

Executive Summary

GSP Plus and Labour Standards in Pakistan

The Chasm between Conditions and Compliance

A Report by:
Pakistan Workers Confederation



Islamabad
October 2017

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Four years into the European Union's ten-year GSP Plus Award to Pakistan and it is with great concern that relevant stakeholders are weighing the fulfilment of undertakings that accompany the Award. Those undertakings consist of the effective implementation of 27 International Conventions, including ILO's eight Fundamental Labour Conventions.

The Pakistan Workers Confederation (PWC) issued its first two-yearly report in December 2015 registering its views about compliance assessment of labour standards in Pakistan¹. Out of 27 core conventions conditioned in GSP Plus, the 2015 report confined itself to the eight ILO conventions. The report highlighted serious compliance deficiencies in the legal framework and a state of near non-implementation. To remove gaps in the implementation of labour standards the report proposed a way forward, delineating the role and responsibilities of the state authorities.

Continuing its monitoring of compliance with the relevant conditionalities, PWC issued an interim report for the year 2016², which provided some of the base material for this pre-released Executive Summary of the forthcoming PWC's 2017 report, due by January 2018.

The 2017 report is being worked around an assessment framework comprising three sequential phases that follow the ratification of labour standards instruments. These include: (a) establishing, reforming and

developing a *legal framework and policies*; (b) building and strengthening *institutional structures and capacities*; and (c) delivering on the *implementation* of legally sanctioned entitlements. Each phase, understandably, takes its own specific duration and dynamics to accomplish desired goals.

It is with such a framework in mind that we are attempting to assess the actual progress of the EU-Pakistan ten-year GSP+ programme.

Step Forward - Step Back: An Unending Journey of Labour Legislations

Pakistan has been member of the ILO since the country was established in 1947. It has ratified 36 ILO Conventions, of which 32 are in force. Five out of the eight Fundamental Conventions have been in force for fifty or more than sixty years while the other 3 were adopted during 2001 and 2006³. Pakistan has also adopted two ILO Governance Conventions on Labour Inspection (C.81) and Tripartite Consultations (C.144) in 1953 and 1994 respectively. Ratification of ILO Conventions stipulates that government enacts laws, adopts social policies and establishes institutional mechanism and practices in harmony with the ratified Conventions. Pakistan's Constitution guarantees the protection of fundamental human and labour rights of workers. These are also the goals of European Union's GSP

1 Pakistan Workers Confederation Report on European Union GSP Plus and Challenge of Labour Standards Compliance in Pakistan, December 2015, published in English and Urdu

2 Pakistan Workers Confederation Interim Report 2016 on GSP Plus and Labour Standards in Pakistan, April 2017, published in Urdu and English

3 Pakistan signed C87 'Freedom of Association and Right to Organise' in 1951; C89 'Right to Organise and Collective Bargaining Convention' in 1952; C29 'Forced Labour Convention' in 1957, C105 'Abolition of Forced Labour Convention' in 1960; C111 'Discrimination (Employment and Occupation) Convention' in 1961; C182 'Worst Forms of Child Labour Convention' in 2001, C100 'Equal Remuneration Convention' in 2001; and most recently C138 'Minimum Age Convention' in 2006.

Plus scheme which, in addition, provides trade incentives to foster implementation of the ratified conventions. We are of the view that after long periods of ratification along with four years of GSP Plus complementarities, it is reasonable to expect that Pakistan should by now be poised for 'effective implementation'.

Exclusion and Restrictions of Rights of Association and Collective Bargaining⁴:

The 18th Constitutional Amendment of 2010 devolved the subject of labour from federal to provincial jurisdictions. Consequently, the Federal and all four provincial governments enacted their respective Industrial Relations Acts (IRAs) during 2010-2013⁵. It is indeed regrettable to retell the same story that all provincial IRAs, like their predecessor federal law before the devolution, continue to exclude, explicitly and implicitly, several important sectors of employment from the right to freedom of association⁶. In their present formulations, IRAs and other important labour laws are not applicable to the informal sectors of the economy including home-based workers and domestic workers⁷. Agriculture is the largest employer. But only in Sindh province, workers of the agriculture and fishery sector have the right to form trade unions and to collective bargaining⁸. All IRAs impose conditions of a minimum of twenty percent membership of total employed workers in a firm for the registration of a third union⁹. Employers continue to misuse this conditionality and, in

connivance with labour departments, get secretly registered two fake unions ('pocket unions') in their establishments, thus effectively thwarting the registration of a representative workers' union in their firm. Using ambiguities in definitions of workers' and employers' categories, the employers artificially promote workers to managerial status, usually without the concomitant salary increase, so that they no longer qualify for union membership. These legal exclusions, inconsistencies and ambiguities are the same or very much similar across all provincial and federal IRAs.

The Essential Services Maintenance Act can be invoked to limit or abolish various workers' rights including the banning of strikes by the union. In February 2016, it was used in Pakistan International Airlines against protesting workers.

The Banking Companies Ordinance has severely decimated unions' strength in the sector to exercise collective bargaining when a section No 27-B was included in the law in 1997. The government has not been able to retract the infamous section despite committing to do so with ILO in 2010.

There are eight Export Processing Zones with 300 units employing 40,000 workers of which 70 percent are women. EPZs are managed by Export Processing Zone Authority (EPZA), a federal government autonomous body¹⁰. Under the provisions

4 Most of the cases discussed here are raised in ILO CEACR Observations - adopted 2016, published 106th ILC session (2017).

5 Industrial relations acts regulate formation of trade unions, collective bargaining, formation of federations and confederations of unions, work place relations and disputes between employers & workers, including rights of strike and lockouts. In addition to four provincial IRAs, there is also a federal IRA which covers trans-provincial cases as well as federal territories.

6 These sectors are: Police, defense services, Ordnance Factory, state administration, security staff of airlines, Pakistan Security Printing Corporation and Security Papers Limited, public health and education sectors, security and fire services staff of oil refineries and airports; gas and petroleum production, logistics and security.

7 Of non-agriculture workforce (which is about 57% of total workforce of about 61 million in 2014-15), nearly three out of four workers are employed in informal sectors of economy.

8 Sindh IRA was promulgated in 2013, though rules and regulations are yet to be framed.

9 This condition in the laws is primarily aimed to discourage multiplicity of unions at plant levels.

10 Annual Reports of Federal Ministry of Industries and Production, 2013-15. Regional locations of EPZs are: Karachi, Tuwariqi (Sindh), Dadar, Gawadar, Saindak (Balochistan), Gujranwala, Sialkot (Punjab), Risalpur (Khyber Pakhtunkhwa).

of EPZA laws, the IRAs are not applicable in these zones. Thus, the formation of labour unions, collective bargaining and strikes are forbidden by the EPZ law¹¹. The EPZA itself administers working conditions including its wage setting which is considerably lower than the statutory minimum wage. The government in the past communicated its commitment to ILO for amending the law to ensure compliance with the rights of association and collective bargaining. This has not happened yet, though it was expected that GSP Plus will stimulate such a change.

The union registration of a trans-provincial establishments falls in the jurisdictions of the federal IRA. Recently there has been a noticeable surge in the misuse of the federal IRA where employers of a firm located in one province, artificially alter the status of their firms as trans-provincial, merely by opening a made-up branch office in another province. The collective bargaining unions in the firm are, thus, now forced to de-register at the provincial labour department and approach for registration with National Industrial Relations Commission (NIRC), which is a union registration body under the federal IRA. It is also seen that employers are getting registered two fake unions at NIRC by using the forged trans-provincial locations of their businesses, thus effectively blockading the possibilities for the formation of representative unions in their firms.

The IRA in Balochistan introduced a concept of compulsory arbitration which violates workers' right to strike, thus askew with the

relevant Convention.

In provincial legislations, minimum age for employment continues to be accepted as 14 years, except Punjab where it is 15 years. Thus, the laws, that are meant for the prevention of child labour, continue to ignore and contradict the Constitutional provision, which guarantees that children up to 16 years of age must be in schools for compulsory education provided by the state¹².

The provincial legislations and regulations have not moved forward to enshrine the principle of equal remunerations for men and women workers for work of equal value. The principle of gender equality in the labour market is crucially linked to enhance women's participation in the labour force and opportunities for decent work. Pakistan is among those countries who suffer from extreme gender wage inequalities. Male-female wage difference in Pakistan's garment sector is the highest in Asia¹³.

The Sindh province has enacted the Sindh Bonded Labour System (Abolition) Act in 2016. Punjab and Khyber Pakhtunkhwa have passed similar laws, while Balochistan is yet to follow suit. The law in Punjab has given legal cover to the infamous *peshgi* (loan against future wages) which is essentially the foundation of bonded labour system. This tantamounts to rolling back the progress made in past many year¹⁴. Given the record of the country to abolish and prevent forced labour¹⁵, the human and labour rights organisations advocate workers and peasants

11 The other labour laws which are not applicable are: Workmen Compensation Act, Factories Act, Payment of Wages Act 1936, Minimum Wages Ordinance, Provincial Employees Social Security Ordinance, West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, West Pakistan Shops and Establishments Ordinance, Employees Old Age Benefit Act.

12 Article 25-A of the Constitution included under the 18th Constitutional Amendments.

13 ILO: Asia-Pacific Garment and Footwear Sector Research Note Issue 4, April 2016, http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_467449.pdf

14 The Supreme Court in , in its landmark judgement of 1989, had said that the "peshgi system in future is to be discontinued". However, it made an exception "in proper cases" and said that "if a valid agreement on this point is reached between a labourer and a brick-kiln owner, the latter shall give to the former an advance loan, which shall not be in any case more than seven days wages". Parliament went a step further in 1992 when it banned peshgi altogether vide Section 4 (2) of the Bonded Labour System (Abolition) Act.

15 Pakistan ranks 6th on the 2016 Global Slavery Index, with more than two million living in modern slavery conditions.

to form organisations to pressurise for effective implementation of anti-bonded labour laws in letter and spirit.

These restricted legal freedoms of workers are further exacerbated by perpetuating force and fear for maintaining gross violation of labour laws:

- Workers continue to face opposition and resistance from employers in formation and registration of their unions. In collusion with authorities and labour departments, employers resort to intimidation and physical violence, dismissals and blacklisting of unions officials. If an employer is opposed to the formation of a union, the procedures for union registration and the legal appeal process can take painful delays of many years. At the time of recruitment, workers are forced to sign on blank papers which then are forged to use as their resignation documents if they attempt to form union¹⁶.
- In both formal and informal sectors and in government and mostly in private sectors, many employers do not issue legally required employment contracts to the majority of skilled and unskilled workers, without which workers cannot join a union or get any employment protection from labour laws. By avoiding issuing employment contract, the employers also manage to evade registration of workers in social security, Employees Old-Age Benefit Institutions, Workers Welfare entitlements and insurance schemes for injury or death compensations.

- Contrary to the laws, often factories and establishments divide their workforce engaged in jobs of permanent nature in different employment status. They treat the majority of workers through casual employment status (such as daily wagers, hiring the workers or subletting the work through contractors, piece-rate workers)¹⁷. Such practices are common even in factories where a representative union exists. Thus, majority or a large part of the workforce of the same factory are denied fundamental rights of unionisation and collective bargaining. This is also devised to keep the union's membership weak.
- There has been no noticeable attempt by the government to demonstrate political will to ensure the implementation of available legal protection to workers for the formation of unions, or the facilitation of unions' registration. The cumbersome administrative and legal procedures vastly discourage workers to unionise.

Though strikes are rare, workers' protests and marches on busy streets of industrial and commercial cities are recurrent phenomena. Their usual demands include implementation of laws such as regularisation of their temporary employment status for jobs on which they have been working for years, implementation of statutory minimum wages, access to social welfare entitlements, compensation for workplace accidents, etc. Protests occur quite often and are organised by associations of workers in informal small-scale sectors or where unions are not allowed to form. They are often threatened

16 Chamber of Commerce and Industry in the province of Khyber Pakhtunkhwa got united to thwart the efforts of workers to form labour union in Dynea Chemical Industries in Gadoon industrial zone; In Lahore, all workers and office bearers of Friends Pharma, Munawwar Pharma, BM Pharma, Ruby Dying and Transfo were dismissed from employment after rejection of the application of registration of their unions in labour department; Lahore Chamber of Commerce in a resolution demanded from the Labour Department to seek prior approval of the Chamber before registering a labour union; In Faisalabad, recently workers tried to register in two instances, Kamal Fabrics, Jhang Road and Faisal Fabrics. In both units, unions officials were dismissed, members were harassed at their homes, and face long litigations in courts, while labour departments are helpless in dealing with powerful and politically connected factory owners.

17 Share of wage earning employees is estimated around 38% of total employed labour force, of which only half have regular and fixed wage- earning status.

and broken up by police, and used by employers to justify repression¹⁸. Disabling legislations and repressive practices of several decades have vastly declined unionisation and collective bargaining in Pakistan¹⁹.

Post-Devolution State of Labour Legislation: Since the provincial devolution under the 18th Constitutional Amendments in 2010, the province of Balochistan has only passed one law, the Industrial Relations Act in 2010, while all others are still at drafting stage. During a recent consultation on GSP+ in Quetta, the representative of the provincial labour department announced their intention to soon invite a provincial tripartite meeting to discuss and finalise the rest of outstanding labour laws in the province²⁰.

The governments in Khyber Pakhtunkhwa enacted 11 labour laws through Bills in the provincial legislature, instead of ordinance and, therefore, are better quality of laws. Subjects of child labour and forced labour are combined in one Act in which a labour inspection institution is introduced. Minimum wage law covers factories along with commercial establishments, while the Workers Compensation Act covers all industrial, trade and factories. However, informal sector and agriculture workers, home-based and domestic workers continue to remain outside the ambit of labour laws and social security system.

Punjab has enacted 17 labour laws, 2 of them in 2016 which regulate child labour²¹. Most of these laws are derived from their federal

precursors. The Punjab Prohibition of Child Labour at Brick Kilns Act (September 2016) replaces the ordinance on the subject promulgated earlier in January 2016. While the ordinance held only the occupier (owner) liable to punishment if a child was found working at a brick kiln, the act makes the parent equally liable, which is legally inexplicable as owner of a brick kiln is under no obligation to put a child to labour if his parent so desires²². The Punjab government has also launched a project to remove working children from brick kilns and rehabilitate them in schools. Along with its monitoring survey, the project was started with good momentum, but the designed outcomes of these projects is yet to see the lights of the day. The targets of putting children into schools are now heading towards a major failure due to de-tracking from design and political meddling. Further, these piecemeal efforts cannot completely eradicate child labour without effectively addressing root causes that are unabatedly pushing large number of under-age children into work²³.

Sindh has enacted 10 labour laws since 2013, 2 of them in 2016 dealing with social security and minimum wage. Two provincial laws dealing with workers welfare and old-age benefit are parallel to the federal laws, thus creating mix-up in the management of the social welfare system.

The Sindh cabinet has also approved Occupational Safety and Health Bill (OSH), while Punjab had prepared the draft long

18 Labour Qaumi Movement of Faisalabad mobilise large number of small-scale weaving sector workers for the implementation of yearly announcement of increase in minimum wages. Its leadership reported to have received threats from powerful employers and authorities on regular basis.

19 The privatisation programme of 1990s has considerably weaken the trade union strength in Pakistan. The PWC 2015 report on GSP+ points out the unionisation rate as about 3% of total labour force, and 8% of wage earning employees.

20 A consultation seminar organized by Pakistan Workers Confederation and Friedrich-Ebert-Stiftung in Quetta on 20th September 2017.

21 The Punjab Prohibition of Child Labour at Brick Kilns Ordinance 2016, The Restriction of Employment of Children Ordinance 2016

22 <https://www.dawn.com/news/1282778>

23 Root causes such as deficits of decent work opportunities for adults, lack of enforcement of compulsory education laws, absence of, or inaccessibility to universal social safety nets. etc.

ago. However, the enactment of OSH laws is still awaited in all provinces. Nowhere in the country legislation for home-based and domestic workers has been initialized. Sindh has announced a policy for home-based workers, while Punjab's home-based and domestic workers' policies have been waiting promulgation for many years. Legislative lacunae for other federal territories such as Federally Administered Tribal Areas and Northern Areas complicate the issue of inadequate coverage and scope of labour laws in the country.

Legislation without Tripartite Consultations: ILO Convention 144 lays down tripartite consultations as mandatory with respect to labour legislation and other matter relating to labour governance. Contrary to the principles and practices stipulated by the Convention, provincial labour laws are drafted or enacted unilaterally by the labour departments, without meaningful consultations with stakeholders of workers' and employers' organisations. Consequently, the provincial legislation processes have led to a patchwork of labour laws and regulations²⁴, which suffers from scope of application, non-conformity, shortcomings, heterogeneity across provinces, duplications with the existing federal laws, and have led to varying degrees of complications and uncertainties in implementation⁴.

The ILO, the labour movement including Pakistan Workers Confederation, and the European Commission GSP report 2014-15, have all noted and criticised these legal gaps.

The situation painfully reminds us that even after the time lapse of more than half-a-century of ratification of many Fundamental Conventions, the legislative process is not yet close to achieve the desired targets. The Constitutional devolution of labour subjects to provinces in the year 2010

reinvigorated the labour legislation agenda in the country. As we approach the mid-term of GSP+ Award to Pakistan in 2018, the workers of Pakistan are asking when the legislative journey will end and when the 'effective implementation' of labour standards, promised under GSP+, will finally begin.

Capacity Constraints and Implementation Gaps

The devolution of labour subjects delegated both legislative and administrative responsibilities to the provinces. Labour departments, with their districts directorates and field hierarchies, are the key institution to administer labour governance. The devolution process, however, also exposed the capacity constraints in human, financial and infrastructure resources which hampered the effective take-up of devolved functions. Administration and implementation of labour laws have been in the provincial domain even before devolution. Further, the GSP+ programme since 2014 has added extra tasks to perform and deliver, which require political will and the preparedness of national and provincial governments.

It is the responsibility of the provincial labour departments to ensure the implementation of labour laws to maintain smooth production processes and harmonious industrial relations. Labour administration and inspection cover not only labour legislation pertaining to occupational health and safety but also rights of association and collective bargaining, forced and child labour, discrimination and protection of women workers, employment contract and service records, working times, leaves, the minimum wage and social security entitlements and benefits. Thus, effective implementation of GSP+ conditionalities directly hinges on the capacity and performance of provincial labour departments

²⁴ Article 270 AAA of the Constitution of Pakistan protected the existing legislation on labour matters until the development of either a new legal framework by the provinces or the formal adoption of the earlier laws.

On the pretext of promoting investor-friendly policies, political authorities in the past have persistently removed checks on labour exploitation by relegating the status and paralysing functional capacities of labour departments. Labour inspection remained practically banned for long time in the past through administrative orders, while the performance of the department continued to deteriorate. The number of labour inspectors has remained stagnant since 1972 while labour force and industrial activities in the country have expanded manifold. About 73% of non-agriculture workforce work in the informal economy where health and safety measures are mostly non-existent, and require greater numbers of inspectors.

The workers' organisations repeatedly complained to political authorities about a serious dearth of fund and staff, especially in the field force of labour officers and inspectors. A sample audit by the state of functional capacity of labour directorates of a few important industrial cities would expose the false claims of sufficient budgetary provisions, equipment and information technologies, training facilities, and strength of human resources²⁵. Lack of essential capacities and necessary capabilities of labour administration heavily contribute to the deterioration of working conditions and workers' rights.

The occurrences of industrial accidents make frequent headlines in media when numerous workers get injured or lose their lives. The latest available figures point out that four percent or about 2.5 million workers suffered

occupational injuries and diseases during the year 2014-15²⁶. The investigations into the horrible inferno at the ship-breaking yard of Gaddani in November 2016 revealed that there was no labour inspection conducted and workers did not have any safety equipment²⁷. Workers had been hired through contractors, did not have the right to form trade union, nor were they registered with social security and EOBI²⁸. Similarly, a high number of deaths and injuries are reported in coal mines operating in the province of Balochistan where work is performed with almost no protective equipment and safety precautions. The dangerous and unhealthy working conditions have strained the health services of social security departments.

The regime of minimum wage neither serves the perceived purpose of minimum living wage, nor function as binding wage floor. The devolution transferred the responsibility for minimum wage setting to the provinces, yet the legal framework needs to be updated, by repealing or amending the federal law as well as to empower Minimum Wage Boards²⁹. Provinces automatically follow the increase in monthly minimum wage as announced by the federal government, which treats it like a handout³⁰. Consequently, the role of Minimum Wage Boards is being marginalised, and the purpose of determining the level of minimum wage, based on welfare of workers and transparent criteria, is not fulfilled.

Unions and workers' organisation have long campaigned to secure a living wage for workers that provides for their basic needs in

25 Labour inspectors in Punjab Faisalabad were recently provided digital devices to record their results of their inquiries about the instances of child labour and relay it online the department records.

26 Labor Force Survey 2014-15, Pakistan Bureau of Statistics.

27 <https://www.dawn.com/news/1293599>.

28 Employees Old-age Benefit Institution is a federal administered body provides insurance schemes for old-age and survival for the workers in private sectors.

29 Minimum Wage Boards are tripartite bodies at provincial level, through workers' appointees are often political. MWBs are established under the Minimum Wage Ordinance 1961 and recommend minimum wage rates for unskilled and skilled workers in scheduled industries, as well as for unskilled and juvenile workers

30 Federal Government has been announcing a fixed annual increment of Rs. 1,000 in monthly minimum wages over last 9-10 years. Hence the annual adjustment in terms of percentage increase of existing wage has been reducing every year.

the circumstances of food insecurities, unprotected jobs in the informal economy and absence of social securities. As monetary benefits in the form of additional export and tax revenues accrue to the state and exporters under GSP+, it is only reasonable for workers to demand the implementation of just wages. The Pakistan Workers Federation prepared a monthly chart of basic expenditures for a family of five persons in 2017, which is around Rs. 40,000³¹. Estimates of other institutions are lower than PWF's estimates³², but still considerably higher than the politically determined current minimum wage of Rs. 15,000.

Equally important is to check and regulate the widespread practice of paying below minimum wage. Estimates from the latest available survey suggests that about 54% of employees work in occupations where average paid wages were below the statutory minimum wage of unskilled workers. For female workers, statistics are even more discouraging, as 90% of their work was in occupations where the average wage was less than the minimum wage³³. For the garment sector, the percentage of workers paid below minimum wage is 37%, whilst about 87% of women garment workers were paid below the minimum wage³⁴. Garment is also the sector where the male-female difference in earnings is highest³⁵. Further, it is well-documented that workers who are employed as skilled workers are paid minimum wages for unskilled workers³⁶.

Pervasive underpayment of statutory minimum wage is an appalling failure of labour inspection system.

Another critical deficit in the effective implementation of labour standards is excessive working hours. Close to 39% of the employed work more than 48 hours a week. These instances are higher in urban areas, for male workers and for the self-employed³⁷

Employees Social Security Institutions and Employees Old-age Benefit Institutions schemes were established 40 to 50 years ago for medical care and pension insurance for workers of industrial and commercial establishments. They have not been able to register and cover all or sufficient numbers of workplace units or workers³⁸. Though registration is gradually increasing, it is not keeping pace with both the increase in establishments and of the work force. Workers who need most protection, in agriculture, informal and home-based sectors of the economy, are not covered by these schemes.

Complains, such as involvement of labour departments' personnel in corrupt practices, illicit collusion with employers in registering fake unions, succumbing to pressures from owners who often use political connections, lack of accountability and transparency about sharing of inspection reports, are common and defeat the intention to improve the implementation of labour standards in the country.

31 Pakistan Workers Federation is the largest trade union federation and is a member of Pakistan Workers Confederation. The chart is presented in the PWC 2016 Interim Report on GSP+ and Labour Standards in Pakistan.

32 <https://www.dawn.com/news/1357543>

33 Labour Force Survey 2014-15, Occupation categories referred here include skilled agricultural (37.1%) and elementary occupations (15.8%) for all employed workers, while for female workers include two additional categories of craft (12.6%) and plant/machine operators (0.3%).

34 Weak minimum wage compliance in Asia's garment Industry, ILO: Asia-Pacific Garment and Footwear Sector Research Note Issue 5, August 2016.

35 Gender pay gaps persists in Asia's garment and footwear sector, ILO: Asia-Pacific Garment and Footwear Sector Research Note Issue 4, April, 2016.

36 http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-islamabad/documents/publication/wcms_532830.pdf

37 ILO report on Decent Work Country Profile Pakistan 2014.

38 Social security institutions are provincial bodies and EOBI is managed by federal government. They are contributory schemes. About three million workers are registered in each of them, (PWC reports on GSP+ 2015 and interim 2016).

Pakistan Workers Confederation's 2015 report concluded that *'Collective bargaining without representative union is impossible. Without bargaining, the economic and commercial benefits of GSP+ cannot be justly shared with workers and Pakistan's citizens. To begin with, the additional profits of exporters must start benefit workers engaged in the export sector industries, in particular the textiles and garments sectors, without any further delay. Hence the freedom to form representative workers' unions in the textile and garment sector will be the litmus test for the successful course of GSP + scheme'*.

To assess the situation of labour standards in the exports industries of formal sector, PWC conducted a snapshot survey of export oriented industries in cities of Lahore, Faisalabad and Sialkot during October and November 2016. In each of the three cities, 50 exports oriented units were selected for evaluation which manufactured garments, knitwear, textile fabrics, leather garments, hosiery, woollen factories and surgical items. These 150 factories employed about 325,000 workers at the time of survey. A summary of the findings of the working conditions in these factories is following:

- It was observed that only 58% of the units in Faisalabad, 62% in Lahore and 57% in Sialkot pay the minimum wages
- Less than 50 % of workers and units in these three districts were covered or registered by social security and EOBI
- Eight to eleven per cent of establishments have registered trade unions. No new union was registered after the country acquired GSP +. Secret ballots have been held in 3-5% of registered unions. Similarly, union referenda were conducted in 5-8% of factories. A formal agreement between employers and collective bargaining unions was reached in 3-5% of the establishments. Respondents in 65-77% of the units replied that their unions was

a 'pocket union', registered at the behest of employers. Overall the survey results indicate that the proportion of registered trade unions is alarmingly low, with the number of truly representative unions being much smaller than reported.

- 60-76 % of respondents replied that there was a difference in the wages of female and male workers, as well as other aspects of gender discrimination in the conditions of work. Only 25-29% of the establishments granted legal maternity leaves to their female employees. Respondents in 4-8 % of the establishments reported sexual harassment of workers. Only 2 % of female workers in the district Sialkot have representation in trade unions.
- 26-38% of the establishments had labour inspections. During inspection, only 5-10 % of the unit's workers were questioned by the labour inspector. Employers' pressure and job insecurities dissuade workers to respond to questions during labour inspections.
- 39-48 % of factories indicated having health and safety related equipment. Only few factories were found to keep the modern health and safety equipment. 7-9 % of establishments had work related accidents during the last few months before the survey.

The situation discussed above once again reinforces the PWC's position that, unless truly representative trade unions are allowed the freedom to form and function, even the basic entitlements of labour laws cannot be ensured against flagrant violations.

Capacity weaknesses also limit the roles of stakeholders, of workers and employers, in imparting their roles towards compliance of labour standards. Both workers' and employers' bodies suffer from low membership and organisation. Workers' federations and associations, with their

meagre financial and human resources, take extreme caution to approach factories to organise workers in unions, because such workers will face immediate dismissal or safety threats from owners. The federations or workers cannot afford or match the expensive and lengthy litigation often deployed by employers. In other ways, however, they could widely create a certain awareness about the GSP+ process and its linkages with labour standards to their members across important industrial cities and towns. The Pakistan Workers Confederation also held numerous social dialogue forums on GSP+ where they invited political decision makers, representatives of industries and employers' bodies, labour department officials and representatives of media and civil society, besides their members and workers' organisations. These multi-partite forums discussed ways and means to benefit from the opportunities offered by GSP+ for tackling challenges of labour standards compliance, advocated measures for tangible progress and seek collective commitments for removing obstacles. Employers' bodies, while active in seeking or securing tax concessions and subsidies, hardly felt the need to take initiatives for holding GSP+ social dialogues or engage workers' bodies.

The dismal situation of the labour judiciary continues to be ignored by the state. The system is marred by indifference to the labour judiciary, political pressure and prejudices in the appointment of judges, by the incompetence of benches and the desperate lack of resources to function and upgrade the infrastructure. This results in chronic stagnation of labour adjudications. Labour courts carry massive backlogs. Employers prolong cases by exploiting procedural loopholes and try to run cases all the way to the Supreme Court. Workers have little recourse to the labour judiciary because of costs and time involved³⁹.

Performance and State of Trade Under the GSP+

The European Union has remained one of the major trading partners of Pakistan. The main exports to the EU fall in the categories of textile and clothing (T&C) and agricultural products. The T&C exports seem to get benefit from the Generalized System of Preference Plus (GSP+) Scheme, as exports to the EU kept on rising annually. The external factors challenging the T&C industry included depressed demand in the EU, and devaluation of Euro and Sterling. A higher cost matrix, as compared to the competitors, in terms of energy and taxes affected industry's competitiveness at the global level. This brief has identified that the exporters' need to change as per industry dynamics and adopt various measures to enhance competitiveness, besides support from the government in policies and procedures.

Pakistan has a declining trade surplus

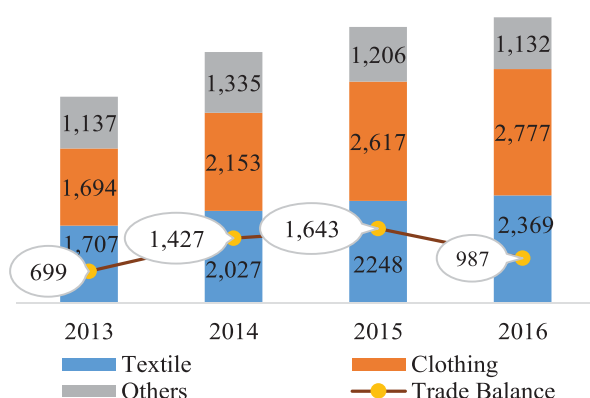
The share of the EU in the country's imports hovers around 11-12% but exports' share has been constantly increasing – from 24% in 2013 to 33% in 2016. Figure 1 is for reference here. In 2013, Pakistan's trade surplus with the EU was €699 million, which depicted an increase of over hundred percent in 2014 at €1,427 million. It was €1,643 million in 2015 but declined subsequently to €987 million in 2016, i.e. by 40% over the previous year.

Increasing trend in the T&C exports

In 2013, the T&C exports were €3,401 million, i.e. 75% of Pakistan's total exports to the EU, which increased to €4,180 million and €4,865 million in 2014 and 2015, respectively. In 2016, the exports in these categories touched the height of 82%

39 Pakistan Workers Confederation Report on European Union GSP Plus and Challenge of Labour Standards Compliance in Pakistan, December 2015.

Figure 1: Pakistan's Exports to the EU (€ Mln)



Source: EU Directorate-General for Trade

The growth momentum slowed down

Pakistan's T&C exports to the EU could not maintain the pace achieved in 2014 - the first GSP+ year, when exports increased by 23%. The YoY growth observed was 16.5% and 6% in 2015 and 2016, respectively.

Recovery in the EU's demand in 2017

Owing to the EU's growth from 1.8% in 2016 to 1.9% in 2017, the EU's T&C imports also increased by 3.5% in 2017. The textile imports from Asian countries improved in 2017, as shown in Figure 2.

Figure 2: Asian Countries' Exports to EU (%)



Source: State Bank of Pakistan, Annual Report, 2016-17

The growth rate of exports from Pakistan was the highest amongst the Asian countries in clothing i.e. from 2.9 in 2016 to 3.2 percent in 2017.

Macro-economic factors affected the performance of industry

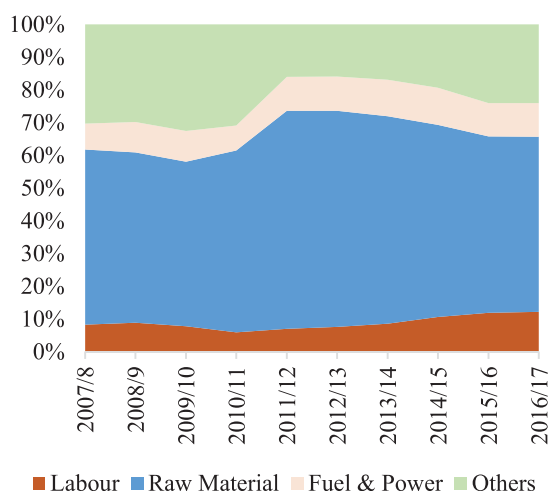
Pakistan's economy witnessed a GDP growth rate of 5.28% in 2017, which was the highest in the last ten years. Despite this, the overall declining exports reflected a lack of policy implementation to address the underlying causes. For instance, the over-valued currency negatively affected exports. Pakistan kept Rupee's exchange rate stable against the U.S. dollar, which appreciated in real effective terms by 18% cumulatively over the past three years. In the global competitiveness Pakistan's average score was 3.4/7 during 2013 to 2016. In 2017, the performance improved but labour market efficiency remained low in terms of cooperation in labor-employer relations, especially in wage determination and hiring-firing practices.

Textiles Industry: Performance Overview

To ascertain the nature of constraints in the utilization of GSP+ opportunities, a survey of ten composite textile units was conducted. It covered the largest exporters of the country as well as relatively smaller players. Much in line with the overall T&C exports, the sales by the units covered in the sample peaked in 2014 and declined in the two subsequent years. In 2017, the sales improved by 10%, which included domestic sales as well as exports.

Figure 3 shows the trend in cost by major components from 2007 to 2017.

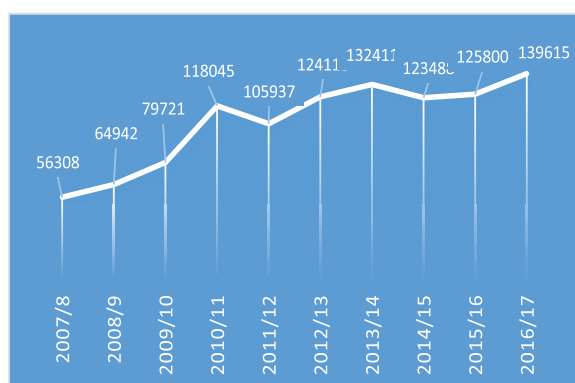
Figure 3: Components of Production Cost



Source: Audited accounts of the companies

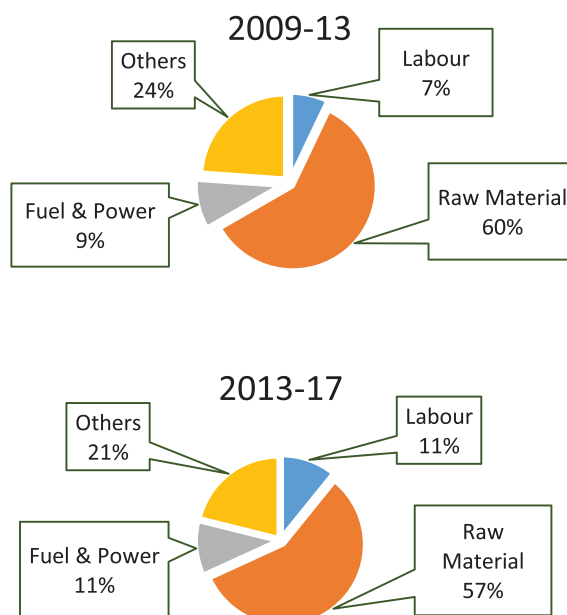
In 2013, the raw materials contributed 66% in total production cost but this share declined in 2017 to 54%. The share of labour cost increased from 8% of total production cost in 2013 to 12% in 2017. Over this period, other costs including distribution and storage increased from 16% to 24%. Fuel and power remained in the range of 8-11 % from 2007 to 2017.

Figure 4: Trend in the Cost of Production (PKR Mln)



Source: Audited accounts of the companies

Figure 5: Changes in Cost Components before and after the GSP+



Source: Audited accounts of the companies

Figure 5 provides a comparison of production cost components before and after the GSP+. During the four years' period, covering 2013-2017, i.e. after the GSP+ the average raw material cost declined from 60 percent to 57 percent. Also, the share of 'other costs' decreased from 24 percent in 2009-2013 to 21 percent in the later period. The units surveyed attributed this to enhanced efficiency and cost reduction measures. Timely decision of Balancing, Modernization and Replacement (BMR), enhancement in production capacity in spinning and weaving units. Over the years, in the selected formal sector units, the labour and energy costs increased.

The industry is facing multiple constraints

The units faced the following limitations:

1. No indigenous capability to produce textiles machinery: smaller units were unable to make heavy investment on import of equipment, which kept the efficiency low.
2. Smuggling of used/new clothing reduced demand for local production.
3. Low intellectual property rights protection resulted in a loss of sales due to replica production.
4. Heavy taxation, multiple levies, delays in duty drawbacks from government reduced working capital.
5. Politically strong lobbies kept cotton price high thus made the exportable goods less competitive.
6. Higher cost matrix for labour and energy as compared to competitors.
7. Low demand for yarn and fabrics, and depressed prices of cotton yarn, bed-wear and readymade garments put pressure on gross margins.
8. Slow implementation of export package, announced by the government in January 2017.

Positive developments for the industry

The developments that supported production and exports included:

1. Government's Textile Package-2017 introduced relief measures: widening the scope of duty drawbacks, zero rating of sales tax on machinery imports, raw materials and fuels; and quick processing of refunds.
2. Installation of own generators to ensure regular power supply, and assured supply of Regasified Liquefied Natural Gas.

3. Historically lowest interest rates that would remain locked over the period of loan. Consequently, textile industry's credit from banks increased from 91.3b (2016 Quarter II) to 123b (2017 Quarter II).

Future outlook is promising

According to the industry players, the future outlook appears promising, as most of the steps taken by the government to support the industry will improve the results in the forthcoming accounts of 2017-18. These include:

1. Pakistan's improved competitiveness rank from 126th in 2015-2016 to 122nd in 2016-2017.
2. Gradual improvement in the performance of value added sector.
3. The units will get benefits of tax and duty exemptions, and infrastructure facilities designed for Special Economic Zone (SEZ).
4. Initiative for utilization of green energy at production facilities fulfilling the requirements for environment protection of EU buyers.
5. Increased cotton production in 2017-18.

Steps to improve competitiveness

Based on the survey findings and information gathered from a range of stakeholders, the **key challenges** to Pakistan's textile industry need to be addressed promptly. To improve in a highly competitive global environment, there is a need to:

1. Upgrade supply chain, improve productivity and maximize value-addition with product diversification.
2. Uninterrupted supply of gas, fuels and electricity at rates comparable to competitors.

3. Industry friendly tax policies and procedures including easing of multiple level of taxation would help make the industry vibrant. However, from the workers' perspective, it is imperative to take additional steps that can promote labor market efficiency and productivity, employment and decent work in the textiles industry.
4. Strengthening of GSP+ focused action program.
5. An urgent attention to address matters that negatively affect business climate and demand generation for textiles, such as property rights protection and control of smuggling.

Conclusions and Recommendations

Labour standards inevitably assume special significance as GSP+ is directly connected with export merchandise, which is produced by labour. Given the nature of programme - incentive driven and promotional – the workers' organisations in Pakistan will continue to use the opportunities obtained under GSP+, for reinforcing their campaigns to advocate for labour standards' compliance in the country.

There must be a collective recognition, however, for we are seriously lagging in realising the goals of labour compliance in the country. As we approach the mid-term of GSP+ programme, the progress assessment by now would have gone beyond considering legal framework, and start focussing on the state of 'effective implementation' of labour standards. Workers expectations are dwindling amidst half-hearted attempts to complete the long-pending legal framework process. For them it appears to be a deliberate way of diverting focus from responsibilities of effective implementation. Unfortunately, labour law reform has never been any government's priority.

Although the performance of provinces varies, labour legislation, in the aftermath of constitutional devolution, continues to be an unfinished agenda - in terms of issues of incompleteness and non-uniformity across provinces as well as deviations from the Fundamental Conventions. This has been one of the main reasons for the inordinate delay in developing and reinforcing required institutional capacities of labour departments and other line institutions, thus hampering the tangible improvement of labour standards compliance.

It's imperative to strengthen and rely on tripartite structures for reforming laws, policy and implementation regimes in the spirit stipulated by the ratified standards, and help develop a tripartite strategy to catch up with the time lag. It would be self-deception for the authorities to think that failures and inadequate responses can be concealed or covered up. Continuing to benefit from trade preferences while lamenting about the lack of capacities cannot be justified. Hostile attitudes of employers and their deliberate opposition to workers' unions in collusion with the dishonest sections of labour departments are the biggest hurdles. These complaints should serve as focal areas for debates and resolutions in joint forums. Governments in the centre and provinces need to hold tripartite conferences to review the GSP+ processes, analyse the challenges at hand and develop time-bound steps towards the way forward. Governments need to facilitate tripartite forums for making collective public commitments and implementation drives to finally fulfill labour standards in the country as the conventions would require.

In the context of the 18th Amendment, there exists broad consensus among all stakeholders, including federal and provincial governments, on implementing the recommendations of Justice Shafi-ur-Rehman's Commission Report

regarding consolidating all labour laws into six categories⁴⁰. Additionally, labour laws need to be transformed into clear and comprehensible language, with constant research and evolution, besides ensuring compulsory and meaningful consultations with the representative tripartite stakeholders.

It would be prudent for all four provinces to take 'duplication' issues, such as the jurisdiction of EOBI, to the Council of Common Interests for reaching a final decision. The stalemate here is adversely affecting the interests of the workers of both industrial and commercial enterprises.

Governments response must not remain confined to ministries and cabinet meetings. Governments would do well to bring the GSP+ process and its performance assessment into the legislatures, as it happens in the EU and their national parliaments.

Urgent attention is required to reform the system of minimum wage in the country. The federal government needs to adopt the ILO's Minimum Wage Convention No.131, to guide the reform process of provincial legal framework and implementation system for the fixation of just and fair wages in the country.

The performance of labour departments is pivotal, and it is an inescapable requirement to enhance the functional and delivery capacities of these departments. Revenues generated by GSP+ is a good available resource for filling capacity shortfalls in human, equipment and financial resources of labour departments, along with ensuring the devolution of capacities to labour directorates and inspection systems. Doing and showcasing this will also be a strong indicator

of achievement of the GSP+ facility to improve governance, and would go a long way towards achieving the common objectives of labour standards' compliance in Pakistan.

The performance capacities of provincial labour departments cannot be enhanced without assessing the needs through base line studies⁴¹. Further, the availability of reliable and updated labour market statistics is crucially important for registering the workplaces and developing prevention plans of industrial accidents and diseases. In addition, the establishment of an independent and effective complaint mechanism to register violations of labour standards, including the instances in which inspectors are refused access to inspection or company records by employers, is necessary to preserve the effectiveness and integrity of the system.

The PWC, in its 2015 report, proposed the establishment of an independent labour inspection authority, under the oversight of workers' and employers' organisations. This will strengthen both the tripartite structure as well as effectiveness and transparency of the labour inspection. In the immediate, labour inspection can be made effective by ensuring the engagement of workers' representatives in occupational health and safety committees. Further, representative workers' unions and their federations can play an important role in protections of workers' rights, given the perpetually weak administrative capacities of labour departments.

Reforming labour adjudications will require an increase in the number of labour courts across provinces, with a specialized cadre of labour judges appointed by provincial high

40 Categories include - industrial relations, setting of wages, employment conditions, occupational safety and health, human resource development, workers' welfare and social security. Federal Treaty Implementation meeting on 2nd September 2016 decided to simplify labour laws in the light of Justice Shafi ur Rehman Commission report. It also asked other provinces to follow the example of Sindh provinces to translate all the laws into national language Urdu.

41 Punjab Government has done the survey of existence of child labour at brick kilns in 2015 and expanding it other formal and informal sectors.

courts. The judges need to be well-trained in national labour law and relevant international laws. These courts and other organs of labour judiciary must be made accountable for their conduct along with adopting transparency in the courts' performance and proceedings. A period needs to be fixed within which the labour cases need to be decided.

A review of the trade performance under the GSP+ shows that the country is benefitting from the increased opportunities to export. The textile and clothing exports to the EU have shown an upward trend from 2014 onwards. It has been observed in a survey of ten textile composite units that the sales have been increasing, while raw material cost has declined substantially, which is the major component of cost of production. Moreover, as a result of enhanced efficiency, 'other costs' of production have also gone down after the GSP+. The labour cost has gone up; the textile units surveyed have attributed this increase to an increase of the minimum wages. We are of the view that the formal sector units may seem to be better in terms of benefits granted to labour. However, the majority of the workforce is employed in the

informal undocumented segments of the textiles industry, where the workers, especially women workers, are deprived of their rights.

With the advent of GSP+ several bilateral and multilateral technical cooperation programmes have been initiated to enhance technical capacities of labour departments and inspection system, as well as application of standards at workplaces. These initiatives are directly concerned with the success of GSP Plus, and it is important to evaluate their impact and share the results with all stakeholders, including representative workers' organisations who, in addition, can make valuable contributions to the planning and execution of these programmes.

Pakistan Workers Confederation

October 2017

The Generalised Scheme of Preferences (GSP) Plus agreement between the European Union and Pakistan allowing preferential access of Pakistani export goods to EU markets for ten years, has been in place since January 2014. The agreement has opened favourable opportunities for growth of Pakistani export sectors and better managing internal challenges of Pakistan's economy. The principal objective is that additional economic benefits through increased trade support Pakistan in improving governance and sustainable development. The preferential facility stipulates the effective implementation of 27 international human rights, labour and environmental conventions to retain the benefits of GSP Plus. It includes the effective implementation of eight fundamental labour standards of International Labour Organisation whose effective compliance and implementation will positively strengthen labour governance in the country, and benefit more than 60 million working people of Pakistan in the long term.

ILO labour standards are the outcomes of tripartite consultations and thus demand active partnership of the stakeholders. Pakistan Workers Confederation decided to actively participate in the monitoring and implementation of the GSP Plus process and chose to put forward its suggestions for improving the compliance of labour standards. As a German Foundation committed to the values of Social Democracy, Friedrich-Ebert-Stiftung provides platforms for debating a large variety of policy challenges all over the globe. FES believes that democratic governance needs to be combined with a strong emphasis on addressing questions of social justice, and hence trade unions are crucial stakeholders in ensuring much-needed and more socially inclusive development paths. We in FES sincerely hope that the analyses and proposals for the way forward presented in this report will make a genuine contribution to further the dialogue on different levels and support developing the required measures in achieving the objectives of GSP Plus.

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