/rtd.htm>

⁷⁵ These goals aim, by 2015, to reduce extreme poverty and hunger; to ensure primary education for all; to promote the equality and autonomy of women; to reduce infant mortality; to improve maternal health; to combat HIV/AIDS, paludism and other diseases; to ensure a sustainable environment; to set up a world partnership for development.

⁷⁶ Op. cit., p.97-102

international credit, fundamental laws of the State are flouted, as are the economic, social and cultural rights of the majority of Ecuadorians. It is intolerable that these rights should be ignored, subordinated to the wishes and whims of the creditors of a mainly illegitimate debt.

Chapter 5 : Renegotiating the debt

Since the 1982 debt crisis, there have been various attempts to resolve the problem. There have been repeated rescheduling and debt exchanges in Ecuador, as in other countries, but a lasting solution has never been found. With good reason, since the purpose of the renegotiations has never been to find a definitive solution to free the country from the burden of debt. Their aim is merely to temporarily reduce debt servicing to enable maximum repayment. Successive leaders before Rafael Correa all complied with the creditors' conditions, and the national interest was never an issue in the negotiations.

A. MORATORIA: WASTED OPPORTUNITIES

On two occasions over the period 1970-2007, Ecuador declared a moratorium on the payment of its external debt, particularly to banks. Yet each time the suspension of payments was considered by the IFI more as the regrettable effect of passing difficulties than the logical consequence of an unsustainable system. They were never seen as part of a confrontation with creditors or retaliatory measures that could help get the upper hand in the negotiations.

It was in 1987 that Ecuador suspended its payments for the first time. The default was due to different factors: the drastic rise in international interest rates since the early 1980s and the restriction of access to financial markets; the fall in oil revenues with the fall in the price of the barrel; a significant increase in debt servicing due to "sucretisation" (see chapter 2), incurring further debts to pay for the increase; the devaluation of the sucre against the US dollar which automatically increased the burden of repayments in dollars. The earthquake in March 1987 and the burst pipeline preventing oil exports made the balance of payments even more precarious. In this difficult context, the interest on the commercial debt was not paid for nearly five years. However, as was mentioned in Chapter 4, in 1992 the State renounced in extremis the opportunity to claim the lapse of its external commercial debt, as it was entitled to do by law. For according to the laws of New York and London regulating these debts, when an unpaid debt has not been claimed for five years, the obligation to pay it falls. But the State waived this right and signed a convention guaranteeing payments, before the debts were confirmed by their exchange for Brady bonds in 1994.

In 1999, a crisis of unprecedented gravity shook the country under the combined effects of several factors: the Asian crisis and the rise in interest rates for emerging countries; a fall in exports due to the El Niño⁷⁷ phenomenon, a climate of defiance and the withdrawal of foreign capital, etc. Nor did the moratorium decreed in August 1999, at the height of the crisis, result in a favourable renegotiation for Ecuador, but in a further exchange of debts - Global bonds replaced Brady bonds and Eurobonds - which proved even more damaging for the country, as we shall see. This second moratorium could have been used to impel a favourable renegotiation, since as a result of the default of payment, the Brady bonds had fallen to about 25% of their nominal value. If the State had really wanted to get the debt reduced, it could have done it then, while at the same time getting round the prohibition on buying bonds included in the Brady Plan.

As Alberto Acosta⁷⁸ notes, this moratorium was of no use to Ecuador since it was not part of an active strategy of debt reduction. It did not lead to a stand-off between debtors and creditors; on the contrary, discussions between the two parties never stopped. The 1994 scenario was thus repeated: the national interest was not taken into account in the exchange of bonds, the question of how much Ecuador could afford to pay was not examined, and neither

⁷⁷ El Niño is a sporadic phenomenon of climatic disturbance characterised by an abnormal rise in the temperatures of the Pacific Ocean. In 1997-98, it occurred on an unprecedented scale causing heavy rain in Ecuador which did enormous damage, with severe and lasting effects on the country's production capacity.

⁷⁸ Alberto Acosta, « Al servicio de la deuda, en contra del país », 11/02/2005, http://www.cadtm.org/IMG/pdf/DACOSTABonos_Global2005.pdf

was that of the illegitimate debts that Ecuador need not pay. Once again, the negotiations came at a high cost to the State and to the detriment of the people of Ecuador.

The present government, however, seems to have adopted quite different tactics. President Correa has said: « We certainly cannot exclude the idea of a unilateral moratorium, based on the needs of the country, and of course, aggressive renegotiation of the debt.⁷⁹ »

B. EXCHANGES AND RESCHEDULING

The external commercial debt has been rescheduled several times, since the start of the debt crisis. There have been three sessions of negotiations with the executive committees of the creditor banks: the first from August 1982 until September 1985, the second from September 1985 to August 1987 (the Baker initiative) and the third from September 1987. These sessions have not been able to resolve the crisis and in 1987, Ecuador suspended repayments of its commercial debt. This was then transformed into Brady bonds, then Global bonds. The following analysis will centre on these two exchanges which, like the rest of the renegotiations, provided a solution for the lenders and not for the debtor country.

The Brady Plan

The agreement for the Brady Plan was signed in 1994 and it was set up in 1995. The idea was to exchange an old outstanding debt for a new one in the form of bonds. In 1992, the public commercial debt came to 6 964 million USD, of which 2 009 million were interest in arrears⁸⁰. The Plan provided for four types of bonds: « Discount » and « Par » bonds, for the capital, and « PDI » and « IE » bonds, for the interest. The first two were guaranteed by 0 per cent U.S. Treasury bonds, bought using a new loan. The Brady Plan was presented at the time as an instrument to reduce the debt and its service. Discount bonds did actually make it possible to get a reduction of 45% on the capital of the old debt, but their interest rate was variable and higher than market rates (LIBOR⁸¹ + 13/16). As for Par bonds, they gave no reduction of capital but had increasing fixed interest rates (starting at 3%, then gradually rising to 5% by the eleventh year). The other two types of bonds quite simply capitalised the interest (In 1994 the interest in arrears represented 41% of the debt contracted with international banks). The effect of the Plan was a temporary relief for the State thanks to the reduction of capital and periods of grace (30 years for Par and Discount bonds, and 10 years for PDI bonds). Nevertheless, in the long term, the debt service was going to increase, all the more since the State had to take out further loans from the IMF, the IDB and the WB to finance the operation. As can be seen in the following chart, the service on Brady bonds was to increase substantially (by 294%) between 1995 and 2008. But Brady bonds were soon replaced by Global bonds, after a new suspension of interest payments in 1999.

⁷⁹ <http://www.eluniverso.com/2007/07/05/0001/8/A5B38D878DBF402FA135FDAB45928287.aspx>

⁸⁰ Hugo Arias Palacios, *Impacto económico, social y ambiental de la deuda soberana del Ecuador y estrategias desendeudamiento*, p.23. CEIDEX, Third volume

⁸¹ LIBOR (London InterBank Offered Rate) is a reference rate on the finance market for inter-bank loans. It is the rate at which the major London banks lend to other banks.

Predicted service on Brady bonds (in millions of US dollars)

Year	PAR	Discount	PDI	IE	TOTAL
1995	43.0	52.6	35.8	23.3	154.7
1996	61.0	93.7	74.0	21.5	250.2
1997	65.8	98.1	79.7	20.9	264.5
1998	67.0	101.8	85.9	20.2	274.9
1999	74.1	101.8	95.8	29.0	300.7
2000	76.5	101.8	106.6	27.7	312.7
2001	86.7	102.1	161.5	26.4	376.8
2002	86.1	101.8	214.8	37.7	440.4
2003	89.1	101.8	214.8	35.5	441.2
2004	90.9	101.8	215.4	33.4	441.5
2005	64.5	102.1	358.2	0	524.8
2006	95.6	101.8	347.5	0	545.0
2007	95.6	101.8	336.8	0	534.2
2008	95.6	101.8	412.6	0	610.0
2009	95.6	102.1	394.9	0	592.6
2010	95.6	101.8	377.7	0	575.2

Source : Alberto Serrano, « El Brady Plan ¿Solución para prestamistas o prestatarios ? », *Ecuador Debate*, n°45, December 1998

Global Bonds

In 2000, shortly after the economy was «dollarised», there was renewed renegotiation of the external commercial debt, then standing at 6 945.9 million USD, almost all of which was in Brady bonds and Eurobonds. The idea was to exchange the Brady bonds and Eurobonds for Global bonds A and B (see Chapter 2) in response to the new exigencies brought about by dollarisation. Officially, the objectives were to relieve pressure on the State cashflow; to establish a debt service profile in harmony with the State's financial capacities; to reduce pressure on the budget and free up resources for priority programmes; to significantly reduce the nominal amount of the debt; but also, to proceed with a maximum of advance repayments; to guarantee Ecuador's return to the financial markets and finally to get the country's risk premium⁸² reduced. According to Alberto Acosta, the government's strategy should be seen as coming within the framework of structural adjustment, barely disguised by a thin layer of social preoccupations.

The government claimed that exchanging Brady bonds for Global bonds constituted a 43% debt reduction. That is what the figures imply. Global A bonds were emitted to a value of 1 250 million USD, and Global B bonds, 2 700 million USD, i.e. 3 950 million USD for an initial debt of 6 945.9 million USD. However, to the 3 950 million Global bonds should be added the 722 million USD paid to holders of Brady bonds in the form of U.S. Treasury bonds (see below), and the reduction then comes to less than 30%. Furthermore, these figures should be treated with caution. Indeed, Alberto Acosta⁸³ mentions the presidential decree n°168 whereby the State undertook to issue 5 750 million dollars' worth of Global bonds, destined exclusively to be given in exchange for Brady bonds. Thus the government's declarations, which presented the operation as one of exceptional debt reduction, were completely misleading, especially considering that at the date of exchange, the Ecuadorian bonds had dropped to 25% of their nominal value. It was thus an initial debt of 6 298 million USD (the amount of the bonds actually exchanged), by then only worth 1 575 million, that was exchanged for at least 3 950 million USD. The conditions of this

⁸² Alberto Acosta, op. cit.

⁸³ Alberto Acosta, "El canje de los bonos Brady por bonos Globales Ecuador: detalles de un atraco maravilloso",

<http://www.oid-ido.org/IMG/doc/AlbertoAcostaBonosBradyEcuador.doc>

exchange were so advantageous for the creditors, and therefore so detrimental to Ecuador, that A. Acosta writes of « an incredible hold-up »⁸⁴ ...

There follows a list of some of the exceptional advantages conceded to creditors:

2. They received 722 million dollars' worth of 0 per cent U.S. Treasury bonds as collateral for the Brady bonds before the due date (2025).
3. Interest accrued, i.e. about 161 million USD, was paid immediately, so that the creditors received 883 million USD cash. This money could have been used to buy up the Brady bonds whose value had dropped sharply during the moratorium. On the contrary, those who had bought their Brady bonds at almost 20% of their nominal value during the moratorium and the negotiations, got a very good deal.
4. The government imposed sanctions upon itself in case of late payment (a penalty of 30% if the delay occurred in the first three years, 20% as of the fourth year, and 10% after the seventh year).
5. The State is under obligation to buy back bonds on the secondary market to maintain high rates, for the benefit of the creditors.
6. The interest rates are higher than market rates: for 30 year Global bonds, they go from 4% to 10% (increasing by one percentage point per annum) and for 12 year Global bonds, they are at 12%. These excessive interest rates explain the increase in the service of the bonds in the years following the agreement. According to the calculations of Marco Flores, cited by Alberto Acosta⁸⁵, the service of the Global bonds is 1.4 billion USD more than what had been anticipated for the Brady bonds.
7. The agreement does not include any contingency clauses. Indeed, the IMF was later to impose a reverse contingency clause: Lucio Gutierrez (president from 2003 to 2005) undertook in 2003 to make the necessary adjustments in case of a fall in the price of oil to guarantee the service of the debt.

Such are the advantages conceded that one may well question whether both parties were actually present during the negotiations. It does indeed seem that the Ecuadorian State, in line with the interests of the local political and economic elite, accepted the creditors' conditions without a murmur. As Wilma Salgado⁸⁶ points out, the local financial sector is linked to foreign creditors, through the possession of a considerable amount of external debt paper. This would explain why no-one defended the interests of the debtor State, i.e. the interests of the Ecuadorian people. They are always the losers, and despite the media hype, there have never been any miraculous negotiations, except perhaps for the creditors. The same applies to negotiations with the Paris Club, as we shall see.

Restructuring the bilateral debt with the Paris Club

Ecuador has signed 8 agreements with the Paris Club since 1983. These have in no way reduced the bilateral debt stock, which has gone from 73.3 million USD in 1983 to 1 338 million USD in 2003, as shown in the following chart:

⁸⁴ Ibid

⁸⁵ Alberto Acosta, « Al servicio de la deuda, en contra del país », 11/02/2005

⁸⁶ Wilma Salgado, *Acerca de la crisis financiera en el Ecuador*, p.6, CEIDEX, Quinto volumen

Amounts restructured with the Paris Club (in millions of US dollars) ⁸⁷					
Agreements	Date of report	Capital	Interest	Total	End of year balance in report
Agreement I	28/07/83	87.5	26.6	114.1	73.3
Agreement II	24/04/85	319.9	----	319.9	345.5
Agreement III	20/01/88	307.0	146.0	453.0	835.1
Agreement IV	24/10/89	246.2	132.3	378.5	953.4
Agreement V	20/01/92	205.1	135.5	340.6	1179.4
Agreement VI	27/06/94	232.3	120.4	352.7	1302.9
Agreement VII	15/08/00	521.6	349.3	861.9	1318.7
Agreement VIII	13/06/03	79.1	----	79.1	1338.5

The first four agreements with the Paris Club followed what is called classic procedure, meaning that commercial debts and concessionary debts (at lower rates and linked to Official Development Assistance or ODA) were rescheduled at rates in line with market rates. From 1992, Houston terms, intended for low-income countries, were applied. According to this scheme, commercial debt is rescheduled over a period of 15 years (with up to 8 years of grace) and the concessionary debt over a period of 20 years (with up to 10 years of grace). It is important to remember that Ecuador's negotiations with the Paris Club have never resulted in even partial cancellation of debts. The last two agreements allowed for part of the debt to be converted, on a voluntary and bilateral basis, to a productive investment of a social or environmental nature. These are known as « swaps », or debt exchanges, another mechanism used for restructuring debts, whether bilateral or commercial. Ecuador made use of this mechanism for the first time in 1987. Between then and 1998, Ecuador thus exchanged 0.4% of its total debt at an average cost of 66%, while the market price was 30%, showing yet again that the creditors are the ones who benefit from this type of exchange.

In July 2006, Ecuador's debt to the Paris Club came to 980 million USD, of which 139 million USD were concessionary loans (11%) and 841 million USD of commercial loans.

There follows a breakdown of the bilateral debt by country in July 2006⁸⁸.

In millions of US dollars				
Country	Original Contracts	Paris Club	Total	Percentage
Korea	8.4	0.0	8.2	0.4
Colombia	5.6	0.0	5.6	0.3
China	8.4	0.0	8.4	0.4
Denmark	16.0	0.0	16.0	0.7
Belgium	16.4	0.0	16.4	0.7
Argentina	20.9	0.0	20.9	0.9
Canada	1.0	25.1	26.1	1.2
Norway	0.0	35.3	35.3	1.6
Germany	16.8	40.8	57.6	2.6
United Kingdom	0.0	102.7	102.7	4.7
USA	57.0	61.8	118.8	5.4
France	85.9	99.8	185.7	8.4
Israel	0.0	183.6	183.6	8.3

⁸⁷ Chart taken from Hugo Arias Palacios "Impacto económico social y ambiental de la deuda de Ecuador y estrategias de desendeudamiento", CEIDEX, 3rd volume, p.45.

⁸⁸ Idem p.42

Brazil	316.8	0.0	316.8	14.4
Italy	66.5	292.9	359.4	16.3
Japan	220.3	118.1	338.4	15.4
Spain	381.9	20.1	402.0	18.3
Total bilateral debt	1221.7	980.2	2201.9	
Total publ. external debt			10 371.2	
% bilateral debt /total debt				21.2%

C. DEBT CANCELLATIONS

The HIPC initiative and Ecuador

The initiative in favour of heavily indebted poor countries (HIPC) was started in 1996, then revised in 1999 (HIPC II) since too few countries met the initial criteria of the initiative. It makes debt reduction possible (aiming just to make it « sustainable » ...) for very poor and very heavily indebted countries that satisfy the conditions imposed by the IMF and the World Bank, that is, the same old structural adjustment reforms in line with the same old logic that has been hammered home for over 20 years. The procedure for acceptance is nevertheless very long and the conditions many and stringent. This is why the initiative has got considerably behind schedule. It should have ended in 2000 for the forty or so countries concerned, but the final date has had to be postponed several times. To date, only 31 countries have reached the end of the first stage which was to have lasted three years, and 22 countries have completed the initiative which was not to have taken longer than six years in all. Worse still, several countries which have applied the IMF / WB recommendations to the letter still carry a debt burden judged unsustainable, as the IMF's predictions for the years ahead turned out to be wrong. The multiple inadequacies of the HIPC initiative have meant that the whole disastrous project has had to be entirely reviewed. This was supposedly the aim of the decisions taken in 2005 at the G8 summit at Gleneagles, but they too protect the interests of the creditors.

To be entitled to help under the HIPC initiative, a country must fulfil certain conditions. Firstly, it has to qualify for the Poverty Reduction and Growth Facility (PRGF). The PRGF enables countries with a gross *per capita* income of less than 895 USD, i.e. the poorest countries of the planet, to get low-cost loans. Secondly, the country must be faced with an unbearable debt burden, falling outside the realm of traditionally available debt-reduction mechanisms. To be considered as unbearable, the debt must be at least one and a half times the annual export revenue. Thirdly, the country must prove that it has undertaken reforms and is conducting economic policies in line with the IMF and WB's structural adjustments. Fourthly, it must have drawn up a Poverty Reduction Strategy Paper (PRSP) enumerating the austerity measures, privatisations and other measures of deregulation that the country intends to take.

Ecuador does not meet the conditions of the HIPC initiative for two reasons: its GDP per inhabitant is too high (2 628 USD) and the ratio between its public debt and its exports is not unbalanced enough (about 120 %).

The coefficients of the debt with regard to the GDP, export revenues and fiscal expenditure clearly show that the Ecuadorian debt takes up far too much of the national budget and is unsustainable by the criteria of the Bretton Woods institutions. In fact, to assess the HIPC, the IMF and the World Bank have established certain minimum coefficients of debt sustainability. This depends on the capacity to pay the debt service, which is mainly related to export revenues and fiscal revenue. A poor country with a debt-service to exports coefficient of over 15% is considered to deserve a reduction of part of its debt. Even though the coefficients of the Ecuadorian debt far exceed the values established by the IMF and the WB, Ecuador was excluded from the HIPC II initiative.

Yet these coefficients reveal a far more serious situation than Germany's in the 1950s, which enabled Germany to obtain the renegotiation of its debt on 27 February 1953. The lenders at that time agreed that Germany should not spend more than 5% of its export

revenues to pay back its debt, while the ratio of debt service to exports was 3.9 (see table below).⁸⁹. For Ecuador, this coefficient is over 30% of its exports.

Indicators of the external debt for HIPC countries, Ecuador and Germany.

Coefficient year 2005	HIPC threshold II	Total public debt of Ecuador	External debt	Germany 1953
Debt service /exports	15 %	42%	96%	3.9%
Debt/exports	150%	144%	171%	
Debt/GDP	50%	40%	48%	21.21%
Debt/ fiscal revenue	280%	255%	303%	
Debt service / fiscal spending	22%	37%	24%	4.49%

Source: Jubilee Germany and European Central Bank

In a dollarised economy like Ecuador's, the service of the internal and external debts depends directly on exports of goods and services and fiscal revenue. Consequently, the total amount of sovereign debt needs to be taken into account, i.e. the internal debt and the external debt.

The decision of the Norwegian government in October 2006: an unprecedented acknowledgement by a creditor State of its responsibility in bad lendings

At the end of the 1970s, Norway's naval construction industry was in a bad way. The shipyards could not get enough clients and a great many jobs were under threat. As a remedy, the government decided to set up a « Ship Export Campaign ». The idea was to provide loans with worthwhile conditions to carry out the development projects of countries that wished to buy Norwegian ships. The Ship Export Campaign project was voted by Parliament on 19 November 1976.

Between 1976 and 1980, many loans were granted somewhat carelessly, irrespective of the feasibility of the projects or whether the borrowers would actually be able to repay the loan. Of 36 projects agreed in 21 countries, only three had been completed by 1987 and only two countries had managed to repay their debts⁹⁰.

Ecuador was one of the countries which did not manage to repay its debt. The State enterprise, Flota Bananera Ecuatoriana (FBE) bought four ships from Norway between 1978 and 1981 for the sum of 56.9 million USD. In 1985, the FBE went bankrupt and another State enterprise, Transnave, recovered the ships. Thus the debt was divided in two. 17.5 million USD became the responsibility of Transnave and the Ecuadorian State, and 13.6 million USD was renegotiated in the Paris Club. The first part was completely repaid but the second increased significantly during the ensuing years. By March 2001, it came to 49.6 million USD, whereas the total amount paid by the FBE, Transnave and the government had already reached 51.9 million USD.

Under pressure from debt-cancellation activists both in Norway and Ecuador, the Norwegian Parliament and government eventually realised that such actions were unacceptable. On 2 October 2006, Erik Solheim, the Minister for International Development, finally acknowledged his country's share of responsibility for the failure of the development aid projects set up during the Ship Export campaign. He subsequently announced the cancellation of debts arising from the campaign for countries that still owed money, such as Ecuador, which still owed 36 million USD relating to ships bought.

Norway is a country that sets an example to the rest of the international community with regard to development assistance and debt. It has already implemented a certain number

⁸⁹ See Eric Toussaint, *The World Bank: a Never-ending Coup d'Etat. The hidden agenda of the Washington Consensus*, Vikas Adhyayan Kendra (vAK), Mumbai, 2007, chapter 4

⁹⁰ Figures cited by Kjetil G. Abildsnes in « Why Norway took Creditor Responsibility – the case of the Ship Export campaign ».

of initiatives aimed at reducing the debt burden of poor countries⁹¹. With the declaration of 2 October 2006, not only does it go some way to doing justice to countries which have been badly treated but even more importantly, it has launched a debate at an international level on the responsibility of creditors towards borrowers. For this cancellation is completely unilateral and does not result from negotiations with other creditors within the Paris Club, which shows that it is possible for a creditor who so desires to break away from the esprit de corps of its fellow nations. Furthermore, Norway declared it would not count this cancellation as part of its Official Development Assistance, unlike so many other countries. It shows itself favourable to a bilateral vision of development assistance, whereby both the country that provides the aid and the one that benefits from it have rights and obligations. Norway has expressed its wish for an institution to be established on an international level that would examine debts that could be considered illegitimate on the basis of the lenders' responsibility.

Nevertheless, the pressures brought to bear on Norway were enormous. It was careful to announce that its decision in no way implicated the Paris Club and that it would not take such initiatives unilaterally in the future. This clearly shows that only with a strong grass-roots movement can this route be pursued. Indeed, the Norwegian government's unprecedented decision was taken after a far-reaching campaign over several years on the part of SLUG, the Norwegian movement for debt cancellation, and the Centre for Economic and Social Rights (CDES) in Ecuador.

⁹¹ See the Norwegian government's web-site:
<http://www.regjeringen.no/en/dep/ud/Documents/veiledninger/2004/Debt-Relief-for-Development.html?id=419443>

Chapter 6: Conclusions and recommendations

This analysis set out, on the one hand, to trace the political, economic and financial history of Ecuador that led to the present situation of indebtedness, and on the other, to show up the illegitimate nature of the debt. In Ecuador, as in most indebted third-world countries, debt is one of the main instruments of oppression and political, economic and social domination - an instrument of power that helps ensure and perpetuate the acquisition of natural resources and the transfer of wealth from the peoples of the South to their rich creditors, with the elites of the South skimming off their commissions in the process. Ecuador is one of many countries that has repaid several times over debts that were not contracted in the interests of the nation or the people. The loans contracted by Ecuador have in fact profited the creditors in the North, multinational corporations, financial speculators and the local ruling classes.

The different stages of growing indebtedness show that debts Ecuador is supposed to pay are illegitimate. The following are illegitimate: debts contracted by military dictatorships during the 1970s and which have never ceased to grow under later governments; debts to finance projects which did not benefit the population or which turned out to be destructive for people or the environment; debts contracted through corruption; debts contracted at usurers' interest rates; private debts converted into public debts. Debts are illegitimate when they are bound by conditionalities imposed by the IMF and the World Bank, flying in the face of Ecuador's sovereignty and its right to self-determination, in violation of the people's right to define their own policies for development, whether in the realms of trade, taxation, the budget or energy, and their own labour laws; conditionalities which force them to make drastic reductions in social spending and to privatise strategic sectors, and so on.

All these are illegitimate debts that the Ecuadorian State must refuse to pay.

We have seen what a burden the human cost of the debt, and of the neo-liberal system in general, has become for a growing number of Ecuadorians who have seen their living conditions steadily deteriorate under the combined effects of debt repayments and the neo-liberal policies which work against the fulfilment of their basic needs.

A. IDENTIFYING ECUADOR'S ILLEGITIMATE DEBT AS A PRELUDE TO POLITICAL SOVEREIGNTY

It is no good expecting capitalist logic to fulfil the basic needs of the world's populations. Neither can we hope to pursue development without cancelling the debt and abandoning neo-liberal policies. The debt problem will be solved when the governments of the South decide to end it themselves, by economic, political and social measures to liberate human development. In the present context there is no way that the creditors will decide to cancel the debt in totality and unconditionally! The repudiation of illegitimate debts is a necessary, though insufficient, measure. How can repudiation be achieved? An audit could very well justify a unilateral sovereign decision to refuse to pay. The first step is to end the financial haemorrhage caused by debt repayment. Then alternative sources of finance will have to be found, for socially just and environmentally sustainable forms of human development. There has to be a break away from the logic that leads to massive plunder of financial and natural resources and from dependence on foreign capital and the conditional loans of the IFI. Finally, this unjust neo-liberal system should be replaced by a just and fair model of development, meeting the aspirations of the people.

Ecuador is giving encouraging signs, suggesting that it is beginning to follow this path. For as well as being choked by debt like so many others, Ecuador seems to be one of the rare countries endowed with a government that intends to put an end to the debt haemorrhage in the interests of its population.

Rafael Correa's government is following up the non-exhaustive audit carried out by CEIDEX, wishing to take the research a lot further and use it to make strong decisions that will strike at the root of the problem. The CEIDEX audit has already clearly demonstrated that the debts and loan agreements are fraudulent, unlawful and illegitimate. Because of the social, economic and environmental consequences of the debt, it must be totally repudiated.

Furthermore, the role of creditors has to be revised. Because of the pillage of resources and the destruction of the environment, facilitated by the policies imposed by the IFI, creditors have a responsibility in preventing human development in Ecuador. This means that they have a considerable debt towards Ecuador's people. The question of reparations needs to be discussed.

From 25 to 28 April 2007, Ecuador's illegitimate debt was at the heart of the debates at the International Seminar on the illegitimate debt held in Quito. Participants agreed that the debt was illegitimate and were in favour of repudiation.

In 1986, the United Nations' Declaration on the Right to Development reinforced the State's obligations in development issues, laying down that "States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting from it"⁹².

Consequently, Ecuador has the right – and even the duty – not to apply the structural adjustment programmes drawn up by the World Bank and the IMF, which amount to a violation of peoples' right to development, and more generally, a violation of economic and social rights.

Rafael Correa has assured that « we believe in the socialism of the 21st Century, which seeks social justice, national sovereignty, the defence of natural resources and regional integration based on the logic of coordination, cooperation and complementarity. »⁹³

The process of profound transformation towards this "socialism of the 21st Century" that Rafael Correa aspires to is only in its early stages. It is difficult to predict how it will go – much will depend on the popular support enjoyed by the president and his government, particularly when faced with relentless attacks from the national oligarchy and the U.S. government. Whatever may happen, Ecuador provides an example of a government that takes sovereign decisions on questions of debt, especially the decision to have an audit to reveal the illegitimate part of the debt, which is the first step towards total cancellation. Let us hope that other governments of the South will follow in its tracks and that audits will be ordered in other countries to reveal at last the truth about the debt!

B. THE RIGHT OF GOVERNMENTS TO DETERMINE THE ILLEGITIMACY OF A DEBT

Defenders of neo-liberal globalisation would have it that developing countries must be held to repay their external debt, whatever its origin and whatever the conditions of repayment. On this point, the UN Commission for International Law has rightly declared, "A state can not be expected to close its schools, universities, and law courts and to do away with public services, plunging the community into chaos and anarchy simply to be able to use the money to repay its national or foreign creditors. There are limits to what can reasonably be expected from a state as there are from an individual"⁹⁴.

⁹² Alinea 3 - article 2

⁹³ Eduardo Tamayo, "Consulta popular se perfila como salida a la crisis", 23 March 2007, sur <http://www.alainet.org/>

⁹⁴ *Annual report of the International Law Commission*, vol.II, 1980, p.164-167, cited by Hugo Ruiz Diaz.

According to international law, no government can be obliged to pay a debt deemed illicit. How such illicitness may be determined is for the governments to decide, using their right to conduct an audit of the public debt. This implies that even before repaying the debt, the government and citizens are entitled to query its origins, the borrowing conditions, the amount of the loan contracted, the legal conditions of the debt, its illegitimacy and the social and environmental consequences of repayment and of the policies imposed by the creditors. Several governments have already made use of this procedure⁹⁵.

Similarly, when a government refuses to conduct an audit, the population should demand that their government be answerable. The citizens' audit is a basic right figuring in the principal texts of international law. The 1948 Universal Declaration of Human Rights lays down that, "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives"⁹⁶.

As for the right to information, Article 19 of the 1966 International Covenant on Civil and Political Rights asserts,

"Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice"⁹⁷.

A country's population therefore has every right to conduct an audit on the debt contracted by its State. Ecuador has thus begun an audit process, to eventually get its debt cancelled. The new audit commission will concentrate on identifying which part of the public debt, internal or external, can qualify for repudiation or cancellation; and will determine the degree of responsibility of the government and the creditors, whether private (banks) or public (the IMF and the World Bank), in getting the country into debt.

Beyond determining the illegitimate nature of the debt, the different parties responsible must be held to account for their deeds, and the issues of reparation and restitution of ill-gotten gains addressed. Conducting an audit of the debt must go hand in hand with a firm stand against the impunity of those responsible for under-development and against the real criminals, i.e. the IMF and the World Bank, whose particularly draconian policies induce human rights violations. This last point was made emphatically by the UN Commission for Human Rights itself⁹⁸

C. THE WORLD BANK AND THE IMF ARE LEGALLY RESPONSIBLE!

The structural adjustment plans cynically set up under pressure of the debt by the IMF and the World Bank to ensure repayment of a debt that is unjust, illegitimate and immoral were the main cause of subordination and a halt in the socio-economic, political and cultural development of Ecuador. The IFI imposed their drastic conditions with complete lack of regard for the country's sovereignty and the aspirations of the people. In Ecuador as elsewhere, the IFI carry a heavy burden of responsibility for indebtedness and the tragic effects of their policies on the population.

⁹⁵ For this see Hugo Ruiz Diaz, Eric Toussaint, *Donde esta lo que prestaron? Deuda externa, deudas ilegítimas y auditoria*, Centro de Derechos economicos y sociales, Quito, 2004.

⁹⁶ Article 21

⁹⁷ <http://www.ohchr.org/english/law/ccpr.htm>

⁹⁸ UN-HRC, Effects of structural adjustment policies and the external debt on the full enjoyment of all human rights, particularly economic, social and cultural rights. Also, Resolution of the Human Rights Commission 2001/27, UN-HRC, Effects of structural adjustment policies on the full enjoyment of human rights, Independent expert's report by Mr. Fantu Cheru, presented in line with decisions 1998/102 and 1997/103 of the Commission, E/CN.4/1999/50 24 February 1999, UN-HRC, Joint report by the special reporter Ronaldo Figueredo and the independent expert, Effects of structural adjustment policies on the full enjoyment of human rights Fantu Cheru, E/CN.4/2000/51, 14 January 2000.

There is incontrovertible evidence that through their policies, inequalities and corruption have got worse, health and education systems downgraded, food sovereignty lost, the environment damaged and the State dispossessed of its companies. Yet these institutions continue to justify their role, claiming that the measures they impose will enhance growth and free trade, which to them means reducing poverty. Several decades of experience have shown that such a model of development is totally unworkable, and on the contrary, generates poverty. The obstinacy of the IMF and the World Bank in maintaining these arguments against all evidence is better understood when we know that their goal is to serve the geo-strategic interests of the USA, its multinational corporations and its allies, for whom the developing countries represent a market where raw materials can be had at unbeatable prices and a bottomless reservoir of cheap human labour. This can be seen in Ecuador and elsewhere.

As Fantu Cheru of the UN Human Rights Commission so aptly said of the structural adjustment programmes, “They [are] the expression of a political project, a deliberate strategy of social transformation on a global scale, whose aim is to make the whole planet a playing field in which trans-national corporations will be able to operate with total impunity. In other words, the structural adjustment programmes act as a “transmission belt” to facilitate a globalization process that is based on liberalization, deregulation and diminishment of the State’s role in national development”⁹⁹. In short, they are part of the neo-liberal counter-revolution - a far cry from their claimed objective of eradicating poverty.

The present study has explained how the largely negative impact of debt repayments and neo-liberal policies renders payment of Ecuador’s debt illegitimate, unjust and immoral. The policies imposed by the IMF and the World Bank have clearly resulted in grave violations of human rights and of social, economic and cultural rights. These policies constitute flagrant interference in the political affairs of a State, thus breaching Article 2 Paragraph 1 of the 1945 UN Charter, which asserts the principle of the sovereign equality of States and their right to choose freely their economic, social and political regimes. Violating peoples’ right to development, as asserted in the International Covenant on Economic, Social and Cultural Rights adopted by the UN General Assembly in 1966 at the same time as the one relating to civil and political rights. These agreements, which became law in 1976, lay down in the first paragraph of the first article: “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development”.

The penal responsibility of these institutions is clearly implicated. This only leaves one possible solution: given how undemocratic the IMF and the World Bank are, given their absence of legitimacy, given their patent inability to examine critically the concept of development that they promote, given their direct responsibility for under-development, there is no hope of reforming them satisfactorily. It is urgent that these institutions should be abolished and replaced with democratic, transparent institutions, founded on the guarantee of basic human rights and respect for the sovereignty of the countries of the South. There must be reparation and restitution. To this aim, legal proceedings must be instituted against the World Bank which, unlike the IMF, does not enjoy judicial immunity¹⁰⁰.

The Bank’s lack of immunity cannot be explained in legal terms but it nevertheless opens up an interesting loop-hole worth exploiting by the hundred or so countries where the Bank is represented. Despite the fact that such a thing has never been attempted, it would be perfectly logical, in view of the multiple human rights violations resulting from the World Bank’s actions, its support of numerous dictatorships, its systematic destabilisation of

⁹⁹ UN-CHR, *Effects of structural adjustment policies on the full enjoyment of human rights*, Report by the independent Expert Mr. Fantu Cheru, E/CN.4/1999/50, paragraph 31.

¹⁰⁰ Since the World Bank issues bonds on the financial markets and borrows from banks, it was obliged to guarantee buyers the right to sue the Bank in case of default -. Section 3 of article VII: “*Actions may be brought against the Bank only in a court of competent jurisdiction in the territories of a member state in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities*” in Eric Toussaint, *The World Bank, A never-ending, coup d’etat*, 2006, chapter 23.

progressive regimes, and its enforcement of structural adjustment policies that have caused unprecedented social and environmental damage to the peoples of the South.

Rafael Correa has not ruled out the idea of such an action against the Bank for the damage it has done in Ecuador, which would certainly open the way forward for other political leaders who wish to break away from this system of domination and acquit the social debt of their peoples.

D. ACTIONS BY CREDITORS OF THE NORTH

At the end of 2006, the Norwegian government opened up a breach into illegitimate debt that should be fully exploited. The resolution cancelling the debt of the Least Developed Countries (LCD)¹⁰¹ adopted by the Belgian Senate on 29 March 2007 with a majority of 34 votes to 29 represents a major advance in several respects.

The resolution calls for the Belgian government to conclude an agreement with all indebted countries concerned in order to completely cancel their debt. In that respect, the Senate's proposal does not go beyond what has already been decided by other governments. But fortunately the Senate blazes trails in several very significant areas:

- it proposes to decide on a moratorium on the bilateral debt with no interest arrears¹⁰² in favour of the Least Developed Countries (point 6);

- it states that a country's bilateral or multilateral debt must be assessed at its true value. The Senate considers that the actual value, and not the nominal value, must be taken into account.

Now the actual value very often represents next to nothing, compared to the nominal value. For example, it represented 4% of the nominal value in the case of debts contracted by the Mobutu government on behalf of the former Zaire, now the Democratic Republic of Congo.

- while it applies in principle to all developing countries (see introduction to point 10 in the Senate's text), point 10 relates to debt auditing and odious debts, two of the recurring demands formulated by the CADTM and other movements for cancellation of the debt. In this respect the Senate asks the Belgian government to set up an audit on the odious nature of Belgian debt-claims on developing countries. In the same paragraph it considers that at the very least an odious debt is one contracted by a non-democratic government, that the borrowed amount did not benefit the local population, and that the loan was granted while the creditor was aware of the two above-mentioned facts (point 10). The Senate thus uses two of the instruments that the CADTM among others has put forward to establish a legal basis on which the Third World debt can be cancelled: auditing and the notion of odious debt. Consequently the CADTM can provide the Belgian authorities with various tools, including an Auditing Manual it developed in 2006 with a number of organizations in countries of the South and with CETIM (Switzerland), and its recently published « Pour un audit de la dette congolaise » (For an Audit of the Congolese Debt)¹⁰³.

¹⁰¹ According to the list established by the IFI and the OECD, there are currently 50 LCDs.

¹⁰² It should be recalled that following the tsunami of December 2004 off the coast of Indonesia, the Paris Club had proposed a one-year moratorium with possible accounting of interest arrears, which the CADTM denounced in March 2005, since this meant increasing the debt of the countries concerned. See Damien Millet and Eric Toussaint, *Tsunami Aid or Debt Cancellation !*, VAK, Mumbai, 2005.

¹⁰³ *Let's launch an inquiry into the debt ! A Manual on How to Organise Audits on Third World Debts*; CADTM-CETIM, Liege-Geneva, 2006, 96p. on line: http://www.cadtm.org/texte.php3?id_article=2296

A qui profitent toutes les richesses du peuple congolais. Pour un audit de la dette congolaise, CADTM, 2006, 56p.

The Senate asks the government to cancel the odious part of Belgian debt claims that the auditing process will reveal (point 11).

Government actions in favour of debt cancellation, acknowledgement of its illegitimate character and the effective application of human rights and the right to development depend on political will, so far noticeably absent. Changes in this direction can only come about through a widespread awareness, by citizens of the North, of the harm done by their countries' policies concerning the debt and its economic, commercial and political relationships. Such awareness should then lead to powerful mobilisation of citizens in the North, to put pressure on their governments.

E. ACTIONS BY THE UNITED NATIONS

Since the 1980s, the UN has made several statements concerning the negative effects of the debt mechanism and the policies dictated by the international financial institutions. By adopting several resolutions it has attempted to bring sustainable solutions to the difficult issue of the debt faced by developing countries¹⁰⁴. The UN General Assembly has several times agreed that the debt is “an obstacle to the economic growth and development of the developing countries¹⁰⁵”. Indeed, the Assembly noted that: « repayment of the debt demands sacrifices of the populations of the developing countries which have had the effect of degrading and deteriorating the economic and social situation of these countries”¹⁰⁶. The UN Commission on Human Rights wrote, “structural adjustment policies have serious implications for the ability of the developing countries to abide by the Declaration on the Right to Development and to formulate national development policies that aim to improve the economic, social and cultural rights of their citizens” and also stresses the importance of continuing to implement “ immediate, effective and durable actions for alleviating the burdens of debt and debt service of the developing countries with debt problems¹⁰⁷”.

But on the whole, the way the question of the debt is treated and the measures recommended by the international financial organisations within the UN are generally very disappointing. While firmly criticising the IMF and the World Bank, the UN has never made fundamental decisions to put a stop to their actions, which violate human rights as they are defined in the 1948 Universal Declaration of Human Rights and in various international agreements and treaties, such as the 1966 International Covenant on Economic, Social and Cultural Rights. It should be remembered that the IMF and the World Bank are officially independent specialist agencies of the United Nations and as such should act in accordance with the principles of the Charter of the United Nations, including the respect of human rights”. The UN has therefore its part of the responsibility. The UN should take measures to put a stop to the policy decisions which contravene its Charter, and reappraise the legitimacy of the actions of these specialist agencies. It should call for resolutions which demand that the debt be cancelled, and place the nullity of debts, based on the doctrine of odious debt, at the centre of its demands. It should support debt-auditing initiatives, sanction the IMF and the World Bank for their grave violations of international law and truly commit itself to creating

¹⁰⁴ For more information on the actions of the United Nations, see Hugo Ruiz Diaz, *Le traitement de la dette par l'ONU*, 29 September 2004, available on the CADTM web-site, http://www.cadtm.org/article.php3?id_article=812

¹⁰⁵ Resolut.49/94, 51/164, 55/14, 56/184, 57/240. See Hugo Ruiz Diaz, *L'audit citoyen de la dette : un instrument de démocratisation des relations économiques et de contrôle démocratique des actes des gouvernements*, accessible sur le site du CADTM. http://www.cadtm.org/article.php3?id_article=1699 See also Economic, social and cultural rights, Globalisation and its effects on the full enjoyment of human rights, Final report presented by J. Oloka-Onyango and Deepika Udagama, E/CN.4/ Sub.2/2003/14, 25 June 2003 15 Resol. 54/202 of 22 December 1999. See Hugo Ruiz Diaz, *L'audit citoyen de la dette : un instrument de démocratisation des relations économiques et de contrôle démocratique des actes des gouvernements* (ibid)

¹⁰⁶ Idem

¹⁰⁷ *Effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights*, Resolution 2000/82 of the Commission on Human Rights. [http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.RES.2000.82.En?Opendocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.RES.2000.82.En?Opendocument)

the conditions for just and sustainable development, in respect of the self-determination and the sovereignty of the countries of the South and their populations.

F. ALTERNATIVES DEFENDED BY SOCIAL MOVEMENTS AND SOME LATIN-AMERICAN GOVERNMENTS AGAINST THE DEBT

The inhabitants of Latin America are undoubtedly among those most aware of the malfeasance of neo-liberal policies, since they were among the first to vigorously oppose them, with calls, in most countries, against interference by the international financial institutions, against United States imperialism, against the Free Trade Agreement, and so on.

In so far as the debt is concerned, several “civil society” movements (especially the Jubilee South network which exists in most Latin-American countries) have been demanding tirelessly for several years that the debt be cancelled, that odious and illegitimate debts be repudiated, and that audits be carried out on the debt. In fact, Latin America really stands out by the force with which it is fighting to be liberated from the debt, which unfortunately is not so strong on the other continents. Several audits have already been carried out either by citizens or governments¹⁰⁸.

The social movements have also launched an original idea: people’s debt tribunals¹⁰⁹.

Powerful protests and mass mobilisation have transformed the political landscape of the continent. Elections in recent years have seen left-wing governments of various tendencies come to power, thus modifying the balance of power. The election of Hugo Chávez in 1998 and his recent re-election, the election of Evo Morales in Bolivia, Rafael Correa in Ecuador, Lula in Brazil, Tabare Vázquez in Uruguay, Nestor Kirchner in Argentina and Daniel Ortega in Nicaragua are all examples. Some of these governments, such as Venezuela, Bolivia and Ecuador, have expressed a rejection of the policies advocated by the World Bank and the IMF and are actually attempting to implement policies which go beyond the dominant system.

The creation of the Bank of the South, scheduled for the end of 2007 and in which seven Latin-American countries are so far taking part, is a major project of this counter-tendency, providing an alternative to the World Bank and the IMF.

The region has moved to the left, and sovereignty and self-determination have become central concerns, especially with the natural resources and other key sectors of the economy moving back under public control (in Venezuela, Bolivia, Ecuador) with policies of redistribution and putting the State back into its role of social regulator. In Bolivia the natural resources have been renationalised; in Venezuela, public oil companies like PDVSA (Petroleum of Venezuela Ltd.) in 2002-2003, have taken control and the CANTV and the electricity sector have been renationalised; Ecuador has more recently cancelled the oil contract of a U.S. company, Occidental Petroleum (Oxy). One could find other examples in the region.

Finally, back to Ecuador: in active support of the audit process, and with a view to determining quickly which part of the debt is illegitimate, the creation of an audit commission for Belgian loans to Ecuador is under way in Belgium, at the joint initiative of the CADTM and other organisations working on issues of indebtedness and the international financial institutions, such as Eurodad and CNCN-11.11.11 (the National Centre for Cooperation in Development, the French-speaking platform for Belgian development NGOs and 11.11.11, its

¹⁰⁸ *Lets launch an inquiry into the debt ! A Manual on How to Organise Audits on Third World Debts*; CETIM/CADTM; Geneva, Liege; chapter 2 pages 17 ff

¹⁰⁹ Idem

Flemish-speaking counterpart). The Norwegian campaign for debt cancellation has obtained the remarkable results already reported. In Spain, the campaign Quien debe a quien? (Who owes Who?) and the Observatory of the Debt in Globalisation (ODG) have also begun to undertake significant actions concerning debts unjustly claimed from Ecuador by their country's government. Debt campaigns all over the world will be starting similar procedures to audit their respective country's loans to Ecuador in order to check their legitimacy.

There also need to be audit commissions looking into the debts claimed by Northern governments from other developing countries – this is a matter of urgency.

Ecuador, like all the other developing countries, is standing at a cross-roads which could be a parting of the ways.

Bibliography

- CADTM, 2004. *Le droit international, un instrument de lutte? Pour une justice au service des peuples*, CADTM/Syllepse, Liège/Paris,.
- Center for Economic and Social Rights, 2000. *Un continente contra la deuda: perspectivas y enfoques para la acción*. Quito: CDES.
- HANLON Joseph, 1998. *Dictators and debt* ; june 2002, *Defining Illegitimate Debt and linking its cancellation to economic justice*, Open University for Norwegian Church Aid.
- KHALFAN, KING & THOMAS, 2003. *Advancing the Odious Debt Doctrine*, Centre for International Sustainable Development Law, Montréal.
- RAMOS Laura, *Los Crímenes de la Deuda. La Deuda Ilegítima*, Observatory on Debt and Globalization(ODG), [Icaria, mars 2006](#)
- SACK A.N., 1927. *Les effets des transformations des Etats sur leurs dettes publiques et autres obligations financières*, Recueil Sirey, Paris.
- TOUSSAINT Éric, 2006. *Banque mondiale, Le Coup d'Etat permanent*, CADTM/SYLLEPSE.
- *Let's launch an enquiry into the debt! A manual on how to organise Audits on Third World Debts*, CETIM/CADTM,

Articles

- ACOSTA Alberto, « Deuda externa y migración: una relación incestuosa (I) », 09/09/2002, http://www.lainsignia.org/2002/septiembre/dial_001.htm
- ACOSTA Alberto, « Deuda externa y migración: una relación incestuosa (II) », 16/09/2002, http://www.lainsignia.org/2002/septiembre/dial_003.htm
- ACOSTA Alberto, 11/02/2005. « Al servicio de la deuda, en contra del país », http://www.cadtm.org/IMG/pdf/DACOSTABonos_Global2005.pdf
- ACOSTA Alberto, « El canje de los bonos Brady por bonos Globales Ecuador: detalles de un atraco maravilloso », <http://www.oid-ido.org/IMG/doc/AlbertoAcostaBonosBradyEcuador.doc>
- ARIAS Hugo, september 2006. « Auditoría ciudadana de la deuda ecuatoriana »
- MILLET Damien, november, 23, 2004. « La dette de l'Irak n'a jamais existé », *Le Monde*.
- RUIZ DIAZ Hugo, TOUSSAINT Eric, 2004. « Donde esta lo que prestaron? Deuda externa, deudas ilegítimas y auditoria », Centro de Derechos economicos y sociales, Quito.
- RUIZ DIAZ Hugo, , 29 septembre 2004. « Le traitement de la dette par l'ONU », www.cadtm.org
- SERRANO Alberto, décembre 1998. « El plan Brady ¿Solución para prestamistas o prestatarios? » , *Ecuador Debate*, n°45.
- 05/07/2007, « Ecuador insiste en que no pagará la 'deuda ilegítima' ».
- 15/07/2007, « El FMI deja sus oficinas del Banco central », *Argenpress*, <http://www.argenpress.info/nota.asp?num=044989&Parte=0>

CEIDEX's documents

- Informe final de la investigación de la deuda externa ecuatoriana/Resumen
- ARIAS PALACIO Hugo, « Impacto económico, social y ambiental de la deuda soberana del Ecuador y estrategias de desendeudamiento »
- BENALCAZAR Eduardo, « Deuda externa privada con la banca privada internacionalizada »
- BENALCAZAR Eduardo, « Deuda externa privada con la banca privada internacionalizada »
- DONOSO Aurora, « Acción ecológica frente a la deuda externa »
- HERDOIZA Marcelo y Almeida Cumandá, « De los créditos contratados por el Estado ecuatoriano »

- NORMA Mena, « Endeudamiento, ajuste estructural, calidad de vida y migración »
- PINTO F., « Evolución de la normativa jurídica aplicable al endeudamiento público y su correspondencia con el marco constitucional, convenios y tratados internacionales y más estipulaciones legales »
- PINTO F., « Evolución de la normativa jurídica aplicable al endeudamiento público y su correspondencia con el marco constitucional, convenios y tratados internacionales y más estipulaciones legales »
- SALGADO Wilma, « Acerca de la crisis financiera en el Ecuador »
- TORRES Rosa Maria, « Planes internacionales para la educación »
- VICUÑA Izquierdo Leonardo, « Endeudamiento externo y política económica »
- VICUÑA Izquierdo Leonardo, « Apéndice estadístico »

Documents and official texts

- International Covenant on Economic, Social and Cultural Rights (1966)
- Declaration on the Right to Development, United Nations General Assembly, 1986
- Statistics charts from the Unesco
<http://stats.uis.unesco.org/unesco/tableviewer/document.aspx?ReportId=143>
- Informe sobre los progresos en la aplicación del plan de acción de la cumbre mundial sobre la alimentación, FAO (consultable à l'adresse
<ftp://ftp.fao.org/docrep/fao/meeting/008/ad981s.pdf>)
- Cuenta ahorro inversión financiamiento – Gobierno central 2006, Ministry of Economy and Finance of Ecuador,
http://mef.gov.ec/pls/portal/docs/PAGE/MINISTERIO_ECONOMIA_FINANZAS_ECUADOR/SUBSECRETARIAS/SUBSECRETARIA_DE_PRESUPUESTOS/PRODUCTOS/ESTADISTICAS_PRESUPUESTARIAS/ARCHIVOS_2006/CAIF_AG_IIT.PDF)
- Boletín Estadístico Mensual, Central Bank of Ecuador, february 2007,
<http://www.bce.fin.ec/docs.php?path=/home1/estadisticas/bolmensual/IEMensual.jsp>)