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

1. **Background**

The next thematic report to the United Nations Human Rights Council, 34th session, of 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 or budget deficits 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 individual labour 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 trade unions, business associations and civil society organisations addressing the below issues:

(You are welcome to reply to selected questions on which you have relevant information).

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

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

[ ] changes to the system of collective bargaining;

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

[ ] reduction of the number of people employed in the public service;

[ ] freezing or reduction of minimum wage;

[ ] 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.

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?

3. What kind of mechanisms for consultation with government representatives and financial institutions 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?

4. Has your organization or the Government in 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?

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.[[1]](#footnote-1)

 (b) Right to collective bargaining[[2]](#footnote-2)

 (c) Right to strike in conformity with domestic laws[[3]](#footnote-3)

 (d) Right to freedom of assembly

(e) 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.)[[4]](#footnote-4)

 (f) Right to social security, including social insurance[[5]](#footnote-5)

(g) Prohibition of all forms of forced labour[[6]](#footnote-6) and of harmful child labour[[7]](#footnote-7)

(h) Non-discrimination in employment (equal pay for equal work; equality of opportunity and treatment, etc.)[[8]](#footnote-8)

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

(a) levels of unemployment

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

(c) involuntary temporary employment,

(d) non-standard work contracts,

(e) irregular and/or informal work arrangements or

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

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

8. How did the reforms affect the inclusion/exclusion of women in the labour market? Were there any impacts on the gender-related wage gap, and on the 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.)[[9]](#footnote-9)?

9. Could you provide information whether the reforms resulted in an increase in the activity of organized labour, including strikes and protests? Could you describe possible human rights concerns related to the treatment or safety of labour 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?

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

1. **Submission of 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.org (encouraged) or addressed to:

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Fax : +41 22 917 9006

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

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. 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-1)
2. See ICCPR, art. 22; ILO Convention 98. [↑](#footnote-ref-2)
3. See ICESCR, art. 8(d). [↑](#footnote-ref-3)
4. See ICESCR, art. 7. [↑](#footnote-ref-4)
5. See ICESCR, art. 9, and ILO Convention 102 and ILO Social protection Floor Recommendation, 2012 (No. 202). [↑](#footnote-ref-5)
6. See ICCPR, art. 8; ILO Conventions 29 and 105. [↑](#footnote-ref-6)
7. See Convention on the Rights of the Child, art. 32; ILO Conventions 138 and 182. [↑](#footnote-ref-7)
8. 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-8)
9. See Convention on the Elimination of All Forms of Discrimination against Women, art. 11. [↑](#footnote-ref-9)