Status of Labour Rights in Pakistan

The Year 2014

PILER Pakistan Institute of Labour Education & Research

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Foreword

The task of capturing the status of labour in all its diverse aspects is onerous. Particularly in a country where the State keeps shedding its responsibilities of regulation, documentation, inspection, and monitoring of the complex world of work, where culture is heavily tilted towards oral tradition rather than written, where informal economy is the norm and where social justice and human and labour rights lay at the bottom of the policy-makers' agenda.

Despite constraints to acquiring accurate data, useful insights and analyses, and with limited resources, PILER, in recent years, has initiated to review the changing trends in labour and employment, and the factors impacting on workers' lives and the terms and conditions of work. The review also documents the workers' struggles to confront repressing forces let loose by deregulation, liberalisation and privatisation.

This report, fourth in the series, is yet another modest attempt to put together glimpses of the world of work in Pakistan and present a picture of the current status of labour in the country. The first section of the report, based on secondary research, gives an overview of the socio-economic and political context, human development indicators, legislative development, labour market indicators and the existing terms and conditions of employment. The second section of the report presents a collection of research articles, case studies, and analyses of trends and issues related to labour and employment. PILER is greatly indebted to the researchers and writers who contributed to this section.

Zeenat Hisam

Zeenat Hisam
Senior Research Associate
March 2015

Section One

Introduction: The Year 2014

National Context

Though the year 2014 began with a note of cautious optimism nurtured by the smooth transfer of democratic rule in May 2013, it was soon clear that peace and prosperity for the common citizenry would remain a dream. The year 2014 turned out to be as turbulent and eventful as previous years and witnessed a number of disasters, both man-made and natural, impacting the workers the most. Labour issues remained the least debated in the national discourse. The only positive development, that can be construed as silver lining for labour was the granting of the GSP Plus scheme under the EU trade program from January 2014. As the GSP Plus is conditional to compliance to eight ILO core labour conventions out of 27 international standards and covenants, there was a ray of hope that the government would now give attention to compliance issues.

Terrorist attacks, fueled by rising religious extremism, spiraled in the early months adversely impacting economic growth in all sectors and causing among populace a feeling of insecurity, extreme anxiety and anguish at the loss of human lives. A full-fledged military operation, Zarb-e-Azb was launched in North Waziristan in June to flush out militant groups from the Federally Administered Tribal Areas. The operation led to an unprecedented displacement of a very large number of people and destruction of their livelihoods.

From August onward, the political scene was dominated by protest marches and sit-ins led by the Pakistan Tehreek-e-Insaf (PTI) and Pakistan Awami Tehreek (PAT) against election riggings and for electoral reforms. The sit-ins and the clashes between the ruling party and the protesting parties in different cities also affected the economy and diverted attention from core issues. According to the Trade Development Authority of Pakistan estimates, the direct cost of the sit-ins to the economy amounted to Rs. 150 billion per day.[1] The PAT wound up its march in October when its leader flew back to Canada. The PTI persisted but called off the sit-ins after the 16 December massacre of children at the Peshawar's Army Public School by the militants.

Due to prolonged drought conditions, entire Tharparker district was declared a

People have suffered repeated crises in the recent past. Internal conflict and militancy have caused extensive damage to infrastructure and livelihoods and disrupted the momentum of economic development. The origins of the militancy can be traced to the multiple deprivations suffered by KP's people, including the inadequate and inequitable provision of social services (particularly education and health), widespread unemployment, and a poorly responsive state.

'Integrated Development Strategy 2014-2018, Government of Khyber Pakhtunkhwa

calamity-affected area at the end of February. In the absence of long term drought mitigation strategy, the population of 1.5 million suffered drastically. Malnutrition led to the loss of 521 lives, mostly children, and 259,946 families were affected.[2] Many communities were forced to migrate in search of livelihood. Late and heavy monsoon rains in September caused havoc in Gilgit-Baltistan and Azad Kashmir and flooded southern Punjab. The floods affected 2.53 million people, damaged 2.4 million acres of crops, and resulted in loss of 367 human lives.[3]

In May, the WHO imposed international travel restrictions due to the polio crisis. A very high number of polio cases (268) surfaced in 2014, breaking records of the last 12 years. Globally, 80 per cent of the cases of polio in 2014 happened in Pakistan. During 2014, the attacks on polio team members by the extremists resulted in 45 deaths, injuries to 18 and kidnapping of 19 persons.[4]

War on Terror

The country remained in war in 2014. The 'War on Terror' that began in 2002, had claimed lives of 60,000[5] Pakistanis by December 2014. The latest offensive, Operation Zarb-e-Azb, was launched on 15 June in North Waziristan and targeted terrorists' cells and hideouts in various parts of the country, killing 2000 militants by the end of December[6]. Though the operation was supported by a larger number of political parties, including religious parties, the war, despite being endemic, remained fraught with ambiguity and conflict, and failed to register fully on the collective consciousness of the people. The internally displaced persons, who lost their homes, their livelihoods and their assets, were a forgotten people, their plight and their existence treated as 'collateral damage' - a damage that you do not talk about, that remains just a cold and neutral terminology in the prevalent discourse on war.

By 20 November 2014, the number of displaced families had reached 304,992.[7] Most of the 2.1 million internally displaced people, including children, took refuge in three camps - two in KP province and one in FATA — while many opted to live with relatives in congested space.[8] The displaced persons particularly those temporarily residing in the KP province, protested through rallies, against inadequate facilities, the promises not honoured by the authorities and against media attention hijacked by the political sit-ins and marches. The displaced persons in Bannu and Bara took out rallies in June, August, and September against food shortage, substandard food, non-distribution of relief goods, sale of relief goods in open market, and difficulties in accessing national identity cards. In November a riot broke out in a camp in Bannu and nine people were injured when police opened fire. Children's education was affected and health of women also compromised. Displacement also took its toll on mental health of the people.

The effect of war and displacement on people's livelihoods has been immense. The cost of war in the year 2013-2014 alone amounted to Rs. 701 billion[9] and the worst affected province was Khyber Pakhtunkwa. The Swat farming system, along with its orchards, fruit processing industries, cold storages, dry storages and transportation and marketing mechanism, was ruined. Even after the military operation of 2009 that wrestled the valley back from the militants' control, fruit farm production did not recovered fully and according to a November 2014 media report, farmers were still suffering 67 per cent loss in crop production compared to pre-conflict years[10]. Small enterprises, cottage industry, mining and quarrying and tourism sectors suffered greatly and led to a shrunk base of livelihood opportunities.

Resurgence of Taliban activities in Swat in recent years, particularly after the 2012 attack on Malala Yusufzai, indicated how deeply extremist ideology is embedded in the fabric of society. Terrorist attacks on security personnel in Swat were reported in May, June and September 2014. The year ended with the brutal attack by the Taliban on the Army Public School Peshawar on 16 December that killed 148 people, including more than 130 school children. The moratorium on death penalty, in force since 2008, was immediately lifted and within two weeks six out of 522 terrorist-convicts on death row were executed.

Anti-Terrorism Law

The War on Terror and the insurgencies have led to a rising list of anti-terrorism laws which, in essence, can be termed as anti-democratic legislations. The Anti-Terrorist Act 1997 (a later version of the Suppression of Terrorist Activities Ordinance 1975 enacted by Z.A. Bhutto) has been amended several times to curb militancy. Though the recent amended Anti-Terrorism (Amendment) Ordinance 2013, enforced in March 2013, added to the powers of the security enforcers, a new stringent law, the Pakistan Protection Act 2014 was added to the list of anti-terrorism laws in July.

The controversial law has conferred sweeping powers to armed forces and the law enforcement agencies, such as the authority to arrest, detain and enter a property without a warrant, 'for protection against waging of war against Pakistan and the prevention of acts threatening the security of Pakistan'. The law was opposed by the religious political parties, human rights groups and civil society organisations as it impinges upon fundamental constitutional rights and can be abused by political personalities. Earlier, in January when the bill was presented, a joint petition was filed by three lawyers against its many provisions, which, as it was pointed out, were identical to the colonial Rowlatt Act of 1919.

Economic Overview

Despite political turbulence and the war, the GDP growth managed to reach 4.1 in the fiscal year ending June 2014.[11] Positive developments cited for better-managed macro economy included the IMF's Extended Fund Facility, appreciation of currency, reduction in fiscal deficit, and high remittances leading to improvement in foreign exchange reserves.[12] The growth was nominal: agriculture grew by 2.1 per cent; industry expanded by 5.8 per cent and the services sector recorded a growth rate of 4.3 per cent. The government's economic reforms succeeded in containing the fiscal deficit to 5.5 per cent, compared to 8 per cent in the previous three years.[13] Yet, inflation rose to 8.6 per cent in 2014 from 7.4 per cent in the previous year. This increase was due to a high food inflation recorded at 9.9 per cent on account of supply and demand gap.[14] The inflation impacted the lowest income group the most as food takes the largest share of their meagre income.

The National Power Policy, approved in August 2013, based on 'sound technical, financial and regulatory principles'[15] led to slight improvement in production and consumption of energy. However, the energy crisis remained in 2014 due to costly energy sources, circular debt and poor transmission and distribution systems. Energy shortage impacted the economy and, according to an ADB estimate, reduced the GDP by about 2 per cent. The spending in the Public Sector Development Programme was substantially cut in 2014-15 to reduce the budget deficit, an IMF requirement. The military expenditure remained 3.5 per cent of the national GDP in 2014.[16] At US$7 billion, Pakistan defence budget ranked 28 highest out of 106 countries.[17]

In May 2014, the National Economic Council approved the Planning Commission's policy document Pakistan Vision 2025. The Vision, a grandiose document states noble thoughts on development "…based on inclusiveness and social justice….not just driven by economic indicators…but seek(ing) holistic and integrated development by establishing a sound socio-politico-economic structure, which fosters and preserves good society, good politics, and good economy…"[18] The document identifies seven priority areas (People First, Growth, Governance, Security, Entrepreneurship, Knowledge Economy, and Connectivity), linked with Millennium Development Goals and Sustainable Development Goals. The document has spelt out an implementation plan as well. The document does not connect with the ground realities and the issues that have emerged after the 18th Amendment and the widening disparity between the provinces in terms of socio-economic development.

Human Development Indicators

Though in economic terms, serious policy measures were taken by the ruling Muslim League government to pull the economy out of its downward slide, little, or no, attention was paid towards deteriorating human development indicators, prerequisite for sustained and equitable economic growth. Education and health, two key variables in development, remained at low priority. In 2013-2014, education received 1.9 per cent of the national GDP. Distributed among the provinces, the allocations were absurdly low: Punjab received 0.7 per cent of the GDP; Sindh 0.5 per cent; Khyber Pakhtunkhwa 0.3 per cent; Balochistan 0.1 per cent.[19]

In the year 2014, Pakistan ranked near the bottom at 146, out of 187 countries, in the Human Development Index that comprises three key measures: health, education and decent work. A significant proportion — 45.6 per cent — of the population was found to be multi-dimensionally poor while an additional 14.9 per cent was near multi-dimensional poverty.[20] Infant mortality rate in 2014 was highest in South Asia at 66 (deaths/per 1000 live births). More than half — 52 per cent — of the deliveries took place at home; 45 per cent of children under age 5 had stunted growth. Only 28.8 per cent of the total population in the country had access to piped drinking water and 25.8 per cent had the facility of flush toilet system.[21]

The latest official figures cite literacy rate of population of 10 years and above as 59.8 per cent.[22] Of this population, 37.9 are below matriculation, that is, they have less than 10 years of schooling.[23] However, the UNDP report has cited mean years of schooling a dismal 4.7 years.[24] The gap between male and female literacy and net enrollment is high. Average monthly wages in the year 2012-13 were Rs. 12,118. However, 41.73 per cent were earning an income between Rs. 5000 to Rs. 10,000. The gap between wages earned by men was significant: men earned Rs.12,804 while women got Rs. 7869.[25]

2. Legislative Changes

Four Years after 18th Amendment

The 18th Amendment to the Constitution devolved labour, along with 46 other subjects of the Concurrent Legislative List in April 2010. Heralded widely as a historic political development, the 18th Amendment was thought to decentralise power and grant greater autonomy to the provinces that would filter down to districts leading to equitable development and positive change in the life of common people.

The initial euphoria, however, evaporated within months and it became clear that workers were to confront a major setback — this time under the democratic rule. Though there was, and still is, no disagreement on the need for devolution of power and autonomy of the provinces, what was missing in this mammoth legislative change was lack of ground work, a thorough probing of its pros and cons and a blueprint on what the provinces would need to do once the federal rule is substituted by provincial autonomy. A plethora of complexities — legal, administrative and fiscal — were identified by the stakeholders. Sharp differences of opinion surfaced on what, how and when.

An 8-member multi-party parliamentarian Implementation Commission on 18th Amendment was formed immediately in May 2010 which submitted its report to the parliament in April 2011 listing its achievements of eleven months and the tasks that remained.[26] After a month, in May 2011, the Muslim League representative resigned from the Commission over differences regarding devolution of the HEC.[27]

The Council of Common Interests, the under-utilised constitutional mechanism for harmonising the relationship between the federation and the provinces, was restructured under the 18th Amendment and its rule of procedures redefined. The Council of Common Interests played an effective role in ironing out differences over devolution of the Concurrent List. The Council held 12 meetings from April 2010 to September 2013 and deliberated on 76 items.[28] With the change of government in June 2013, the CCI meetings were not held regularly. After the July 2013 meeting, the CCI failed to convene a meeting after every 90 days as stipulated. The meeting was finally held after seven months in February 2014 and then eight months after-in October 2014.[29]

The federal government devolved 17 ministries to the provinces but created eight new ministries, a move that was criticised and termed as contradictory to the spirit of devolution. Out of 301 entries in the allocated business of devolved ministries and divisions, only 94 functions were devolved and 207 functions retained by the federal government by the year 2012. By 2012, more than 100 laws and more than 200 minor acts had remained to be amended or replaced.[30]

Labour Legislation: The Missing Framework

The foremost issue realised by the labour circle soon after the 18th Amendment, was the question of harmonising labour laws across provinces: the need for an overarching framework, a blueprint embodying fundamental principles of rights and responsibilities of stakeholders as established by the ILO conventions and enshrined in the Constitution of Pakistan.

Uniformity was compromised when the provinces adopted the first law concerning labour. The provinces enacted separate industrial relations laws largely based on the Industrial Relations Ordinance 1969. None of the provinces thought of doing away with repressive clauses in the industrial relations law of the past military regime, or of reforming the law. Meanwhile, Sindh province granted the right to organise and collective bargaining to agricultural workers but did not lay down the rules and procedures, and neither deleted restrictive clauses. It is to be noted that aside IRA, there are around 75 labour laws that need to be repealed/amended/adopted.

Delay in provincial revision and enactment of labour laws has caused extreme hardship to the workers since the passage of the 18th Amendment. Hundreds of labour cases are pending in courts as employers have challenged the jurisdiction of federal laws. The situation in Sindh was worse as it has a large industrial work force yet except the Sindh Industrial Relations Act 2010, none of the labour laws has been adopted.

Legislation in the Provinces

Punjab

The Province of Punjab has adopted 15 labour laws by December 2014.. The first provincial law to come up was the Punjab Industrial Relations Act (PIRA) 2010. The draft law was shared by the provincial ministry with stakeholders through consultative meetings. To what extent the tripartite meetings had genuine representation of workers is difficult to establish without looking at the minutes of the meetings which were not shared. However, the law when enacted had one more provision in conflict to the ILO Core Convention No. 87 concerning the right to form unions. In May 2014, after persistent lobbying by the trade unions and the pressure from the ILO for four consecutive years, the restrictive condition of 50 workers as mandatory for the formation of union was finally removed from the PIRA 2010 through an amendment.

According to a Punjab Labour Department's spokesperson, as tripartite consultation is not required for adaption of labour law and only the title of the legislative piece is changed, no such consultation was held while adapting other laws.[31] Only one labour law was made provincial in 2011, six in 2012, none in 2013, and seven in 2014. The Punjab government drafted the first ever provincial labour policy in 2014 but the policy is yet to be announced.

Labour Laws Adapted by the Province of Punjab after 18th Amendment 2010-2014

1. The Punjab Industrial Relations Act 2010
2. Employment (Record of Services) Act 2011 (09-06-2011)
3. The Factories (Amendment) Act 2012 (02-06-2012)
4. Road Transport Workers' (Amendment) Act 2012 (28-02-2012)
5. Workers' Children (Education) Act 2012 (02-06-2012)
6. The Punjab Bonded Labour System (Abolition) Act 2012 (14-3-2012)
7. Industrial & Commercial Employment (Standing Orders) Amendment Act 2012 (28-02-2012)
8. The Punjab Maternity Benefit (Amendment) Act, 2012 (28-02-2012)
9. The Workmen's Compensation (Amendment) Act, 2014 (01-01-2014)
10. The Payment of Wages Act, 1936 (28-04-2014)
11. The Minimum Wages Ordinance, 1961 (21-04-2014)
12. Minimum Wages for (Unskilled Workers) Ordinance, 1969 (01-01-2014)
13. Employment of Children Act, 1991(21-04-2014)
14. The Punjab Shops & Establishments (Amendment) Act 2014 (10-4-2014)
15. The Disabled Persons (Employment and Rehabilitation) Ordinance 1980 (21-04-2014)

Khyber Pakhtunkhwa

By December 2014, Khyber Pakhtunkhwa (KP) province had adopted seven laws[32] relating to labour and welfare, including the industrial relations law.[33] However, no rules, under any of the laws, have been made as yet. According to a labour representative,[34] the amendments of the laws were done by the provincial ministry unilaterally, bypassing the constitutional mechanism of the Labour Standing Committee and the Labour Tripartite Conference. No review of the amended laws has been done as yet by the labour, the NGOs circle, the academicians or the judiciary.

Labour Laws Adapted by the KPK Province 2010-2014

1. The Khyber Pakhtunkhwa Industrial Relations Act 2010
2. The Khyber Pakhtunkhwa Senior Citizen Act, 2014 (19th Nov, 2014)
3. The Khyber Pakhtunkhwa Zakat and Ushr (Amendment) Act,2014 (11th Nov, 2014)
4. The Khyber Pakhtunkhwa Regulation of Lady Health Workers Program and Employees (Regularisation) and Standardisation Act,2014) (24th June, 2014)
5. The Khyber Pakhtunkhwa Journalists Welfare Endowment Fund Act,2014 (19th March, 2014)
6. The Khyber Pakhtunkhwa Tenancy (Amendment) Act,2014 (18th March,2014)
7. The Khyber Pakhtunkhwa Pension Fund (Amendment) Act,2014 (8th December, 2014)

Sindh

The Sindh Industrial Relations Act 2010 remained the only labour law enacted by the province till the end of 2014. The Labour Department Sindh circulated among the stakeholders five draft laws — Sindh Factories Act, Companies' Profit (Workers Participation) Act, Sindh Shops and Establishments Act, Sindh Workers Welfare

Fund Act, Sindh Industrial and Commercial Standing Orders Act — in July 2014 seeking their input. The Labour Department, however, did not call the tripartite meeting to receive the feedback on the laws from the stakeholders.

The Sindh Labour Department shared the draft of, and received input to, the provincial policy on Occupational Safety and Health with the stakeholders in a tripartite consultation held in September 2014. The policy was drafted as part of the tripartite Joint Action Plan for Promoting Workplace Safety and Health in Sindh. The Joint Action Plan for Promoting Workplace Safety and Health in Sindh (2013-2016) was formulated by the Government of Sindh, Employers Federation of Pakistan and Pakistan Workers Federation after a tripartite consultation in December 2012 as a response to the 2012 factory fire in Baldia, Karachi which claimed lives of 255 workers.

The 3-year plan, launched in January 2013, proposed to formulate policies on occupational safety and health and labour inspection, reform/amend laws and undertake capacity building of the labour department. An 8-member Task Force was created to implement the Plan. With the exception of the formation of the Steering Committee, and its meeting, nothing came out if by the end of 2014.

The absence of widely applicable laws in Sindh, such as the Industrial, Commercial, and Employment Standing Order Ordinance 1968, Companies Profit Act 1968, Workers Welfare Ordinance 1972, Workman Compensation Act 1923, Payment of Wages Act 1936, Shops and Establishment Ordinance 1969, Minimum Wages Ordinance 1961, and Road Transport Workers Ordinance 1961, has led to an almost abeyance of the judicial process and prolonged the delay in justice.

Also, the labour circle has registered its apprehensions about whether the laws currently being drafted would prove beneficial to the workers. According to a labour lawyer the labour department has not inducted labour representatives in the drafting process as required under the law. An anti-labour clause was identified by him in the draft Sindh Companies Profit Act where the number of employees in an establishment has been increased from 50 to 100 employees. An official revealed that drafts of 36 laws have been sent to the Labour Department for vetting but these are yet to be forwarded to the Sindh Assembly.[35] The incompetence of the Sindh government, including the legislature, and its disinterest in people's welfare, is manifest in all the sectors, impacting low-tier workers the most.

Balochistan

Till August 2014, Balochistan province had adopted and enacted two laws concerning labour and welfare — the Balochistan Industrial Relations Act 2010 and the Balochistan Zakat and Ushr Act 2012 — while three draft bills were pending (The Balochistan Child Welfare and Protection Bill 2014, the Balochistan Protection against Harassment at Workplace Bill 2014, and the Balochistan Senior Citizens Welfare Bill 2014).[36]

Industrial Disputes and the National Industrial Relations Commission

The impact of the 18th Amendment on industrial disputes-settling mechanism has been the most negative, and till the end of 2014 there had been no sign of serious effort either by the federation or the provinces towards addressing the issue. The National Industrial Relations Commission (NIRC), the apex forum, was first instituted at the federal level, with NIRC benches in the provinces, under the IRO 1969 to undertake nine critical functions related to industrial disputes as well as the formation of trade unions and federations. Its rules were established under the National Industrial Relations Commission (Procedure and Functions) Regulations 1973. The provincial Rules were enacted in the same year. The 18th Amendment put an end to this federal mechanism on April 2010. So it was thought by the labour circle in the provinces, hopeful the devolution would bring out a change.

The Federal Government, realising the loss of political control over industrial relations, enacted the Industrial Relations Act 2012 to "…consolidate and rationalise the law relating to the formation of trade unions and improvement of relations between employers and workers in the Islamabad Capital Territory and in trans-provincial establishments and industries".[37] The Act defines trans-provincial as "…any establishment, or a group of establishments, or industry having branches in more than one province." The Act resulted in the shifting of a very high number of labour cases from the Labour Courts in the provinces to the NIRC Islamabad and its single-judge benches in the provinces. This move strongly favoured the industries and the employers as it caused delays in the settlement of cases for two reasons: NIRC Islamabad and its benches do not have the staff strength to deal with all the cases; workers do not have the wherewithal to travel to Islamabad for the hearing of the cases. For industrial establishment it has become easy to declare itself 'trans-provincial' by just putting up a shack or makeshift office in another province case in it seeks to teach a lesson to its workers to goes to court to claim his rights.

The labour circle did not take the move lying low. There were protests and rallies by the workers of public sector corporations against the transfer of their cases to the NIRC.[38] A number of constitutional petitions were filed in the Sindh High Court challenging the IRA 2012 on the ground that now the provinces have the right to legislate. The larger bench of the Sindh High Court gave its verdict on the 52 petitions on August 4, 2014: it declared the IRA 2012 as valid and dismissed the petitions. The judiciary-establishment-industry nexus stood as the winner.

By July 2014, according to the registrar NIRC, as many as 6,862 cases, including industrial disputes, appeals and unfair labour practices, were pending with the NIRC. In the Karachi NIRC alone, thousands of cases were pending. In early 2014, there were no judges present in four of the NIRC courts — Karachi, Peshawar, Lahore and Kohat as the Federal ministry did not appoint the judges soon after retirement of the former judges.[39]

Labour activists and advocates cite several anti-worker implications of the NIRC's present functioning. The NIRC functions under the executive control and thus the probability is high that employers exert political influence in their own favour. The NIRC is instituted as a commission, and the judges inducted on contract as members are either retired judges from the judiciary or bureaucracy. The number of labour courts in each province is more than one, whereas the NIRC court in each province is one. For instance, there are nine labour courts and only one NIRC court/bench functioning in Sindh. As most of the cases from all nine labour courts are shifted now to the NIRC, it is expected that the settling of cases is much more delayed. Also, as there is only one NIRC in each province, the workers from far flung corners of the province have to travel to the city where the NIRC is located. The NIRC functions through a single bench. The verdicts of the single bench can be challenged in a full bench. The full bench is constituted with three members. As in recent years there were not many members of the NIRC, therefore the full bench could not be constituted. Since 2012 till September 2014, there was no hearing of the full bench.[40]

Labour Welfare Institutions

The devolution of the EOBI and Workers Welfare Fund has become a bone of contention between the Federation and the provinces mainly due to the fiscal value of both, particularly of the EOBI. In May 2014, the EOBI had sizeable assets of over Rs 238 billion[41] and according to an estimate the annual accrual to the EOBI was about Rs 22 billion.[42] While the federation is reluctant to hand over a viable and profitable labour welfare institution to the provinces, citing the damage it would incur to smaller provinces (Balochistan and KPK) and the lack of legislative and administrative capacity of the provinces as the reasons to keep the EOBI under the federal rule, the labour circle identifies the opportunities EOBI provides to higher officials for siphoning off the workers' money through monetary embezzlements and scams.

The tussle overdue devolution of the EOBI continued in 2014. In February the Sindh government again asked the federation to devolve the EOBI to the provinces. Sindh has 43 per cent share in the EOBI funds. The devolution of EOBI funds to the provinces was part of the agenda of the last meeting of the Council of Common Interests (CCI) but the issue was not taken up.[43]

3. Labour Conditions

There were no visible signs of positive change in terms and conditions of work for the bulk of labour force which remained deprived of productive work with fair income, safe workplaces, social security in sickness, old age and infirmity, and the freedom to organise and participate in the decisions.

Labour Market Indicators

Employment growth lagged behind labour growth: out of 59.74 million total work force, 56.01 millions were employed, indicating a short fall of 3.73 million jobs.[44] There was no structural change in employment and economy and the bulk of labour force — 43.7 per cent - eked out a living in the agriculture sector. There was hardly any growth in the manufacturing sector which employed only 14.1 per cent of the labour force.[45]

Labour force participation rate was 32.9 per cent with a wide disparity between men (49.3 per cent) and women (15.6 per cent) participation rates. In Pakistan, labour force participation rates (LFPR) is lower than the South Asian rate of 57.13 per cent[46] and it contrasts starkly with the world LFPR: 81.91 per cent for males and 56.22 per cent for females.[47] Several reasons are cited by economists for low labour force participation rate including demographic trends, cultural constraints (for women), low level of industrialisation and large underemployment.

Of the employed, the majority — 73.6 per cent — worked in the informal sector which is characterised by low wages, lack of social protection and unsafe work places. The bulk of the employed, 53.1 per cent, fell under the category of 'vulnerable employment' that include own account workers and contributing family workers.[48] The unemployment rate was cited 6.2 per cent low in comparison to global unemployment rate. According to experts, it hides significant structural underemployment indicative of low human resource development, prevalent poverty and high dependency ratio which compel the population to eke out a living under any circumstances no matter how inadequate are the wages.

Unemployment among young cohorts (15-29 years) was three times higher at 19.59 per cent, compared to overall unemployment of 6.2 per cent. Underemployment (defined as those who worked less than 35 hours) was 17.01 per cent among this population.[49] At present, 27.69 per cent of Pakistan's total population is between 15-29 years of age that falls under the international definition of youth. In absolute number, out of 181.72 million people, 50 million are young. Of these, only 22.1 per cent are literate. Among this pool of literate youth, 5.28 per cent (2.65 million) have completed primary level education, 5.53 per cent (2.78 million) have done their matriculation and 2.66 (1.338 million) per cent have acquired 12 years of education.[50] This data shows that the young labour force does not possess the broad based skill-sets required by the emerging labour market. According to 2010-2011 official statistics, 43.6 per cent employed work force in the country's labour market had no formal education, and suffered from high vulnerability, low productivity levels, and poor remuneration.[51]

Labour Market Information

Neither the quarterly reports, nor the annual Labour Force Survey 2013-2014 were released by the Federal Bureau of Statistics in the year 2014. Upon enquiry, it was revealed that due to introduction of a new sampling frame, the process was delayed. The report, combining surveys of two fiscal years — 2013-2014 and 2014-2015 — is expected to be completed in September 2015 and made public in November 2015.[52]

Labour market information and analysis is pivotal for economic and social planning and considered '… the cornerstone for developing integrated strategies to promote standards and fundamental principles, and rights at work, productive employment, social protection and dialogue, as well as to address the cross-cutting themes of gender and development'.[53] The prerequisite for developing labour policy and labour market strategies is collection, analysis, and dissemination of up-to-date and reliable labour market information. Pakistan has not as yet ratified the ILO Labour Statistics Convention No.160 (1985) that mandates the ratifying countries to regularly collect, compile and publish basic labour statistics that include structure and distribution of the economically active population, average earnings, and hours of work (hours actually worked or hours paid for); wage structure and distribution, labour cost, occupational injuries/diseases, and industrial disputes.

In Pakistan, the Labour Force Survey (LFS) is undertaken annually by the Federal Bureau of Statistics since 1963. During the last 51 years, the LFS methodology, sampling frame, concepts and definitions have been improved several times. Notable changes of the last three decades include: a) a new definition of employed females (of age 10 years and above) if they engaged in any of the 14 agricultural and non-agricultural activities listed in the International Standard Industrial Classification (ISIC)[54];

b) introduction of the category of 'informal sector'[55]; c) addition of category 'occupational safety and health'[56]; and d) the dissemination of quarterly surveys (on official website) from 2005.

A household-based survey, the Pakistan Labour Force Survey has a wide coverage of the general population. The 2012-13 LFS sample size comprised '…35,488 households divided up into four distinct, nationally representative samples, each enumerated in a given quarter. The universe for Labour Force Survey consists of all urban and rural areas of the four provinces of Pakistan defined as such by 1998 Population Census excluding FATA and military restricted areas'.[57]

Of the several gaps and omissions of the labour survey, the most crucial is the age of 'economically active population' which is defined as "all persons 10 years of age and above". This definition is contradictory to the definitions given in the Constitution of Pakistan and the national law on child labour, which sets the limit of 14 years for the person to enter labour market. Ten years of age is also not permissible under the ILO core labour convention (No.138) on the minimum age stipulates that the person entering the labour force should not '…be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years'.

Another issue with the labour force data is the irrelevancy of the 1998 census and its definition of rural and urban areas as demographic contours of the country and rural-urban boundaries have changed drastically since 1998. The population census is not in the cards. Both the military regime and the democratic governments have shunned the task. Another omission in the labour force survey is lack of disaggregated data of categories of occupations, i.e. agriculture is inclusive of forestry, hunting and fishing; manufacturing is inclusive of all sub-sectors including textile and clothing.

Average and Minimum Wages

According to the Labour Force Survey 2012-2013, the average monthly payment of employees was Rs 10,240. A significant number of the workers — 24.59 per cent — earned just up to Rs 5,000 while 43.83 per cent were making a monthly wages between Rs 5,000 to Rs 10 000. Gender wage differential was high: males earned on average Rs11,074 while women received Rs 5789. The gap between wages of low-income and high-income groups widened further in 2014. The official data (PLFS) indicated a six-fold gap between elementary occupation (Rs 6,952) and the managers' salary (Rs 36,946). Agricultural workers were getting a measly amount of Rs 6,221 per month compared to the national average monthly payments Rs 12,118.[58]

In June 2014, both Punjab and Sindh governments increased the minimum wages for unskilled workers from Rs 10,000 to Rs. 12,000 per month for the fiscal year 2014-2015. Government of Punjab revised and notified minimum wages in 51 industries, increased the death grant from Rs 2 lacs to 4 lacs through amendment in the Workmen's Compensation Act 1923 and enhanced the workers' group insurance from Rs 2 lacs to Rs 4 lacs through amendment in the Industrial and Commercial Establishment Ordinance 1968.

The Balochistan government raised the minimum wages from Rs 9,000 to Rs 10,000. The KPK government increased the wages up to Rs 12,000 in June. Later, on the opposition's demand the government raised the minimum wages to Rs 15,000. However, the KPK government did not notify to this effect till the end of the year.

The existing pension of Rs 3,600 a month was not raised in the year 2014. At present, there are 329,336 retired persons in the miniscule formal sector drawing monthly old-age pension from the EOBI, which ranges from Rs 3,600 to Rs 6,240 a month. Government employees are drawing a minimum pension of Rs 3,600. In June the Federal government announced an increase in pension up to Rs 6,000 for government employees. However, in July, the EOBI Board rejected the increase.

Occupational Safety and Health

Occupational safety and health, the core element of a decent work environment, remains the lowest priority of the stakeholders despite the rising incidences of work-related injuries, diseases and fatalities in recent years. The Baldia Factory Fire 2012 — that killed 255 workers — did not compel the state officials and the employers to devise a comprehensive plan for prevention of industrial accidents. Neither the granting of the GSP Plus motivated the stakeholders to push for a preventative safety and health culture.

The ILO has devised more than 40 standards specifically dealing with occupational safety and health, as well as over 40 Codes of Practice. There are three fundamental standards: the Occupational Safety and Health Convention 1981 No. 155, Occupational Health Services Convention 1985 No.161, and the Promotional Framework for Occupational Safety and Health Convention 2006 No.187. Pakistan has not ratified any of these conventions reflecting low State priority to the safety and health of workers.

In Pakistan, the most hazardous occupation in terms of safety and health remains agriculture where mechanised farming and pesticide use — combined with workers' lack of access to education and protective measures — cause injuries and diseases to the workers. According to the latest official data, of the workers who reported occupational disease or injury, 49.1 per cent belonged to the agricultural and fisheries sector, 15.2 per cent were engaged in the construction sector and 13.3 per cent were involved in the manufacturing sector.[59] The Labour Force Survey does not provide estimates of the number of cases pertaining to accidents, injuries, or occupational diseases. The Pakistan Statistical Year Book records inadequate and outdated data on industrial accidents in registered factories. According to the latest Year Book 2012, there were 326 industrial accidents in the country in 2009 and of them, 45 were fatal.[60]

Though the Factories Act 1934 stipulates that the factory managers must notify accidents to the Labour Department, it is seldom done. Pakistan has ratified the ILO Labour Inspection Convention No. 81 and thus committed to evolve an efficient labour inspection system. Under this Convention, labour inspection needs to be placed under the supervision and control of a central authority and should apply to all workplaces to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers. In contravention of the ratified ILO convention, previous national and provincial policies and practices in Pakistan have severely undermined labour inspection. Under the existing system, only registered factories and shops are covered and the larger informal sector, including agriculture and the services sectors, are excluded from the ambit of the inspection system.

Workers are not consulted in the inspection and are not made aware of what the inspection has revealed. The provincial Labour Departments are mandated to document industrial accidents under various laws. Due to a weak labour inspection system, poor governance, and inefficient functioning, documentation is not done regularly and rarely shared with the stakeholders. Hence the only source of information on industrial accidents is the media.

According to the HRCP's latest report, 39 industrial accidents causing deaths of 92 workers were reported in the media in 2014.[61] Mining and construction sectors top the list and the causes included boiler explosions, roof collapse at construction site, well-digging, electrocution, and coal mine accidents. Boiler explosions in industrial units are frequent, and the reasons include lack of hiring of qualified and certified boiler engineers by the employers, lack of maintenance and inspection. Accidents in the construction sector results from lack of provision of safety measures to workers and violations of building standards by the establishments. Electrical workers and line installers die of electric shock because international electrical standards, codes and regulations are violated by the companies' management. Coal and minerals are extracted through simple tools with no safety provisions. Coal dust inhalation, methane gas explosions, fires, cave-ins, poisonous gas leakages and haulage accidents are frequent in coal mines. The data from the Inspectorate of Mines and Minerals Punjab, quoted by the media in September 2014, revealed that on an average 62 workers die and 14 are injured annually in the province during mining operations.
An important intervention in regard of occupational safety and health conditions in the mining sector was the suo moto notice of deaths of 18 workers due to silicosis taken by Tassaduq Hussain Jillani, the former Chief Justice of Pakistan in July 2014. The notice was taken on an application filed by the Public Lawyers Front, a civil society organisation, under Article 184 (3) of the Constitution, pointing to the death of a young labourer in May 2014 and of 17 more workers who died of silicosis during the last couple of years in Gujranwala district. As a result of this intervention the Punjab government formed a nine-member committee, comprising minister of labour and officials of labour and other relevant departments, to ensure compliance with labour safety standards and to submit an implementation plan. The report submitted by the Punjab Local Government submitted revealed that 66 units, out of 82 stone-crushing factories in 16 districts of the province were operating without license.

Officially 73.6 per cent workers are employed in the informal sector comprising small to medium-sized industrial units that avoid registration and violate labour laws. In medium-sized units, conditions are not better as the employers evade implementation of related laws and bust unions. Even large production units in the country often do not have adequate occupational health and safety management systems in place as was manifest in the case of the Baldia factory, Ali Enteprises which employed around 1500 workers to produce for a German brand. The factory was not registered with the Labour Department though it was a registered member of the Pakistan Readymade Garments Manufacturers and Employers Association.

It is not only at the factories that workers confront risks to their safety and health, a significant number of workers who reside near industrial areas face hazards. Industrial units in Pakistan violate environmental by-laws and often release untreated effluents and dangerous chemical in streams, rivers and water bodies surrounded by the workers settlements.

An industrial accident was reported in May 2014 at the Chashma Sugar Mill & Ethanol Distillery, Ramak, and Tandlian-Wala Sugar Mill, Miran. Ten people, including women and children, died of toxic fumes released by the mills and the distillery on to a stream.[62] As there was no bridge, the community used wooden boards to cross over the stream. A girl slipped and fell in the drain. The people who tried to rescue her also succumbed to the toxic fumes.

Ensuring safe and healthy work environment is a political choice which the government is not willing to make. Underneath violation of labour and environmental laws, failure of the monitoring and inspection systems and the complicity of the certification agencies with corporate lies a strong nexus between industrialists, state officials and political elite that resists implementation of safety and health laws at work places.

Trade Unions

According to the latest available official data, there were 1209 registered trade unions with a total membership of 245,383[63] amounting to less than one per cent unionised workers of the labour force. Restrictive legislation imposed by both military and democratic regimes in the last several decades has considerably diminished the number and strength of the trade unions. Labour laws, with the exception of Sindh Industrial Relations Act 2010, still exclude agricultural workers (who constitute 43.7 per cent of the total work force), workers in administration, civil service, army, social sector (education, health), export processing zones and several public sector establishments from the right to form trade unions.

However, it is privatisation that broke the back of trade union movement in Pakistan. Historically, strong unions existed in public sector utilities (railways, electricity, water, sewage, gas), corporations (telecom, airlines), and large-scale industrial units (textile, cement). Trade unions failed to resist privatisation unleashed in the neo-liberal economic era. From 1991 up to December 2008, a total of 167 federal government assets (in the banking, energy, telecommunications and industrial sectors), were privatised impacting millions of workers. After downsizing and retrenchment, the management of almost all privatised units resorted to hiring employees on contract basis or through third-party employment system which led to the disintegration of trade unions.

A crucial reason of weakened labour movement was inability of the trade union leadership to come to terms to the changing demands and emerging challenges. The leadership did not induct contract labour or informal labour in to its cadre. Gender discrimination and paternalistic attitudes made them exclude women workers from trade union activities. Internal fragmentation, lack of educated cadre, and committed leadership, ethnic and sectarian divides, and undemocratic practices within trade unions led to further downfall.

The year 2014 did not witness any indication of a unified labour movement though the public sector trade unions, informal sector unions, and workers' groups continued to raise voices against labour violations. However, no clear strategy was formulated by the trade unions to seize the opportunity arising out of the GSP Plus status granted to Pakistan by the European Union made conditional to implementation of human and labour rights international instruments. There were initiatives from civil society and labour resource organisations to bring together stakeholders — workers, employers and state officials — to strategise the existing mechanisms, particularly the weakened labour inspection system, for compliance and oversight.

The employers resort to harassment, threats and dismissal of workers to weaken or bust unions. Trade union rights violations are seldom reported in the media. There is hardly any organisation which facilitates workers to access justice. Trade union federations are mostly dysfunctional. According to the 2014 International Trade Union Confederation (ITUC) Global Rights Index of the World's Worst Countries for Workers, Pakistan is ranked near the bottom at 4 on a scale of 1 to 5. Workers in countries with the rating of 4 have reported systematic violations of labour rights. 'The government and/or companies are engaged in serious efforts to crush the collective voice of workers putting fundamental rights under continuous threat' the survey states. In its 3rd World Congress held in May 2014, the ITUC identified Pakistan as one of the 24 countries at risk 'experiencing a profound failure to guarantee laws that ensure fundamental rights for all workers.'

As formation and registration of trade unions under Industrial Relations Act is restricted, workers in the informal economy register organisations under the Voluntary Social Welfare Agencies Ordinance 1961. Established on the pattern of traditional community-based, voluntary organisations, the workers' associations have come to play an important role in the labour movement. From hawkers and vendors to workers in small scale manufacturing and services sectors, the workers come together to pursue collective interests. In the last two decades, the struggles of peasants in Punjab, fisherfolks in Sindh and the workers in the power looms and brick kiln sectors have emerged as strong labour movements with several successes to their credit. However, the trade unions in the industrial sector have failed to merge with the informal sector struggles and have not been able to transform these in to a unified labour movement.

4. Labour Struggles

Formal Public Sector: Against Privatisation

The PPP government stalled privatisation in 2008 when it came to power. The Muslim League (N) government re-launched the privatisation programme in October 2013 with approval of a list of 65 entities, including PIA and Pakistan Railways, to be privatised in the coming years. By December 2014 three entities were privatised. In January 2014, the Privatisation Commission approved the strategic sale of the Heavy Electrical Complex and the National Power Construction Company and the divestment of 26 per cent shares of PIA under an agreement with the IMF.

According to experts, some ten thousand workers would lose jobs from privatisation of PIA alone. The Joint Action Committee PIA Employees, committed to resist privatisation in a march in December 2013, took to the streets and held press conferences in July and October 2014, yet it was not able to mobilise workers in large numbers. The campaign against privatisation of WAPDA was significant and continued throughout the year. The WAPDA comprises 12 companies for generation, transmission and distribution of electricity hence the number of workers runs in tens of thousands. The All Pakistan Wapda Hydro Electric Workers Union organised rallies all over the country. In October, the employees of the Oil and Gas Development Company Limited (OGDCL) held a protest rally in Islamabad. The rally was disrupted by the police and 24 OGDCL employees were arrested.

The Planning Commission's Pakistan Railways Revitalisation Strategy was initiated in

2011 in a pre-privatisation phase to solve the financial crisis of the Railways on the behest of the World Bank and the IMF. In 2012 the strategy was shared with the Railways unions' representatives in a consultation. In 2013, Pakistan Railways was included in the list of public entities up for privatisation. The Railways workers did not come up with any plan for sustained strategic resistance against privatisation. The year 2014 hardly saw any protest against privatisation though the Railways workers did rally for other issues in the Railways.

Informal Public Sector: Regularisation of Jobs

As a result of sustained, nation-wide struggle of lady health workers (LHWs) initiated in 2008, the government finally started regularising services of more than 100,000 lady health workers in January 2013.[64] However, the provinces were slow in notifying the decision and the LHWs, still deprived of their rights, continued their struggle in the year 2014.

In September 2014, the lady health workers of KPK demanded immediate notification and threatened to boycott the anti-polio and other immunisation drives. The LHWs' Association also asked to reinstate the services of provincial president and Charsadda district president of the Association who were unfairly terminated.[65] The KP government regularised 13,500 of its LHWs.[66] The provincial government of Punjab also regularised about 50,000 of the employees of the National Programme for Family Planning and Family Healthcare in the province.[67]

The Balochistan government regularised 7,265 LHWs in April 2014. All of these workers had been awaiting confirmation of their jobs for the last 21 years.[68] In September 2014, the government regularised more lady health workers in 30 districts of the province, including the lady health supervisors, account supervisors, and the drivers.[69]

Corporate Sector: The MNCs

PepsiCo

Due to the unlawful dismissal from service of many PepsiCo workers in India for trying to form a union, the corporation's workers across the globe registered their protests against this dismissal in various ways at their respective workplaces in their countries.[70]

In Pakistan the workers from the International Union of Food's (IUF) affiliated Pakistan Food Workers Federation (PFWF) organised a number of rallies in May 2014 in support of the Indian PepsiCo warehouse workers across the country. A demonstration was held in Karachi outside the premises of the Pakistan Beverage Limited, a known franchise of the PepsiCo in Pakistan.[71] Another rally was organised in Faisalabad, also by the IUF-affiliated PFWF, outside the Punjab Beverages Company, another PepsiCo franchise.[72]

Coca-Cola

Labour rights abuses by the management of Coca-Cola Pakistan increased in March 2014 when the workers launched protests over a failure to reach an agreement on restructuring. In retaliation Coca-Cola's Turkish Bottler operating in Pakistan, Coca-Cola Içecek (CCI), escalated the attack on unions by terminating the union president at Lahore. A union-busting lawyer filed petitions to challenge the legality of the Coca-Cola unions in Islamabad and Peshawar. The management continued to impose unilateral restructuring and dismissed 15 permanent workers who were union officers and members who refused to sign the resignation letter and take the Voluntary Separation Scheme (VSS) payment. Their jobs were immediately outsourced. Furthermore, women workers at the Lahore plant were harassed by the supervisors including being denied the right to go to the toilet.[73] The company's Gujranwala factory management fired the factory's workers' union president and 39 other workers.

Informal Sector: Power Looms and Brick Kilns workers

The power loom workers, united under Faisalabad-based Labour Qaumi Movement, continued to expand its membership in other districts of Punjab. An important achievement of the movement in 2013 and 2014 was its efforts to connect with the marginalised brick kiln workers in the districts. As the Labour Qaumi Movement (LQM) has gained political clout due to its large membership and sustained struggle, its support and solidarity with the brick kiln workers led to antagonism among brick kiln owners. In 2013 the movement allied with the brick kiln workers. After the Supreme Court verdict in July 2013 towards registration of all brick kilns, the LQM activists met the high officials of Faisalabad Labour Department and pushed the Department to register around 400 brick kilns, and registered the workers with the EOBI and PESSI.

In early 2014, the LQM supported the long march of brick kiln workers of adjoining districts from Faisalabad to Lahore demanding enforcement of wages (Rs740 for 1,000 bricks) fixed by the Punjab government. In May, secretary general LQM was injured when a brick kiln owner and his men resorted to violence.[74] In June, the brick kiln workers, supported by the LQM, staged a sit-in outside the district commissioner office Faisalabad for 8 days. The chairperson LQM while coming out of the Labour Department after a meeting on the issue was shot in the leg and hospitalised.[75] These setbacks did not diminish support and solidarity of the LQM towards marginalised brick kiln workers. It is expected that the alliance between power looms and brick kilns workers would set a precedent in the labour movement. ■

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Section Two

The coverage of GSP Plus is restricted to those countries which are considered to be vulnerable due to a lack of diversification and insufficient integration into the international trading system.

GSP Plus and the Status of Labour

Dr. Hafiz Pasha

Pakistan became eligible for an EU trade programme Generalised Scheme of Preference Plus (GSP+) from January 1, 2014, onwards. This has allowed virtually all exports of Pakistan to enter the EU free of duty. Pakistan can now export some 6,000 tariff lines including textiles and clothing, free of duty to the European Union's 27 member countries. Historically, Pakistan has had difficulty competing in the EU market because competitors such as Bangladesh. Sri Lanka, Turkey, Morocco, Tunisia and Mexico already enjoyed duty free access. The GSP+ also provides Pakistan's industries with an edge compared to countries such as China, which does not have duty free access to the EU, and India, which has only limited concessions for apparels under the standard GSP.

The coverage of GSP+ is restricted to those countries which are considered to be vulnerable due to a lack of diversification and insufficient integration into the international trading system. These countries have to meet the following three criteria:
(i) GSP-covered imports should represent less than 2 per cent of the EU's imports from all GSP beneficiaries (Pakistan's share of total GSP imports is 1.6 per cent).
(ii) The seven largest GSP-covered products must cover at least 75 per cent of the country's total GSP-covered exports to the EU (Pakistan's seven largest GSP sections account for 94.6 per cent of its total GSP-covered exports).
(iii) The country must also demonstrate that it has ratified and implemented 27 core international conventions on human and labour rights, sustainable development, and good governance.

Pakistan has ratified 27 international conventions as a pre-condition for GSP+ status. These are mainly UN and International Labour Organisation (ILO) conventions and conventions on the environment and good governance. The first review of the extent of adherence to the Conventions will take place in January 2016. The Government of Pakistan has signed a 'binding undertaking' committing itself to maintaining the ratification of the 27 relevant international conventions and ensuring their effective implementation. It has also accepted, without reservation, reporting requirements and monitoring mechanisms imposed by those conventions. Finally, the GoP is committed to accepting and cooperating with the EU monitoring procedure. The EU is in the process of giving Pakistan a scorecard, which will form the basis of dialogue on GSP+ compliance.

The UN/ILO reporting systems are operational, but the EU will not limit itself on these sources. It may use information from civil society organisations and social partners that are considered to be accurate and reliable reporting sources. Detailed procedural rules have been drawn up regarding the specific roles for all contributing parties. European Commission, EU Member States, beneficiary country concerned, third parties, etc.

The EU will report on compliance every two years, with the first report to be issued by January 1, 2016 in the case of Pakistan. The report will cover the status of ratification of the relevant conventions, the compliance with any reporting obligations under those conventions, and the status of the effective implementation thereof.

GSP+ was taken away from Sri Lanka in 2010 due to non-effective implementation of certain human rights conventions. The GSP concessions were also withdrawn from Belarus and Myanmar on the grounds of serious and systematic violation of labour rights. The GSP+ preferences can be withdrawn partially or fully if the Government of Pakistan fails to meet its commitments on enforcing the required conventions. The burden of proof for compliance rests on the government. If, after investigation, the EU is convinced that the binding commitments are not met, it can temporarily withdraw the GSP+ concessions.

Key Indicators

The key indicators which determine the extent to which the eight Labour Conventions are being adhered to in Pakistan are listed in Chart 1. The magnitudes of these indicators are presented below.

Chart 1

Key Indicators of Adherence to Conventions

1. Bonded Labour
   - Prevalence of Bonded Labour
2. Child Labour
   - Prevalence of Child Labour by Sector
3. Access / Gender
   - Labour Force Participation Rates by Sex
   - Incidence of Women in Marginal Occupations
   - Employment Distribution by Sex by Sector
   - Incidence of Women who are Unpaid Family Workers
4. Wages
   - Incidence of Workers with wages below the Minimum Wage
   - Wage Differential by Sex
   - Trend in Real Wages
   - Wage Differentials by Occupation
5. 'Decent' Work
   - Share of Workers in the Informal Sector
   - Share of 'Overworked' Workers (>50 hours a week)
   - Share of Part Time Workers (<35 hours a week)
   - Distribution of Workers by Employment Status

5.1 Labour Productivity
   - Trend in Labour Productivity by Sector

5.2 Collective Bargaining

- Extent of Trade Unionisation of Workers
- Presence of Unionisation by Sector
- Incidence of Industrial Disputes

5.3 Safety

- Incidence of Work Related diseases/injury by Sector

1. Bonded Labour

Bonded labour in Pakistan arises primarily due to non-repayment of debt. A labourer becomes bonded when his or her labour is demanded in repayment for a loan. This is known as *peshgi*. The worker is then forced to work for little or no wage, often for seven days a week. The bonded worker essentially forfeits his/her right to choice of employment, right to move freely and the right to sell his/her labour at market value. Additionally, bonded labourers are routinely threatened and subjected to all kinds of physical abuse by employers.

Bonded labour is present in some sectors of the economy of Pakistan, most notably in agriculture, brick kilns, carpet weaving, fisheries, and mining. No reliable statistics exist of the number of bonded worker. However, the ILO estimates that the number of bonded workers in Pakistan is in excess of 2 million.

2. Child Labour

Convention on Minimum Age, 1973 deals with child workers, aged up to 15 years. Table 1 indicates that in 2012-13 the number of child workers in the labour force is almost 2.7 million. This is over 11 percent of the children in the age group of 10-14 years. 87 per cent of the child workers are resident in the rural areas and the remainder, 13 per cent in the urban areas. Of these children workers, 56 per cent are male and 44 per cent female. Unemployment rates are high at above 10 per cent. A positive development is that the absolute number of child workers has declined by 9 per cent between 2008-09 and 2012-13.

Table 1 **Incidence of Child Workers**

('000')

	2003-04	2008-09	2012-13
Population	148159	169996	184349
% of Population aged 10-14 years	12.82	13.28	12.79
Number of Children aged 10-14 years	18993	22575	23578
Labour Force Participation Rate (%)	12.80	13.08	11.40
Number of Child Workers	2431	2953	2688

Source: LFS

3. Female Workers

The labour force participation rate (LFPR) of females is relatively low in Pakistan, compared to other South Asian Countries. In 2012-13, the LFPR of females aged 10 years and above is just over 24 per cent, less than one third of the male LFPR. The positive development is that the female LFPR is rising. The distribution of employment by gender is given in Table 3. Overall, females account for 15 per cent of the total employment. The presence of females in different sectors is generally determined by prevailing social norms and the physical nature of work.

Sectors with relatively greater presence of females include agriculture, manufacturing and community, social and personal services, especially education and health. Their presence is very limited in sectors like construction, trade and transport. The Labour Force Survey also quantifies the number of women in marginal occupations like subsistence agriculture, own construction of one's dwelling, etc. The number is estimated at 10 million in 2012-13, with a decline of 3 per cent since 2008-09. Inclusion of marginal occupations leads to a doubling of the female LFPR.

Women have an extremely limited presence of only 2 per cent in high level occupations like senior officials, managers and legislators. This highlights problems of access, despite the presence of quotas in the civil service. Women have higher presence of 18 to 30 per cent in three occupations, namely, professionals, technicians and associate professionals and skilled agricultural workers. Given the rising number of highly education women in the country, the challenge is to promote upward mobility of such women. Today, almost 40 per cent of the persons in Pakistan with degree, post-graduate or Ph.D qualifications are women.

At the lower end of the labour market, a very high proportion of unpaid family workers are women. Almost 80 per cent these women are engaged in agricultural activities. Since this labour input is not remunerated, despite its contribution to output, the GDP of Pakistan is somewhat understated.

Table 2 **Ratio of Female to Male Wages by Sectors 2008-09 and 2012-13**

Average Wage per Month (Rs)

	Female		Male		Ratio of Wage (%)	
	Share (%	Wage	Share (%)	Wage	2012-13	2008-09
Agriculture	38.1	3863	8.8	7873	49.1	59.4
Manufacturing	17.5	5169	24.1	11733	44.0	39.4
Electricity, Gas	0.1	19128	1.6	24904	76.8	81.0
Construction	0.8	10454	20.4	9609	108.8	96.1
Wholesale & Retail Trade	0.5	7245	9.7	8668	83.6	74.1
Finance & Insurance	0.6	28624	1.3	22293	128.4	44.2
Public Admin & Defence	0.9	21031	7.7	21559	97.5	66.5
Education	23.8	14282	6.6	21278	67.1	114.3
Health	5.8	15894	2.0	18131	87.7	109.3
Other Services	1.4	4421	2.4	8559	51.7	49.8
Domestic Services	9.2	4329	1.3	9079	47.7	44.2
TOTAL	100.0	7869	100.0	12804	61.4	64.9

Source: LFS

We turn next to an important indicator, the differential in wages by gender. For an unbiased comparison, there is need to control for differences in sectoral and occupational distribution. Focusing on individual sectors, women have approached men in the level of remuneration in sectors like finance and insurance, public administration and education services, as shown in Table 2. These sectors are mostly part of the formal economy and there is apparently no wage/salary discrimination for a particular job.

Turning to wage differentials by occupation, it is surprising to find that the average remuneration of female professionals and technicians is less than 70 per cent of their male counterparts (see Table 3). This category includes almost 30 per cent of female workers. There is need for an in-depth analysis of the gender wage differential in these occupations.

Table 3 **Ratio of Female to Male Wages by Occupation 2012-13**

Occupation	Average Wage per Month (Rs)				
	Female		Male		Ratio of
	Share (%)	Wage	Share (%	Wage	Wage (%)
Managers	0.9	34618	2.4	38113	90.8
Professionals	23.8	15051	7.1	24326	61.9
Technicians & Associate Professionals	6.1	13429	5.9	19801	67.8
Clerical Support Workers	0.8	13720	3.9	19029	72.1
Skilled Agricultural Workers	1.0	3246	1.1	9703	33.4
Service & Sales Works	1.2	9516	14.2	11052	86.1
Craft and Related Trade Workers	15.4	4563	23.2	11031	41.4
Plant and Machine Operators and Assemblers	0.4	6862	9.3	11729	58.5
Elementary Occupations	50.3	4309	32.7	8826	48.8
TOTAL	100.0	7869	100.0	12804	61.4

Source: LFS

4. Real Wages

There is conflicting evidence on the trend in real wages during the last few years. Table 4 presents the annual increase in real wages for skilled and unskilled workers by location in two periods, 2001 to 2008 and 2008 to 2013 respectively. A clear pattern is visible. Real wages increased rapidly in the first period, 2001 to 2008, but have fallen significantly since 2008. This is consistent with changing conditions is the labour market and the slow growth in labour productivity, as given in Table 4b.

However, the LFS data presents a different picture. According to Table 4a, real wages have continued to rise in most sectors of the economy. A fall is observed in only two sectors, viz., agriculture and services. The biggest increase in real wages is in public administration. This reflects the liberal policy on salary increases to government employees followed by the PPP government.

Table 4 **Trends in Real Wages**

	Annual Increase in Wages (%)			
	2001 to 2008	Growth Rate of Real Wages	2008 to 2013	Growth Rate of Real Wages
Skilled Worker 1[a]				
Islamabad	15.0	6.5	8.4	-2.6
Karachi	9.8	1.3	4.0	-7.0
Lahore	10.5	2.0	5.3	-5.7
Peshawar	11.7	3.2	6.4	-4.6
Quetta	13.3	4.8	8.4	-2.6
Skilled Worker 2[b]				
Islamabad	15.0	6.5	8.4	-2.6
Karachi	11.2	2.7	5.1	-5.9
Lahore	11.3	2.8	4.4	-6.6
Peshawar	12.1	3.6	7.9	-3.1
Quetta	13.3	4.8	12.9	1.9
Unskilled Worker				
Islamabad	14.0	5.5	11.8	0.8
Karachi	9.8	1.3	7.4	-3.6
Lahore	10.9	2.4	9.6	-1.4
Peshawar	14.6	6.1	14.9	3.9
Quetta	17.0	8.5	12.9	1.9

[a]Carpenter | [b]Mason

Source: Pakistan Economic Survey (PES)

Table 4a **Wages of Employees by Sector**

(Rs per Month)

	2008-09	2012-13	Growth Rate of (%) Nominal Wage	Growth Rate of (%) Real Wage
Agriculture	4349	6221	9.4	-1.6
Manufacturing	6768	11022	13.0	2.0
Wholesale & Retail Trade	5619	8656	11.4	0.4
Transport & Communications	8069	12470	11.5	0.5
Public Administration & Defence	11207	21549	17.8	6.8
Education	10424	18703	15.7	4.7
Health	9889	17412	15.2	4.2
Domestic Services	3680	6517	15.3	4.3
Other Services	6254	8197	7.0	-4.0

Source: LFS

Table 4b **Trends in Labour Productivity**

(Rs in Billion at 2005-06 prices)

	2005-06	2012-13
AGRICULTURE		
Value Added	1775.6	2152.3
Employment (million)	20.54	22.73
Labour Productivity	86446	87032
		(0.10%)
INDUSTRY		
Value Added	1616.1	2129.1
Employment (million)	9.82	12.54
Labour Productivity	164572	169786
		(0.45%)
SERVICES		
Value Added	4324.3	5945.3
Employment (million)	17.01	19.31
Labour Productivity	254221	308353
		(2.80%)
GDP		
Value Added	7716.0	10226.7
Employment (million)	47.37	56.58
Labour Productivity	162888	180748
		(1.50%)

Source: PES

5. 'Decent' Work

Decent work, according to ILO, involves opportunities for work that is productive, delivers a fair income and provides security at the workplace and social protection for families. It provides better prospects for personal development and social integration, freedom for people to express their concerns, organise and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men.

The Informal Work Force

A large part of the labour force works in the informal sector in Pakistan. Conditions for 'decent work' are seldom satisfied in the informal sector. Wages are low and variable, the working day is characterised by long hours of work, job security is minimal and the working environment poses health and other hazards. There is also little or no scope for collective bargaining.

The LFS gives the distribution of the labour force into three segments in agriculture, formal non-agriculture and informal non-agriculture. Trends in the number of workers in the last component are presented in Table 5. Currently, the number of workers employed in the informal sector is 23.5 million, representing over 41 per cent of the total number employed.

The worrying trend is the fast growth in informal sector workers between 2003-04 and 2008-09 of over 5 per cent annually. This was a period when the informal sector the economy grew very fast. The failure in labour absorption implies a degree of 'jobless growth' in the formal sector.

Incidence of Work-Related Injuries/Diseases

The LFS gives the incidence of work-related injuries/diseases, during the last twelve months prior to the Survey. The incidence of injuries/diseases is relatively high and growing (see Table 5a). Over 4 per cent of the workers have been affected in 2012-

Table 5a Number of Employed Workers in the Informal Sector

('000')

	2003-04	2008-09	2012-13
■ Population	148159	169996	1843349
■ % 10 years and above	69.53	71.85	71.94
■ Population above 10 years of age	103015	122142	132621
■ LFRP (%)	43.74	56.66	45.70
■ Labour Force	45059	55770 (4.36)	60608 (2.10)
■ Unemployment Rate (%)	7.69	5.46	6.24
■ Employed Number	41594	52724 (4.85)	56826 (1.89)
■ % Employed in Agriculture	43.05	44.91	43.71
■ Employment of Non-Agricultural Workers	23688	29045 (4.16)	31987 (2.44)
■ % in informal sector	70.0	73.30	73.60
■ Number of Workers employed in the Informal Sector	16582	21290 (5.12)	23542 (2.54)

Source: PES

Table 5b Incidence* of Work-Related Injuries/Diseases 2012-13

(%)

	2008-09	2012-13
PAKISTAN	2.71	4.02
Male	3.15	4.52
Female	1.09	2.28
DISTRIBUTION BY SECTOR		
Agriculture	50.43	49.15
Manufacturing	13.96	13.32
Construction	14.54	15.24
Trade	7.54	9.20

Transport	8.14	7.03
Others		6.06
DISTRIBUTION BY OCCUPATION		
Craft and Related Workers	22.11	18.78
Agriculture	44.86	43.51
Elementary Occupations	19.83	20.92
Others		16.79
DISTRIBUTION BY EMPLOYMENT STATUS		
Self-Employed	38.87	38.80
Employee	38.36	38.12
Contributing Family Worker	22.68	22.42
Other		0.66

*in the 12 months prior to the survey

Source: LFS, PBS

13. The incidence is almost twice in the case of male workers. The highest number of injuries/diseases is in agricultural work and among self-employed workers.

'Over Worked' Workers

The share of workers working more than 49 hours a week is given in Table 5.3 below. The percentage of 'overworked' workers is high, although it has been declining since 2001-02. In 2012-13, almost 39 per cent of the workers put in 49 or more hours a week. The incidence of 'overworked' workers is higher in the urban areas, among males and employers/self-employed.

Table 5.3 **Share of 'Overworked' Workers (Working 49 or more hours a week)**

(%)

	2001-02	2008-09	2012-13
Total	43.2	38.2	37.7
Rural	41.5	34.4	33.1
Urban	45.7	50.0	48.4
Male	47.4	43.9	45.9
Female	16.4	17.0	9.1
By Occupation			
Employer	54.9	70.3	62.4
Self-employed	53.9	54.3	51.8
Unpaid Family Worker	31.1	21.6	18.3
Employees	38.0	38.4	38.0

Source: LFS

6. Minimum Wages

The minimum wage in 2012-13 was Rs 8000 per month. According to Table 6.1, over 44 per cent of the workers received less than the minimum wage. This per centage was higher in the case of females at 72 per cent; among rural workers at 51 per cent

Table 6.1 **Percentage of Employees receiving less than the Minimum Wage by Sector 2012-13**

PAKISTAN	44.5
Male	40.7
Female	72.0
Urban	37.7
Rural	50.9
SECTOR	
Agriculture	74.6
Manufacturing	47.7
Construction	47.8
Transport	34.8
Finance and Insurance	11.3
Public Admin and Defence	8.3
Education	25.4
Health	29.4
Other Services	61.3
Domestic Services	71.3

Source: LFS

and in sectors like agriculture (74 per cent), other services (61 per cent) and domestic services (71 per cent).

7. Collective Bargaining

The trade union movement is relatively under-developed in Pakistan as shown in Table 7. Also, more recent data is not available. In 2007, there were 455 registered trade unions, according to ILO. The total membership was 441,000, with a trade union density of 1.2 per cent. This compares with 32.9 per cent in India, 17.9 percent in Sri Lanka and 59 per cent in Turkey. The fundamental question is why the process of formation of trade unions has been so slow in Pakistan.

There are a number of labour laws in Pakistan, which have been enacted either at the Federal or the Provincial level. Many of these laws pertain to the implementation of the eight international labour conventions that Pakistan has ratified. The laws are comprehensive in character and cover key areas related to the Conventions like abolition of bonded labour, prohibition of child labour, minimum wages, establishment of trade unions, and collective bargaining. An important 'missing' law is one that

Table 7 **Trade Union Membership in Selected Developing Countries**

('000')

Country	Year	Number of Trade Unions	Number of Members (000)	Members per Union	Trade Union Density (%)
India	2008	9702	9573	979	32.9
Malaysia	2012	694	890	1282	9.3
Pakistan	2007	455	441	969	1.2
Philippines	2012	18428	1833	99	8.7
Sri Lanka	2011	2057	1042	506	17.9
Turkey	2008	102	3205	31420	59.0

Source: ILO

STATE OF THE LABOUR MARKET IN PAKISTAN

- The labour force of Pakistan is 60.6 million, growing at over 3 per cent per annum.
- The unemployment rate is currently at 7 per cent, up from 6.2 per cent in 2008-09.
- According to ILO, the number of bonded workers in Pakistan is 2 million, in selected activities like brick kilns and agriculture.
- The number of child workers is 2.7 million, 11 per cent of the children in the age group, 10-14 years. Bulk of the child labour is in rural areas.
- The labour force participation rate of females is low but rising currently. The share of females in the labour force is at 15 per cent. There are almost 10 million female workers in marginal occupations.
- On the average, the male-female wage differential is almost 40 per cent. The difference is more pronounced in the informal economy.
- Real wages have shown a declining tendency during the last five years.
- The number of workers employed in the informal sector is 23.5 million, equivalent to 74 per cent of the workers engaged in non-agricultural activities.
- Over 4 per cent of the workers annually get injured or contract an illness which is work-related.
- The share of 'overworked' workers (working more than 49 hours a week) is 38 per cent.
- Over 44 per cent of the workers receive less than the minimum wage (Rs 8000 per month) in 2012-13. This percentage is higher in agriculture, other services and domestic services.
- Only 441,000 workers are members of trade unions. This is 1.2 per cent of the urban labour force.
- The overall conclusion is that the labour market is underdeveloped in Pakistan. Worker's rights as per the Labour Conventions have been difficult to ensure in an environment of slow growth and rising unemployment. The particularly soft spots are bonded and child labour, access and relatively low wages of women and the absence of collective bargaining.

would ban discrimination in payment of wages, especially to women for equal work and in access to different occupations.

Special institutional arrangements have been proposed for ensuring implementation:
(i) Setting up of Vigilance Committees in the Bonded Labour (Abolition Act).
(ii) Setting up of a Cadre of Inspectors for enforcement of the Employment of Children Act.
(iii) Establishment of Minimum Wages Board in the Minimum Wages Ordinance.
(iv) Appointment of Registrars of Trade Unions and establishment of Labour Courts under the Industrial Relations Act.

Violation of the laws has been made a cognizable offence, with trial by a First Class Magistrate and varying levels of punishment. For stronger implementation and monitoring, a special GSP+ cell should be established in the labour department of each Provincial Government, for the labour-related conventions. ■

Labour standards compliance in the industry has always been a thorny issue. Most employers, except the corporate sector, neither pay their workers minimum wages nor register them with the EOBI or ESSI.

Textile Industry and Labour Compliance: One Year after GSP Plus

Nasir Jamal

The textile and clothing industry remains the mainstay of Pakistan's economy; it represents the biggest segment, about 46 per cent, of the country's manufacturing sector and is the largest employer of the non-farm workforce, accounting for almost 38 per cent or 15 million direct and indirect jobs outside agriculture.[1]

The textile industry's share of GDP (gross domestic product) has come down to 8 per cent or $18.5 billion from 9 per cent in the early 2000s owing mainly to rapid growth of the services sector and other manufacturing industries. Its contribution to the nation's exports as a percent of the total export revenues has also slid from about 60 per cent a decade ago to 55 per cent in the fiscal 2014-15 though overseas textiles and clothing shipments have more than doubled in terms of their dollar value to $13.7 billion.[2]

In spite of being the fourth largest producer of cotton in the world, Pakistan is the 8th largest exporter of textiles and clothing in Asia and its market share in the global textile and clothing trade of $718 billion (2013) has plunged from 2 per cent in 2006 to only 1.8 per cent.[3] This compares with China's share of 40 per cent and India's 4 per cent in the global market. Even Bangladesh, whose apparel industry is dependent on imports of cotton, yarn and fabric, has raised its share in the world market to 3 per cent in a little more than one decade, leaving Pakistan fairly far behind.

Low Value Addition

The declining share of Pakistan's textiles and clothing in the global trade underscores the very low level of value addition achieved by the industry. Around two-fifth of the industry's overseas shipments consist of yarn and fabric. The apparel or clothing sector — comprising knitwear and woven garments — forms just 30 per cent of the exports while home textiles, towels, made-ups, synthetic textiles, raw cotton, etc the balance. The low penetration of Pakistan in the global markets and low level of value addition also underlines the massive opportunity available to the industry to convert its large stock of basic textiles — yarn and cloth — into garments and other value added products for export at a much higher price.

The All Pakistan Textile Mills Association (Aptma) estimates that conversion of the entire yarn and cloth produced in the country into value added products will create 10 million new direct and indirect jobs and fetch additional export revenue of $12 billion a year even if our cotton output remains at the present level of 13-14 million bales a year. Increase in the cotton crop size will further increase exports and create more industrial jobs.[4]

Encouraged by low interest rates in the early 2000s, the industry had invested $5 billion in technology and capacity expansion with a view to capturing greater market share in the post-textile quota world (2005). Major chunk of this investment went into the spinning and weaving sectors; only a small portion of this amount was funneled into the labour-intensive, value-added segments of the textile chain.

The industry reaped the benefits of capacity expansion during the mid-2000s and quickly increased its exports thanks to the increased demand for yarn and fabric in other value-added textile producing countries. But it was not able to make the most of the opportunity offered by the post-quota global textiles and clothing trade in the following years.

A comparison of Pakistan's textile and clothing export performance with its regional rivals in the years between 2006 and 2014 shows that it has done rather poorly. Pakistan's textile industry increased its exports by 22 per cent during these years. Bangladesh, on the other hand, has pushed its exports by 160 per cent, China by 97 per cent and India by 94 per cent. The global textile trade during these years grew by 45 per cent.[5]

Several factors have kept Pakistan from cashing in on the new opportunities: low value addition, narrow range of products (Pakistan excels in low-end products), suppressed use of man-made synthetic fibers, growing energy shortage, rising cost of doing business because of high inflation rate, and terrorism. During the 2010-2012, the textile and clothing exporters were able to reap windfalls because of rising world commodity prices, which largely compensated them for the production losses on account of energy shortage. The profitability of the factories slid in 2013-14 due to unprecedented rise in electricity prices in Sept 2013, 10 per cent revaluation of the rupee against the greenback in March last year and substantial dip in the international cotton prices.[6]

The industry seems to have recovered from the shocks caused by the currency revaluation and lowering cotton prices but the decline in the industry continues primarily because of decreasing availability of gas and power to the manufacturers in Punjab. However, the trade concessions allowed by the European Union (EU) under its GSP+ (Generalized System of Preferences plus) scheme from Jan 1, 2014 have afforded Pakistan yet another opportunity to raise its share in the global textiles and clothing trade. That can happen only if the factory-owners realise the importance of meeting social, environmental, labour and governance standards embodied in the United Nations (UN) and International Labour Organisation (ILO) conventions on these topics and ratified by Pakistan.

Impact of Energy Crisis on Workers

The impact of energy shortages for the industry has affected it more adversely than the rest of the problems it has been facing. For example, 35-40 per cent of the installed manufacturing capacity in the organized sector across the textile chain in Punjab is closed down owing to the unavailability of gas and electricity for running the three shifts. No new investment is being made in Punjab's industry, which represents almost 70 per cent of the country's textile manufacturing capacity, because of the energy crunch.[7]

When the industry is under severe stress and closing down, it is natural that workers will also be affected. No official or reliable numbers are available, but the Pakistan Textile Exporters Association (PTEA), which represents the value-added exporters of Faisalabad, estimates that 25-30 per cent jobs had been lost during the last three years in Faisalabad alone on account of gas and power shortages. The closure of 95 per cent production capacity of Chenab Textile, for instance, has eliminated more than 15,000 jobs.

The Pakistan Readymade Garments Manufacturers and Exporters Association (PRGMEA) says the exact impact of energy shortage on jobs could not be estimated because the crisis has affected the smaller manufacturing units much more than medium- to large-scale factories, which could afford in-house generation to keep their operations running. She says almost 30-35 per cent jobs in the registered garment units have been abolished because of energy problems. The job losses in the unorganised sector could be higher.[8]

Some circles in the industry do not agree that energy shortage alone was responsible for the industrial shutdowns and retrenchments in Punjab's textile industry. Other issues like financial mismanagement and industry's structure have also played their part in the closure of knitwear units. An equally pressing issue relates to the lack of fresh investment in the new projects and capacity expansion. As a consequence, fewer jobs are being created today to absorb 1.5 million young people entering the market every year.[9]

GSP+ Requirements

GSP+ is a trade programme of the EU which allows duty free (or preferential) market access to exports of certain designated developing countries. The coverage of the scheme is restricted to the countries which are considered vulnerable owing to lack of diversification and insufficient integration into the international trading system. These countries have to meet two criteria: a) imports covered under the scheme should represent less than 2 per cent of the EU's imports from all GSP+ beneficiaries (Pakistan's present share of total GSP+ imports of EU is 1.6 per cent); and, b) the 7 largest GSP+ covered product sections must cover at least 75 per cent of the country's total GSP+ covered exports to the EU (Pakistan's 7 largest GSP+ sections account for 94.6 per cent of its total GSP+ covered exports).

Even if a developing country meets these criteria, its entry into the scheme is not automatic, according to. The country must also demonstrate it has ratified and implemented 27 core UN and ILO conventions on human and labour rights, sustainable development, and good governance.[10]

The scheme is valid for 10 years; it can be withdrawn earlier if Pakistan is found seriously and systematically violating the core principles of the international conventions that it has already ratified or if there are serious shortcomings in customs controls on exports to the EU. The facility can also be withdrawn if Pakistan's share of exports to the EU exceeds 2 per cent in value of the EU's imports from all GSP+ beneficiaries. Therefore, it is imperative that Pakistan establishes a mechanism to ensure that there is no lapse in the implementation of the conventions. In addition, Pakistan must monitor the performance of customs regarding the flow of illicit substances and the potential that other countries' goods will be rerouted for export from Pakistan to claim the benefit of the scheme.[11]

Benefits of GSP+ to Economy

Pakistan's textile and clothing industry has had difficulty competing in the EU market because its rivals like Sri Lanka, Bangladesh, Turkey, Morocco, Tunisia and Mexico already enjoyed duty free access to the European markets. Now it will have an even playing field to compete with them. The trade concession will also provide Pakistan's textile manufacturers with an edge over competitors from countries such as China, which does not have duty free access to the EU, and India, which has only limited concessions for apparels under the standard GSP scheme. Pakistan can now export some 6000 tariff lines, mostly textiles and clothing, free of duty to the EU's 27 member countries. If the size of the EU's GSP+ imports remains the same, Pakistan will have a potential of boosting its exports to the bloc by nearly $2 billion a year. But the increase in the size of EU's GSP+ imports will expand the space for it to push its exports further.

The implementation of the EU trade concessions has offered a new opportunity to Pakistan to restructure its textile industry and reposition it in the world markets, attract local and foreign investment in the value-added textile industry, boost exports, create millions of new jobs and address quality, labour, governance and other issues in the textile manufacturing. Pakistan had been lobbying for the EU trade concession for the last one decade on the ground that its status as a frontline state in the global war on terror has adversely affected its economy and its international trade. Initially, the grant of the EU concessions had buoyed mood of the industry.

PRGMEA Chairman Ijaz Khokhar says that it initially gave them hope the government would form an effective policy to remove energy shortages for the textile exporters and create a conducive environment to encourage investment in the labour intensive garments industry. Their optimism was soon to be replaced by pessimism, however, as the government has so far done little to address the energy woes of the industry and help the manufacturers invest in capacity expansion to increase their output to take advantage of the GSP+ scheme. Instead, the delay in the refund of taxes to the exporters has created liquidity shortage for small to medium sized units.

The challenges notwithstanding, some exporters of value-added textiles have already begun expanding their capacity. Style Textile Ltd, the largest producer of knitted garments in Lahore, for example, plans to increase its production by 50 per cent over the next few years. But such examples are far and few between. The industry requires an annual investment of $1 billion for five consecutive years in order to convert its entire, current production of yarn and fabric into garments and other value-added products to take full benefit of the EU trade concessions, as well as expand the country's market share in global textiles and clothing trade to 3 per cent.[12]

The IPR report has listed 5 steps that are required to be taken to maximise the benefits of GSP+: a) the government should carry out tariff reforms so that Pakistan's industries can source cheaper raw materials, rather than having to pay duties and then claim refunds; b) any tax or rebate incentives should only be permitted for value-added products, and not for the export of non-value goods such as yarn or grey fabrics; c) the government should immediately allow import of all goods from India so that Pakistan's local industries can add value and re-export these goods; d) the government should require customs and other agencies involved in export to adopt the latest trade facilitation practices, which will cut the cost of exports; and e) the government should ensure that necessary inputs, such as gas and electricity, are available on a regular and reliable basis, so that industries can operate at maximum capacity.[13]

Status of Labour Compliance

Labour standards compliance in the industry has always been a thorny issue. Most employers, except the corporate sector, neither pay their workers minimum wages nor register them with the Employees Old-Age Benefits Institution (EOBI) or provincial Employees Social Security Institution (ESSI) to cut their direct costs. Resultantly the majority of the workers and their families are deprived of pension and health benefits, says Mr Mohammad Ayub. According to him, most units register only 50-60 per cent of their workers with these two institutions. (In case of registration with EOBI a manufacturer has to contribute from his own pocket about Rs 700 per registered employee per month and in case of SESSI he has to pay 6 per cent of the salary of each registered worker per month, according to him.)

The working conditions for women employed in small-scale readymade garments units, which are dominated by female workers both in the formal and informal sectors, are even worse. They have to work longer hours for almost two-third of the wages given to their male co-workers. Also, few manufacturers provide them the facility of transport to and from home to workplace and that too at a cost. The large-scale garment exporters like Nishat, however, are an exception and treat their women workers at par with their male co-workers and have made arrangements for their transportation and skill training.

The working conditions have especially become worrisome ever since the provincial governments of Punjab and Sindh where the textile industry is mostly located suspended labour inspections on the manufacturing premises in 2003 under the pressure of the factory-owners.

A large knitwear exporter from Lahore,[14] does not agree that any exporting unit can afford not to comply with all the labour standards as the buyers and their agents periodically make surprise audits of labour standards compliance at their production facilities. Yet, he admits that most units, particularly the small ones, producing for the domestic market or working as 'indirect exporters' are neither socially compliant nor have registered their workers with EOBI and SESSI to save on their costs.

The PRGMEA-North Zone official[15] also confirms that many member units of the association are neither registered with the EOBI and SESSI nor pay their worker minimum wages and overtime as per law. However, the medium to large sized units having direct links with foreign buyers do comply with all the social and labour standards because it can cost them business. The state of labour standards compliance in other segments of the textile chain — weaving (unorganised powerloom sector), processing, made-ups, etc. — is not much different from the situation in the apparel (woven and knitted garments) sector.

Nevertheless, the incident of fire at a Karachi garments factory - Ali Enterprise - where 255 workers lost their lives because of non-provision of emergency exit in the building and, later, in an unregistered shoe factory in Lahore in 2012 that killed 25 workers bared open growing gaps in the safety arrangements, and social and labour compliance at the industrial units — both in the organised sector as well as in the unorganised sector.

The fire incidents, especially the Karachi factory blaze, are believed to be the major reason that forced Disney World to pull out of Pakistan at the end of March 2014. The decision of Disney Corporation has directly affected around 30 garment manufacturers in Faisalabad, Lahore and Karachi and caused export losses of $150 million per year. Shocked by the renewed focus of consumers in America and Europe, including England - the two largest buyers sharing 60 per cent of the total textile and clothing exports from Pakistan between them - in the wake of the fire incidents, the majority of exporting units are said to have voluntarily started implementing actions to ensure safety at workplace. Fear of losing business in these markets has compelled the employers producing for major foreign brands or stores to ensure labour safety standards compliance at their units. Yet, the majority of the producers, save the large-scale exporters, are reluctant to register all of their workers with EOBI and SESSI.

GSP+ requirements of social, governance and labour standards compliance have spurred almost the entire textile chain into action to implement the UN and ILO conventions on these topics. Technical assistance is being provided by both ILO and a German development organisation GTZ. The All Pakistan Textile Mills Association (Aptma), the representative body of the spinners and fabric producers in the corporate sector, for example, is being helped by GTZ and the World Wide Fund (WWF-Pakistan) in implementing sustainable production processes, social compliance projects and better cotton initiative.

Similarly, the PTEA has collaborated with the ILO to implement the International Labour Standards (ILS) compliance programme in its member mills. The three-year initiative will cost $9 million, of which the PTEA will provide $1.8 million. The rest of the funds will be generated by the ILO from other sources. Moreover, both the PHMA and PRGMEA are also participating in the joint labour standards programmes created by the labour department of Punjab with the help of GTZ.[16]

The objective of these initiatives is to improve image of textile factories as responsible workplaces that are compliant with national laws and international labour standards; put in place institutional mechanism to regularly monitor and report on the application and adherence to labour standards; increase transparency in employment conditions, contractual rights and obligations at workplaces through social dialogue (between the employers and employees); enhance labour productivity; and improve workplace relations to address both difficult and demanding working environment and relations between workers, supervisors, and managers.

Manufacturers complain that the government has done little more than lip service to help them bring about the change at workplaces. There are some environment and social standards that are hard to meet for the industry on its own without financial help from the government, points out a supplier of processed fabrics to major American brands.[17] For example, not every businessman can afford to set up a water treatment plant. It has to be a government-sponsored initiative for each cluster of industrial units.

Need for Labour Policy

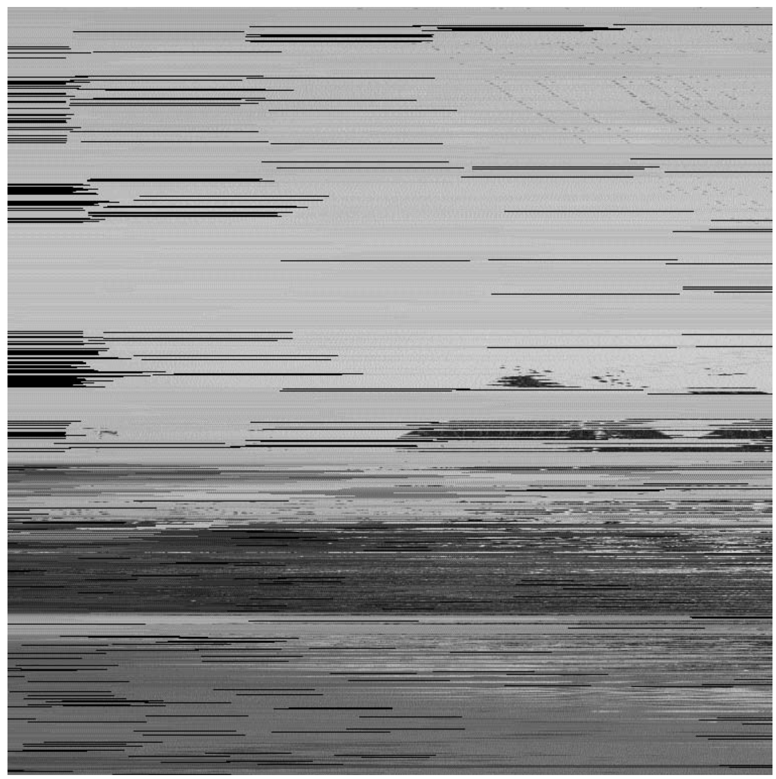
Although successive governments have been quick to allow cash, tax and other initiatives to the manufacturers and exporters, none has formulated a labour policy protecting the workers' rights. Until it develops a labour policy to ensure rights of workers embodied in the ILO conventions ratified by it, a labour leader at a textile unit in Lahore says, the government could at least bind the employers to implement health and safety standards at the workplaces and register all the workers with the EOBI and SESSI to become eligible for the benefits allowed to the textiles and clothing exporters in the draft second textile policy. But it has not because of fear of strong negative reaction from the owners.

Pakistan has ratified 34 ILO conventions that are in force. These include eight fundamental Conventions that are also in the list of the 27 conventions covered under the GSP+ scheme. According to ILO, the Pakistan government has undertaken legislation reforms to remove discrepancies with the ratified ILO Conventions. There is still need for the government to adopt measures to strengthen institutional mechanism to effectively implement labour laws to address widening gaps in establishing decent work and translate labour standards into labour laws, as well as see to it that these labour laws are adhered to by the manufacturers. ■

Notes

1 All Pakistan Textile Mills Association (Aptma), Pakistan Textile Exporters Association (PTEA) and Gherzi report (June 2013)
2. State Bank of Pakistan. Note: Gherzi report June 2013 (prepared for India's Cotton Textiles Export Promotion Council) says Pakistan's overseas textiles and clothing shipments of $13.6 billion in the financial year 2012 contributed 53 per cent to its total export revenues.
3. World Trade Organisation (WTO)
4. SM Tanveer, Chairman Aptma, in interview in December 2014
5. WTO
6. Ahmed Kamal, former PTEA chairman, and Anisul Haq, Aptma-Punjab Secretary in interview in December 2014
7. Gohar Ejaz, former Aptma Chairman, and Ijaz Khokhar, Pakistan Readymade Garments Manufacturers and Exporters Association (PRGMEA) Chairman, in interviews in January 2015.
8. Hina Asif, joint secretary PRGMEA North Zone, in interview in January 2015
9. Mohammad Ayub, secretary Pakistan Hoisery Manufacturing Association - North Zone, in interview in December 2014
10. Dr Manzoor Ahmed, former Pakistan Ambassador to the WTO (2002-2008), senior fellow at the International Centre for Trade and Sustainable Development, Geneva, and a member Institute of Policy Reforms (IPR) board of advisors
11. Ibid.
12. SM Tanveer
13. IPR Report (GSP+: Everything You Need to Know About the Generalised System of Preferences +)
14. M.I. Khurram, former official Pakistan Hosiery Manufacturers Association (PHMA), in interview in December 2014
15. Ashiq Siddiqui in interview in January 2015
16. PRGMEA and PHMA officials
17. Aamir Fayyaz, Chairman Aptma Committee on International Trade

Wages of workers are at subsistence levels and are kept there by a surplus of unemployed labour. With little or no steady savings, there is negligible investment in human capital. Worker productivity remains low as a result.



Interaction of Labour Law and Economic Growth: Case Study of Sheikhupura

Dr. Anjum Altaf

Introduction

This study was part of the portfolio of projects undertaken by the Lahore University Management Science for International Growth Center, London School of Economics, on aspects of economic growth in the region centered on Lahore and including the surrounding small cities that are or can be part of the metropolitan labour market.

In the first project in this series, representatives of all seven participating cities identified the significant impact of labour laws on both the welfare and productivity of industrial workers. As a result, it was decided to explore the interaction between labour laws and economic growth more formally through a dedicated study. Sheikhupura, a half-million sized industrial city about 30 miles from Lahore, was selected for the case study based both on its proximity to Lahore and the range of its industrial base varying from small factories to MNCs.

Objectives

The aim of the project was to produce findings and recommendations that would provide useful inputs in reviewing/formulating:

- Labour policy: In particular with reference to labour laws and working conditions.
- Economic growth policy: In particular, how to enhance labour productivity using legal tools and frameworks.
- Legal policy: With particular reference to legal reforms that address redundancies and inefficiencies especially in labour laws.
- Governance policy: By providing insights that would serve as a basis for reforms in other cities and at the provincial level.
- Accountability policy: By enhancing the understanding of citizens, members of the labour force, and business owners of issues related to their respective welfares.

Methodology

The set of labour laws that comprise the labour code in Pakistan were identified via a desk review. This was followed by intensive focus group discussions, chaired by the President of the Sheikhupura Bar Council, with lawyers, labour court prosecutors, and labour department representatives in Sheikhupura.

The focus groups concluded that the five laws most relevant to the project were the Factories Act, 1934; Minimum Wages Ordinance, 1961; Payment of Wages Act, 1936; Punjab Industrial Relations Act, 2010; and Workmen's Compensation Act, 1923. The focus groups also provided insights into the loopholes in and violations of the aforementioned laws during implementation.

In order to understand the diverse perspectives of stakeholders the focus groups were complemented by factory visits and interviews with industry experts, enterprise owners, the District Officers of the Labour Department in Sheikhupura, Lahore, and Rawalpindi, the Directors of the Social Security Department in Sheikhupura and Rawalpindi, the Director at the Labour Department Headquarters in Lahore, the President of the Bar Council Sheikhupura, and workers across industries in Sheikhupura. The insights from the focus groups were combined with information obtained from 14 in-depth interviews with workers (including 2 females), a labour controller (*munshi*), and a quality inspections manager.

The information obtained from the focus groups and interviews was then cross-checked against the actual case law filings available with the Labour Department.

Fieldwork included interviews with 36 labourers employed in factories along the Lahore-Sheikhupura-Faisalabad Road, Warburton, and adjoining areas. The industries represented by these factories included food, textile, chemicals, utensils and waste management. Detailed, qualitative interviews with both structured and unstructured questions and responses were administered to the workers in the vicinity of the factories after the end of a shift or in labour colonies. Because labour colonies are populated mostly by non-local workers, the latter were more heavily represented in the sample which included both male and female workers. Labour officers were interviewed in Sheikhupura, Lahore, and Rawalpindi. These interviews were free-flowing in the form of conversations about problems in implementing the law, generally observed loopholes in the existing legal mechanism, standard practices followed by the department, and specific measures to improve the situation.

Findings

Conditions in Sheikhupura

While most workers in Sheikhupura are locals or from nearby villages, there are also those from places much farther away like D.G. Khan and villages of South Punjab. Such workers lived in housing provided by factories. The majority of workers is unskilled and employed in manual labour like picking and moving heavy machines and goods. Employees at the managerial or supervisory levels are hired directly by industrial establishments. Those interviewed had been with individual establishments for extended periods and their compensations complied, in general, with minimum wage laws.

Labour in other categories was, however, hired indirectly. The factory owner generally enters into a formal "contract for services" with an intermediary known as a subcontractor (thekedaar). The subcontractor, in turn, hires labour informally. The factory owner pays the subcontractor a fixed price per worker. This device is meant to shield the factory owner from legal liability under labour law since the labourers who effectively work for him are, technically, not his "employees" but rather the employees of his "contractor". Contractors are generally people who are better placed to collude with the regulators and ensure continuing non-compliance with labour law. As can be expected, even if a firm pays the subcontractor the legal minimum wage per worker (which it generally does not) the workers themselves receive less. Additionally, workers do not have formal contracts or job security and are consequently not eligible for social security mandated for factory workers under the law. This mechanism absolves factory owners of responsibility for the contracted workers. Depending on local bargains with government inspectors some employees have proper contracts and social security records, as proof of compliance, while the majority of the subcontracted labour is not part of the official records.

The superior courts have, over the course of years, and most recently in Fauji Fertiliser Company Ltd. v. National Industrial Relations Commission (PLC 2014 SC 10), taken notice of this legal subterfuge. They have held that a labourer will be considered a factory owner's employee provided there is evidence of "a master and servant relationship", i.e., effective control, even if the labourer is technically the employee of a subcontractor. In essence, then, the liability for labour rests with whoever effectively benefits from its production. Nonetheless, piercing through this legal subterfuge requires adequate knowledge of the law as well as legal representation, both of which are often beyond labourers' capacities to acquire or hire. Tacitly worded service provision contracts, lack of knowledge, and unaffordable representation also make it difficult for the proverbial "master and servant relationship" to be reasonably established in a court of law.

Trade Unions

Trade unions are conspicuous by their absence from the labour market of Sheikhupura. The few unions that do exist are mostly headed by a person appointed by the employer and hence do not satisfy the condition for free association. Moreover, workers are rarely aware of their presence. Those with some awareness have little faith in these unions and hence do not approach them with their concerns.

The absence of unions means that workers have little or no collective bargaining power. With the labour hiring outsourced to subcontractors, high unemployment, availability of surplus labour, and weak collectivisation, the situation for workers is desperate. Just finding employment is the major goal and losing a job the biggest fear. There is thus very little protest against the visible prevalence of exploitation.

Wages

Interviews with labourers across industries indicate that monthly compensation for unskilled workers ranges from Rs 7,500 to Rs 10,000 for duty shifts of 8 to 10 hours a day (against the official minimum wage of Rs 10,000). Female respondents reported lower wages for equivalent work. The salaries of the *munshi* and the manager in our sample were Rs 15,000 and Rs 20,000, respectively, for the same or fewer hours of work per day. Almost all respondents agreed that the compensation is barely enough for subsistence, leaving little or no savings. It was their opinion that higher wages would make them more productive.

Working Conditions

In general, working conditions were unsatisfactory and in specific industries, e.g., those involved with waste materials, were decidedly unhealthy. Little or no precaution was being advised or followed, if advised. Factory managers assumed no responsibility nor paid heed to the harmful effects of certain clearly hazardous environments. The workers did, however, express the desire to be shielded against hazardous environments and to be provided with adequate safety equipment.

Working conditions for females were even worse. Sexual assault by owners (and their relatives) was mentioned as common practice but rarely reported because of fear of losing employment. The *munshis* were also often reported to exchange favors with female workers.

Implimentation of Labour Law

Focus group discussion indicated that most factory owners had found mechanisms to avoid the implementation of labour laws in ways that precluded liability. The following violations were mentioned most frequently:

i. Under-reporting of the number of employees: A typical example of a common practice was of a factory employing 1300 workers but reporting only 200 on the books. Only the latter were insured and eligible for Social Security entitlements.

ii. Social security contribution: The Director of the Social Security Department alleged that factory owners and businessmen did not cooperate with the social security department and did not contribute the requisite funds for their employees. Further, many factory owners hired labourers on a temporary basis thus limiting their access to insurance and Social Security benefits.

iii. Minimum Wages: The minimum wage introduced by the government was rarely implemented and the inspection checks failed to uncover these violations. As a result, it was guesstimated that only about 30 per cent of factories paid the minimum wage to their employees.

iv. Discrimination and Harassment: On one visit a representative of the government's labour department offered some observations off the record. He mentioned gender-based wage and work discrimination, sexual harassment, and child labour as being common practices across the industries. Our in-depth qualitative interviews also revealed sexual harassment of females and lower wages for equivalent work.

v. Bonded/Child Labour: The incidence of child labour is particularly high where bonded labour is involved. Brick kilns, workshops, and hotels have the highest number of bonded labourers. Although the courts have declared bondage a crime, this practice is still prevalent across the country. Cases of child workers injured on the job but denied benefits and compensation on account of being below the age of entitlement were narrated in interviews.

vi. Weak Implementation: While the policy of 'surprise raids' should act as an deterrent to concealing facts, collusion between employers and inspectors generally means that factory owners are aware of when 'surprise visits' will take place and hence are able to conceal facts. Lack of coordination amongst government institutions was also mentioned as a reason that enables factory owners to get away with malpractices. The lawyers whom we consulted at the courts pointed out that they could reasonably estimate the actual labour force working in an industry by looking at the machinery installed and multiplying by the number of workers needed per unit. However, when results of surveys and audits were sent back to the law enforcement agencies for correction, they were ignored.

vii. Bribery: Our informant mentioned that the government officials assigned to factory audits and surveys generally asked for bribes to understate the number of employees and overstate wages paid. Thus a factory with more than a thousand employees could actually have a reported labour force of a few hundred in the audited records.

viii. Lack of Awareness: An alleged lack of general awareness amongst the workers about their basic rights was cited as one reason for the weak implementation of labour laws. It is not clear however whether the desperation to hold on to jobs in a labour surplus environment is not a more serious reason for the lack of worker pressure for their rights. This is compounded by the lack of faith in the legal machinery. Court proceedings are a long, painful, and expensive process rendering them inefficient. Most workers cannot afford legal counsel and, being uncertain about the outcomes of the suits, they steer away from pursuing their claims.

Job Satisfaction

When asked if they were satisfied with their current jobs, almost all workers expressed relief that they have jobs at all in an environment of serious unemployment. Considerations of happiness or job satisfaction seemed a luxury, overshadowed by the dire need for some form of employment for survival. There was an excess supply of unskilled labour and those interviewed were acutely aware that they could be fired at any time and replaced with more compliant workers. Workers from afar were reconciled to not being able to go home for months as long as they could earn something to send back.

Legal Loopholes

In addition to the outright violations of law mentioned in earlier sections, several loopholes exist to allow employers to evade compliance, accountability and prosecution even when government functionaries or judicial processes attempt to intervene.

i. Unregulated Informal Economy: By subcontracting certain production processes and transferring them from regular to contract labour, industrialists are able to evade responsibility and thus refuse to claim liability when issues arise of non-compliance with the law. The few provisions that exist to deal with such a situation in the current legal structure are rarely implemented and often require legal representation that is costly and unaffordable for most labourers. As a result, employers are able to ignore minimum wage regulations, social security requirements, overtime payments, and even rules relating to injury compensation by hiring external contractors to provide the labour force. This run-around relies on the unaccountability of third-party labour contractors - their incomes are not documented and they evade government investigations on compliance with labour laws. These factors combine to create a loophole where employers gain the flexibility to flout the laws and contractors have an incentive to earn a premium by supplying cheap labour.

ii. Ineffective Penalties: Fines are imposed for legal violations and additional compensation mandated in case of underpayment to labourers. However, we confirmed that the threat of fines is insufficient disincentive for most employers. Since most employers can underreport employment because of the outsourcing loophole, fines and compensation add up to less than the increase in total costs that would result from full compliance with the law. Acceptance and payment of fines is thus the less expensive and more preferred alternative in the existing situation.

iii. Slow Judicial Processes: The slow and cumbersome judicial procedures militate against compliance in the labour market. Years can be consumed in litigating a single case as revealed by our investigations and petitioning labourers rarely possess the physical, mental, or financial strength to fight to the end. Thus many cases are never filed. Even when cases are heard, petitioners mention witnesses absconding or changing their statements under pressure. We suspect that the inefficiency of the judicial process is a deliberate loophole to preserve the status quo.

iv. Inadequate Opportunities to Form Associations: Perhaps the most alarming revelation of our research was the absence of unions in almost all factories that we managed to visit. There was no forum for workers to collectively voice their demands, and many (especially female workers) were, in fact, unaware of what a union and its functions implied. In the rare cases where a union existed, it was in the hands of agents of owners. It was difficult to ascertain whether it was the workers' own disinterest or the management's active role that resulted in this situation; however, the fact that the law is silent on a complete absence of unions, in spite of the same being a fundamental labour right under ILO guidelines, is in itself a loophole that facilitates labour law violation and noncompliance.

Case Law

To get an idea of the nature and incidence of labour code violations, case law from 2008 onwards was reviewed (records from earlier years were unavailable). The review indicated that most claims were filed under section 15(2) of the Payment of Wages Act, 1936 and Section 10-B of the Minimum Wages Ordinance, 1961. The Workmen's Compensation Act, 1923 was also resorted to and several cases were filed under it.

Regarding settlements and judgments, the trend was towards out of court settlements. However, in some cases, a penalty was awarded to the respondents and they were given a time period (usually 30 days) in which to make the payment. The amount of the penalty ranged between about Rs. 16,000 to Rs 20,000, depending upon type of complaint.

Data for the past two years showed the average number of new cases reported per month under the Payment of Wages Act, 1936 as 19 as compared to 6 under the Workmen's Compensation Act, 1923. Thus cases under the Payment of Wages Act, 1936 were generally more reported.

Investigating decisions by month, it was found that on average 26 cases were decided under the Payment of Wages Act, 1936 and 7 under the Workmen's Compensation Act, 1923. The highest number of cases decided under the Payment of Wages Act was 146 in September 2013. However, for pending cases by month for the same two statutes, the averages were 305 and 45 respectively. This reveals a growing backlog, which inevitably results in excessive times to decision, a discouragement for plaintiffs justice delayed is clearly justice denied. To some extent this slow pace may be a deliberate practice to bias outcomes against those with limited staying power.

The Situation in Sheikhupura

Based on investigations and interviews, the most apt characterisation of the situation, at least of the informal industrial sector in Sheikhupura, is a stable low-level equilibrium. Wages of workers are at subsistence levels and are kept there by a surplus of unemployed labour. With little or no steady savings, there is negligible investment in human capital. Worker productivity remains low as a result.

Collusion between factory owners and government regulators is the dominant win-win strategy for both players. As a result, nominally progressive labour codes for the protection of workers are ignored. Working conditions fall below specified standards with no safety equipment available in hazardous work places and no preventive measures in vulnerable sites. Rescue services are minimal resulting in the loss of lives. Most incidents go unreported unless either the scale or the links with the export sector focuses media attention. Such was the case, for example, of the Baldia Town fire in a garment factory in Karachi that claimed 258 lives. Even then compensations and reform remained patchy and elusive.

Such conditions, characterised by hopelessness, negatively impact the productivity of workers but keep them employed because of lack of alternatives for survival and the absence of a trade union movement that has been co-opted by factory owners. At the same time a characteristic prisoner's dilemma is at play in which no single firm in the competitive market has the incentive to alter the conditions of work or the compensation offered. This is the case even though there is an understanding amongst some owners that better conditions do lead to improvements in productivity.

While conditions are somewhat better amongst the MNCs and the industrial establishments associated with exporting industries, the informal sector where the bulk of the labour is employed shows no dynamic that can lead to a self-propelled exit out of this low-level equilibrium. The social loss is significant because the existence of so many people at survival level keeps purchasing power low which negatively impacts the prospects for consumer-driven growth, the development of industries catering to the demand of the majority of the population, and investment in human capital improvements for the future.

The combination of the low-level equilibrium and the prisoner's dilemma is putting future prosperity at stake. Short term gains of factory owners and government functionaries are being obtained at huge cost to the welfare of workers and growth of the national economy.

Analysis

As mentioned above our analysis suggests a low-level equilibrium trap reinforced by a prisoner's dilemma and sustained by a strategy of collusion between business and local government functionaries.

Signs of the low-level equilibrium are legion wages stuck at subsistence, no human capital accumulation, and low labour productivity. The prisoner's dilemma in a competitive market constrains the action of even the few industrial establishments that realize that better compensation and treatment of labour would yield productivity gains. And the strategy of collusion is left in no doubt by the refusal to share information and records.

Thus while all the laws required by virtue of being signatories to the International Labour Organisation exist on paper their implementation is sporadic, arbitrary and grossly incomplete. Forgery, misreporting, and bribery are rampant; factories contract undocumented labour; and influencing or otherwise taking over of unions stifles collective action by labourers.

Adding to the difficulties is the ideological consensus that views labour laws as interference with the working of otherwise efficient free markets. The World Bank has viewed stringent regulations as hindrances to the business environment leading to lower country rankings on indices such as the Ease of Doing Business Index and the Employing Workers Index.

The generic solution that emerges from this perspective is one of scaling up firm size. Even in Sheikhupura, it was pointed out that most of the big companies like ICI and Nestle aim to maximise output and profits and therefore keep their workers happy by providing them with productivity-enhancing benefits. Small industries, in whose products the share of labour costs is higher, do not have a long-term view and aim to save money by squeezing workers.

The Social Security Director in Sheikhupura pointed to GSP+ as a source of improvement. GSP Plus status allow almost 20 per cent of Pakistani exports to enter the EU market at zero tariff and 70 per cent at preferential rates. This would allegedly be beneficial for the economy as well as for workers. Collaboration with the European states would increase trade and likely attract European investment. According to the Director, this would spur competition for local industries and given that foreign companies adhere to labour laws, push it to improve the implementation of laws as well.

While it is true that economic scale helps, it is not possible to scale up all small industry within any reasonable time frame. Export industries are already present in Pakistan and they do have a positive spillover on other exporting competitors. But evidence, even from such export-oriented cities as Sialkot, is that there is virtually no spillover effect on non-exporting industries. Even within exporting industries, the improvements are not across the board.

Policy Recommendations

The recommendations that follow aim to strengthen the implementation of existing penalty-based legislation. More importantly, however, they go beyond the punitive approach to include incentive-based instruments that reward progressive employers for voluntarily adopting better labour practices. The recommendations also include measures of public disclosure that could be used to further influence firm behaviour in a positive manner.

There are no fundamental reasons that should prevent a government from implementing most of the policy recommendations included in this enhanced penalties and incentives regime.

1. Regulate the Informal (Industrial) Labour Market

Improving compliance and enforcing the existing set of labour laws has to involve closing the loopholes offered by informal labour markets. While the country's superior courts have already ruled in favour of recognising informally employed labour as that attached to an establishment given the existence of a "master and slave" relationship, the same is barely known even to government functionaries involved in monitoring the implementation of the law. It is also relevant that establishing such a relationship in a court of law would require resources and legal representation that is beyond most labourers; establishments and contractors, on the other hand, can get away with better resources and opportunities to collude.

One possibility could be the recognition of labour contracting as a separate category in the service industry. This would imply a formal oversight structure within the existing legal framework for contractors who supply informal labour to factories and other establishments. This would be followed by enforcement of regulations making it mandatory for companies to hire only from registered labour contractors.

These steps would ensure not only that companies will employ (directly or otherwise) from registered sources, but contractors will also have the incentive to register themselves to be able to operate in the labour market.

2. Carry Out Surprise Visits to Audit Labour Practices at Indutrial Establishments

Malpractices at the workplace continue undetected mainly because of collusion and rent-seeking behaviour of the involved parties (violators and inspectors). Additionally, the hiatus in inspection for a period of 9 years (2003-2012) has acted as a deterrent to the already weak inspection apparatus of the state (Labour Watch Pakistan 2012). The increase in the number of labour inspectors has also not been concomitant with the increase in the number of establishments and this is a gap that needs to be rectified. Controlling malpractices requires random and surprise checks at factory premises. Given that government departments have minimal incentives in this regard, this function could be outsourced to private audit firms whose contracts would be subject to renewal based on performance.

3. Reform the Penalty Structure for Violators

As discussed earlier, fines are rarely enough to deter firms from violating laws, and even when imposed, employers are able to escape the true costs that they owe their workers due to other loopholes in the system. Employers, in most cases of violation, are able to evade imprisonment sentences because they are well-placed within the existing system and hence better able to defend themselves in courts of law.

Fines need to be increased to serve as adequate deterrent and could be supplemented by imprisonment in cases of continued non-compliance. While some offences (e.g., payment of wages below the minimum level set by the government) do carry prison sentences by law, they are rarely enforced. If this sentence can be extended to all labour-related offences, and be made more stringent, the social stigma of a prison sentence would serve as a cautionary signal in business decisions.

4. Promote Unionisation

The rights to organise, to form unions independent of government or employer influence, and to bargain collectively as opposed to individually are all recognised by the ILO in the 'Declaration of the Fundamental Principles and Rights at Work'. This needs to be taken up as a critical issue at the highest level. When the right to organise is recognised, resisting the provision of the same should also be recognised as a criminal offence and penalties introduced for such practices.

5. Judicial Reform

An important step towards enforcing labour legislation is a fair and efficient judicial system. Special labour courts or tribunals, while they do exist, are marred by slow judicial practices. Deliberate time-wasting tactics must be curtailed by an appropriate penalty structure to ensure closure of cases within specified time duration.

Separate labour appellate benches at the High Court could also be considered for speedy disposal of appeals.

6. Encourage Training and Human Capital Development

In the given situation an external stimulus is needed to incentivise and trigger a positive cycle of human capital accumulation and awareness of labour rights. Cost sharing schemes and/or tax rebates can be offered to employers engaged in certified training and skill upgrades for their workers.

The federal and provincial governments have extensive training institutional networks that can assist in such an endeavour. These include the Technical and Vocational Training Authority (TEVTA), the Punjab Board of Technical Education (PBTE), the National Vocational and Technical Training Commission (NAVTTC), the National Productivity Organization (NPO), and the Skill Development Council (SDC). The Punjab TEVTA has a technical education center and a vocational education center in Sheikhupura with additional service centers in Lahore and Gujranwala. Additionally, all districts of the Punjab are well covered by TEVTA's vocational and service centers.

7. Set Up Voluntary Labour Standards Programs and Agencies

There is need to design a regulatory and monitoring structure that better aligns the incentives of industrialists, government, and workers in order to break out of the low-level equilibrium.

We propose the introduction and public disclosure of a set of labour welfare standards. These would be part of an incentives and penalties regime that enables employers to both benefit from improved standards and get penalised for non-compliance. A pilot can be run in Sheikhupura before being extended across other districts.

A set of comprehensive labour welfare standards with minimum thresholds and a hierarchy of levels to be achieved over time can be prepared in consultation with international agencies and relevant departments and stakeholders. The standards would include measures for wages and compensation, safety, social security, discrimination, harassment, and appeal processes. All labour working in a factory, whether permanent, contracted, or subcontracted, would be covered by these standards. Independent audit firms would periodically assess factories and assign a rating based on the degree to which the standards have been achieved.

We suggest that such a regime would better align incentives by tying the ranking to tangible benefits. Employers achieving higher rankings could be rewarded with appropriate benefits including tax credits, less onerous monitoring, and priority in access to public services.

These incentives would be in addition to a baseline set of benefits for all employers that choose to voluntarily participate in the program. The baseline package could include facilitation in government procedures, cost-sharing for schemes related to education, health, and human capital accumulation, and facilitation of training and educational programs for workers through organisations like TEVTA, etc.

Participating employers that default could be penalised by temporary suspensions

that would take away the baseline benefits. While the details of the regime are subject to further analysis the point stressed here is that positive incentives for compliance need to be introduced.
The program would, like other standardised ratings such as ISO, be voluntary in nature. Administrative costs like those of audits can be covered through a small cess on all industrial production at the district level. This would also encourage employers to participate in the program since they would already be paying part of its costs.

Once a pilot has been implemented, model industrial estates can be established for factories enrolled into the labour standards program. These estates can receive special privileges like import quotas, tax credits, and other benefits, as previously discussed, in exchange for independent and rigourous auditing. By concentrating compliant factories in an area, local wages and acceptable labour practices could be expected to improve.

Rollout of Program: If the program is extended to other districts, district- and firm-based rankings could be developed. The top performing districts and factories would be recognised and rewarded with additional benefits to serve as encouragement for others. Recognition at the district level (the measure would include both extent of participation and performance) would generate peer pressure on non-participating and non-compliant employers since they would be holding back benefits the district could avail.

8. Public Disclosure of Labour Ratings

The above measures have to be complemented with a regime of public disclosure designed to energize consumer mobilisation in favour of compliance with standards. The illustrative example is the very successful public disclosure experiment in Indonesia - PROPER (Environmental Compliance and Enforcement in Indonesia, Rapid Assessment, 2008). The program relied on a very simple, easy-to-understand rating scheme whose self-reporting was mandatory for all participating companies and subject to verification by independent third-party auditors. In the Indonesian case, gold-rated companies were those that achieved the highest rating, followed by green, blue, red, and black ratings. Green signified above average ratings, blue indicated legal compliance, red signified below average performance on some indicators, while black identified companies in serious violations.

The rating agency would then ensure public dissemination of the list of manufacturers along with their colour codes. These could be printed and distributed and also displayed on a public TV channel dedicated to consumer issues. Companies could also be required to display their colour ratings on their packaging. Consumers could be advised to patronise gold-rated companies and avoid those with black and red ratings even if their products were priced lower.

Such a program introduces a demand side intervention in the dynamic and attempts to emulate the pressure that is exerted by foreign consumers on export-oriented companies but is absent for companies producing for the local markets. We believe that given reliable information, a sufficient number of local consumers might also prefer to buy from companies that treat their workers better, which in turn would spur companies to do better in their own self-interest.

The out-of-pocket costs for such a program could be generated by an appropriate cess on all small-scale industries so as to be non-distortionary in a competitive market. Increased productivity and lower expenses on healthcare etc. should significantly offset the costs of such a scheme. From a social welfare perspective, the transition to a new equilibrium is accompanied by huge gains to the economy as documented by Gavin Wright in the case of the American South.

9. Citizens' Labour Board

As a final component of the proposed structure, a citizens' board might be introduced at the city or district level to be an active participant in both the design of the system and its implementation. Such a board would include individuals from the media, academia, youth organisations, and women's groups so as to involve the entire spectrum of citizenry in the endeavour to improve the living standards of the majority.

Conclusion

Extensive discussions with labour lawyers lead us to the robust conclusion that the problem in the labour market is not in the absence of laws but in their implementation. In fact, there is near consensus that the existing laws are comprehensive and progressive and the supporting institutions also all exist in one form or another. However, the institutional and bureaucratic rot is so deep that effective implementation is well-nigh impossible.

Given this situation, the recommendation of more laws to ensure implementation of existing laws is counter-intuitive. Exhortations for better and more honest implementation also suggest a denial of the existing reality.

Our approach has been to identify the laws that are critical to labour welfare and suggest how, in the given situation, some progress might nevertheless be possible. In addition to purely punitive measures, we recommend adding an incentive regime that would create an impetus for progressive employers to voluntarily introduce better measures thus triggering a virtuous cycle. We have also recommended the introduction of private third party monitors and public disclosure to create space for better employers to distinguish themselves thereby further strengthening incentives for voluntary improvements.

Our discussions with labour activists suggest that the progressive laws in existence at this time date to two major waves of the past the 1920s and 1930s in British India and the late 1960s during the Ayub Khan government in Pakistan. Both these waves were the outcome of strong unionisation and mobilisation for collective bargaining. Subsequent periods saw the erosion of labour movements and the suppression of labour unions. We are once again in a period of very weak labour rights and a belief that pro-business measures are needed to spur economic growth. This leads to the conclusion that continued neglect of labour conditions might leave political mobilisation and civic activism as the only vehicles for social change. ■

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The analysis of land ownership profile shows a highly skewed concentration of land and concomitant social inequality and concentration of political power.

Profiles of Land Tenure System in Pakistan

Kaiser Bengali

The great floods of 2010 affected all four provinces of Pakistan and displaced millions of people across the country. The major brunt of the floods was borne by the relatively more vulnerable sections of the population and the mass dislocation of families exposed the vastly differential impact of the floods on different income segments. In terms of housing and household assets, including livestock, large landlords suffered the least as their houses were generally located on high ground and which remained somewhat safe from flood waters. Small farmers, tenants, and landless labour suffered the most, as their houses were generally located on low-lying marginal lands and which were swept away by raging flood waters.

The mass displacement of the affected population also highlighted extensive poverty among the vast majority of them. And a key contributing factor appears to be the skewed landholding, i.e., concentration of land in the hands of the few and landlessness among the majority. Notably, a common refrain by more than half the internally displaced persons in relief camps was: "We do not want to go back to our village … there is nothing left for us there, except our debt …"

Land reforms occupied a prime place in the political debate and in election manifestoes of political parties until the 1970s. The military regime of General Zia-ul-Haq, which ruled the country for most of the 1980s, reversed the land reforms of the 1970s and had the military-installed Shariat Appellate Bench of the Supreme Court declare land reforms as un-Islamic in 1989.

The analysis of land ownership profile shows a highly skewed concentration of land and concomitant social inequality and concentration of political power. The districts are underdeveloped, over two-thirds of the population are poverty-stricken, over half the population are bereft of education and over half the children are out of school. On the other hand, the elite lead 'first world' lifestyles, have multiple houses on their lands, in provincial and federal capitals, and some abroad as well. Their children have studied or are studying in elite English medium schools and/or in universities abroad. And so on.

The unequal distribution of assets ensures the economic dominance of the feudal-tribal class and the socio-political order continuously reinforces their power over the majority of the people. Members of feudal-tribal families are or have been leading office-bearers in all political parties and/or members of national and/or provincial legislatures, and/or ministers or advisors in the government. The feudal-tribal chieftains enjoy de facto judicial powers and preside over jirgas and pass judgments on disputes between members of the tribe. Customary law prevails and honour killings of women, sometimes sanctioned by a jirga, are not exceptional occurrences.

Recent Analysis

A recent analysis of land tenure patterns in the provinces of Pakistan shows considerable variation between and within provinces. Rural Sindh and Nasirabad Division of Balochistan are highly feudal, with 70-85 per cent of the rural labour force working as tenants on a sharecropping basis on lands belonging to large landlords. By contrast, south Punjab has undergone radical changes, with sharecropping largely replaced by large-scale self-cultivation or leasing a la corporate farming.

The study, undertaken by PILER in 2012-2013, was planned for all four provinces; however, it could not be carried out in Khyber-Pakhtunkhwa for security reasons. The 3-province sample was distributed over 54 villages in 6 districts - Thatta, Badin and Shikarpur in Sindh, Muzaffargarh and Bahawalpur in Punjab, and Jaffarabad in Balochistan. In each of the six districts, 100 households were surveyed. In the study, land holdings of less than 16 acres were defined as small farms, holdings of 16-49 acres as medium sized farms, and holdings of 50 or more acres as large farms.

Irrespective of the difference in land tenure patterns, there are some constants. Asset (land) inequality is stark. While a handful of large farmer families own/control thousands of acres of land, thousands of small farmer families own less than 5 acres each and thousands of tenants (in Sindh and Balochistan) farm plots of less than 5 acres each. The inequality is indicated by the fact that 88 per cent of small farmers (holding less than 12.5 acres of land each) own 49 per cent of land and 1.5 per cent of large farmers (holding more than 150 acres of land each) own 8 per cent of land. Land holding and control over land by large farmers is said to be actually larger with many de jure small and medium landowners being de facto tenants.

Socio-Political Structure of Rural Society

The archaic centuries-old socio-political structure of rural society in Sindh and Balochistan has remained more or less unchanged. Over two-thirds of the population is continuing to reside in rural areas and the rate of growth of secondary cities has been low. The lack of employment and educational opportunities in secondary urban areas and the sub-standard quality of civic services therein has failed to create the pull effect for the rural population to break out of the feudal-tribal stranglehold.

The peasantry is locked in villages that are characterised by derelict infrastructure, mud and straw housing, mud roads, unhygienic water supply, garbage dumps and sewage pools (in the absence of waste disposal facilities), and sub-standard educational and health facilities. The 2010 floods had washed away most of the villages and villagers who returned faced difficulty locating the site of their village and of their houses. The situation presented opportunities to rebuild planned villages on high ground and with drainage to protect villages from future river course and rain flood-ing. However, the feudal-tribal leadership opposed relocating the villages as they would lose control over their workforce and their vote banks and, most of all, their debts.

On the other hand, an oft-heard comment by internally displaced persons in Sindh government relief camps in Karachi during the 2010 floods was: "We do not want to go back to our village … we have lost everything … only our debt is waiting for us … give us work here, we do not want to go back to the village, we are *mazdoors*, we do *mazdoori* there, we will also do *mazdoori* here. There we do *mazdoori* and are kicked around, here we will do *mazdoori* with respect."

While the landed elite in Sindh and Balochistan is opposed to relocation of the peasantry even within the area, the case in south Punjab is the opposite: the peasantry has been expelled from the land and who have been forced to migrate to cities, including and particularly to Karachi. The remaining peasantry is now employed on land as wage labour. Thus, while rural Sindh and Balochistan remains trapped in an age-old order, south Punjab has moved towards a relatively modern, mercantile regime.

Inequality and Vulnerability

Land inequality in all three provinces is reflected in glaring income inequality: large landowner income is 31 times higher than the average sample income, with the income differential somewhat greater in south Punjab. It has also imposed a state of chronic poverty for the landless, the tenants and even the small farmers. A higher share of expenditure on food is considered an indicator of poverty; herewith, larger farmers allocate 17 per cent of their expenditure to food, compared to 50 per cent for the sample of medium- and small-sized farmers as well as tenants. On the other hand, per capita food expenditure in large farmer families is 5 times higher than the sample average. The share of food expenditure in Balochistan for the sample as a whole is almost 60 per cent and per capita food expenditure difference 6-fold. Further, thatched walls are an indicator of abject deprivation; herewith, half of the sample respondents reside in houses with thatched walls. The extent of deprivation in terms of residence in houses with thatched walls is the highest in Sindh (71 per cent) and the lowest in south Punjab (32 per cent).

The floods of 2010 affected large farmers and small farmers and tenants differentially. Generally large farmers' houses are on higher ground and remained protected from the ravages of the floods. They also managed to move their livestock to higher ground. Small farmer and tenant abodes were located on low-lying land and were submerged and washed away along with their meagre belongings. They remain vulnerable to flood damage in the future as well. An indication of the differential losses is provided by the fact that large farmer losses accounted for less than one-fifth of the annual income, compared to 123 per cent for the sample as a whole.

The debt situation throws interesting light on differential vulnerability, with the debt to income ratio ranging from 101 per cent for larger farmers to 145 per cent for tenants. Access to formal credit decreases with declining land size. Large and medium farmers and lessees have access to formal sources of financing for most of their credit needs and tenants have no access at all. The money lender and the shopkeeper in that order are major sources of financing for small farmers, while the landlord, shopkeeper and money lender in that order are major sources of credit for tenants.

The purpose for which a loan is taken also reflects vulnerability. All large farmers have obtained loans for productive purposes: agricultural operations and purchase of land, livestock or supplies. However, two-thirds of small farmers and over 80 per cent of tenants have obtained a loan for consumptive purposes: flood losses, medical expenses, etc. Loans for consumptive purposes do not lead to creation of new assets and has to be repaid from current income or from new loans. That small farmers and tenants have to incur debt for meeting household expenses is indicative of economic stress. And that they have to incur debt for meeting police- and court-related costs is indicative of involvement in criminal cases which they cannot manage through connections a la the landed classes.

Coercion, fear and violence are endemic. In south Punjab, farm workers and even small and medium farmers continue to be subservient to now mercantile large farmer; given that the latter are in most cases pirs (spiritual leaders) as well and command quasi-religious allegiance. In Sindh and Balochistan, resort to direct violence is not unusual. Eviction of tenants is common in southern Sindh and Balochistan. Landless labourers and tenants are also resident on landlords' lands or in villages registered in the name of the landlord and are susceptible to eviction, which is a common form of coercion. Small farmers are also vulnerable in this respect.

The feudal-tribal order has ensured the continuation of patriarchy, which rules with an iron hand in rural Pakistan. Women have almost no freedom to make independent choices about socialisation, health care, children's education and marriage, voting and voting choice, and even cell phone use. However, the level of conservatism varies with land size and pattern of tenure. Except in Rahimyar Khan in south Punjab, large and small farmers and tenants are relatively more conservative and medium farmers and lessees are relatively less conservative. Large farmers in Rahimyar Khan share similar mercantile characteristics with lessees. Some women in tenant families do have independent decision making roles in some respects. All women use cell phones, male restrictions notwithstanding; exceptions being the abject poor who cannot afford cell phones and who have no one to call. The last case signifies social isolation. ■

The struggle of tenant-famers on the so-called Okara military farms was but part of a larger organised movement that involved tenants of state-owned farms in approximately a dozen districts across Punjab.

The Peasant Movement: Fourteen Years After

Aasim Sajjad Akhtar

Introduction

In 1999, a historically unique movement of landless tenant farmers in central Punjab exploded onto the public radar. Fifteen years later, the 'Okara peasant movement' has acquired almost legendary status within political, journalistic, and even academic circles. Unknown to most observers, the struggle of tenant-famers on the so-called Okara military farms was but part of a larger organised movement that involved tenants of state-owned farms in approximately a dozen districts across Punjab. This movement was consolidated under the banner of Anjuman Mazarain Punjab (AMP).

Colonial History

Around the late nineteenth century, the British colonial state initiated a massive perennial irrigation project by laying down a vast network of canals in interfluves between Punjab's major rivers. The so-called 'canal colony' areas were, prior to this massive social engineering initiative, sparsely populated, with settled agriculture only possible in the riverine belts. Large numbers of people from the eastern part of the province were in-migrated into the canal colony zones to both build the physical infrastructure and then convert the irrigated tracts into arable land.

The tenants working on the farmlands of Okara, Khanewal and other districts came to these areas from eastern districts of Punjab like Jullunder, Hoshiarpur, and Amritsar between 1905 and 1930 with the promise of proprietary rights to the land. In a vast majority of cases, the government fulfilled its commitment, and the contemporary political economy of Punjab — or at least its canal colony regions — can be traced back to the original individual peasant proprietors that the British enfranchised.

However, in a small minority of cases, the British did not transfer title of the land to the 'canal colonists' and ownership of the land was retained by the state. In Okara, the military was given lease to a 'Oat Hay Farm' which was supposed to service troops on the frontline. In Khanewal, land was eventually handed over to the Punjab Seed Corporation. Other government agencies such as the Livestock and Agriculture departments also control tracts of land in districts such as Sahiwal and Multan. In these cases, the actual tillers of the land were subject to the quite arbitrary legal status of 'tenants-at-will'. To this day, the tenants remain the primary tillers of these lands, and they number almost a million across the province. The biggest state farm is in Okara, where a hundred thousand people live in seventeen villages, tilling 12,000 acres of state land.

Military Occupation of the Farms

The Military Dairy Farm Okara was set up in 1913. The tenants automatically became sub-tenants once the land in question was handed over by the Government of Punjab (GoP) to the Military Farms Management. Initially the GoP gave the military a 20-year lease, which was then extended for another five years in 1933. After 1938, however, the lease was never renewed. In short, the military continued to occupy the land illegally — and take the tenant-farmers' share of the produce from the land — for six decades until the AMP's revolt began in 1999. In this period, the military paid nothing to the Government and maintained no record of the revenue from these lands.

The arrangement between the Military Farms Management and the tenants was for the former to provide the inputs to the latter and then acquire of total output. However, the situation on the ground was much more arbitrary: the tenants were oppressed and exploited by the Farm authorities to such an extent that it would not be incorrect to suggest that a system of semi-serfdom was in place. The authorities took away most of the produce from the lands by not only manipulating weights but also using the output of the most fertile lands as the average for their own shares. Whoever resisted such irregularities was subjected to direct violence and false police cases.

More generally, everything in the Okara villages was regulated by the Military Farms Management. Weddings, funerals and all other social engagements took place only after permission was granted by the authorities. No pukka houses could be built, trees planted or any other economic activity conducted unless the authorities were guaranteed commissions. The local thana/katcheri culture exacerbated what was already a desperate situation.

Change in Tenure Arrangement

AMP leaders and activists freely admit that the situation might have continued indefinitely but for the abrupt decision of the management to change the tenure arrangement. In 1999, it was announced that the system of share copping (batai) was to be replaced by a cash-rent (*thekedaari*) arrangement to be renewed on a yearly basis. The terms of the new proposed contract were such that they were immediately confronted with the threat of eviction, in a manner that was not previously the case. It was thus that a resistance movement emerged, and the entire edifice of military domination over the tenants was steadily dismantled.

The non violent resistance of the AMP met with unprecedented state repression (at least as far as central Punjab is concerned). Rangers were deployed to deal with the resistance and use direct violence when and where needed. Additionally false police cases were registered against the active members of the resistance to pressurise the tenants to sign the lease contracts. When the tenants did not succumb to these pressure tactics the authorities decided to siege villages, cutting off electricity, water supply and food supplies. Yet, there was a limit to the force that authorities could use against the movement as it had emerged in the very heartland of the establishment's support base; Punjab, if the movement would have been somewhere else other than Punjab the magnitude of the use of violence by the military establishment would have been much greater. This geographical leverage provided strength to the movement and put the authorities on a retreat. By 2003 the authorities retreated and the tenants celebrated their success by subsequently refusing to surrender any of their produce with the authorities.

The State and military have mostly resorted to violence as for our praetorian state structure it's the only and easiest strategy to deal with such issues. They have attempted several eviction operations throughout the period since the emergence of the movement, however, not using force as often as during the peak of the movement in 2002-3.

Only on the Punjab Seed Corporation farm in Khanewal district were similar levels of repression employed to that in Okara. On all other farms in Punjab, the stakes were considerably lower as farm size was small and the government departments in question did not enjoy autonomy as is the case with the military.

Successes and Failures

Fourteen years have passed since the emergence of the movement and while the tenants maintain de facto control over the land, they have still not been granted formal title to it. Quite aside from the lack of will on the part of mainstream parties to take on the military — both the PPP and PML-N have been in government after 2008 and neither have fulfilled the promises made to the AMP to grant tenants proprietary rights — the nature of the movement is such that it is only when there is a direct threat of violence and/or eviction that mobilisation takes place. While there have also been responses to arrests and the levying of police cases over the years, the AMP has not felt compelled to mobilise consistently due to the fact that the tenants do enjoy de facto control over the land, including decisions about cropping patterns. This control has translated into significant improvements in the material conditions of the tenants. They now decide what to produce, how much to produce and when to produce independent of the needs and requirements of the farm authorities. Prior to the movement, there were typically two cropping seasons and the choice of crops was made exclusively by the authorities. Presently, the tenants harvest 3-4 crops every year and decide themselves what to produce depending on market conditions. This control over the production process and greater engagement with the market has garnered the tenants much more disposable income and has resulted in significant improvements in their living standards.

The landscape has changed to a great extent as compared to the past. Materially speaking the control of the land and production decisions has resulted in significant prosperity within the area. Old mud houses have now been replaced with cement structures, with high walls and big gates. A lot more tractors, motorcycles and cars can be seen in the area. The increased disposable income has also enabled some tenants to start their own businesses in non-agricultural sectors; particularly common is the setting up of commission shop in the local *mandi* (*arthi*), transportation and contracts of bus stands.

However, basic citizenship rights such as access to education and health care services have not been provided by the State not to mention ownership rights to the land.

Tenants have acquired most of the amenities of life through the market due to the increase in their incomes. While there are a handful of cases in which the AMP's increased political influence in local affairs has helped them make existing government facilities more functional, at a wider level there is little expectation that the state will make serious investments in basic goods and services.

For at least a couple of years after the mobilisation peaked in 2002-3, the AMP succeeded in limiting the influence of the local administration — and the *thana/katchehri* culture — in the military farms villages. Disputes amongst tenants were mostly resolved by AMP committees and police personnel dared not enter tenant villages for fear of reprisals. While the *thana/katcheri* culture has resurfaced to an extent in the subsequent period, the AMP leadership has now established itself within local politics sufficiently that the kinds of state excesses commonplace in the past are now few and far between. There is a creeping danger, however, that the AMP leadership will over time become like the patrons who generally mediate between poor farmers and state personnel/institutions in the prototypical rural setting.

Material Successes versus Broader Social Change

This links to the related question of whether or not the movement's material successes have helped instigate broader social change. At the peak of the movement, women played a big role in fending off repeated bouts of state repression. The famous '*thapa* force' was constituted entirely of women and there was a noticeable shift within the affected villages away from established patriarchal norms and towards enhanced decision-making power for women. With the passage of time this space has decreased and women have retreated from most decision-making positions within the AMP whilst also readjusting back to 'traditional' roles within the household. Of course, acquiring ownership title to land for women was never part of the design of the movement in the first place.

More generally those who have come into money, including the AMP leadership, have been increasingly inclined to demonstrate their growing power and wealth in ostentatious ways. This can take the form of major development of their homesteads, as well as donation of money for 'religious' causes, including the building of mosques. Previously there was a mosque — and church in villages with significant Christian populations — in the centre of each village but what were relatively small and modest structures have now been upgraded considerably. In this way the tenant-farmers in Okara and other districts conform to the prevalent trend of overtly demonstrating religious piety as a means of generating cultural capital.

This 'reversion' to a conservative worldview is significant precisely because one of the major talking points about the AMP struggle in its heyday was the fact that traditional discrimination on the basis of religion (and caste) was largely transcended in the course of the struggle. This characterisation, while accurate, was sometimes overstated. While Christians acquired leadership positions in the movement, and played as significant a role in the rank-and-file as the Muslim majority, practices of 'untouchability' and endogamy remained intact even at the peak of the AMP's mobilisation. In much the same way as women acquired some respite from patriarchal structures, religion and caste-based mobility increased during the movement, but space quickly receded as the intensity of the struggle died down.

Contradictions and Internal Conflicts

Of course it has not helped that space within society for Christians and other confessional groups outside the pale of 'official Islam' has decreased steadily over the past decade, i.e. after the movement peaked. Another important contradiction with regards to the Christian minority in Okara and Khanewal in particular emerged when segments of the AMP leadership — Christians prominent amongst this particular segment — chose to initiate funding agreements with big Pakistani and international NGOs. This immediately created a conflict of interest within the movement and subjected the said leaders to a crisis of legitimacy. This also set the back the cause of religious tolerance and redressal of the historical injustices suffered by Christians (and lower castes).

At a broader level, the movement has been subject to internal conflicts of various natures. Factionalism has increased within the movement on various lines. To be more accurate factionalism has developed within the movement as individuals/leaders became more influential and resort to the more traditional kind of politics and that is playing role of an intermediary between State and the people (*thana/kachehri* politics). Additionally, differences also exist on the basis of supporting various mainstream political parties. A common argument provided by all factions is that they support the party as it might help them resolving the ultimate objective of ownership rights; however these alliances are usually made by the leaders to gain more influence within the mainstream political circles for material gains. Such factionalism becomes even more intense during the election times as these influential leaders try to bargain on the basis of their support base and vote bank.

The most prominent example of this was in the 2013 general election when the AMP secretary general Mehr Abdul Sattar ran for a provincial assembly seat on a PPP ticket. In the 2008 election the same candidate had fought as an independent and enjoyed a better return (even though he was not able to win). In the 2013 joust the strategy backfired on two accounts; the PPP was an unpopular sell largely on account of being the incumbent (and also suffering from a distinct fall from grace in Punjab in particular); and, the AMP identity was subsumed entirely by the PPP. In fact, AMP leaders themselves split on the issue of whether or not to support their own organisation's candidate because he had chosen to ally with the PPP.

In sum many of the potentialities for the 'Okara tenant's movement' to trigger a comprehensive restructuring of social hierarchies were not realised. This should not take away from even the relatively brief period in which women, lower castes, Christians were mobilised and integrated into the political struggle, or the fact that the *thana katchehri* 'culture' was definitively challenged and a new political order, less hierarchical and statist, has been established in at least Okara and Khanewal.

Donor Funding and Peasant Struggles

Indeed it is debatable whether the AMP could ever have achieved more than it did. Its primary significance was breaking the taboo of taking on the army in central Punjab — which till this day enjoys 'sacred cow' status in the Punjabi heartland. The timing of the AMP's mobilisation was also very significant — it came into the public consciousness at a time when the Musharraf dictatorship was at its zenith and there was virtually no practical resistance against the military establishment. It can be considered a resounding success just because it became the vanguard of anti-establishment politics in the 'belly of the beast'.

AMP had the potential to have a major knock-on effect on other peasant struggles within the country as the movement did garner a lot of support/coverage in the popular media and political/social circles. At an abstract level it may have had some positive effect on other peasant movements in the sense that word of the 'Okara tenants' spread far and wide and inspired other localised peasant struggles to regenerate themselves, most significantly the historic Hashtanagar peasant movement. There were some conscious attempts to bring these struggles together in the form of an alliance but due to geographical constraints and also lack of will to some extent such efforts have not met with substantive success. It is also hard not to overstate the generally negative impact of donor funded NGOs on all such political efforts insofar as the influx of money and a very particular method of institutionalisation of struggle actually makes peasant mobilisations — and many other similar struggles of working people — much more insular. ■

The rights of workers have suffered setback after setback since the advent of the regime of deregulation, liberalisation and privatisation.

Economic Policies: Implications for Labour

Dr. Pervez Tahir

Introduction

Economic policies of Governments are announced from time to time and/or as part of medium-term plans. Policies require money for implementation. Annual budgets are the instruments through which money is allocated to achieve the objectives of policies that have been formulated. The difference between the current and development budget shows the quality of policy-making.

A higher development budget and a current budget financed through revenue rather than borrowing indicates better macroeconomic management to maintain the tempo of development without compromising the objective of low inflation. The allocations within the development budget reflect the priorities of the Government in the fields of social and economic development. These allocations also reveal the interests that the policies serve. The objectives of price stability and job creation are in the interest of the people in general and labour in particular.

Policies for stakeholders

The 2014-15 budget claimed a comprehensive agenda of economic reforms aimed at reinvigorating the economy, spurring growth, maintaining price stability, providing jobs to the youth, and rebuilding key infrastructure. But who, however, were the stakeholders?

Those consulted were the Economic Advisory Council, FPCCI, Chambers of Commerce and Industry, representatives of all major trade bodies, Anjuman-e-Tajiran, professional organisations and economists were [also] invited to give their proposals and suggestions for the current budget. Their recommendations, according to the government, were "duly considered and incorporated so far as possible in the proposed measures."

Nowhere in the consultative process labour representatives were mentioned. It is hardly surprising that the budget rolled out policies for the benefit of the groups involved in the consultative process. Thus we have policies on privatisation, investment, macroeconomic issues, programmes for the youth, and policies related to the development of the infrastructure.

Privatisation Policy

The most important plank of the economic strategy of the Government is the privatisation policy which had lain dormant since the exit of General (Retired) Pervez Musharraf. While the PPP Government talked about privatisation they did not undertake any concrete steps to implement it. The PML-N Government, on the other hand, revived the privatisation programme with great speed and much fanfare so much so that even the IMF found the Government's programme to be ambitious.

The Government based its policy on two methods: strategic partnership through the transfer of 26 per cent of the shares of a company, or through divestment. Under the IMF programme of deregulation, liberalisation and privatisation, the Government committed itself to significant reduction of its stakes in State Owned Enterprises and major privatisation transactions. Sixty-nine transactions were listed for future privatisation, with a priority programme of 32. Out of these, 11 enterprises were floated for transaction. Only three transactions were completed by December 2014. The first related to the divestment of the remaining shares of UBL for Rs38 billion. This was followed by the sale of 5 per cent shares of Pakistan Petroleum Limited for Rs15.3 billion. The third was the divestment of all shares of the ABL. The transaction to off-load shares of OGDCL could not go through as the market response was far below the expectations of the Government.

The privatisation of the state-run airline, PIA, has run into snags. The undertakings given to the IMF with regard to PIA was to: (a) separate non-viable components under a separate public sector enterprise by end-December 2013, (b) service guaranteed past loans, (c) apply a voluntary handshake plan for surplus staff, and (d) liquidate by end-June 2014. The structural benchmark was to off-load 26 per cent of PIA's shares to strategic investors by end-June 2014. These deadlines were missed but efforts continue. Workers, the most affected stakeholders, have not been taken on board.

Loss-making enterprises such as PIA and the Steel Mills also have a large number of workers. Selling these sell-offs to labour and the public is not easy. The Chairman of the Privatisation Commission has admitted that the sell-off of these unprofitable enterprises poses "serious political, labour, employees' rights and post-privatisation challenges."

Public vs. Private Sector

The question of public vs. private sector is no longer an ideological issue. The private sector is as prone to failure as the public sector. The difference between the two is social responsibility and profit-seeking. Singapore Airlines and Emirates are examples of public sector enterprises being run commercially, while Pan Am and other private sector airlines failed in the past.

The case for privatisation is made in terms of the fiscal argument that these corporations are burdening public sector resources by their constant bleeding. Strategic partnership will, the argument goes, transform them into profitable organisations and remove their burden on the exchequer. Further, it will bring much needed foreign investment to the country. Finally, it will lower the debt burden of the country and make more resources available for investing in poverty reducing programmes in accordance with the privatisation law.

Over-employment in the public sector enterprises is stated as another major reason for privatisation. However, the fault does not lie with the labour. Governments have to run enterprises on sound management principles for them to be successful. As a matter of fact, labour is only a pawn between changing Governments and privatisation is not necessarily a formula for success. In the 1990s, 16 public enterprises closed down after privatisation (Annex Table 1). The buyers either had no intention of running them or else were just focused on making a quick buck from the real estate, machinery, and the stock in trade. In case of engineering units, the buyers lacked the requisite managerial and professional experience. The highest bidder is not necessarily the best manager.

Prices and Inflation

The case for privatisation is also made on the rationalisation of prices as a result of improved efficiency and competition in the private sector. A study carried out in the 1990s showed that the real prices of the products of privatised units had increased rather than decreased. These products included vegetable ghee, which has a high weightage in the common man's budget, as well as fertiliser and cement, which enter as inputs in the prices of a large number of items affecting the cost of living. Another study shows that the rate of increase was higher than the Wholesale Price Index, indicating a relatively greater contribution to the overall increase. Both the cement and fertiliser cartels are post-privatisation gifts.

Investment Policy

Privatisation is said to promote investment and employment. However, the sale of existing assets does not increase total investment in the country: it is merely a change of ownership. Also, in case the buyers are foreigners, the annual outflows in the form of repatriation of profits have to be balanced against the one-time addition to the foreign exchange reserves. The fact is that investment, the critical driver of growth, has been falling under the regimes of deregulation, liberalisation and privatisation. In 1987, the year before the privatisation programme was initiated, the rate of investment was 26 per cent of the GDP. It crumbled to 14 per cent in 2013-14. There was a brief revival of the investment rate in 1991 and 1992, under the first PML-N Government. This was a time when a spate of privatisations took place. The revival, however, was at the cost of public investment financed by extremely high fiscal deficits of 8.8 and 7.5 per cent. The fiscal deficit in 1991 was higher than the development expenditure, indicating borrowing for current expenditure as well. Investment in manufacturing fell from 1.7 per cent of GDP in 2012-13 to 1.1 per cent in 2013-14.

Rising Unemployment

Falling investment and privatisation have adversely affected the process of expanding opportunities for decent work (Annex Table 2). The rate of unemployment touched 6.1 per cent in 1999, during the second PML-N Government. Massive privatisations during the Musharraf period led to the highest rates of unemployment at an average of around 7 per cent per annum. During 2010-2011, unemployment rate fell to 6 per cent and in 2012-2013 it was 6.2 per cent. Female unemployment has always been higher than male unemployment as a rule, but privatisation has made it worse. It also seems to have taken a serious toll on youth employment — a serious consequence for a country with a youth bulge. Male youth unemployment rate was in the double-digits during the privatisation period under the Musharraf Government. It was to counter this issue, that led the PML-N Government to announce special youth employment schemes at the beginning of its term in 2013.

Privatisation has exercised a long-term impact on the job potential of the economy. The official unemployment rates refer to those able and willing but unable to find work in the reference week. Long-term unemployment tells the story of those in continuous periods of unemployment over a year or longer, expressed as a percentage of the total unemployed. Their number has been rising continuously. Another worrying impact of the privatisation programmes is the increasing informalisation of work. Most workers are employed in the informal sector and work without a written contract. The major segment of employment now consists of self-employed and own account workers. Both categories are defined as vulnerable employment. While the GDP per person employed has increased, it is hard to interpret this as an increase in productivity when the country's economy has been growing at a rate far below its potential (Annex Table 3).

Labour Rights

Cognizant of the fact that the budget would come under criticism by labour activists and fearing workers' resistance to privatisation, the Finance Minister, by way of appeasement told Parliament, "I would like to assure this House that while pursuing this programme [privatisation], our Government will not let the interests of workers and employees of public sector corporations be compromised. Their welfare and rights will be duly protected."

In practice, however, the police was used to brutally suppress the workers' protest in Islamabad against the sale of the shares of OGDCL. The employees of the company were expressing their democratic right to stage a peaceful protest. The Government has a privatisation policy, but no labour policy.

A number of other sops were thrown to Labour. Conceding that "Labourers need jobs and ample wages," the Finance Minister increased the minimum wage: "For the welfare of the labour class, and in line with the increase in pay of Government employees, the minimum wage rate is also being increased from Rs10,000 to Rs12,000."

Three months after the presentation of the Budget, the Information Minister, after a Cabinet meeting on September 22, 2014, admitted to the Press that there were complaints that the Government had not done much for the implementation of the decision to increase minimum wage. But he went on to say Labour as a subject had been fully devolved to the provinces after the 18th Constitutional Amendment, and the Provincial Governments were still struggling with the problems of transition. The Provincial Governments failed to follow-up the Government's commitment regarding minimum wage.

The rights of workers have suffered setback after setback since the advent of the regime of deregulation, liberalisation and privatisation. Minimum wage is announced, but not necessarily enforced. It is far below the decent living threshold and varies across the country. Factory inspections have been banned in many areas supposedly with the aim of ensuring a better investment climate, but it has only served to advance unsafe and unhealthy work environments. Social security coverage is limited. The number of beneficiaries registered of Employees Old Age Benefit Institutions

(EOBI) and the Workers Welfare Fund (WWF) is dismal. Unions have become weaker over time with most work being outsourced to contract employees.

Workers of privatised units were promised golden handshakes and one year continuity in their jobs while they looked for alternatives. In the 1990s, around 63 per cent of the workers accepted golden handshakes while others continued working on contract in the same units. The Government was so keen on privatisation that in some cases, the amount spent on the severance packages exceeded the bid value of the units. The private sector neither paid for golden handshakes nor did they create new meaningful jobs. The present policy offers workers retraining for alternative jobs. However, with falling investment and an economy suffering from low growth and inflation, there are not many alternative job opportunities.

The decline of trade unions and indiscriminate privatisation has weakened workers' will to resist. Workers have managed to stop, or at least, delay the privatisation of a few state owned enterprises. The cases where workers were able to stop privatisation relate to gas companies or those relating to natural resources. The first case was that of the Qadirpur Gas Unit which happened during the period of the PPP Government. However, protest by the employees of OGDC contributed to the decision to abandon the plan to sell the company's shares. In the case of Pakistan Steel Mills and PIA, the pressure of the employees has delayed the process of privatisation. It should however, be noted that the suo moto action taken by the Supreme Court in declaring the process of privatisation non-transparent weighed heavily in favour of delaying the transfer of the Steel Mills to the private sector.

However, workers have not always succeeded in their efforts to thwart the Government's will. In the case of PTCL, some 65,000 went on strike on the plea that privatisation would lead to huge job losses, besides causing a loss to the steady stream of income to the national exchequer. Their strategy failed completely proving that the weakening of the trade union movement over the years has undeniably dented workers' resistance.

Conclusion

The myopic focus on one aspect of the economy has rendered workers pawns in the game of privatisation played by successive Governments. Privatisation was sold as a venture meant for the state to achieve self-sufficiency from the clout of a privileged few. In effect, it has meant relative autonomy from the interests of workers and ordinary consumers. Economic policy-making continues to be a matter of rent-seeking between contending interests. Privatisation is privatisation of state assets for private parties by private parties. Over-employment in state-owned enterprises has been the result of crony managements appointed by various Governments. Thus while privatisation leads to declining employment it does not necessarily improve the quality of products

As most privatisations have taken place at the time of a weak economy, the lack of alternative employment opportunities led to increasing levels of unemployment. Absence of social security coverage pushes the jobless into abject poverty. The poor state of labour governance in the post 18th Amendment period has led to the neglect of labour rights granted under the Constitution and agreed to under various international conventions. This was starkly evident in many official conferences arranged to assess the compliance requirements of the GSP+.

Economic and political philosophy has advanced to a stage where ideological support for public or private sector does not have blanket endorsement. The role of the state is to ensure the economic and social wellbeing of people as citizens, workers and consumers. Whether this can be achieved through activist state or progressive economic and industrial policy agenda, or both, is a matter of practical policy to be decided by the Parliament. As for labour rights, the best mechanism for their advancement is tripartism, which in the post-18th Amendment period has to be instituted at provincial levels. ■

Annex

Table 1. Private Inefficiency

SOEs	Better	No change	Worse	Total
Manufacturing units	9	13	16	38
Ghee mills	2	12	5	19
Rice mills	2	-	6	8
Miscellaneous	3	10	1	14
Total	16	35	28	79

Table 2. Impact of Privatisation (% of GDP)

Years	Public debt	Fiscal deficit	Total investment	Development expenditure	Poverty related expenditure (billion Rs)	% of population below poverty line
1987	-	-	26.0	-	-	-
1988	-	9.0	21.0	7.0	-	29.2*
1991	-	8.8	26.0	6.4	-	26.1*
1992	-	7.5	25.0	7.6	-	-
1993	-	8.1	20.0	5.7	-	26.8*
1997	-	6.4	18.0	3.5	-	29.8*
1998	97.0	7.7	18.0	3.9	-	-
1999	104.7	6.1	16.0	3.3	-	30.6*
2001	93.3	4.3	17.0	2.1	-	32.1*
2008	56.8	7.3	19.0	3.9	-	(34.4)**
2013 July-Mar	62.7	8.2	14.6	5.0	1163	-
2014 July- March	62.0	5.5	14.0	4.7	1193	-

Table 3. Long Term Unemployment and Vulnerable Employment (%)

Years	Long-term unemployment	Vulnerable employment	GDP per employed person (Constant $PPP)
1997	6.2	63	7,097
1998	8.5	64	6,986
2000	8.9	64	7,496
2002	6.2	59	7,655
2003	-	59	7,658
2004	9.0	61	7,811
2005	-	61	8,353
2006	12.0	62	8,059
2007	11.7	62	8,361
2008	14.7	63	8,394
2010	19.5	-	8,259

Facilities for the workers vary from factory to factory. There is no system or regulations in place that are followed by the loom unit owners. If facilities are provided, it is only through "philanthropy".

Power Loom Units in Karachi

Impact of Globalisation and Regional Conflict

Arif Hasan with **Mansoor Raza**

The textile industry is considered to be the backbone of Pakistan's economy. Much of its weaving sector looms operate informally out of low income settlements. This informal loom sector has been facing a number of problems due to which land-use changes, migration patterns and a search for new forms of livelihood have emerged. This study is an initial exploration in trying to understand the causes behind these changes and their repercussions on a small settlement of about 25,000 persons in Karachi.

Pakistan's Textile Industry

Pakistan is the world's fourth largest producer of cotton and also the third largest consumer in the world. It is a major contributor to the economy in terms of exports being among the ten top textile exporters of the world. In the past decade the industry has gone through difficult times. The reason for its problems are attributed to power outages, rising power tariff, unavailability of raw material and due to these factors large amount of losses in businesses. The Karachi law and order situation, regional conflicts and neo-liberal reforms have also contributed to the crisis with many units shifting to other parts of Pakistan and also to other countries (See Box 1: Shifting to Bangladesh). It is important to note that according to the All Pakistan Textile Mills Association (APTMA), energy shortages have reduced the capacity of the textile industry by 30 per cent. Again, it has been estimated that due to strikes Sindh businesses alone suffer a loss of Rs 21 billion (US$ 21 million) a day, and a major sufferer is the textile industry because of it large size.

The weaving sector is the most important sector of the textile industry. It is divided into three sub-sectors: integrated, independent weaving units and power loom units. The integrated and independent weaving units operate in the organised "mill sector" whereas the power looms fall in the informal non-mill sector. A loom can be installed in a house and one or two workers or a family can operate it. It is estimated that there are 360,000 power looms in Pakistan of which over 30,000 small or medium size power loom units are located in Karachi. The small units normally comprise of 6 to 8 looms manned by 10 to 12 workers while the medium units comprise of up to 50 looms worked by 60 to 80 workers. All loom workers are male. However, these are just estimates because unlike the organised mill sector, the non-mill sector

Box1: Shifting to Bangladesh

It is claimed that because of severe gas and electricity shortages, the textile industry in Pakistan is shifting their activities to Bangladesh. But, there are severe power outages in Bangladesh as well. The main reasons for shifting are: one, the law and order situation in Karachi; and two, that Bangladesh has given tax-free access to 37 countries including the European Union, Canada and Australia. This second is the key reason why a large number of Pakistan textile units have relocated since 2012. Some estimates claim that 40 per cent of Pakistan textile industry and 200,000 power looms have been shifted to Bangladesh since 2007 as a result of which some 200,000 families in the Punjab alone have been directly or indirectly affected.

Labour costs in Bangladesh are also much lower than in Pakistan even though in 2011 Bangladesh doubled the minimum monthly wage in the garment industry to 25 pounds (US$ 42). This is still low compared with competitors in China, India, Viet Nam, Thailand and Cambodia. Pakistan's minimum wage is high at 70 US dollars per month. Bangladesh's low wage is also an incentive to shift.

There is no official data illustrating the business migration but the media and representatives of the industry continue to report on industry closing down and shifting not only to other countries but also from Karachi to the Punjab where the law and order is better. Press reports tell us that 30,000 businesses have shifted from Karachi to the Punjab due to the better law and order situation over there. However, representatives of the industry point out that it is small traders and not industrialists that have moved to the Punjab. It is claimed that the industrialists have moved to other countries such as Sri Lanka and are exploring possibilities of establishing businesses in Viet Nam, Cambodia and African countries. Representatives of the industry also claim that other countries are luring them to establish their industries in their countries and offering incentives. They claim that between 15,000 to 20,000 small to large units in Karachi and some 5 to 10 per cent of big units of exporters of textiles have shifted to foreign destination. This migration of businesses has been made possible by the global neo-liberal order.

does not maintain production statistics and much of it is not in the tax net either. In addition to various Karachi low income settlements the major power loom clusters in Pakistan are in Faisalabad, Multan, Kasur and Jhang.

The importance of the power loom sector can be gauged from the fact that in 2009-10 it supplied 8.5 billion square metres of total export fabric which amounts to 65 per cent of the total supply by the weaving sector. However, due to the problems mentioned above, it is estimated that between 2008 and 2012, 40,000 power looms were converted to scrap and 10,000 were partially closed due to which 100,000 workers became unemployed. Another factor that should be emphasised is that the fabric manufactured on power looms is of inferior quality and does not fetch high value in the international market.

The Study Area

The area chosen for the study is known as Dibba (or Dabba) Colony in the Baldia Town of Karachi. Baldia is one of Karachi's 18 towns. Baldia consists of 7,200 acres

(292 hectares) and is divided into 8 union councils of which Saeedabad is one, in which Dibba Colony is located. The population of Baldia Town, according to the 1998 census, is just over 400,000 while estimates today place it at one million. Baldia Town also contains the rapidly expanding informal settlements of Islam Nagar and Ittehad Town. Baldia Town is ethnically very mixed and contains all the major ethnic and linguistic groups of Pakistan. However, no group has a clear majority in the area.

Baldia Town began as a planned settlement in 1962. Refugees (1947 migrants from India) living in the inner city informal settlements or squatting in the open areas of Karachi were shifted to Mohajir (refugee) Camp and Saeedabad. Here, they were given 80 square yard plots and sewage and water related infrastructure. They built their own homes incrementally. The advantage of this location was that the Sindh Industrial Trading Estate (SITE), Karachi's main industrial area was adjacent to these new planned settlements and at that time work was available at SITE. The shiftees were almost entirely Urdu speakers.

Methodology

The study has relied on interviews and on secondary data. Persons interviewed include power loom workers and owners of loom units; brokers in the power loom sector; labourers; scrap dealers, recyclers of textile related waste; government officials and shopkeepers in the wholesale market; academics and corporate sector executives.

Evolution of Power Loom Units in Dibba Colony

The first settlers in Dibba Colony were the Urdu speaking refugees who were given 99-year leases for 80 square yard plots. The refugees were mainly shopkeepers and white-collar workers and not skilled labour so they could not take advantage of the fact that they were living so near to SITE. In addition, the major low income Urdu speaking localities had land values that were much lower than those of Dibba Colony. As a result, they began to sell their properties and move to Buffer Zone, New Karachi, Korangi Crossing or Shah Latif Colony where Urdu speakers are located. Initially, their place was slowly taken over by people from Mianwali, who were initially camel/camel cart transporters (required by the SITE industry), who in the 1970's converted to using trucks. Pushto speakers also established a presence in Dibba Colony to work in the rapidly expanding construction industry in SITE and Baldia and as transporters. With the coming of the power loom sector to Dibba Colony in the mid-1970s, skilled Punjabi speaking migrants grew rapidly in number. This is because Punjab has a long textile related tradition and a well-developed system of apprenticeship. The town of Faisalabad contains the first textile mills which were established before Independence and partition.

In 1973, the then Bhutto government nationalised a lot of industries but the textile industry was exempted from nationalisation. Small loom units (up to 8 looms) were also exempted from taxation. To save on taxes and out of fear of nationalisation, entrepreneurs, commonly known as *seths*, decentralised their production to smaller units. Many of them sold their properties in SITE and in the other officially designated industrial estates at higher prices and invested in low income settlements which they believed were more secure because of the populist politics of the then government. There were other advantages in working out of the formal industrial sector. The *seths* could employ contract labour (which was cheaper) due to an absence of centralised trade unionism and sack and hire labour at will. It was in this period that the commercial plots in Dibba Colony were purchased or rented from local residents by the *seths* and converted into loom units. This change attracted more skilled labour from the Punjab.

The *seths* who set up the loom units managed the whole process. They acquired the yarn, did the coning, warping, sizing, finishing and transferred the finished product to their warehouses in Boulton Market. They estimated the amount of material that was required by the market and produced it. There were no other players in the process except for the producers of imported and locally produced yarn and the transporters who serviced the needs of this process.

Problems for the industry in Dibba Colony began in 1992-93 when due to liberalisation, Chinese and Indian silk flooded the market. However, in spite of this, the industry continued to function and make acceptable profits. The second blow took place after 2003. Due to regional conflicts export to Iran and Central Asia (which were big clients of the industry) became problematic because of border controls with Iran and difficulty of transit trade through Afghanistan. With Central Asia trade acquired a new dimension. Hordes of Central Asians visited Karachi as tourists and purchased silk and leather goods in bulk and took it back with them by air. For revenue purposes, the government of Pakistan promoted this process.

With the anti-Taliban war and war in Afghanistan and terrorist attacks within Pakistan, a strict visa regime was introduced between Pakistan and Central Asian states as a result of which the Central Asians stopped coming. Export to India continued since Pakistani product though more expensive, was of better quality and there was a demand for it in India. However, because of the erratic nature of India-Pakistan relations, borders were often closed, trade suspended and in many cases orders though produced, could not be delivered causing losses to the manufacturers and traders.

Ethnic politics and their related extortion of money from businesses also took its toll and there was growing insecurity among the Dibba Colony power loom owners, many of whom received *purchis* (notes) demanding money and giving threats if payment was not made. However, there is general consensus among the persons interviewed that extortion was very limited in Dibba Colony as compared to other locations in Karachi, because no one political party dominated the area as it had a mixed ethnic composition. There is also a perception that labour was attracted to Dibba Colony because of an absence of control of the area by any one political party.

The final blow to the industry in Dibba Colony came with the growing power outages during 2004 and subsequently increasing to about 6 to 7 hours a day. Since the looms work 24 hours a day, the outages meant a loss in production by at least 30 per cent. Beginning with 2004, energy costs also increased and within 6 years they almost doubled. There are no power outages to formal sector industry in SITE and other formal sector industrial areas as a policy of the state. This advantage could not benefit the Dibba Colony industry since it was informal and not in an officially designated industrial area.

As a result of the problems faced by the industry, the *seths* put up their looms for sale. These were bought by the more enterprising of the skilled labour of the loom units who often sought financial support from their families in the Punjab. Their families were willing to invest in Karachi because of better profits than in the Punjab. These better profits are there because yarn is imported through Karachi and its price increases by the time it gets to the Punjab.

The new owners shifted the looms from the mill area to the residential areas, often to the ground floor of their residential accommodation or to space rented from other residents. This brought about a change in the land and real estate market in Dibba Colony. Since 90 per cent of the new owners were from the Punjab, they encouraged further migration of Punjabi skilled labour which has had an effect on the ethnic composition of the area. Moving to the residential area had two other advantages. Rents were lower and electricity charges were charged at residential rates which are much lower than the commercial rates paid by the *seths* in the commercial area. Also, plots of residential 80 square yards or less are exempted from property tax and the residential plots in Dibba Colony are 80 square yards.

There were two other repercussions of the crisis and the change in ownership of the power loom units. One, that some (no figures available) of the Dibba Colony entrepreneurs have returned to SITE and set up shuttleless loom units producing cotton instead of silk. Here they do not have to put up with power outages and unlike in the 1970's and 1980's, the trade unions are there "only in name". The labour from Dibba Colony cannot work in these enterprises since they are not trained/accustomed to work on shuttleless or air jet machines. Second, that the new owners did not have the financial and managerial capacity and/or capability of managing the entire system. As a result, a new system which involved a very important role for a middle man, known locally as the "broker" emerged.

System of Production and Marketing

In the existing system, which evolved after the *seths* sold their looms, the broker or commission agent is the king pin. He sits in the wholesale market in the business district of Karachi and also has an agent in Dibba Colony. An exporter or a local trader contacts him when there is a demand from a "party". The broker then contacts the loom unit and arranges for the supply of yarn to the loom unit. Warping is carried out at the loom unit if facilities are available there. If not, the broker arranges for the warping to be done. After the cloth has been produced, it is taken to a finishing factory (if required by the party) by the broker where it is washed, coloured and/or pressed. The party pays for the finishing directly to the finishing factory and picks up the product from them and delivers it to their client or stores it for future sale in its warehouse in the market. The broker has a commission in all these transactions.

As the crisis emerged in 2004-05, a number of things changed slowly in the financial relationship between the broker and the loom unit owners. Previously, along with the order, advance payment used to be made to them. Now only yarn is given and payments are made on completion of the order. There are complaints that sometimes payments are made after considerable delay (two months in one case).

The other problem is related to a lack of demand. Due to this, there is a lot of competition between the loom unit owners to get an order. This reduces their profits considerably. It also leads to periods of inactivity which apart from lowering profits has other implications as well. For instance, 70 per cent of the loom unit premises are rented. Even if there is no work, rent has to be paid. If there is no work for 6 months, the loom unit owner is heavily in debt.

Loom unit owners have other complaints as well. One is that labour is no longer willing to work for "reasonable" rates. They agree that rates that they can offer have fallen due to a reduction in demand and an increase in costs of electricity. If labour cannot get Rs 15,000 (US$ 150) to Rs 20,000 (US$ 200) they start looking for other alternatives. Some have gone into the scrap business and others into tailoring. Many have migrated to Faisalabad or are trying to find work on shuttleless machines. The crisis is so severe that looms that were sold for Rs 100,000 in the open market now sell for no more than Rs 30,000 to 40,000.

It is also claimed by the respondents that the loom units still functioning in Dibba Colony is because they are small units and their rent and overheads are relatively low. They point out that the larger units having 20 or more looms which operated in the Shershah area of Karachi, have all closed down and have converted into warehousing. This was facilitated by the Lyari gang wars because of which the Lyari warehouses could not operate normally. Rent from warehousing, it is claimed, is more profitable than running a large loom unit.

There seems to be a general consensus that if the power outages were controlled, there would be a 30 per cent increase in production and as such in profits. However, even then the crisis would continue because the issue is of the non-availability of orders for production. This is also borne out of conversations held with the wholesale and retail merchants in the main textile market in the city centre. Apart from textiles that are silk or partly silk, all the other products that they purchase are made in Pakistan. They claim that the Pakistani silk quality is better though more expensive. Also, the majority of the shopkeepers buy Pakistani products directly from the finishing factories and Indian and Chinese from wholesale dealers in Boulton Market, the main textile retail and wholesale market. In addition, all the shopkeepers are of the opinion that the sale has dropped to an extent that many would like to close down their businesses. This they attribute to inflation, recession and the Karachi law and order situation.

The other aspect that surfaced in the discussions in the market was that brokers can disappear with an advance but a retailer cannot since he has a shop. In addition, he cannot fight for recovery of money, as a broker can, since he has to remain in business. As such, many exporters, local traders, and retailers are reluctant to advance loans to brokers as they used to before. This is because of the anarchic situation in Karachi.

The power loom owners of Saeedabad (which includes Dibba Colony) have an association that presents their claims and guards their gains in dealing with officialdom and with other players in the power loom business. They have approximately 600 members and they employ around 4,000 persons. They have not been able to influence government policies but they did succeed in coming to an understanding with the Karachi Electric Supply Company (KESC) whereby outages were limited to two hours a day. For this facility and for upgrading the electricity transmission and distribution system, they collected and officially paid the KESC Rs 20 million (US$ 200,000). However, after a few months the system reverted back to what it was before and has remained the same ever since in spite of several attempts by the association to revive it. With recession in the business and little hope of improvement, the union members are losing interest.

Labour Conditions

All the power loom units in Dibba Colony consist of shuttle looms and produce silk textiles. Though exact figures are not available, it is estimated that there are 4,500 looms in Saeedabad of which 1,000 looms are in Dibba Colony. This means that at the rate of 8 looms per unit there are 562 units in Saeedabad of which 125 units are in Dibba Colony.

Each unit employs one master technician, who maintains the looms; one *munshi* (accountant); two *karigars* (loom operators) and two helpers who wind and unwind the thread. Helpers, who have initiative, learn on the job and often become *karigars* and *karigars* with initiatives also become master technicians. As such, there are about 3,500 persons directly involved in production. Transporters, persons working in finishing factories outside of Dibba Colony, and loaders are in addition to this. Salary of a helper varies and at an average is Rs 1,500 (US$ 15) per month. Current rates for a *karigar* are Rs 4.25 per metre that he produces. If he has work he can earn about Rs 13,000 (US$ 130) per month.

Loom unit staff works 12 hours a day and on alternative days 12 hours a night. They have no holidays but are given a break of three to four hours on Friday. Looms operate 24 hours a day. Workers are paid every 15 days on the basis of how much they produce. There is no contract with them and if they do not produce according to a target they can be sacked. There is no guarantee that employment can be renewed for the next 15 days. Often they are sacked for no apparent reason. Through this process, the loom unit owners can control any expression of discontent from their workers and can also prevent the development of any trade unionism.

Facilities for the workers vary from factory to factory. There is no system or regulations in place that are followed by the loom unit owners. If facilities are provided, it is only through "philanthropy". Most loom units have no drinking water or toilet facilities. Many have no fans, although those visited by the author do have exhaust fans. The absence of fans and adequate ventilation often makes the heat from the machines difficult to bear. In addition, floors are often unpaved and as such unhygienic. The regulations of the Sindh Building Control Authority (SBCA) and Labour Department are not followed and as a result there are no fire exits or fire fighting equipment available in any of the factories visited.

Due to the conditions described above and due to the fluff generated by the manufacturing process, respiratory track infections are common. Another health issue is related to the damage that is caused to the eyes. This is for two reasons. One, the *karigar* has to pass threads through very minute holes. Two, that the shine of the cloth they produce hurts the eyes. One of the respondents said that within six years of this work, the eyes invariably get damaged and one has to wear spectacles.

There is general consensus that during the period of the *seths*, environmental conditions were much better since they provided toilet facilities and water coolers in addition to fans. There is also consensus that payments were more regular and better than what they are today. This is because the rates given to the *karigar* were determined through consensus by the offices of the *seths* in Boulton Market and were

Box 2: Alternative Livelihoods

Zafar lives in rented accommodation in Dibba Colony. He comes from District Jhang in the Punjab and came to Karachi at the age of 16 in the 1980s. In the 1990s he spent four years as a helper in a *seth*-owned looms factory in the "mill area". He worked for 12 hours a day but the times rotated: 12 hours a day for 15 days and 12 hours a night for the next 15 days. He begged the *karigars* and the *ustads* to teach him to operate the looms and repair and maintain them. However, over the last two years it has been very difficult to find work because there are not sufficient orders from the market and so the loom units do not operate regularly and many are closing down. So, Zafar started to look for an alternative livelihood. He decided to become a dealer of scrap from the loom units in Dibba Colony.

A lot of thread is left over from the production of cloth. Zafar and his partner Abdul Hakeem purchase this thread from the loom units. They also purchase the plastic cones on which yarn is supplied to the loom units. In addition, they purchase cardboard boxes and the Geo Textile sacks in which the yarn is supplied. For this business Zafar has rented a small space as a store and installed a machine for collecting the threads and making them thicker. The space he has rented is small because if it was larger, the police would certainly have asked him for "protection" money.

The collected threads are sold to rope making factories in Orangi, Korangi and Malir. Most of these factories are small units but there are also a few larger factories that do this work. Ropes are made of different sizes. Most of them are purchased by the fishing industry for making nets and for anchoring boats. They are also used for weaving the surface of *charpais* (coats/beds) and for other furniture items such as chairs. In addition, they are sent to Quetta (where temperatures drop below freezing point) for being placed in quilts. The main markets for finished rope products are Juria Bazar and Ranchore Lines in Karachi. In

applied to all loom units. Thus, there was no "negotiation" for lowering rates in the process.

It is claimed by the loom owners that 75 per cent of loom units in Dibba Colony have no work and are likely to shut down, some already have. Because of this karigars are seeking other jobs or are shifting to the Punjab where it is claimed businesses are doing better than in Karachi. (See Box 2: Alternative Livelihoods). This is also having an effect on real estate prices in Dibba Colony.

Conclusions

This study on power loom units and their relationship to the Dibba Colony residents has opened up a whole new field for academic research and investigative journalism. Some of the subjects that have surfaced are given below.

i) The politics of the age and/or the regime have a major influence on industries and businesses and as such on people's livelihoods and property values. Pakistan's flirtation with socialism in the 1970s led to the nationalisation of large industrial units and also to the development of active trade unionism. To overcome the economic repercussions of these factors and the fear of being nationalised, many large industrial units were broken up into smaller units by the seths and relocated from formal industrial areas to low income residential settlements or their officially designated their collected and unwashed form they are used by mechanics for servicing of machines and in their washed form they are used for cleaning purposes. The washing is not done by Zafar but by the workshops who purchase collected threads from him.

The plastic cones are also sold to small workshops in Shershah where they are granulated and subsequently turned into plastic toys and utensils. Some factories also send granulated plastic to the Punjab where it is similarly used. Cardboard boxes are sent to Shershah where they are recycled into making small boxes for the shoe and bangle industry. These small boxes are supplied to various towns in Sindh for packaging purposes. The Geo Textile sacks are also sold to retailers and wholesalers in various Karachi markets. They can be purchased in bulk from Akber Road and those who purchase them in bulk sell them to retailers or to whoever needs them.

The main problem that Zafar and Abdul Hakeem face is that to get scrap from a looms unit or a factory you have to pay an advance of at least Rs 50,000 (U$ 500). This is apart from the money which they have to pay to buy the scrap. Business would be larger and profits far greater if Zafar and Abdul Hakeem could get a loan from a bank. Informal loans are not feasible as the interest rate is too high. Zafar tried to get a loan once and the bank representative visited his premises to see if he had sufficient collateral. The loan was refused because the amount that Zafar needed was too small.

Zafar is of the opinion that even if the loom units in Dibba Colony close down, he will still be in business. This is because SITE is only five minutes away and they will always be factories there and hence scrap. He says that he deals in scrap but his business is not scrappy.

Source: Conversations of Zafar and Abdul Hakeem with Arif Hasan and Mansoor Raza, November 2013 and February 2014.

commercial areas. Although, cottage industry estates were made available by the government, they remained unoccupied for the most part. This is because working from low income settlements and through informal arrangements of production the seths were able to lower production costs, make the development of trade unionism difficult and overcome their fear of being nationalised.

ii) Liberalisation in the 1990s made the import of cheaper Chinese and Indian silk possible. This had an adverse affect on the silk industry in Pakistan. The main reason for the adverse affect was higher labour and energy costs in Pakistan and a more liberal investment regime in other countries. Liberalisation has made it possible for Pakistani industries to relocate to other countries such as Bangladesh and Sri Lanka. In addition, retailers and wholesalers make greater profits ad face less hassle in dealing with imported silk textiles rather than acquiring them from the local industry.

iii) Regional conflicts have closed borders making legal over land trade difficult and at times erratic. This has discouraged production, make tourism almost impossible (tourists were a major source of purchasing Pakistani manufactured items such as silk and leather) and has led to the development of illegal trade which has adversely affected the functioning of the political and bureaucratic establishments in the country. There are no serious studies on this subject.

iv) The conflict in Sindh between the Sindhi speakers, Urdu speakers and Pushto speakers has led to a battle for turf between these three ethnicities. Their disagreement over the nature of local government in Sindh in general and for Karachi in particular, has led to a breakdown of governance and to violence and strikes. In addition, Islamic militancy also resorts to targeted killings of its opponents and often to "days of protest when the city closes down". In these conflicts, the protagonists have sought the support of "criminal elements" through whom they extort protection money from traders and businesses. This leads the traders and businesses to protest through strikes and demonstrations. As a result, markets are often closed and even when they are open, business is slow. The retail markets in the residential areas of the city are not directly affected by these conditions but because of them, prices have gone up.

v) When **cost of production** due to excessive energy charges, liberalisation, and regional and provincial conflicts were increased to a level that producing silk was no longer profitable for the *seths*, they sold their looms to their workers and walked out of the production business. Their workers (the new owners) shifted the businesses from the commercial plots of the "mill areas" to their residential areas in Dibba Colony. There were three reasons for this. One, energy charges for residential areas (especially for low income areas) are much lower than for commercial areas. Two, the rents for the premises in Dibba Colony were much lower than for the commercial premises in the "mill area". And three, they saved on property tax since their premises were on non-commercial 80 square yard plots which are exempted from property tax and the charges of the Karachi Water and Sewage Board (KWSB) are also much lower.

Energy outages have reached a level that has reduced production by 30 per cent. The new owners have discovered that, unlike the formally designated industrial areas, they do not qualify for continuous electricity supply. For this reason they would like to relocate to formally designated areas but do not have the economic capacity to do so.

vi) The study has shown that there is **general consensus** that labour was better and more regularly paid under the *seths* than under the present system. The class war was better managed because of the better financial and managerial capacity of the *seths* rather than of the present owners who belong to the same class as the *karigars* and their helpers. These new owners are, in the words of a respondent, "class traitors".

vii) The study also tells us a lot about **migration and its relationship to location** and history. The Urdu speakers who were the original allotees of the Dibba Colony plots could not use the advantage it offered of being next to an industrial area. This was because they were not skilled labour that industry needed but were white-collar workers for the most part. So they shifted to areas where people similar to them and of their ethnicity were already residing.

Skilled Punjabis have replaced the Urdu speakers. This is because the Punjab has a long tradition of textile related activities and industry. A system of training through apprenticeship has evolved over there since the 1920s. With increasing demand for *karigars*, the number of trained people in the Punjab has increased. A facility that existed has expanded. Training of *karigars* in other ethnicities has not taken off and has not been initiated. It is thus understandable that the loom units of the *seths* were purchased by the more enterprising of their labour force who were almost all from the Punjab. With recession in Dibba Colony, the Punjabi *karigars* are either looking for new livelihoods, where they can make use of their technical and related managerial skills, or are migrating back to the Punjab where conditions are better.

viii) Industry in residential and commercial areas is not permitted by the **byelaws and zoning regulations**. However, government building control and planning agencies permit these violations. This is for three reasons. One, this is on such a big scale that challenging it would be very difficult and disruptive. Two, it integrates work and residential areas and reduces costs and travel time for the workers. And three, it helps in reducing traffic within the city. They also feel that the existing regulations are irrational and need to be changed permitting mixed land-use.

The scale of the spatial spread of industry in low income residential areas, its relationship with government agencies and formal sector industry and businesses, and its contribution to Karachi's economy, remains undocumented even by the most recent Karachi Strategic Development Plan 2020. As such, modifications to existing byelaws and zoning regulations cannot be rationally made.

ix) Byelaws and **zoning regulations are routinely violated** in Karachi. Buildings where only two floors are allowed, in formal and informal settlements, increase to five or even eight floors. The SBCA is paid informally by the builders to turns a blind eye to this. This cannot happen in Dibba Colony because it is next to a military airport and the Pakistan Air Force and the CAA see to it that buildings remain within three floors so as to make the planes safe.

Since the Dibba Colony plots cannot go beyond three floors, their price in the open market is less than in other similar low income settlements. This will determine its future land-use, which because of its proximity to the Northern Bypass, could be of warehouses for port- and cargo-related activities.

The respondents who have been interviewed have offered no solution to the crisis faced by the loom units in Dibba Colony. Even if the energy crisis is solved they will not be able to make profit out of their business. This is because the real problem is that they are not getting orders for production. They are of the opinion that they can only function if border controls with Central Asia and Iran are withdrawn, there is peace with India (which is not in their hands) and if the government stops the importation of Indian and Chinese silk which under WTO is not possible. As one respondent put it "We are the victims of decisions in which we were not consulted and even if we had been, it would still not been in our hands". ■

The 18th Amendment is probably, and in my opinion, certainly the best thing that has happened in the body politic of Pakistan during the last quarter of a century. But it certainly is the worst thing that has happened to the field of labour laws over the entire history of Pakistan.

Labour Laws:

Unintended Consequence of 18th Amendment

Justice (Retd) Shahid Anwar Bajwa

Constitution of Pakistan as originally enacted in 1973 had two legislative lists: Federal List and Concurrent list. Federal Legislative list had two parts. Part I had 59 items and Part II had eight items. Only difference in respect of legislative procedure was that a bill in respect of Part I could originate only in National Assembly and a bill in respect of any matter in the concurrent list could originate in any of the Chambers. With the passage of the 18th Amendment in 2010, this distinction was done away with. Secondly, power to "formulate and regulate policies" in respect of matters in the concurrent list vests in the Council of Common Interests. This distinction continues.

Concurrent list had 47 items which included entry 26 (Welfare of Labour; conditions of labour, provident funds; employers' liability and workmen's compensation, health insurance including invalidity pensions, old age pensions) and entry 27 (Trade unions; industrial and labour disputes). The Scheme had been that generally legislation was federal and implementation was provincial. There were a few exceptions such as old age pension (Employees Old-age Benefits Institution) and labour disputes (National Industrial Relations Commission). The latter was limited to cases of unfair labour practice and matters relating to industry wise trade unions i.e. unions having membership in more than one province. Otherwise implementation was provincial. Examples include Factories Act, 1934 (Health, Safety, Leaves, Working Hours, Overtime), the Provincial Employees Social Security Ordinance, 1965, Industrial and Commercial Employment (Standing Orders) Ordinance, 1968, Shops and Establishments Ordinance, 1969, Minimum Wage Ordinance, 1961, Apprenticeship Ordinance and many others.

The 18th Amendment did the following:

(i) It deleted the Concurrent list. However, under Article 142(b) concurrent legislative power was conferred upon Parliament and Provincial Assemblies in respect of "criminal law, criminal procedure and evidence". (entries 1, 2 and 4 of Concurrent List)

(ii) It added 10 items in Part II of the Federal Legislative list.

Legislative debates do not throw any light on as to why labour laws were taken out.

There was no discussion as to its impact thereof and neither any analysis of pros and cons was attempted by any quarter. It appears that this was done for the sake of a popular slogan: 'Provincial Autonomy'.

The Concurrent List acted as a shock absorber. It allowed provinces the space to develop and adopt. Now things appear to fall on the head of the provincial bureaucracy like a proverbial ton of bricks. Four years and no one has a clue as to what to do. This is what is called an unintended consequence. Collateral damage is of labour laws and of the teeming millions.

Immediately after the 18th Amendment, Federal Secretary Labour appeared before a Bench of Sindh High Court and filed a statement in which it was stated that after the 18th Amendment, in the opinion of the Federal Government, the competent legislature is the Provincial Assembly. While the situation was as unclear as the proverbial fog of war (and it still is) in Air League's case the Supreme Court made the following observations:

> "24. In the Indian jurisdiction, Trade Unions and Industrial Labour Disputes are mentioned at serial No. 22 of LIST III of the Seventh Schedule of the Constitution of India, which form the joint domain of both the State Governments and Union Territory of India as well as Central Government of India under those subjects, therefore, the Trade Union Act, 1926, has been promulgated by the Parliament to deal with the matters relating to registration of trade unions and trade disputes etc., whereas, in view of Eighteenth Constitutional Amendment, Federal (9 sic) Legislation is not empowered to legislate for the nationwide trade unions, except for if need be, recourse to procedure laid down in Article 144 (1) of the Constitution, which provides that one or more Provincial Assemblies may by resolution empower the Majlis-e-Shoora (Parliament) to regulate any matter not enumerated in the Federal Legislative List in the Fourth Schedule, through an Act, which may be amended by the Assembly of that Province.
>
> "27. Now turning towards the submission of the learned Amicus curiae on the vires of Provincial Labour Laws on the ground that there are many Institutions/Corporations which have their branches all over the country and there are country-wide Trade Unions but now Trade Union can only be regis tered under the legislation of a specific province. It is to be noticed that instant proceedings have been initiated under Article 184 (3) of the Constitution with a limited purpose of having a declaration that IRA, 2008 on the basis of the 18th Constitutional Amendment stood protected and continued till 30th June, 2011, therefore vires of the same cannot be considered in such proceedings. However, as stated earlier, Article 144 (1) of the Constitution has provided mechanism for making central legislation in respect of matters not covered in the Federal Legislative List."

It was an unfortunate judgment. Sindh High Court and Balochistan High Court have reasonably wriggled out of the straitjacket of Air League by referring to para 27, while at the same time shining Nelsonian eye, it appears, at para 24. The President of the Industrial Relations Advisors Association in his annual message to members stated that "all doubts and legal flaws (stood) rectified" by Air League dicta. Employers' representatives filed applications in Labour Courts that in view of Federal law, Labour Court had lost jurisdiction and got the cases thrown out. Then they came to the High Court and said that in view of Air League's dicta, Federal law is ultra vires and got the proceedings stayed in NIRC. This was design after the event. As far as workers were concerned: they were neither here nor there. This was design after the event.

The tragedy in labour laws has many facets. Deletion, a hasty deletion, a deletion without taking non-political stakeholders into confidence, has landed labour in a situation which a perceptive lawyer observed as "…not another but worse than Mobinussalam". The United States Constitution does not have a concurrent list and labour is not included in Federal list and it took 150 years for the Supreme Court to finally settle Legislative competence of Congress as it was done in National Labour Relations' Board's case in 1941 and the US Constitution came in 1789. Did the lawmakers of Pakistan want to put the workers in 150 years wringer before the things got settled? Under the circumstances, it is anticipated that the agony of labour would be fairly long. It is not going to end soon and is going to have many agonising twists and turn. For how long? It depends upon judgments based with judicial perceptiveness and passed in good time and legislative sensitivity of the law makers.

Second aspect of the tragedy is impulsive, half baked judgments by the judiciary. Air League's case is one. A full Bench of Sindh High Court declared IRA 2012 which is applicable to Islamabad capital territory and "trans provincial" establishments, as intra vires. A good sign. Incidentally what does trans-provincial mean? The US Supreme Court is still grappling with the contours of inter-state commerce. The Sindh Bench has based its decision primarily on Article 17th of the Constitution. It was not pointed out to the Bench that the Supreme Court in Civil Aviation Authority's case and in Nisar Ahmed's case has held that exclusion from IRA does not violate any fundamental right. Therefore, how can vires of IRA be based on Article 17? More ominously the High Court observed:

"19. What is best for the people is to be left to the legislature as it is the members of the legislature that are entrusted with the function to understand the needs of the people who have chosen them, unless there is brazen violation of any Constitutional provision, a Statute cannot be declared unconstitutional. We may clarify here that resort to Entry No. 58 of Part I of the Federal Legislative List is being had only to deal with an extraordinary situation i.e. when a matter is taken subject-wise, it falls within the legislative competence of the province but when it comes to its application its needs to travel beyond the territorial boundaries of the province. This makes it a Federal subject to deal with and the only possible mode that is left to deal with such a peculiar situation is to invoke the provision of Entry No. 58 otherwise the exercise of the right guaranteed under Article 17 of the Constitution would stand curtailed in the industrial and commercial establishment that operate at national or trans-provincial level.

"All cases pending adjudication in Labour Court pertaining to trans-provincial industrial and commercial establishment shall stand transferred to the NIRC of appropriate jurisdiction. Likewise, cases, if any, pending adjudication in NIRC pertaining to intra-provincial industrial and commercial establishment shall stand transferred to the Labour Courts of appropriate jurisdiction. The second question is answered accordingly."

As to the second para it may be pointed out that matters are taken to Labour Court under a number of laws. For example:

(i) Under various provisions of IRA, 2012;
(ii) Under the Standing Order 12(3) of the Industrial and Commercial Employment (Standing) Orders Ordinance, 1968;
(iii) Appeal under section 17 the Payment of Wages Act, 1936;
(iv) Appeal under section 63 of the Provincial Employees Social Security Ordinance, 1965;
(v) Under the Standing Order 11-A of Standing Orders Ordinance, 1968.

How can matters other than (i) above go to the NIRC? The Bench has not thrown any light, cited any precedent, referred to any submission etc. for its conclusion. Thirdly, the scheme of labour laws relating to industrial relations is based on principle of divide and rule. We do not have trade unions; we have establishment unions: a union for PIA, a union for Pakistan Steel and a union for any Allah Ditta Muhammad Hussain & Co. We do not have across the establishments unions.

The 18th Amendment is probably, and in my opinion, certainly the best thing that has happened in the body politic of Pakistan during the last quarter of a century. But it certainly is the worst thing that has happened to the field of labour laws over the entire history of Pakistan. Propensity of employers to take advantage of a situation adverse to the interest of organised labour is understandable. What is not understandable is apathy by the public representatives, apathy by the judiciary and lying down attitude of whatever is left of leadership of trade union movement. What is needed is a national colloquium, may be a tripartite one, to salvage the situation, of course within the post-18th Amendment constitutional dispensation. ■

Trade unions were being threatened with oblivion in industrial relations unless they could attract one third labour force for being designated as CBA, thus transferring their energies from the street to the factory floor

Trade Unions through Labour Laws

Syed M. Ghazenfur

Pakistan Statistical Yearbook of 2012 has a collection of statistics related to the 'Labour' in Pakistan. The statistical infogram on the number of registered trade unions in Pakistan displays a trend of falling registration of trade unions in Pakistan and a falling rate of their members. Total number of 'registered trade unions reporting' in Pakistan have fallen from 1,493 in the year 1,999 to mere 1,209 in the year 2008, with total membership of the trade unions falling drastically from the already meagre sum of 301,104 members in the year 1999 to 245,383 members in the year 2008. Some authors have noted that only about 5.4% of the Pakistani labour force is unionised. Theories abound which try to explain the low level of unionisation in Pakistan, ranging from locating it in the stunted democratic growth and the relations between the "soldier and the state" in the country to the neo-liberal economic model unscrupulously adopted in Pakistan. However, the disappearance of trade unionism in Pakistan is seldom studied within the edifice of the legal structure initially designed to regulate and facilitate trade unionism. The relation of law to its subjects of control is a worthwhile study to understand the social location, position and pursuant organisation of the legal subject.

In my current research, I have tried to undertake a critical anthropological study of the "Collective Bargaining Agent" (hereinafter to be referred to as CBA) in the various succeeding Industrial Relations legislation, by exploring how juridicalisation of the workers' collective through the bureaucratised and politically neutral trade union as CBA, contained and controlled the social power of the industrial proletariat.

We find the idea of CBA not to have existed either in the labour codes of provinces, drafted post the elections of 1935 or in the Industrial Disputes Act of 1947. It was in the IRO of 1969 that this element of CBA first made an appearance. In essence, CBA is a trade union, among the possible many in an industry or establishment, which requares the membership of one third of the total labour force, has the authority and de facto power to speak for the labour collective with the employers or even initiate legal proceedings on behalf of individual workmen in the labour court. The vast powers granted to the CBA on behalf of and for the 'workmen' (the word used for labour force in the IRO of 1969), are perfectly suited to the design of an industrial dispute resolution act, introduced in times of growing urban anomie of the 1960s, when the state wanted to, for lack of other words, reign in the labour power.

The ending years of President Ayub Khan were simultaneously located in the global and domestic disruptions of the 1960s, when the dream of an alternate to the dominant paradigm of repression was very much possible and sought for by the marginalised world over. The choice before the state and those in power the world over, after exhausting the ends of violence against the dissidents, was to integrate the radical forces into the bureaucratised discourse of the state, whom Nietzsche had aptly decried as "the coldest of the cold animals".

The rising militancy of disenfranchised labour against the unevenly distributed economic gains from the state's self-proclaimed decade of glory, was disrupting the process of capitalist accumulation in the newly industrialised Pakistan. The power of the numbers of the labour was to be reduced to norms of bureaucratised negotiations, where options before the labour were restricted to the correct choices contained in the IRO and the related laws. The political activities of the militant labour were to be curtailed through the medium of CBA, the ambit of the power of labour forces to be removed from rejection of larger structural injustices to scrambling over bureaucratised exchange of notice and written replies in anticipation of impending industrial unrest (Section 26 of IRA 1969).

The idea of a politically neutral and committed to the conciliatory politics of controlled labour dissidence by CBA, were resolution of the rising political role then claimed by the labour in the democratic choices of the country. Trade unions were being threatened with oblivion in industrial relations unless they could attract one third labour force for being designated as CBA, thus transferring their energies from the street to the factory floor - and that too for fending off competition. The effects of the introduction of such legal reforms are encapsulated in the following words of Christopher Candland, who had analysed the relationship between IRO and labour movement of the 1960s by observing that:

"Ayub Khan's IRO...required unions to devote their energies to complicated legal requirements for a fraction of the labour force. The labour leaders celebrated the adoption of law that would grant industrial workers their rights to organise, bargain collectively, and strike. The disorganised militant movements of the 1960s could not be sustained under a state-dominated form of trade unionism. .. Unionists who were better equipped to deal with the legal framework gained control over significant categories of workers in the organised industrial sector. But those workers who led the movement lost their command of the labour movement." (emphasis have been added) [P. 85]

The institutionalisation of the CBA in the pacification of the labour movement was further entrenched post the regime of Yahya Khan, the usurper (Asma Jillani v. Federation of Pakistan PLD 1972 Supreme Court 139) ironically when the democratic government of Bhutto, while providing a framework of benefit for the workers, also warned them of consequences if they continued with the unrestrained policy of *gheerao* and *jalao* (encircling and enflaming) "otherwise,' Bhutto raged, 'the strength of the street will be met by the strength of the state'." CBA had to ensure that workers desisted from activities, disruptive of the economic order of the state's industrial core, while limiting its politics to the politics of rights as granted within the text of the welfare legislations. This in no way should be read as a critique of the worker welfare agenda of the socialist government of the time, however, what needs to be noted is the de-politicised nature of CBA which was being concretised into the industrial relations.

With the 1980s being the era of silencing of all voices and 1990s being the "end of history", the politics of the proletariat was in utter and complete disarray. The purging of revolutionary ideas and ideals from trade union activities had apparently been won by the forces of the state and the capital. CBA was thoroughly de-politicised and politics of limited self-interest of the CBA as divorced from larger social and political debates, within the architectonics of law, were made the norm for its operation. The juridicalisation of the labour movement was complete in an era of neo-liberal resurgence, when the trade union activities were being controlled through the instruments of law the world over.

We have up till now discussed how the politically neutral CBA has been created as the desired pressure relieving valve of the capitalist interests, for it to contain and restrict the labour movement within the laws and legislations of the state. CBA is a historically contingent idea, the anthropology of which is as much an anthropology of the rise and subsequent fall of the vibrant trade union politics in Pakistan; the retrenchment of trade union from national politics to politics of limited-by-law labour rights.

Through the interpretation of laws, judiciary assigns legal sanction to the meanings impugned to certain categories by society and power structures. Judicial interpretations have further entrenched the process of turning trade unions from forces of social change to agents of conciliation. Judiciary has ensured that the essential existence, the classical Skakesperean exhorting of to be, of CBA remains as the solitary voice of the workers, speaking solely through the hegemonic bureaucratised structure of the law. Judiciary has gone to the extent of ordering the state appointed Registrar of Trade Unions to ensure authenticity of CBA through the process of arrangement of competing elections among contenders (Workers Front, Habib Bank Ltd., City Zone, Multan v. Registrar Of Trade Unions, Multan Region, Multan 1989 PLC-Labour 969). CBAs have been taken to task by the judiciary for violating even the basic and minute procedural details set out in the industrial relations ordinance for the resolution of labour disputes. The spontaneity of workers' actions was taken away and replaced by the conformist rigidity of bureaucratised bargaining for rights.

In situations where labour initiated responses against the industrial establishments, from lock down to more serious strikes, the CBA and Union activity was restricted both by the state and the courts. There was a two-pronged strategy adopted by the state to reduce the power of the CBA to challenge the power of the industrial capital. The first was the increase in restrictions upon CBA activities in, what were declared to be, strategic and sensitive industries, a list quite short during the times of Ayub Khan but which kept on increasing to include industries ranging from steel mills to television and even centres of cultural activity.

We have to understand here that restrictions upon labour activity in a particular industry, had domino effect upon the power of CBAs in other, even unrelated industries. The increasing policing power with the state, the power to discipline the labour politics, was being perfected on restricted industries to apply against labour raising ruckus in other industries. The fall of CBA and restriction on its activities in one industry directly affected the powers of labour in other sectors - a domino effect of falling labour power.

The other related limb of state's policy of CBA containment was the office of Registrar of Trade Union, which not only registered trade unions and took disciplinary actions against them but also decided the status of CBA for any of the competing trade unions. As a functionary of the state, the actions by the Registrar were in line with the policy of state to restrict the voice and protest politics of the trade unions. Although an appeal process had been provided for the aggrieved party in the various Industrial Relations laws, yet the avenue of appeal and its relation to state were facts which asserted that juridicalisation of labour activity was an ideologically motivated act of state aimed at restricting and further restraining of labour power.

The case of Civil Aviation Authority, Islamabad v. Union of Civil Aviation Authorities (PLD 1997 SC 781) is a prime case in point. Justice Ajmal Mian, writing for the Court, noted that the constitutional framework under Article 17(1) does not require a trade union to be registered to exist, however, "it cannot effectively function unless it is registered and a legal framework is provided within which it can operate as a collective bargaining agent for its members." Without registration and consequential operation within the framework of a statute, which competently determine the actions of the trade union, it cannot operate as a workers' collective. How can the CBA then function in strategic industries as a workers' collective, if they are not registered by the Registrar as the competent registering authority of the state? The court decided that "it will be in the interest of the employees as well as of the Authority and the Corporation that a legal framework, alternate to the provisions of I.R.O., be provided in order to regulate the relations between the employers and the employees on equitable basis and such legal framework may prohibit the right of strike or to go slow...Such restrictions will be covered by more than one of the four items mentioned in clause (1) of Article 17 of the Constitution, on account of which reasonable restrictions can be imposed particularly integrity of Pakistan or public order."

From a bare reading of the above reproduced excerpts, it might appear that this is a case of an organisation at the margins of labour laws i.e. the sensitive and strategic industries. However, it is only at the exception, to quote Giorgio Agamben, that the rule coincides with the extreme situation. The exception of CBAs in such industries belies the invisible behind the discreet visible of labour relations. When stripped of all powers and placed outside the paradigm of law, a bureaucratised CBA in a strategic industry represents the ideal trade union desired by the state and capitalist interests related to it. Such CBAs are the bureaucratised institutions bereft of any politics for change or will to power.

Post the 18th Amendment to the Constitution of Pakistan, aimed at decentralising the state structure, by passing powers and subjects in the concurrent list to the federating units, the subject of 'labour' has also been passed on to the provinces. Initially, there was a vacuum of legislation in the provinces on the subject, which was later remedied through provincial legislations on the subject of labour. Chief Justice Iftikhar M. Chaudhary, as he then was, in Air League of PIAC Employees through President v. Federation of Pakistan and other (2011 PLC 89) noted that:

> "...as stated earlier after the Eighteenth Constitutional Amendment, the Provincial Assemblies enacted the respective laws on the subject of labour and Trade unions after about two months of expiry of IRA, 2008 and there is a vacuum for the said period."

Provincial Statutes are not much different in essence and structure to the previous Federal Legislations on the subject. However, the most interesting element which can be gleaned from The Sindh Industrial Relations Act, 2013 is that Sub-section 3 of Section of the said statute extends even to those in "fishing and agriculture". Theoretically, now in Sindh even the workers on farms are allowed to form CBAs and engage in trade unionism. However, it remains to be enquired if it will actually be possible in practice to organise *haris* in the particular socio-political environment of the agro-rent based economy of Sindh rural? Apart from such differences, on the whole, the structure and semantics of labour legislations across the provinces are similar and have not progressed the cause of trade unions in Pakistan. If it is termed as qualified inability of the labour legislation to empower the labour, can it be termed as a corollary of the change in government through 18th Amendment but not a change in pattern of governance?

The aims of this research was to understand how the raw and unrestrained power, autonomy as opposed to bureaucratised heteronomy of function, the immediacy in politics and the spontaneity of trade unions were restrained and limited by the power of state through their conversion into bureaucratised institutions. The very legal categories assigned to an object, tend to create future possibilities of action for the object, defining the contours of its existence and the contingencies of its operation. Trade Unions were a symbol of politics for change which operated through politics of change against the conventional ideas of bureaucratic existence. The history of the rise of CBAs as bureaucratised mediation into labour-employer relations is the history of the rise and fall of the trade unionism as a political and economic movement in Pakistan. ■

The PESSI and the EOBI do not cover workers from the agriculture sector, the self-employed, and the informal economy, and those establishments that employ less than ten (PESSI) or five (EOBI) workers.

Brief Profiles:
EOBI and SESSI

Zeenia Shaukat

Pakistan's constitution outlines social security as a basic right of the citizens and marks state's role in establishing institutions to fulfill this constitutional guarantee. Pakistan is one of the few underdeveloped countries that recognises social security as an explicit citizenship right. Article 38 of the Constitution of Pakistan binds the state to "...provide for all persons employed in the service of Pakistan or otherwise, social security by compulsory social insurance or other means; provide basic necessities of life such as food, clothing, housing, education and medical relief, for all such citizens, irrespective of sex, creed, caste, or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment; (and) reduce disparity in the income and earnings of individuals..."

The existing social security programmes are highly exclusionary in terms of the beneficiaries covered. Large sections of the workforce remain unprotected. The two general and most comprehensive social security schemes, the PESSI and the EOBI, do not cover workers from the agriculture sector, the self-employed, and the informal economy, and those establishments that employ less than ten (PESSI) or five (EOBI) workers. Below are given brief profiles of the two institutions and the challenges these faced in 2014. These profiles were prepared following several rounds of discussions with the officials as well as workers unions at the SESSI and EOBI in the run up to the Sindh Labour Conference, organised by PILER in September 2014.

Employees' Old Age Benefits Institution

The Employees' Old-Age Benefits Act, 1976 provides for the entitlement of the employees of selected private sector industries/establishments to Old-Age Pension, Old-Age Grant, Invalidity Pension, and Survivors pension. The Act covers non-government establishments that include construction industry, factories, mines, road transportation services, hospitals, clubs, hostels, organisations, and not-for-profit messes. It excludes persons in the services of state, local bodies, armed forces, railways, and WAPDA.

The Employees Old Age Benefits Institution was established as a body corporate under this act to implement its provisions. Earlier, the Institution was placed under the Ministry of Labour and Manpower. Post-devolution, it has now been placed under the Ministry of Overseas Pakistanis and Human Resource Development at the federal level.

The social security scheme for private sector employees, under the EOBI Act 1976, covers industries or commercial establishments with five or more employees, with an option of voluntary registration for organisations with less than five employees. The scheme requires employers to pay 5 per cent of lower basic salary of the employees (old minimum wage at Rs 8,000 applicable) while the employees contribute one per cent of the salary. The scheme provides monitory benefits to Insured Persons in the form of Old-Age Pension, Survivor's Pension, Invalidity Pension and Old-Age Grant.

General direction and superintendence of the EOBI is vested in a board. The Board of Trustees is a tripartite arrangement, headed by Chairman, EOBI, joined by two representatives of the Federal Government, one each from the Ministry of Overseas Pakistanis and the Ministry of Human Resource Development. Labour secretaries from all four provinces, four representatives of employers (one from each province) and four representatives of employees (one from each province) are also part of the board.

In 2014, the number of beneficiaries of the EOBI scheme stood at 6.1 million. The active strength of the employers was 67,544, insured persons was 3,554,764 and pensioners was 335,400.

As with other social security schemes, the EOBI, too, is exclusionary since it makes no provision for the informal sector. Not only the agriculture sector (which is ousted because of definition issues), the self-employed section of the working population too has little opportunity to engage EOBI. The EOBI did start a self-registration scheme in 2011 but it was not backed by a law. Due to issues pertaining to administration and compliance, the scheme could only cover 1,500 workers. It had to be called off until a relevant law was drafted to support it.

The minimum old-age pension as of 30th June 2012 is Rs. 3,600 per month. The real value of pensions received by the beneficiaries of the EOBI is extremely low and this becomes even more challenging in the face of spiralling inflation. Fixed in nominal terms, the adjustment in the pension rates are hardly adequate to keep up with the rising cost of living.

Challenges

According to an EOBI report, the Institution's experience with the coverage of employers employing less than 5 persons is not positive. It is not easy to collect contribution and insured persons' details from running businesses in small crowded markets.

In 2014, the eighth Actuarial valuation of the EOBI was conducted. The primary purpose of the valuation was to ascertain whether the existing scheme is financially viable and, in the long range, actuarially balanced. Based on the main valuation basis of a moderate inflation assumption, the valuation indicates that the Fund would start depleting from the year 2021 and will exhaust in the year 2027. The point when the Fund would start depleting is only 9 years from the valuation date is alarming.

The EOBI has faced scandalous episodes in recent times due to the misuse of funds. The availability of funds to the tune of billions offers opportunity for corruption and the role of the Board of Trustees is seen with suspicion for not working hard enough to prevent such practices.

Despite being tripartite in character, the scheme runs from the contribution of employers and employees alone with the government not sharing any burden at any level. Prior to 1986, the government contributed a share equal to that of the employer. However, it was curtailed after a legislative amendment.

Sindh Social Security Institution

The Provincial Employees' Social Security Ordinance (PESSO), 1965 regulates Employees Social Security institutions on the provincial level. This comprehensive piece of legislation provides cash and in-kind benefits for employment injury, sickness, maternity, death, invalidity, and *iddat*. Being a provincial ordinance, the PESS is applicable to employees on the provincial level only. Those covered include regular and contract employees, skilled, unskilled, supervisory, clerical, and manual workers. The PESSO, however, excludes persons in the service of the State including armed forces, police and railway workers, and the employees of the local council, municipal committee, cantonment board or any other local authority. Under the current law, employees drawing salary up to Rs. 10,000 are liable to be registered under the PESSO.

Social Security Scheme was launched on 1st March, 1967, under the West Pakistan Employees' Social Security Ordinance No. X of 1965, with the assistance of the International Labour Organisation. The Sindh Employees' Social Security Institution (SESSI) came into being on 1st July, 1970 when the Scheme was reorganised on provincial basis after the dissolution of the One Unit. Initially, the Scheme was designed for the coverage of textile industry workers of Karachi and Hyderabad only. On getting encouraging results later, the Scheme was extended to all other industries and commercial units.

The Sindh Employees Social Security Institution is responsible for providing insured workers and their dependents medical facilities and financial benefits. It covers sickness, injury, maternity, death, *iddat*, disability grants, and pensions and special financial assistance to dependents post death of the insured persons. It is applicable on those industrial and trading establishments that employ 5 or more workers whose wages stand at Rs 10,000. The range has recently been upwardly revised at Rs 15,000 monthly or Rs 600 daily wages. Registered employers contribute towards the Scheme at 6 per cent of the wages paid to insurable workers.

According to the practice, the local directorate of SESSI initiates the registration itself, sending relevant documents to the concerned establishment that are liable to respond in ten days. Upon receiving completed forms, the concerned establishment is registered and given a registration number. Following the establishment's registration, the associated qualified workers — including those directly recruited or hired through a contractor — become eligible for SESSI registration. Employers are required to submit 6 per cent of wages of the secured workers every month.

In 2014 the number of registered workers in Sindh stood at 680,000 plus their 3.4 million dependents. The number of registered establishments was 28,717 across the province of Sindh.

SESSI has 10 directorates in Sindh: 7 in Karachi and one each in Hyderabad, Sukkur, Kotri. It has 4,000 workers employed as a part of the organisation. SESSI runs 45 dispensaries, five medical centres and five hospitals across the province. Over 70 per cent of SESSI's budget goes into the provision of medical services.

The Governing Body is composed of Provincial Minister Labour, who heads as the Chairperson. Members include: Secretary Labour Deptt., Secretary Industries Deptt., Secretary Health Deptt., Secretary Finance Deptt., (all from provinces) and Commissioner, SESSI. Three persons each representing employers and employees are also a part of the board.

Challenges

The existing social security programmes are highly exclusionary in terms of the beneficiaries covered. Large sections of the workforce remain unprotected and the Employees Social Security Institutions have been of little help to address that. Out of the labour force of 14.07 million in Sindh, SESSI has been able to register only 680,000. Like other social security institutions, it also excludes agriculture workers, informal workers (working independently), and the establishments employing less than 5 workers. A vast majority of jobs in the private sector are generated in small enterprises sector comprising 1-4 people.

In independent interviews, SESSI employees share their difficulties in executing the organisation's functions. SESSI employees complain about political interference and political patronage in appointments at key posts. Though there is no valid proof of it yet, there are accusations of money minting at the level of the collection of the contribution as employers' eagerness to under report is responded with bribe demands from officials. Due to poor collection, the quality of services suffers. The employers also expressed non-interest in registration. SESSI staff felt that employers were reluctant to register to avoid taxes.

Despite being a part of the Governing Body, employers argued that the services of the SESSI medical institutions, do not meet the needs of the registered employees who seek additional assistance to address their medical issues. They felt that this duplication adds to their business cost. The hospitals either have shortage of qualified staff or are overstaffed. There is little mechanism for workers availing services to voice their grievances against the quality of the services.

There have been repeated finger-pointing at the bodies/individuals representing labour in the Governing Body of SESSI. The democracy deficit that characterises most workers unions gives way to discrediting and delegitimising elections and accountability process in labour unions, which send their representatives at SESSI Governing Body. The discontent regarding adequate representation of workers' interest in SESSI leads to inadequate space for workers (who are the main recipient of SESSI's services) to address their grievances regarding the service standards. The amount of financial assistance offered by SESSI is much out of sync with the inflation-led economic order that workers struggle with. ■

The ambit of the Protection of Women against Sexual Harassment in the Workplace must be extended to include the informal sector workplaces so that the sexual harassment in this sector could be duly addressed by inquiry committees.

Issues in Implementation

Legislation on Sexual Harassment

Soonha Abro

It has been four years since the Government of Pakistan enacted the Protection against Harassment of Women at the Workplace Act 2010 after overcoming conservative opposition to the bill. The law aims to create a working environment for women free from harassment, abuse, and intimidation.

The Protection against Harassment of Women at the Workplace Act 2010 is significant as it is the first time the term sexual harassment has been given a clear definition within the Pakistani legal system. Previously there had been no proper law addressing the problem of sexual harassment at the workplace in the country. Despite referring to the "insulting [of] the modesty" of a woman, the Section 509 of the Pakistan Penal Code 1860 did not provide a clear definition of the word 'modesty'.[1] Moreover, the Pakistani law had not included a lucid definition of what actions and/or incidents may be considered as sexual harassment, whether these occurred in public, or private, or at the workplace. Although the law is chiefly aimed at women victims of sexual harassment, it also extends protection to men who find themselves in the position of the harassed.[2]

The Law

In addition to the passing of the Protection of Women against Harassment in the Workplace Act, amendments to the Section 509 of the Pakistan Penal Code were also made to include and recognise harassment at the workplace, as well as a definition of what constitutes as a workplace.[3] Thus, insulting the modesty of a woman and sexually harassing them are now both considered as crimes under the amended Section 509.

Both minor and major penalties have been prescribed by the Act, to be meted out to the perpetrator based on the severity of crime. Minor punishments include censure and withholding promotion and/or increment for specified period of time. Compensation that will be payable to the complainant can be recovered from the salary or any other source of income of the accused. The more serious penalties prescribed by the law include demotion, compulsory retirement, removal or dismissal from service, as well as being fined to pay a certain amount up to Rs 500,000. A part of this amount can then be used to pay a compensation for the complainant.

In case the perpetrator (the guilty) is the owner of the organisation, the fine shall then be payable to the complainant. In the most severe cases, the perpetrator may be punished with imprisonment, which may extend to a minimum period of one year and a maximum period of three years, or, they could be punished with both imprisonment and a fine as mentioned above.[4]

However, the perpetrators can obtain bail if they are arrested under the Section 509 of the PPC. Also, this crime is compoundable, which means, should the court permit them, the involved parties may settle the case among themselves.[5]

The Procedure

The law also includes several measures aimed at addressing sexual harassment in the workplace. It calls for the establishment of the office of the Ombudsperson — purposely created as a gender-neutral post unlike the conventional ombudsman post to increase the inclusion of women at the higher posts within the Government services — at the federal and provincial levels. Every organisation is required to form an internal committee comprising a minimum of three members, at least one of which must be a female employee, to investigate harassments complaints and present their conclusions within 30 days to the relevant competent authority that will award recommended penalties. The committee's responsibilities also include: adopting the Code of Conduct as prescribed by the law; ensuring that there is no retaliation against the complainants; and, educating the employees of their organisation about the provisions of the law, and encourage the creation of a professional, and dignified working environment for the women working in that organisation.[6] These internal committees have been formed in a number of formal sector workplaces.

In case a complainant's allegations turn out to be false and made with insidious intent to harm the accused, the internal inquiry committee can recommend the case to the relevant ombudsperson to take the appropriate actions against such a complainant. Also, a party that has been distressed by the decision of the respective authority can also appeal to the ombudsperson who has been appointed by the federal or a provincial government. Moreover, appeals against the ombudsperson's decision can be made to the president at the federal level, and to the governor concerned at the provincial level.[7]

Obstacles in Implementation

The anti-sexual harassment law has faced, and still does, many obstacles in its implementation ever since it was enacted. The entire process of implementing the law continues to be slow and laborious. Several formal sector organisations have held numerous awareness seminars and workshops since the law was enacted in 2010 to inform their staff, particularly the women, about the provisions contained in the law or have informed their employees about this issue in one way or the other. Moreover, a significant increase has been perceived in how the organisations have attempted to address this problem in their premises.

However, the implementation remains insufficient for various reasons, most important of which is that people avoid engaging in an open discourse on sexual harassment and other acts of sexual violence, and also consider such acts as a loss of one's honour and thus becomes a source of shame for one. This patriarchal mindset has greatly limited the extent to which the organisations have tried to address harassment at the workplace, and it is quite likely that the increasing number of incidents and cases that have been revealed is only due to the increased focus on the matter by the Pakistani media, both in its print and electronic formats.

Women, Informal Economy, and Sexual Harassment

Another reason for the inadequate implementation of the Protection of Women against Sexual Harassment in the Workplace law is that it only takes into account the formal sector of the economy, and excludes the informal sector which puts the women workers of the latter at a serious risk of experiencing sexual harassment while working. The informal sector, by its very definition, refers to any economic activity that is neither taxed nor monitored by the government, and is not included in the counting of a country's Gross National Product (GNP), unlike the formal sector.[8] Everyone who works in the informal sector — which includes not just women and children, but also men — work longer hours for lower wages without any benefits (medical insurance, paid leave, sick leave etc.), have less job security than their formal sector counterparts, and are also more likely to be exploited by their employers.

Workers, especially female workers regardless of age, in the informal sector, are much more vulnerable to sexual harassment than their formal sector counterparts without having any recourse to legal protection because any resistance on their part can mean loss of income, which is something they would rather avoid for various socio-economic reasons. Hence, the anti-sexual harassment is rendered limited in its scope because of this exclusion.

The law does not include the workplaces of the informal sector, which could be a household, on the streets, agriculture field, the brick kilns, cottage industries, small production units, among many others. The law states that the workplace can be a "specific building, factory, an open area, or a larger geographical area where the activities of the organisation are carried out", which one may interpret to be a clear reference to the formal sector workplaces only, due to the loosely worded definition of what constitutes a workplace.[9] Thus, the workplace, as defined by the law, mainly takes into consideration the private sector corporations and organisations, government ministries and organisations, educational institutions, and medical facilities, or any other organisations, that may be operating in an open area or a 'larger geographical area'.[10] Therefore, it is evident that only the women who work in the formal sector are provided legal protection from sexual harassment under this law. The law does not take into account that there is a greater possibility of incidents of sexual harassment occurring within the informal sector through its vague wording, which might be reversed by rephrasing the clauses in a more unambiguous manner. Neither does the law provide any legal protection or recourse to these women if they have experienced sexual harassment while doing their jobs.

The textile and clothing industry, on the whole, employs nearly 39 per cent of the overall workforce.[11] Women workers form a sizeable chunk, between 25 to 30 per cent, of the textile industry labour force. They are concentrated in the labour-intensive, low-paying tasks that involve stitching, such as the production of ready-made garments, linen, and towels, comprising an estimated 41 to 75 per cent for such work. According to an estimate, 90 percent of the work in apparel manufacturing is sub-contracted, and a large portion to home-based workers.

As the textile and clothing industry comes under both the formal and informal sectors of our economy, the available figures on the number of women working in this industry, the wages they are paid, and the number of hours they work can differ widely between the two sectors, and sometimes, may even overlap. However, a few aspects of the work done by women within the industry remain unchanged. This includes reduced job security, lower pay for the same work done by their male counterparts, no benefits (medical expenses and maternity leaves), and most importantly, being subjected to sexual harassment by their male colleagues and supervisors whether women workers are sub-contracted, home-based workers or they work within a textile factory.[13]

No matter whether a female worker in the T&C industry works from home or in the factory, if she is subjected to sexual harassment in any way, she decides not to speak up for mainly economic reasons. As she must contribute to feeding her family or is the sole breadwinner, it is important for her to save herself from being removed or discharged from her job, and being refused increments to her income. This is the most important reason that governs her decision to not speak up when she is subjected to sexual harassment. Hence, her economic needs become a stronger influence on her not resisting the sexual harassment and gender discrimination that is perpetrated by the male-dominated trade unions, who consistently fail to address the various issues faced by the women industrial workers, and the workforce within a factory. The social factors — such as the possibility of being considered as too 'bold' to be respected by her female colleagues if she resists sexual advances by her male colleagues and supervisors — assume a secondary importance to the woman's economic needs for the same reason.[14]

The Ombudspersons

Sindh has remained at the forefront in taking concrete steps to combat the problem of sexual harassment of women by appointing Syed Pir Ali Shah, a retired district and sessions judge, as a provincial ombudsperson for protection against harassment of women at the workplace for a period of four years in July 2012. The provincial government has also provided support to all public-, private-, and semi-autonomous institutions and organisations existing within its jurisdiction in implementing the Code of Conduct as prescribed by the law.[15]

In March 2010, the Federal Ombudsperson's Secretariat was established under the Protection against Harassment of Women at the Workplace Act in March 2010, and started operating actively in July 2011.[16] Since its establishment, the Secretariat has decided 120 cases, majority of which came from within government and semi-government sectors. The most publicised cases include the cases that occurred at the Quaid-e-Azam University (QAU) in Islamabad. However, the Secretariat has also spoken up about the lack of implementation of the anti-sexual harassment law, saying that even after two years have passed since the law was promulgated, both the public- and private-sector organisations have failed to comply with it. Not only are the lax attitudes to blame, there is also a genuine need for awareness about the law and its provisions. Many people who have experienced sexual harassment have not reported the incident(s) because they either did not believe something could be done about what they had gone through, or they did not know that a legislative instrument like the Protection against Harassment of Women at the Workplace Act actually existed and could help them in many ways.

Despite this law's existence, sexual harassment continues to be rampant in the workplace in Pakistan, particularly in the public sector.[17] There have been many incidents since 2010, and even in 2014, involving public-sector educational institutions such as the QAU and Fatima Jinnah Women's University (FJWU) in Rawalpindi; as well as in public-sector organisations like the Pakistan International Airlines Corporation (PIAC), Pakistan Broadcasting Corporation (PBC), the cultural entity Lok Virsa, Alternate Energy Development Department, and the Pakistan Television (PTV).

According to the Registrar at the Federal Ombudsperson's Secretariat for Protection of Women against Sexual Harassment, 13 cases had been registered by individuals working in the private sector.[18] A lower number of incidences reported from the private sector are due to the job insecurity that exists in the sector. This prevents a harassed individual from mustering up the courage to resist and report the incident because they fear that they will be removed or discharged from their job if they react, resist, and/or register a report.

The situation regarding the implementation of the anti-sexual harassment law remained rather unchanged throughout 2014. A number of sexual harassment cases came to light during the year, many of them involving administrative staff and faculty members, even female students at a number of public-sector educational institutions in the country. Students are one of the groups that are not included within the ambit of the Protection of Women against Sexual Harassment at the Workplace Act.

In June 2014, an incident of sexual harassment involving an MBA student at a well-known public university occurred. The female student was reportedly harassed by an assistant professor when she visited him in his office during working hours regarding the rectification of a marking mistake on one of her exam papers.[19] A few months ago, in January 2014, another case of sexual harassment was brought to light just as the Senate was about to take up an amendment to the Protection of Women against Sexual Harassment in the Workplace the following day, seeking to extend the Act's provisions to include educational institutions.[20]

An October 2014 media report stated that 421 cases of sexual harassment had been registered within three months in the Sindh province.[21] Sixty-six of these cases were reported from the Khairpur district of the province alone. According to the report, the 421 incidents involved 534 women and girls but FIRs were registered only in 66 cases. These figures were tabulated and compiled from the numbers published in the print media over a three-month period. This indicates that the problem of gender-based violence is ingrained in our social norms, resulting in the economic dependence of women, which helps to keep them in subordinate roles. It also plays a role in the low levels of women's political participation, and an even lower level of educational attainment, skills, and work opportunities. Moreover, a "badly-worded" FIR can also endanger the women's access to effective legal remedies by obstructing the prosecution cases, the report adds.[22]

Not all events related to the anti-sexual harassment law and its implementation were so negative. Several positive events connected with this matter also took place throughout the previous year. In September 2014, a private TV channel aired a 40-minute documentary on sexual harassment, which was followed by a public discussion on sexual harassment and the Anti-Sexual Harassment Act 2010.[23] Another documentary illustrating the journey of the anti-sexual harassment law and how it finally came to promulgation was aired in December 2014.[24]

Conclusion

The Protection of Women against Sexual Harassment in the Workplace law does have the potential to prevent harassment in workplaces and administer swift justice when such an incident does occur. However, its implementation is hindered due to several reasons, most important of which is the fact that gender discrimination and gender-based violence is deeply entrenched in our culture. When it comes to implementation, victims of harassment, or any other act of sexual violence for that matter, are told to stay silent about their ordeal because it is considered shameful to speak up about these matters. This is the main reason why most sexual harassment victims are compelled to stay quiet about what happened. Other reasons include being blackmailed by their harassers and other similar actions that are intended to buy their silence. The lack of implementation also occurs because there is a lack of gender sensitivity at the institutional level as described in the preceding paragraphs. Most supervisors and senior employees in the workplace are unable to deal effectively with any complaint of sexual harassment because they generally lack the sensitivity that it takes to tackle this problem. This is what usually happens, or, sometimes, the employees are not informed about the law and its provisions; mostly, it is both.

Better implementation of the anti-sexual harassment law requires the people to have more gender sensitivity, and a good understanding of how our patriarchal culture is responsible for the gender-based violence in the country. Once this has been achieved, the management at the workplaces would be better equipped to take the necessary steps to prevent sexual harassment at their premises. However, we also need the same understanding to be present in our society, as a sizeable portion of our labour force, especially a large number of women, works within the informal sector of our economy in conditions that are generally much worse than those in the formal sector. They are subject to low wages, long working hours, terrible working conditions that can cause various health problems, possess no job security, and receive little or no medical benefits, sick leaves, or maternity leave. Sexual harassment is, therefore, a part of the exploitation by their male supervisors and colleagues for the women working in the informal sector. Hence, the ambit of the Protection of Women against Sexual Harassment in the Workplace must be extended to include the informal sector workplaces so that the sexual harassment in this sector could be duly addressed by inquiry committees formed either within the trade unions or by the local ombudsperson. ■

Notes

1. Section 509, Pakistan Penal Code of 1860 <http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html> Accessed on: January 30, 2015
2. See Note no. 1
3. Information specific to the Protection of Women against Sexual Harassment law taken from <http://www.na.gov.pk/uploads/documents/1300927775_931.pdf> Accessed on: February 02, 2015
4. For information provided on the penalties prescribed by the law, see Note no. 1.
5. See Note no. 3
6. For information provided on various aspects and provisions of the law, see Note no. 1.
7. For information on steps to take in case of false accusations of sexual harassment, see Note no. 1.
8. p. 2, Informal Economy in Pakistan, Syndicate Report 38th STP, Published by the Director General of Training and Revenue (Inland Revenue), <http://www.dgtrdt.gov.pk/Research/fol%2036.pdf> Accessed on: February 10, 2015
9. For information regarding the definition of the workplace in the law, see Note no. 3. Accessed on: February 17, 2015
10. Bandial, Sahar, Sexual harassment and selective protection, The Express Tribune, November 18, 2014 <http://tribune.com.pk/story/792586/sexual-harassment-and-selective-protection/> Accessed on: February 10, 2015. Also, see Note no. 9.
11. Pakistan Economic Survey, 2007-08 <http://www.finance.gov.pk/survey_0708.html> Accessed on: February 12, 2015
12. Karin Astrid Siegmann, The Agreement on Textiles and Clothing: Potential Effects on Gender Equality in Pakistan, 2004, 'Transforming Institutions of Power: Towards Gender Responsive Governance', Rozan, Islamabad, quoted in Organising for Labour Rights: Women Workers in Textile/Readymade Garments Sector in Pakistan and Bangladesh, Zeenat Hisam, Pakistan Institute for Labour Education and Research (PILER) <https://zeenathisam2004.files.wordpress.com/2013/07/organising-for-labour-rights-women-workers.pdf> Accessed on: February 12, 2015
13. Jamil, Sabeen, Pakistani Women Struggle for Equality at Work, Newsline, May

2010 <http://www.newslinemagazine.com/2010/05/pakistani-women-struggle-for-equality-at-work/> Accessed on: February 12, 2015.

14. See Note no. 12: Jamil quotes in her article Rehana Yasmeen, general secretary of Hosiery and Garments Textile Workers Union, and Riffat Razi, chairperson of the women's committee of the Pakistan Workers' Federation, Sindh. The article also discusses health problems suffered by women who work in T&C, how the affected women are compelled to leave their jobs because of their health, and how their mostly male employers prefer to discharge them from their jobs instead of having to pay them sickness and/or maternity benefits. However, these issues have been not mentioned above as they did not seem relevant to this article.

15. Protection against harassment at workplace: Sindh appoints ombudsman, Dawn, July 10, 2012 <http://www.dawn.com/news/733087/protection-against-harassment-at-workplace-sindh-appoints-ombudsman> Accessed on: February 12, 2015

16. Protection of women against harassment: Code of conduct to be displayed in all organisations, Dawn, March 30, 2013 <http://www.dawn.com/news/798942/protection-of-women-against-harassment-code-of-conduct-to-be-displayed-in-all-organisations> Accessed on: January 30, 2015

17. Public sector tops in sexual harassment, Dawn, November 24, 2013 <http://www.dawn.com/news/1058040> Accessed on: February 02, 2015

18. See Note no. 16

19. Sexual harassment allegations rock Quaid-e-Azam University again, Dawn, June 26, 2014 <http://www.dawn.com/news/1115223> Accessed: February 02, 2015

20. See Note no. 16

21. Sindh records 421 cases of violence against women in three months, Dawn, October 11, 2014 <http://www.dawn.com/news/1137148> Accessed on: February 02, 2015

22. See Note no. 23: Figures were taken from a quarterly report titled "Situation of Violence against Women in Sindh (July-September 2014)", and was prepared by Aurat Foundation, a non-governmental organisation whose work is focused on women-related issues.

23. Documentary highlights sexual harassment incidents, Dawn, September 11, 2014 <http://www.dawn.com/news/1131247> Accessed on: February 02, 2015

24. Journey of Pakistan's sexual harassment law captured in documentary, Dawn, December 23, 2014 <http://www.dawn.com/news/1152629> Accessed on: February 02, 2015

The efforts need to target the structural deficits embedded in export-led system and may aim for raising the status of workers as empowered stakeholders.

Pakistan's Textile

Trapping of the Value Chain

Zeenia Shaukat

Pakistan faced its worst industrial fire at Ali Enterprises, Baldia, Karachi, on September 11, 2012 that killed 255 people and injured 55 others. The horrific accident led to many grim revelations about the infrastructure of workplace safety, the role of the employers and the state, and the limitations of labour rights advocates, be they in the form of trade unions or labour support groups, both extremely limited in number and strength in Pakistan.

The same day, another factory in Lahore, making shoe soles in an illegally converted residential building, caught fire killing 25 people including the owner of the small-scale industrial unit. Unfortunately, the coverage on the sufferings, relief and rehabilitation of the Baldia victims outweighed that of the Lahore factory because of the casualties involved, and probably also because the links to the Baldia factory were traced to an international supply chain network embedded in Pakistan's exports-based economy. The Ali Enterprises of Karachi was a sourcing unit of the KiK Textilien, a discount clothing retailer of Germany.

Shortly after the fire accident, a number of actors came forward to assist for justice to the victims. Their efforts included calls for investigation into the accident, trial of those responsible, adequate compensation for the survivors and the families of the dead and advocacy for better labour practices at factories. The details of the three-steps efforts are as follows:

Judicial Intervention

An FIR was registered shortly after the tragedy, directed at the owners and the relevant state bodies. This was followed by two constitutional petitions filed by PILER, along with Pakistan Fisher Folk Forum, National Trade Union Federation, Hosiery Garments Workers Union, Human Rights Commission of Pakistan, and legal activist Javed Iqbal Burki, with the Sindh High Court. The petition was an intervention on behalf of the victims requesting the Sindh High Court to determine the causes of the disaster, prosecute the persons and the state bodies for negligence, and ensure compensation to the affected families. It also pleaded the Court to conduct a criminal trial against the accused (factory owners), and direct the Government of Sindh and the Provincial Labour Ministry to immediately conduct a survey and inspection of all labour establishments, factories, and industrial units in the Sindh province.

The second petition, filed by the same civil society organisations, was in response to the removal of Section 302, PPC 1860 initiated on the orders of the Prime Minister who wanted criminal charges against the employers dropped. The High Court ordered that removing applicable Sections of the Penal Code are purely the prerogative of the trial court. The owners stayed behind the bars for over three months. Though they were eventually released, their assets were sealed and they were barred from leaving the country.

Compensation

Following the tragedy, the government of Pakistan initiated the process of disbursement of compensation, which was not particularly based on any formula with regards to the magnitude of the loss, both for the heirs of the dead as well as the injured.[1]

The compensation was disbursed in bits and pieces. These included a payment of Rs 400,000 each to 210 families two weeks after the accident by the Federal Government. Another one comprising Rs 300,000 each for the families of the deceased was disbursed by the provincial government. Fifteen injured workers were paid Rs 100,000 later on.

After a campaign by PILER and Clean Clothes Campaign demanding compensation from the KIK, the retail chain sourcing garments from Ali Enterprises stepped in with US$ 1 million. PILER approached the authorities to form a judicial commission to ensure judicious and transparent disbursement of the compensation funds. The Ali Enterprises owners and local philanthropists also contributed, raising the sum to be disbursed to around US$ 1.6mn (Rs 167.5 million).[2] Justice (Retd) Rehmat Hussain Jaffery led the judicial commission for compensation. According to records, only 190 out of 1,500 plus workers at the factory were registered with the Employees Old-Age Benefits Institution (EOBI). In October 2014, the court ordered the EOBI to issue pension for each and every deceased worker irrespective of their registration.[3] Compensation of Rs 500,000 each has recently been issued for the families of the deceased by the Workers Welfare Fund.[4] Approximately Rs 1.8mn per family has been disbursed among the families of the deceased so far.

Advocacy on Labour Practices

The macabre Baldia case highlighted the huge gap prevalent in existing labour practices in Pakistan's factories. As against the Lahore factory fire tragedy, the Baldia case offered scope for a varied range of actors, especially those engaged in the international advocacy on labour rights and human rights, to pool in efforts to call for better labour practices. This was especially significant because the global production network and supply chain order already has a history of such interventions. In this regard, three prominent efforts stood out:

1. Local organisations working on labour rights and human rights engaged the media, broader public and other related communities to mobilise support for labour rights. They engaged the injured victims and the families of the deceased who were brought into spotlight through seminars, public interactions, and meeting with state officials. This also contributed positively to the judicial proceedings that came down strongly on the deficits in the state machinery that left the workers vulnerable to such eventualities.

2. Two major actors from Europe came forward to press for supply chain accountability in relation to the case. These are Clean Clothes Campaign and the European Centre for Constitution and Human Rights. The Clean Clothes Campaign (CCC) is an international alliance that works on improving the working conditions and the empowerment of workers in the global garment and sportswear industries by mobilising consumers, lobbying companies and governments, and offering direct solidarity support to workers for their rights. Following the tragedy, the CCC contacted labour rights groups in Pakistan and launched an aggressive international campaign to first press for identification of the brands and the certification bodies in the Ali Enterprises supply chain, and then for adequate compensation for the victims through media advocacy, engagement with state actors and solidarity with the victims. Additionally, it relentlessly campaigned against Social Accountability International and Registro Italiano Navale Group, an Italian certification company that issued certification to Ali Enterprises for "satisfactory" compliance with health and safety standards, just two weeks before the tragedy.

The other major actor is the European Centre for Constitution and Human Rights, which is an independent, non-profit legal and educational organisation working on civil and human rights throughout Europe. ECCHR engages in strategic litigation, using European, international, and national laws to enforce human rights and to hold state and non-state actors accountable for egregious abuses. The Centre is preparing groundwork for a legal suit against RINA and KIK. The group has made several visits to Pakistan to communicate with the victims' families and assess the extent of loss. It has just recently filed a case against the KIK on behalf of a group of victims demanding 30,000 Euros each for their loss.[5]

Another initiative was taken by the ILO that led the process of the formulation of a Joint Action Plan for Promoting Workplace Safety and Health in Sindh (2013-2016). This was in collaboration with the Government of Sindh, Employers Federation of Pakistan and Pakistan Workers Federation. The 3-year plan, launched in January 2013 comprised "Proposed Actions" and "Key Deliverables", including provincial policies of occupational safety and health, labour inspection, amendments in laws, and capacity building, among others. An 8-member Task Force was created to implement the Plan. The committee has so far only finalised a provincial policy of occupational health and safety, while other areas remain inadequately addressed.

It has been over two years since the Baldia fire took place. During the slow-paced trial and criminal investigation of the case, two more accidents occurred in another global garment production hub, i.e. Bangladesh within a gap of 6 months. The first was in November 2012 when a fire broke out in Tazreen Factory, a garment factory in Ashulia, Dhaka. Tazreen was producing ready-made orders for C&A (Germany), Walmart (US), Li & Fung (Hong Kong), Dickies (US), Sears (US), Edinburgh Woollen Mills (UK), Hipercor (Spain), Enyce (US), Karl Rieker (Germany), KiK (Germany), Piazza Italia (Italy), Delta Apparel (US) and Teddy Smith (France).[6] One hundred and twelve workers died and 150 plus were injured as the nine storey illegally built building caught fire.

Five months later, another factory premises, a nine storey building housing six factories in Savar, Greater Dhaka, collapsed killing 1,133 workers and injuring over 2,800. Both the accidents highlighted the utter failure of the state in ensuring basic workplace protection, compliance to building codes and the disregard of western retail chains sourcing their products to production bases in the developing countries.

The two accidents elicited the same kind and level of efforts by labour rights groups, that apart from litigation and compensation, also managed to accomplish a five-year independent and legally-binding agreement between global brands, retailers and trade unions titled "Bangladesh Fire and Building Safety Agreement." The programme, designed to "build a safe and healthy Bangladeshi Ready Made Garment (RMG) Industry",[7] comprises independent inspections, public reporting, mandatory repairs and renovations, a central role for workers and unions in both oversight and implementation, supplier contracts with sufficient financing and adequate pricing, and a binding contract to make these commitments enforceable.[8]

Export-Oriented Economic Paradigm

When cases like Ali Enterprises fire take place, it is natural that all focus is directed at inquiry into the causes of the accident, justice for the affectees, and adequate compensation for the victims. It also makes much sense that major efforts of labour rights advocates is channelled into pressure building towards improving the working conditions and empowering the workers community to stand as partners in the economy rather than merely a factor of production in a capitalist system. The follow up of the Baldia factory, as well as the Tazreen and Rana Plaza, round up for greater responsibility of each stakeholder including buyers, suppliers (local producers), states and trade unions to create an environment of workers' rights, safety and dignity.

However, the discussion on these issues is usually linked to the independent case alone and there has been little evidence of any revisit of the entire order of export-oriented economic paradigm, where development is linked to foreign direct investment and export-based production, while labour flexibility and marginalisation is rewarded. There is a strong case for such an exercise as very often outsourcing has also been associated with poor working conditions, industrial accidents and environmental pollution in export-manufacturing industries present in developing countries that have a poor record of enforcement of national labour and environmental laws. In fact, the very development of the global garment industry is based on the paradigm that the surplus value of the capital of the global north is best extracted by way of relocation and outsourcing of production to developing countries. As explained by Chang in "After the Consumer Movement..."[10]

> "The relocation of capital enables individual capitalists to enjoy: firstly, non-regulated and non-unionised labour in capital importing countries (absolute surplus value for the capital investing in developing countries); and secondly, a release from the pressure of real wage increases for collective national capital in the capital-exporting countries since a growing number of workers can consume cheaper imported goods (relative surplus value for collective capital in capital-exporting countries). However, to exploit better conditions of production, it is not even necessary for individual capitalists to physically move to other places. They can outsource production to productive capitals located where favourable business conditions are found. By outsourcing production, capitalists can shift the whole cost of production to other productive capitalists. "

The export-led outsourcing economic structure has given way to what international social and environmental organisations call "race-to-the-bottom".[11] This includes violation of labour rights, unsafe working conditions, poor wages, environmental degradation, and undermining of fundamental human and citizens rights in favour of an investment and revenue seeking order, the benefits of which are not shared with the labour engaged in the production. It would be useful to look at Pakistan's textile supply chain, an integral part of its exports, from this perspective to develop a better understanding of the associated cost to engagement in the sector. Most importantly, this may help inform the efforts being undertaken in the backdrop of the Ali Enterprises fire and point towards the possible direction that labour rights advocates and supporters of improved working conditions for export-oriented industries, may want to undertake.

Cotton Value Chain

Pakistan's engagement in the global supply chain is linked to its export-based economy that has cotton value chain and textile as an integral part of the system. The textile industry of Pakistan is the eighth biggest industry to export textile products in the Asia region. It contributes 9.5 per cent to Pakistan's GDP, accounts for 60 per cent of the exports and provides employment to more than 15 million people from a total workforce of 60 million in the country.[12] Pakistan exports garments to USA, Germany, UK, Spain, France, Italy and Netherlands.[13] Leading buyers sourcing textile products from Pakistan include: Levis, Tommy Hilfiger, Nike, Gap, Chaps, Russell & Ralph Lauren, Van Heusen, Calvin Klein, Eddie Bauer, New Caro, Diesel, Dexter, and Montebello among others.[14] Textile exports also include knitwear, towels, bedwear, and synthetic fibre.

At the lower end of the textile supply chain is cotton. Pakistan is the fourth largest producer of cotton and second largest exporter of cotton yarn in the world.[15] At the same time, Pakistan is a heavy consumer of cotton, ranking as 6th leading cotton importing country in 2013.[16] Being a major export item, the demand for cotton by textile mills is not fulfilled by the availability of the local production. Cotton (based products) contributes more than 60 per cent to the total foreign exchange earnings of the country.[17]

Pakistan's engagement with cotton as a major crop for exports, in raw form or in finished form of textile products, comes with three kinds of costs: (i) exploitation of labour; (ii) environmental degradation; (iii) stretch on water resources.

Exploitation of Labour

There are 1.3 million cotton farmers in the cotton belt of Punjab and Sindh.[18] The cotton growing community comprises farmers, primarily males, and cotton pickers, predominantly females.

The nature of employment of agriculture workers in cotton cultivation is contract-based. Unskilled labour is mostly employed for the application of fertilisers, sowing, soil-softening, and irrigation. Sometimes a regular waged labourer is used to supervise casual and seasonal labourers employed on the farm for harvesting.

The average wage of the agriculture workers is Rs 6,221, much below the minimum wage of Rs 11,000. Women workers are grossly underpaid at Rs 3,863, while male workers receive Rs 7,873.[19] Women engaged in cotton picking, on average, are paid at the rate of Rs 150 per 40 kg. Gazdar et al, in a study on women's work and care, observe that a woman's income during the cotton picking season depends on the amount of cotton she can manage to pick, which may range from 20 kg to 60 kg a day (sometimes even 80 kg).[20] This leads to the possibility of women earning as much as 15,000 to 25,000 rupees (US$ 150 to US$250) in the season.[21]

Majority of the cotton farms are smaller in size. A World Bank Study suggests small scale farmers with landholdings from 2 to 10 hectares, represent around 94 per cent of all cotton farms. They use traditional, non-mechanised farming techniques, inadequate spraying, fertiliser and seed treatment, and pest management.

Apart from low wages, that do not even add up to the officially announced minimum wage, the agriculture workers in Pakistan, and likewise those associated with the cotton sector, face multiple levels of exploitation. The presence of child labour, inadequate compensation for work beyond capacity and exposure to pesticides and lack of unionisation are key issues here. Research undertaken in the late 1990s by the Punjab Province government's Centre for Improvement of Working Conditions and Environment (CIWCE) pointed out that participation of children (girls) in cotton harvesting is commonplace in the cotton-growing regions of Punjab (e.g. Lodhran). In some instances rural schools close during the cotton harvesting season. Bonded labour, another form of labour exploitation, is significantly present in Sindh and southern Punjab, in the agriculture sector as well as brick kiln sector. There is no evidence of cotton farms linked to bonded labour, but the possibility cannot be ignored owing to the poor documentation of agriculture labour practices.

Apart from excessive pesticide use that has shown to expose women to health effects during cotton picking, women's nutrition is majorly compromised due to their engagement in the cotton field that requires arduous work and extensive hours (on average 10-12 hours).[22] Due to socio-cultural norms, women in the cotton field have no relief from domestic, care-giving and reproduction responsibilities which further add to their burden. Women's employment at the bottom of the cotton value chain also indicates their minimal access to resources such as land, credit and technology. Agriculture workers are denied formal unionisation as they are not defined as "workers" in official terminology. A recent effort to organise the agriculture labour by the Sindh Community Foundation in the Matiari District of Sindh met with decent success as the women cotton pickers, engaged in collective bargaining, successfully pressurised the landlord to raise their wages to almost double the existing level.[23]

Pesticide Use

Use of pesticides in Pakistan has risen drastically due to earlier experiences of crop destruction. Studies suggest that in the decades of 1990s and 2000s, pesticides use increased by 70 times while cotton production went up twofolds only. Most of the pesticides used are in the WHO hazardous categories I and II.[24] There can be no disagreement with the observation that the socio-economic and climatic conditions of the South Asia region make the standard protective measures and equipment for safe handling and spraying of pesticides unsuitable.[25] Azeem et al (2002) estimated that health and environmental cost of pesticide use in nine districts of cotton belt in the Punjab province are extremely high. About 1.08 million persons were subjected to pesticide-associated sickness. Over 24,000 persons were hospitalised because of serious illnesses and about 271 fatalities (related to pesticides use) in these districts were reported.[26] Another study by the PJBS in Khairpur, Sindh concluded that it is very likely that pesticides affected the hormone levels of cotton-pickers in the region.

Stretch on Water Resource

The excessive use of pesticides comes with adverse environmental impacts that have not even been measured in a comprehensive manner. Studies conducted at the HEJ Research Institute of Chemistry, Karachi, show that the groundwater around Malir, Karachi, is host of several pesticides and residual compounds. In Sahiwal, soil around the pesticide warehouse is contaminated with pesticides. According to a USDA report, about 70 tons of various pesticides were wasted through leakage and container deterioration.[27]

Another cost of cotton comes in the form of excessive water usage. Being one of the thirstiest crops in the world, cotton requires 198 cubic gigametres (gm^3) of water just for production. Even more is required for processing it. Pakistan is a severely water deficit country with per capita water standing at less than 1,500 cubic meters m^3 per capita today, down from 5,000 cubic meters (m^3) per capita in the early 1950s. Cotton is grown on almost a third of the total cropped area during the *kharif* (summer) season.[28] It uses around 51,427m^3 of water a year.[29] For a water deficit country, this waste entails acute water insecurity for the future. This cost is not even factored into the water billing system as in Pakistan, water charges apply according to the type of crop but do not have a systematic relationship with variations in the quantity of water consumed by different crops. It has been estimated that the average social price of irrigation water is approximately double the current market value of water from tube-wells.[30]

Textile Sector Workers and the MNCs

A 2009 PILER study of five factories in Karachi producing garments for global retailers (Wal-Mart, C&A, Disney, Karstadt Quelle, and la Blanche Porte) indicated that 95 per cent of workers were not given appointment letters; 100 per cent workers were working on contract basis; the units did not allow unionisation; and most importantly, workers had no knowledge of the companies' codes of conduct. In a study of textile units producing for GAP and Levi Strauss in Lahore, Faisalabad, Sialkot, and Islamabad, workers were forced to work overtime with inadequate wages; 95 per cent had no appointment letters; and 80 per cent of the production units were not provide health and safety equipment. At Ali Enterprises, a PILER Survey revealed that 87 per cent were contract workers with no registration with the EOBI and SESSI. There was no trade union. The average age of the workers was 30 years. Average daily work time was 11 hours; and the monthly wages, including overtime, stood at Rs. 11,000. Only 15.2 per cent workers knew that KiK Textilian was a buyer. An earlier PILER Survey of a Nike Football vendor (in 2007) revealed that 84% worked on piece-rate, none had contract letter and 84 per cent were paid less than the National Minimum Wage.

Weak bargaining power is just one aspect of workers engagement with the factories producing for global supply chain. Workers work in the most hazardous conditions in textile factories with chemicals used in the production process carrying exposure to serious health and environmental issues. Studies note frequent risks to textile workers due to exposure to noise, cotton dust, chemicals, lack of fire safety mechanisms, and absence of safety awareness among workers.

Health Hazards in the Textile

In Pakistan, the textile sector is concentrated in large cities such as Lahore, Faisalabad, Karachi, and Sialkot. Much of the growth in the textile units in these cities has come about without any accompanied planning for waste treatment plants, disposing of untreated toxic waste into nearby drains, irrigation canals or rivers.[31] Together the textile units in these cities contribute 70 per cent of the total pollution loads of water bodies. As reported in a Sustainable Development Policy Institute (SDPI) study for textile industry of Faisalabad, the textile capital of Pakistan, almost 74,000 people in the city are affected by Hepatitis B annually and approximately 524,000 population suffers from HCV Hepatitis C, due to the impact of the pollution (Pakistan Medical Research Council). In another Japan International Co-operation Agency (JICA) along with Pakistan Environmental Protection Agency (Pak-EPA) report, cited in the study, 67 per cent of collected samples of drinking water were observed to be inappropriate for human usage.

The Wages

Pakistan has one of the lowest minimum wages in the world, just recently raised to Rs 12,000 (US$109 Dec 2014). But this is hardly implemented due to lack of political will and poor state machinery to implement laws and regulations. Pakistan's wages are at a lower end compared to India at US$138 but higher than Bangladesh at US$68.

The wage discrimination between men and women in Pakistan's manufacturing sector stands stark. Women earn average monthly wages of Rs 4,958 compared to men who receive Rs 11,734 in the manufacturing sector.[32] As calculated by Wage Indicator, in the province of Sindh, the wages prevalent in the following sectors at various hierarchical and skill levels are as under:[33]

- Spinning: Rs 7,000 to Rs 9,333
- Weaving: Rs 7,350 - Rs 9,333
- Processing and Dyeing: Rs 7,350 to Rs 9,333
- Finishing: Rs 7,000 - Rs 9,166

Looking at the wages, one can imagine the level of exploitation of children employed in the textile industry. Children are generally attached to the ring sheds of spinning mills as doffers, in the weaving sheds as battery filters, and in the machinery maintenance departments as fitter helpers. These children are generally the relatives of jobbers, shift supervisors, foremen etc. and work to supplement family income.[34]

Currently, merely one per cent of the total labour force of 60 million is organised in the entire country. The textile sector has a limited number of plant level unions. These unions exercise very limited power. The basic procedures such as registration, right to strike, and collective bargaining have been made very cumbersome to restrict trade unions from effectively functioning and representing their constituency. The system of tripartite consultation has also been informally done away with. On the membership level, workers refrain from joining unions fearing the wrath of the employer.[35] Unions are also seen as gender insensitive by female members who do not have confidence in their ability to resolve their issues due to successive bad experiences.[36]

Workers' marginalisation is further strengthened by contractual or third party hiring. The Standing Order, the basic law applicable to the industrial employment, does not cover contract workers, hence no labour rights are extended to contractual workers. In 2010, Labour Qaumi Movement, an organisation of power loom workers in Faisalabad, Jhang, and other districts of Punjab, launched a struggle against the power loom owners' reluctance to implement the 17 per cent rise in the minimum wages announced by the government. The workers, over 100,000 in number, pursued a street protest for three weeks shutting down the industry.[37] Rather than supporting the cause, the state authorities arrested six leaders of the LQM who were accused of "terrorism" by the employers. These leaders were handed over a punishment of 490 years in jail for terrorism offences, despite the lack of any legitimate evidence to justify their arrest and sentencing.[38]

Gender Differential

In poorly regulated countries like Pakistan, subcontracting of work is a natural outcome of a production arrangement where suppliers are forced to offer competitive prices to the buyers, leading to downward adjustment in the cost of production. In the textile sector, women usually lead the subcontracting work. In a detailed study on subcontracted work focusing on garments, carpets and plastic sectors by Dr Saba Gul Khattak and Dr Asad Sayeed, it was observed that subcontracted women workers have extremely long working hours matched by equally low rates of remuneration. "These women are without any cover of labour legislation so that they are easily incorporated into exploitative low paid jobs."[39]

Another study focusing on textile workers in Karachi observe that female workers in the textile sector belong to lower socio-income group. Their education level is mostly up till the secondary level. This low skills gap is primarily the reason why they remain restricted to certain sectors of the textile production chain (also observed by Karin Astrid Siegmann). The female workers are mostly hired as temporary employees and do not enjoy pension, gratuity, maternity leave, day-care, insurance and medical. This is also a reason behind the high turn-over rate irrespective of gender in this particular industry.[40]

Conclusion

The system of exploitation and violation of labour rights does not come from poor system of state regulation alone. It is embedded in the very structure of export led development which requires informalisation of labour, nonregulation, and low cost of production to sustain a global order riddled with glaring inequalities. A US$14 shirt carries only US$ 0.12 for labour and US$ 0.58 as factory margin. As a form of corporate social responsibility, the supply chain order now supports adherence to code of conduct — carrying a set of provisions for labour right and protection, and in some cases environmental safeguards — which are verified by off shore social auditors. The extreme limitation of this practice is evident in the Ali Enterprises Case where the Italian auditing firm RINA — that further outsourced the task to a local auditing firm — issued SA8000 certificate while ignoring the shortcomings in workplace safety at Ali Enterprises. Academics also observe that this practice adds to the marginalisation of workers.

> "The proliferation of social auditing and codes of conduct as a tool for monitoring offshore workplaces captures international and national labour standards as private "rules" whose ownership lies with (commercial) capitalists aiming largely to minimise business risks and thus costs of production. Control over the workplace was further displaced from workers and trade unions in developing countries. A new business called social auditing was created. Not only is there a technical problem in terms of flawed auditing methodology especially

> on labour relations and freedom of association (O'Rourke, 2000), there is a problem of capitalists "monitoring" capitalists.."[42]

Looking at the condition of workers attached to Pakistan's most significant export industry of textiles, a serious rethink of the struggles and campaigns directed at labour rights is suggested. The efforts need to target the structural deficits embedded in export-led system and may aim for raising the status of workers as empowered stakeholders. In the absence of strong trade unions, a weak state that is politically noncommittal to workers and citizens rights, and a dominant global consumer culture that relies on exploitation of workers in developing countries to subsidise citizens in the developed countries, the struggle for workers rights currently stands at its most challenging stage. The quest for a better tomorrow may not lie in reinventing the wheels. ■

Notes

1. As mentioned in report "Fatal Fashion" by CCC and SOMO, in October 2012, labour organisations including PILER calculated that for fair and just compensation based on international standards and good practice, at least 20 million Euro will be needed, covering damages as well as loss of income, for the families of all deceased. These calculations were based on 50 per cent of a wage that minimally provides for a basic income for a family, or Rs 20,000 per month for 35 years, and a lump sum of Rs. 3.3 million for pain and suffering. If inflation correction would be taken into account, the total amount of compensation would be three times higher.
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9. Mayer and Pickles, 201, cited in Peter Lund-Thomsen; Neil M. Coe, "Corporate Social Responsibility and Labour Agency: The Case of Nike in Pakistan", Journal of Economic Geography, Vol. 15, No. 2, 2015, p. 275-296
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13. For details of quantity and country wise export of ready-made garments see

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17. Productivity potential of main crops in Pakistan in http://valuechainmagazine.com/?p=10418
18. Kooistra et all, 2006 cited in Literature Review and Research Evaluation relating to Social Impacts of Global Cotton Production for ICAC Expert Panel on Social, Environmental and Economic Performance of Cotton (SEEP); additional info: Punjab contributes 79.40 percent area to cotton while in Sindh 20.60 percent area is under cotton production
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20. "Only Rs150 for picking 40 kg cotton in Sindh: Speakers stress 500,000 women's role in agriculture" at http://customstoday.com.pk/only-rs150-for-picking-40-kg-cotton-in-sindh-speakers-stress-500000-womens-role-in-agriculture/
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