***Labour rights in the context of structural adjustment
and fiscal consolidation policies***

1. **Background**

The next thematic report to the 34th session United Nations Human Rights Council, by the Independent Expert on the effects of foreign debt on human rights,Mr. Juan Pablo Bohoslavsky, will focus on the impact of structural adjustment and fiscal consolidation policies on labour rights contained in international human rights law.

Countries facing a sovereign debt crisis have adopted fiscal consolidation measures, such as reducing the public sector wage bill or the number of people employed in the public sector, and labour market reforms to render the labour market more flexible and thereby increase the competitiveness of their economies. These measures include the modification of labour laws, freezing or reducing the minimum wage, extending working hours, and weakening the collective bargaining system through decentralization. The measures have sometimes been alleged to contravene states’ international obligations, erode labour rights, or result in retrogression of work-related gender equality.

There is also concern that such labour market reforms contribute to an increase in insecure and informal employment; may foster discrimination in the labour market towards young and older persons, persons with disabilities, and individuals belonging to marginalised social groups if adequate safeguards are not incorporated; and result in the reduction of unemployment benefits and other job-related social protection.

On the other hand, certain reform measures may have resulted in significant improvements in the enjoyment of labour and other economic, social and cultural rights contained in international human rights treaties.

The report will analyse the relationship between labour rights and sovereign debt, focusing on labour market reforms and austerity measures implemented in the context of sovereign debt crises.Analysing selected case studies, the report will explore the ways in which austerity measures and labour market reform have modified, both in law and in practice, collective and individuallabour rights at the domestic level. The report will conclude with proposals for improving protection of individual and collective labour rights during sovereign debt crises and times of austerity.

1. **Questionnaire**

In the context of preparing his report, the Independent Expert would like to receive contributions and views from States and/or national human rights institutions addressing the following issues:

1. Could you provide to us information on structural reform programme(s)and fiscal consolidation programmesimplemented during the last two decades in your country or region that included any of the following measures:

[ x ] labour market reforms (flexibilisations);
[ x ] changes to the national labour law;

[ x ] changes to the system of collective bargaining;

[ ] freezing of salary increases for public service workers and civil servants;

[ x] reduction of the number of persons employed in the public service;

[ ] freezing or reduction of minimum wage;

[ x ] privatization of state-owned or controlled businesses and services;

[ ] reform of system of unemployment and/or social security benefits.

Please briefly summarise the reforms, the changes in law, their intended purpose and how they were implemented.

Structural Adjustment Policy reforms and its attendant conditionalities began in November 1988, when the caretaker govt. of the time entered into an agreement with the IMF.

Consequently large scale privatisation of the public sector enterprises was undertaken in 1990 resulting in decimation of unions, deregulation of the labour market. Simultaneously a program of liberalisation of trade and financial markets was undertaken, with a strong focus on the use of flexible labour necessitating huge informalisation of labour (over 80% of labour is informal or works under informalized conditions).

The country has entered into 16 such programs, leading from rationalization of public sector, and subsidy reduction, to massive privatizations of industrial units, power and gas, and telecommunication sectors.

The Industrial Relations Act was passed in 2012, as a Government Initiative but does not offer an efficient regulatory framework for labor rights in the country. Due to weak infrastructures, ineffective implementation and lack of regulation, the situation on the ground for workers range from unregistered employment, low wages, unsafe working conditions, to no social security benefits, in most of the cases, lack of collective bargaining.

The situation is worse for women; studies have shown that a majority of women contributing to the formal sector[[1]](#footnote-1) are predominantly involved with home based work. The national policy on home based workers, 2009, promised to officially recognize all home based workers as part of the formal labor force; this promise remains unfulfilled. Further, the policy’s intention to introduce “prior written contracts” between invisible employers and a largely illiterate population of home based women workers is set for failure[[2]](#footnote-2). The lack of recognition in the formal sector deprives them of all benefits and protection that should be afforded by law.

Flexibilisation is the actual reality of the market; not necessarily a result of a Governmental measures, but lack of progressive reformative action in the context further deteriorates any advancements on labor rights mandate.

After the 18th Constitutional Amendment in 2010, labor has devolved as a provincial subject; however, no province has enacted its own provincial labor law.

2. Please explain if the above mentioned reforms were implemented at the Government’s own initiative, or if they were part of conditionalities for emergency lending or other financial assistance from an international financial institution (IMF, ESM etc.), or responded to other factors?

Most of the retrogressive measures were a result of IMF and World Bank conditionalities. Part of the IMF conditiona included privatization of Public Sector Entreprises, 31 of which were “up for sale” in 2013[[3]](#footnote-3). Some of the recent privatization initiatives include selling shares of the IESCO and the FESCO, and privatization of Pakistan International Airlines, Pak Saudi Fertilizers, and Pakistan Steel Mills[[4]](#footnote-4). In case of the latter, conditions for privatization were created as a governmental maneuver, based on performance narrative as a justification, to comply with the IMF conditionalities.

Social Sector, less of a policy priority, is on the verge of another privatization swing, for instance, the health sector in KP.

The government’s lack of initiative, despite the many advocacy campaigns around labor laws by civil society and trade unions, is also primarily attributed to the conditionalities.

3. What kind of mechanisms for consultation with trade unions, business associations and civil society organizations were used during the design and implementation of the above reforms? Could you provide a brief overview of the consultative process that accompanied the reform process?

No consultative process was adopted; especially trade unions, their federation and labor supporting organizations were not consulted during the process.

4. Has your organization or the Governmentin your country evaluated the programme’s impact on economic and social rights?What have been the results of your monitoring? Could you explain the methodologies used and share impact assessment or evaluation reports?

To the best of our knowledge, based on no such assessment or evaluation report ever been shared, there is no mechanism in place for such reviews. For instance, despite GSP+ award mandating Pakistan to uphold Labor rights, 8 out of 27 human rights treaties for compliance as a condition to the award, the government overlooked the concerns around socio-economic rights during China Pakistan Economic Corridor initiative. The federal minister Planning and Development publicly stated that cheap labor is an attraction for CPEC in Pakistan[[5]](#footnote-5).

5. To what extent did the reforms have a positive or negative impact on the following rights contained in international human rights treaties:

(a) Freedom of association – workers have the right to form and join, without prior authorization, organizations of their own choosing for the defense of their occupational and industrial interests.[[6]](#footnote-6)

The number of workers associated with trade unions has shrunk to only 1 percent and in many organizations like defence, transport, utilities companies, the trade unions were mostly banned or restricted. Besides this being a direct effect of the Industrial Relations Act 2012, the increasing movement of the formal sector to the informal sector, has also substantially reduced trade unionization.

 (b) Right to collective bargaining[[7]](#footnote-7)

This right to collective bargaining has also been restricted, as mostly trade unions are not allowed to operate at the unit level.

 (c) Right to strike in conformity with domestic laws[[8]](#footnote-8)

According to the Industrial Relations Act 2012, the right to strike exists, but is restrictive in nature.

(d) Right to just and favourable conditions of work (fair and decent living wages for workers and their families; safe and healthy working conditions; rest, leisure and reasonable limitation of working hours; etc.)[[9]](#footnote-9)

This right is also not available in most of the establishments in Pakistan. The mandatory labor inspection is not done by the provincial Labor inspectors because of shortage of trained staff and non-effectiveness of the legal protection to the inspection staff.

 (e) Right to social security, including social insurance[[10]](#footnote-10)

Social security institutions exist in Pakistan and most of workers cannot avail social security facilities as these are available to only registered industrial workers. The informal sector workers, agriculture workers, fishermen etc. are not eligible (under the law) to avail this facility.

 (f) Prohibition of all forms of forced labour[[11]](#footnote-11)and of harmful child labour[[12]](#footnote-12)

Although Pakistan’s Constitution and laws don’t allow forced labor and child labor, in practice, all such labor exist in Pakistan and the concerned laws are not implemented.

(g) Non-discrimination in employment (equal pay for equal work; equality of opportunity and treatment, etc.)[[13]](#footnote-13)

In Pakistani Constitution and laws it is there, but in many industries women are paid less than their male counterparts for the same type of work. Women are paid 23pc less than men for similar work; women’s average monthly income is Rs9,760 compared to men’s monthly earnings of Rs15,884, and only 0.3pc women are employed as managers, 6.4pc as professionals and 0.9pc as technical workers Labour Force Survey 2014-2015. No effective mechanism is available to end this.

6. Please explain changes/impacts caused by the reforms in the following areas:

(a) levels of unemployment

According to the Labor Force Survey of 2014-15, the number of unemployed workers was 3.6 million. If the number of discouraged workers is included and the normal increase in labour force allowed for, the total number of unemployed rises to 5.3 million. However, it must be noted that these numbers only include registered formal workers.

(b) poverty(including the number of people considered as working poor),

The situation has become even worse in case of working poor due to increased working hours (instead of 8 hours, now a common laborer works for 12 hours) and wages are not increasing in the same proportion as inflation.

(c) involuntary temporary employment,

Instances have increased in Pakistan especially in agriculture and brick kiln sectors.

(d) non-standard work contracts,

Non-standard work contract system has increased and now new employments are offered through contracts, which do not provide any appointment letter, medical, leave and other facilities.

(e) irregular and/or informal work arrangements or

Yes the instances of irregular or informal work have been increased in Pakistan.

(f) the percentage of people contributing to or receiving benefits from unemployment social security or public health insurance?

A very small number of people are receiving benefits from social security or public health insurance because it is available to a limited number of industrial workers in major cities of Pakistan.

7. How did the reforms affect the inclusion/exclusion of the following groups in the labor market: young persons, older persons, persons with disabilities, migrant workers, and members of ethnic or religious minorities?

Reforms have actually increased the exclusion of all the aforementioned groups, as well as women workers.

8. How did the reforms affect the inclusion/exclusion of women in the labor market? Had the reforms any impact on the gender-related wage gap, and women’s right to enjoy the same rights in employment on an equal basis with men (for example, the right to maternity leave with pay or comparable social benefits; the right to protection from dismissal on the grounds of pregnancy, maternity leave or marital status, etc.)[[14]](#footnote-14)?

No, the situation has become worse as the gender related wage has widened and equal opportunities are not available for women. Right to maternity leave with pay is seldom available and women can hardly avail maternity leave. Women make up a majority of home based workers, and thus are disproportionately affected.

9. Could you provide information whether the reforms result in an increase in the activity of organized labor, including strikes and public demonstrations? Could you describe possible human rights concerns related to the treatment or safety of labor representatives, workers, or individuals who participated in trade union work, strikes or public demonstrations or were affected by them, that have been brought to your attention?

Reforms have actually resulted in increase of unorganized labor and number of strikes or public demonstrations have actually declined. Due to lack of labor inspection the number of industrial accidents have increased, resulting loss of human lives.

10. Can you describe a particular successful measure or good practice that had a positive impact on the enjoyment of labourrights or other economic and social rights? If possible, please provide a reference or link to a report supporting your assessment.

No government measure for positive impact on labor rights or economic and social rights in Pakistan.

1. **Submissionof responses**

Due to limited capacity for translation, we kindly request that you submit your answers, if possible, **in English, Spanish or French, no later than 9 September 2016.** Kindly identify links or provide copies of any laws, documents or cases, related to your answers. Responses to the questionnaire can be sent to ieforeigndebt@ohchr.orgcc: registry@ohchr.org(encouraged) or addressed to:

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We kindly request that your submission be concise and preferably limited to a maximum of 8 pages (or 3,500 words).

Unless otherwise requested, all submissions will be posted on the OHCHR webpage and *made publicly available*:

<http://www.ohchr.org/EN/Issues/Development/IEDebt/Pages/IEDebtIndex.aspx>

1. Gendered Perspective of Informal Sector of the Economy in Pakistan <http://www.jespk.net/publications/228.pdf> [↑](#footnote-ref-1)
2. Ratification of ILO Convention 177 for Pakistan, Homenet South Asia, 2013 [↑](#footnote-ref-2)
3. “31 Enterprises Up for Sale”, Dawn News, 2013 http://www.dawn.com/news/1047333 [↑](#footnote-ref-3)
4. Privatization Commission Newsletter 2015 <http://privatisation.gov.pk/wp-content/uploads/docs/News_letter_March_2015.pdf> [↑](#footnote-ref-4)
5. Pakistan, China can produce competitive products for global markets: Ahsan, Dispatch News Desk, 2015

http://www.dnd.com.pk/pakistan-china-can-produce-competitive-products-for-global-markets-ahsan/101900 [↑](#footnote-ref-5)
6. See International Covenant on Civil and Political Rights (ICCPR), art. 22; International Covenant on Economic, Social and Cultural Rights (ICESCR), art. 8; International Labour Organisation (ILO) Convention 87. [↑](#footnote-ref-6)
7. See ICCPR, art. 22; ILO Convention 98. [↑](#footnote-ref-7)
8. See ICESCR, art. 8(d). [↑](#footnote-ref-8)
9. See ICESCR, art. 7. [↑](#footnote-ref-9)
10. See ICESCR, art. 9, and ILO Convention 102 and ILO Social protection Floor Recommendation, 2012 (No. 202). [↑](#footnote-ref-10)
11. See ICCPR, art. 8; ILO Conventions 29 and 105. [↑](#footnote-ref-11)
12. See Convention on the Rights of the Child, art. 32; ILO Conventions 138 and 182. [↑](#footnote-ref-12)
13. See ILO Conventions 100 and 111; Convention on the Elimination of All Forms of Discrimination against Women, art. 11; Committee on the Elimination of Discrimination against Women, General Recommendations Nos. 13 and 16; Convention on the Elimination of All Forms of Racial Discrimination, art. 5(e)(i)-(ii); Convention on the Rights of Persons with Disabilities, art. 27; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, arts. 25, 26. [↑](#footnote-ref-13)
14. See Convention on the Elimination of All Forms of Discrimination against Women, art. 11. [↑](#footnote-ref-14)