



LABOUR RIGHTS



POLICY BRIEF:

Pakistan's Compliance with ILO Labour Rights Conventions

Assessing Pakistan's Compliance with Labor Conventions

Executive Summary

Pakistan's labour force is large and growing, with an estimated 70 million workers. The labour laws in Pakistan provide protections for workers and include, among others, minimum wage laws, health and safety regulations, and the right to form unions. However, enforcement of these laws can be weak in some parts of the country, particularly in the informal sector.

Pakistan's compliance with international labour conventions has witnessed significant progress with a number of laws and institutions set up at federal, provincial and district levels. Over the years, especially after the 18th Amendment to the constitution, provinces have taken up the mantle of labour legislation and administration. Dispute resolution forums, minimum age restrictions, right to form unions, labour inspection systems and district vigilance committees have been established to deal with labour-related issues.

However, as noted above, despite significant strides towards labour empowerment, there exist some gaps that require attention. Effective implementation of laws also requires technical capacities at relevant institutions which in the case of some provinces may be missing.

Going forward, this brief suggests:

- Structured and regular dialogue between stakeholders
- Holistic instead of selective implementation of laws
- Effective legislation for informal sector labour
- Improving gender lens in labour laws and policies
- Coherence of labour market laws and policies at national and sub-national levels
- Awareness raising regarding remedial measures for labour markets, including building capacities at institutions responsible for enforcement.

Introduction

Pakistan has a diverse and multi-layered legal framework for labour that contains various acts and institutions at the federal and provincial levels (RIAA Barker Gillette 2016). The Constitution of 1973 provides fundamental rights to every citizen, and these also speak specifically about the rights of labourers/workers. Article 11 prohibits slavery and forced and child labour; Article 17 grants freedom of association and the right to form unions; Article 18 permits the practice of lawful profession or occupation and to conduct any lawful trade or business; Article 25 grants equality before the law and prohibition of discrimination on the grounds of sex alone and Article 37 stipulates just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment.

With the motivation for wellbeing of labour being provided in the Constitution, other laws have been promulgated at federal and provincial levels. Pakistan has also ratified 36 labour conventions of the International Labor Organisation (ILO) with eight of its core conventions.

Sr.#	Category	Conventions
1	The right to organise and engage in collective bargaining	Convention 87: Freedom of Association and Protection of the Right to Organise (1948) Convention 98: Right to Organise and Collective Bargaining (1949)
2	The right to equality at work	Convention 100: Equal Remuneration Convention (1951) Convention 111: Discrimination (Employment and Occupation) Convention (1958)
3	The abolition of child labour	Convention 138: Minimum Age Convention (1973) Convention 182: on the Worst Forms of Child Labour (1999)
4	The abolition of forced labour	Convention 29: Forced Labour Convention (1930) Convention 105: on the Abolition of Forced Labour (1957)

Figure 1: The Eight Core Conventions of (ILO)

In 2014, the European Union (EU) incorporated Pakistan into the Generalised System of Preference Plus (GSP +) scheme. To meet the obligations in sustaining the scheme, Pakistan had to implement 27 international conventions including ILO's 8 Fundamental Labour Conventions (Pakistan Worker Confederation 2017). Post-18th Amendment, the Federal Ministry of Labour and Manpower was dissolved, and labour-related issues became a provincial remit. Since then, provinces have taken some time to initiate their own legislative efforts and put in place capacities to enforce these laws (Danish Trade Union Development Agency 2022). Over the

years, all provinces have completed the process of providing legal regulation to their labour markets. The issue now is not the absence of laws but weak technical capacity, which often results in selective or delayed implementation of policies relevant to labour welfare. This situation, unless addressed, would continue to prevent a wholesome compliance of labour conventions in Pakistan.

Analysis

What has Pakistan achieved so far?

The 18th Constitutional Amendment devolved the subject of labour to provinces to develop their labour laws and industrial relations. Post devolution, only a few federal institutions remained, such as Employees Old-age Benefits Institution and National Industrial Relations Commission.

Today, Federal and Provincial Industrial Relations Acts provide basic provisions of industrial dispute settlement, collective bargaining, and regulating relations between employers and workers. This legal framework also provides the basis for workers to resort to the judicial system. To address grievances and industrial disputes, Pakistan has developed a comprehensive four-tiered labour judiciary system: Authority under the Payment of Wages Act and Workers Compensation Commissioners, Labour Courts, Labour Appellate Tribunals, and National Industrial Relations Commission.

One of the major challenges pertained to 3.3 million children across the country who were employed in child labour (UNICEF 2022). To abolish this practice, Pakistan has ratified 2 ILO conventions C138 and C182. The province of Sindh also enacted Sindh Home-Based Workers Act in 2018 with Punjab following with Domestic Workers Act in 2019 to discourage child labour.

Pakistan has also made strides towards addressing the issue of bonded labour by ratifying ILO's Abolition of Forced Labor Convention (C105) and enacted the National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of freed Bonded Labourers (2001) and Labour Policy of 2002. Both the policies concur that the minimum age for hazardous work must be raised to 18. All four provinces now have Bonded Labour System Abolition Acts in place.

In line with conventions on Labour Inspection and Tripartite Consultations¹ Pakistan has formulated and put in place labour inspection at the provincial level. The labour inspectorate falls under the provincial labour departments and are tasked with implementation of labour laws and have the jurisdiction to initiate any necessary enforcement action. Post 2014, a major thrust was initiated to reform the Labour Administration system. At the heart of the push was to have provincial- and federal-level tripartite consultative committees (including representatives from government, employers, and workers).

For implementing laws and on-ground labour administration, the national Bonded Labour System (Abolition) Act, 1992 set up District Vigilance Committees (DVCs) at the district levels. The committees are staffed with representatives from the district administration, media, lawyers, social services, and Labour Departments.

There are positive improvements to rectify the gender gap in economic activities. For instance, Factories Law and the Shops and Commercial Establishment Law in Sindh was amended in 2021 to provide ease for women to engage in economic activities. The amendments allowed women to work in night shifts and tasked employers to provide transport for female workers who work beyond 7pm (US Department of State 2021).

Some gaps and work-in-progress

Members for the court and tribunal under Industrial Relations Acts have representatives along tripartite consultations spirit (including representatives of government, employers, and workers). However, the inclusive spirit has been done away with in favour of judges appointed by the Provincial governments to adjudicate and settle disputes. The tripartite dispute settlement system has been abandoned, and some cases could face long delays and increased expenses.

These laws now also bar state administrators, workers in the public sector at large and Export Processing Zones (EPZ) from collective bargaining and striking. Following the federal lead, provinces have also barred these workers from striking and collective bargaining. Labour laws recognise the role of trade unions, but when it

¹Dialogue and cooperation between governments, employers, and workers - in the formulation of standards and policies dealing with labour matters nationally and sub-nationally.

comes to implementation, multiple restrictions exist including on electing representatives and conducting administrative affairs of the union. The blanket right of authorities to cancel registration of unions is also a problem area (Survey of Violations of Trade Union Rights 2022).

Moreover, difference on what constitutes “an industry” also limits coverage of the Act as federal Act does not consider agriculture and education (for Punjab and Khyber Pakhtunkhwa) as industry and hence cannot be covered in the Act. Agriculture sector workers and firms with less than 10 workers or domestic workers are not covered in national labour laws and hence are denied any access to labour courts or any grievance redressal mechanism. Such workers and labourers are especially prone to exploitation when it comes to working conditions, wages and working hours.

All four provinces have Bonded Labour System Abolition Acts in place. However, implementation remains a challenge. For instance, in the province of Balochistan children above 14 years of age can engage in hazardous work (Bureau of International Labor Affairs 2021), something which the Act forbids. It is estimated that around two million persons were engaged in bonded labour mainly in the agricultural sector and in the brick, coal, and carpet industries (US Department of State 2021).

Tripartite committees at the federal and provincial levels have been set up for labour administration but either remain ineffective or do not convene at all (The Express Tribune 2022). Moreover, the Labour Inspection system continues to face challenges of inaction, corruption, and a very low human resource availability in comparison to the number of firms to be inspected (Danish Trade Union Development Agency 2022).

When it comes to persons with disabilities, federal and provincial laws allow for a 2 percent quota. However, despite ratifying the UN Convention on Rights of Persons with Disabilities and related laws, the Supreme Court of Pakistan had to pass two rulings in 2020 to exhort governments to fulfil the 2 percent quota clauses for people with disabilities (Ali 2022).

Recommendations

This brief makes the following recommendations for effective compliance with international labour conventions.

- Tripartite consultations/negotiations remain a bridge too far. The Labour ministries/departments must respect and initiate tripartite consultations that have been redundant for many years and take the lead in creating space for dialogue among stakeholders. The federal government will need to think beyond just reporting progress to international bodies. Its role in effective coordination of labour market policies across all federating units needs to be realised.
- Restrictions on type of strike action, minimum threshold of the number of employees to bargain collectively and employers’ right to unilateral action must be addressed as a starting point to comply with freedom of association and organised and collective bargaining.
- Political parties speak of labour rights in their manifestos, but once they are in power, labour welfare takes a back seat. Labour Inspectorates and District Vigilance Committees are the most effective forums for labour inspection and administration. A serious capacity and financial deficit hamper any progress. Political leadership will need to prioritise labour rights to fulfil promises made in party manifestos.
- Multiple laws at the federal and provincial levels are not in sync and often diverge and have conflicting clauses. A thorough and detailed analysis of existing laws is mandatory to have seamless coordination between federal and provincial laws.
- Awareness campaigns for sensitising general labour against child and bonded and domestic labour is imperative. Even workers are not aware of their rights and incentives. This is particularly true for the informal segment of the labour market.

- Labour courts at the provincial levels face personnel issues and cases at times outlive litigants. There must be a time limit within which disputes and cases are adjudicated and settled.
- The informal economy continues to remain outside the ambit of labour laws. There is a need to develop laws that support and protect workers in the informal economy. Labour courts also need to be empowered so that they can extend their reach to informal segments of the economy.
- Development partners, think tanks, and academia need to facilitate dialogue between the Government, employers and workers representatives, especially in sectors where this dialogue is stalled. A neutral convening platform can help kickstart such a process.

Conclusion

Pakistan's labour laws have witnessed significant improvements and catered to a broad range of issues. After the 18th Amendment the Federal government is responsible for coordinating with Provincial labour departments to report progress on international labour conventions. Several pro-labour measures including District Vigilance Committees have been set up and strengthened by provincial labour policies. However, some gaps still prevent holistic compliance of international conventions. These have been identified in this brief. Going forward, Provincial governments have their own implementation plans for labour market laws and policies and in some cases technical assistance may be required to bridge capacity gaps.

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