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

Written statement* submitted by the Human Rights Advocates Inc., a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

In The Interest of Societal Development: Aligning Government and Business Interests to Address Foreign Debt

I. Introduction

Human Rights Advocates echoes the findings of Independent Expert Mr. Juan Pablo Bohoslavsky, in his latest report to the Human Rights Council.[1] Though still in popular use, policy which emphasizes steep corporate tax incentives and flexible labor regulation do not promote the long-term solvency of countries and are therefore counter-productive to debt relief and prevention agendas.[2] If financial policy were fashioned from a rights-based perspective rather than allowing profit-seeking the uninhibited governance of financial decision-making, the advantages of business development could spread from their primary concentration in corporate gains to a better enrichment of government resources through progressive taxation.[3] While financial deregulation and regressive corporate taxation may not inherently promote hierarchical income distribution, conflicts of financial and human rights interest, and de-emphasis of collaborative social development, at bottom, such measures make room for these impediments and need to be rethought.

II. Corporations have Interests in the Realization of Human Rights

There is a "mainstream assumption that labor rights are generally detrimental to economic development" by generating supposed monetary and productivity losses in spending toward compliance of workplace regulations, and in granting employees' time-off and livable wages.[4] The logical inverse being that if only employees could be forced to work indefinitely, if their pay could be frozen at some minimum allowable and expenses were not incurred for heating or lighting working spaces; businesses could be optimally successful. Subscribing to this belief in the past, "[t]he Organization for Economic Cooperation and Development (OECD), IMF and the World Bank have advocated that high labour protection standards are a driver of unemployment, among others, and should be scaled down."[5] The Independent Expert notes that this belief has been challenged on theoretical and empirical levels- but even intuitively, variables emerge that suggest guaranteeing growth is not as simple as cutting the costs of labor.

Stripped of labor rights, employee injury rates increase, competitors with better employment offerings poach laborers and if the work offered is not a meaningful alternative to joblessness, employees will not be retained and business will not be optimal.[6] Even when domestic law expects corporations to act only in the interest of their own solvency, corporations and human rights interest can still be aligned. When wellbeing affects productivity and profits, promoting labor protections becomes part of business decision-making.[7]

III. The Basis of Labor Market Deregulation and Low Corporate Taxation

Governments are also interested in their own solvency, as any entity needs to be to sustain itself. For this reason, it wants the benefit of the local corporate operations to create taxable incomes, capital gains, and exports. In an effort to attract these resources and overcome financial difficulty, "governments around the world are slashing corporate tax

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[1] United Nations, Human Rights Council, *Structural adjustment and labour rights*: report of the Independent Expert, A/HRC/34/57 (27 December 2016), available from undocs.org/A/HRC/34/57.

[2] *Id.* at 14.

[3] Esmé Berkhout, *Tax Battles: The dangerous global race to the bottom on corporate tax,* Oxfam Research, Dec. 2016, at 6.

[4] *Supra* n. 1, at 3.

[5] *Id.* at 15.

[6] Sunil Ramlall, *Managing Employee Retention as a Strategy for Increasing Organizational Competitiveness,* 8 Applied H.R.M. Research 68, 68 (2003).

[7] John T. Addison & Barry T. Hirsch, *The Economic Effects of Employment Regulation: What are the Limits?,* Government Regulation of the Employment Relationship 188–218 (1997).

bills– damaging their own economies… in the process," by diminishing their available tax revenue significantly.[8] Governments are also attracting corporate business by advertising their labor market flexibility and deregulation, guaranteeing cheap labor. This "deregulation, downsizing the public sector and freezing or reducing wages and work-related social benefits in an effort to reduce government expenditure," has been insisted on by lending institutions such as IMF and World Bank as part of their lending conditionality. Their insistence is based on the misguided assumption that deregulation "will lead to economic growth and thus prevent or help overcome debt crises."[9] But these deregulations are not only harmful to the workforce by allowing an increase in job insecurity and decrease in health benefits as well as safety:[10] Evidence of their benefit is scarce and certainly do not qualify as a demonstrated necessary and non-discriminatory measure to "meet the economic needs of the country in a manner that fully protects" and complies with their core international human rights obligations.[11]

IV. Shifting the way Benefits of Financial Policy are Understood

Minimal corporate tax and labor market deregulation is central to many governments' growth strategies. They are either encouraged by lending institutions or believe that such deregulated and "tax-aggressive economies attract investors and businesses to invest or operate in a country. This doctrine is augmented by a powerful lobby that wields disproportionate influence over policy making to protect the interests of corporations."[12] But corporations have a range of interests and government is one of the few entities in a position to incentivize and emphasize a more mutually beneficial ones.

For example, as mentioned above, corporations are also interested in the safety and security of their labor force at the very least because of the implication on production. At no cost to corporations, governments could negotiate lower income tax rates rather than corporate tax rates. This would benefit everyone in the workforce by allowing them to retain a larger portion of their earnings and would also work to increase the tax revenue stream to governments from the larger pool of corporate tax. Another negotiated proposition could be to suggest lending institutions take a security interest in their corporate gains tax revenue. This would incentivize governments to collect higher corporate tax so that lending institutions would receive faster returns on their loans. It would also incentivize a lobby from these institutions for higher corporate tax- a lobbying position which is missing prominence and power in the face of prevailing corporate profit-seeking influence.

V. Conclusion: Bridging Solvency and Human Rights Interests

Though"[d]ebt policies and debt management strategies designed and implemented by governments… rarely take into consideration [the] human rights implications" of financial decision-making, there is much to be gained from rethinking this approach.[13] In today's effort to stimulate economies, governments have entered into lending agreements to the detriment of their work force and offer tax incentives that benefit corporate owners and shareholders but undermine the economic enrichment governments are looking for in the promise of localized business development.[14] There is an estimated $138 Billion loss, for example, in potential tax revenue to governments from corporate tax incentives offered by developing countries.[15] Conversely, in 2015, the IMF held that progressive tax systems designed to redistribute wealth rather than feed corporate exceptionalism are one of the most effective ways for governments to reduce poverty and inequality as well as create sustainable growth.[16] It is in government's best economic interest to

[8] Berkhout, *supra* n. 3, at 5

[9] *Supra* n. 1, at 3.

[10] Michael Quinlan, *The effects of non-standard forms of employment on worker health and safety*, 4, in the Conditions of Work and Employment Series No. 67, (2015).

[11] *Supra* n. 1, at 9.

[12] Berkhout, *supra* n. 3, at 9.

[13] United Nations, General Assembly, *Effects of Foreign Debt and other Related International Financial Obligations of States on the Full Enjoyment of all human rights*: Report of the Independent Expert, A/69/273 (7 August 2014), available from undocs.org/A/69/273.

[14] Berkhout, *Supra* n. 3, at 5.

[15] *Id.* at 3.

[16] IMF Staff Report., *Fiscal Policy and Long-Term Growth*, IMF Policy Paper (2015).

advocate for their workforce through policy and to redesign strategy for attracting corporate business that emphasizes mutually beneficial interests rather than accept this prevailing practice of sharply cutting potential corporate tax revenue.

VI. Recommendations: Human Rights Advocates urge the Human Rights Council to:

A. Renew Independent Expert Mr. Juan Pablo Bohoslavsky’s mandate and provide resources for him to:

1. Further his research on financial policy and practice which incorporate a human rights based perspective;
2. Develop strategies for monitoring and holding government’s accountable to human rights considerations when transacting and negotiating with corporations;
3. Liaison between international lending institutions like IMF and the World Bank and the United Nations to keep these institutions informed of the latest human rights research and the implication it has on lending policy and procedure.

B. To request of the General Assembly at its 72nd meeting session to address the IMF and World Bank about:

1. The detriment of labor market deregulation lending contingencies;
2. Clauses in their lending agreements to governments which contribute to the enrichment of the workforce without increasing risk of loan default. (For example, income tax rate incentives rather than corporate incentives and security interests to lending institutions in corporate gains.)

VII. To urge State Parties to:

1. Incorporate human rights data, dialogue, and standards into financial decision making;
2. Work collaboratively with other governments to set floors for corporate incentivizing in order to prevent the undermining of economies by offering competitive and increasingly lower corporate tax incentives at the cost of much needed tax revenue.