



EUROPEAN UNION GSP PLUS AND CHALLENGES OF LABOUR STANDARDS COMPLIANCE IN PAKISTAN

A Report by
PAKISTAN WORKERS CONFEDERATION

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Acronyms

CBA	Collective Bargaining Agent
CEACR	Committee of Experts on the Application of Conventions
EOBI	Employees Old Age Benefit Institution
FES	Friedrich-Ebert-Stiftung
GSP	Generalised Scheme of Preferences
ILO	International Labour Organisation
IRA	Industrial Relations Act
KPK	Khyber Pakhtunkhwa
NIRC	National Industrial Relations Commission
OP&HRD	(Ministry of) Overseas Pakistanis and Human Resource Development
PKR	Pakistani Rupees
PWC	Pakistan Workers Confederation
WEBCOP	Workers Employers Bilateral Council of Pakistan
WWF	Workers Welfare Fund



Foreword

The goals of awarding GSP Plus status to Pakistan - namely, to promote jobs creation, good governance, and sustainable development through the realization of workers' labour and human rights and other important international conventions with the help of trade and economic benefits - are indeed of serious relevance to workers' organizations in Pakistan. We appreciate the granting of GSP Plus status to Pakistan, and believe that collective efforts are required to make progress and avoid missing out on a valuable opportunity.

Several organizations and stakeholders have recently been campaigning to promote and realize the objectives of GSP Plus, which is a constructive and healthy effort. It has been our experience that such activism loses momentum once the international limelight and attention on the issue fades away. However, representative unions, federations, and confederations of workers are in permanent and continual relations with their members at the grass-roots level. Their actions and struggle to fulfil the mandate of representing and promoting working classes' interests are unwavering and thus remain realistic, even when priorities change.

Have workers heard of and are they adequately informed about GSP Plus? Are the benefits of enhanced exports reaching common workers who produce these goods for foreign markets? Is the government serious about implementing its international and national obligations, and improving the lives and livelihoods of those workers? Have employers started sharing their enhanced earnings with workers? Have they shown that they are serious about implementing labour standards? Because extra profits and additional business benefits accrued under GSP Plus cannot be justly and fairly shared with

workers without fulfilling workers' rights obligations.

Only workers and their representative organizations, which are uniquely placed in the cycles of productions, can monitor and provide evidence of improvement and implementation of workers' rights as conditioned in the GSP Plus scheme. This is why Pakistan Workers Confederation (PWC) - the most representative national body of Pakistan's unions - decided to issue its own first report on the GSP Plus schemes and its implementation status. PWC understands that its report can help supplement the efforts to achieve the underlying objectives and make the GSP Plus scheme successful. Its specific objectives are,

To document and assess the existence and extent of violation of workers' human and labour rights, as well as the current state of labour governance in Pakistan; formulate recommendations for redressing the deficits of decent work and realizing the goal of GSP Plus by suggesting periodic benchmarks on the way forward to implementing labour standards; and identify mutual and joint roles and responsibilities of governments, social partners, and other stakeholders to make progress on the implementation of labour standards.

To develop its national report, the PWC formed its national and provincial GSP Plus Committees, to consult on ongoing relevant developments, progress, and obstacles. Its delegation participated in the international exchange programme on GSP Plus in Brussels and Germany in May 2015. At the national levels, PWC organized national, provincial, and subregional consultations with important stakeholders of government departments, employers' organizations including chambers



of commerce and industries, local and regional workers' unions and their federations, as well as with human rights bodies.

This is a brief English summary of broad issues that are dealt in the Urdu version, which will hopefully be helpful in conveying the views and position of the Pakistani labour movement regarding GSP PLUS and the compliance of labour standards. In the following chapters, situation of labour market and of implementation of rights under fundamental ILO Conventions are discussed in more details. In addition, other crucial areas of labour governance - including labour inspection, social security, and the labour judicial system - are briefly discussed. A series of constructive steps taken by the government in the wake of GSP Plus programme is also listed. The concluding chapter presents our suggestions for realizing the goals of the GSP Plus scheme. In the development of the report, PWC conducted a quick empirical survey in important industrial cities throughout the country to assess the situation of workers' rights, and the most important results are described and illustrated in graphs, which are annexed at the end.

For many decades, the voices of workers have been either silenced or not given sufficient attention, but we are aiming for a better future. PWC hopes that the report will be a useful document for concerted consultations

with governments and employers' organizations, as well as wider sections of society - both in the country and abroad. The report should also be helpful for labour movements in general and PWC member federations in particular, to chart their course and strategies along the way to realizing the objectives of GSP Plus.

PWC deeply appreciates the cooperation of the Pakistan Office of Friedrich-Ebert-Stiftung in the preparation of this report. The vision of Mr. Abdul Qadir guided us in setting our priorities in this work. The cooperation of our member Federations and their leadership from all over Pakistan has been extremely helpful to undertake the field work. We are especially thankful to Chaudhry Muhammad Yaqoob and Mr. Shaukat Ali Chaudhry President and Deputy General Secretary of PWC Punjab, respectively, for co-authoring the report. The Confederation gratefully acknowledges the efforts of Chaudhry Nasim Iqbal, Chairman PWC Punjab for painstakingly supervising the report development process, and of Saad Muhammad, Chairperson PWC Youth Committee for secretarial and logistic support in conducting research and field studies.

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Challenges of Decent Work in Pakistan's Labour Market*

Without adequately studying labour market conditions, the enforcement of workers' rights and labour laws cannot be sufficiently comprehended.

Currently:

Our population is estimated at 191 million (116.5 million rural), including 64 million children under the age of 15, 115 million between 15 and 59, and 12 million over 60; 48.5% of the population is female.

The labour force is estimated at 60 million with 3.5 million open(ly) unemployed. There are 14.5 million women in the labour force, which includes 1.3 million unemployed and 8 million contributing unpaid family helpers. Unemployment rates are substantially higher for women, especially for educated young women seeking suitable work.

Of 56 million employed, 44% work in agriculture, 35% in trade and services, 14% in manufacturing, and 7% in construction. Informal employment accounts for about three-fourths of non-agriculture workers. Of 13.2 million employed women, 74% work in agriculture, 19% in informal economic sectors, and 7% in formal sectors of economy.

Of the employed, only 39% (women 26%) work for a public or private employer for remuneration (wages, salary, piece rates). Of the rest, 35% are self-employed (women 19%), 25% are unpaid contributing family workers (women 55%).

Of employees working for wages and salaries, only half work on regular and fixed

wage status (women only 40%). The rest have casual employment, toiling in jobs without legal employment status, protections, or entitlements. Thus, barely one in five of the entire workforce (including public sector employees) enjoys a »standard employment relationship«. Which of these »standard employees« can potentially exercise the core rights of unionization and collective bargaining? This is discussed in the next section.

Real wages during 2009–2013 only grew in services sectors, with the highest in public administration. In agriculture, the real wages registered negative growth, while in manufacturing and trade growth remained marginal. Gender gaps in earning are particularly substantial, given the overall ratio of women to men workers' wages is 58%, and the ratio is even lower in sectors like agriculture (53%) and manufacturing (39%), which on aggregate employ more than 86% of women.

Statutory **minimum wages** have been adjusted annually with regularity in recent years, though it remains insufficient on two counts. First, its current level of PKR 13,000 is hardly adequate or too low relative to average household consumptions. Second, there has been a dismal failure to enforce even the minimum wages, thus income of more than two-thirds of Pakistani households is less than the minimum wage.

Occupational health and safety hazards injured more than 4% (2.3 million) of the employed workforce annually—mostly in agriculture, manufacturing, and construction - while hazard rates have steadily deteriorated over the years, meaning ever increasing suffering incidences for employed. More than one third of employed worked in excess of 49 hours per week.

* Sources for data and information are listed in bibliography.



Worrying signs of **shrinking employment opportunities** in the labour market are visible, with significant provincial variations discouraging the working-age population from seeking jobs. Even at a time of higher economic growth, the share of employment in agriculture has increased and indicates a lack of improvement in opportunities and the quality of jobs in non-agriculture sectors; thus job seekers have been slipping back into traditional and elementary sectors and occupations.

Gender gaps in the labour market are large and show little sign of closing or improvement. There are also troubling signs of rural women - especially underage girls - joining unpaid family work.

While employment in informal sectors of the economy depicts the pervasive gap in fulfilment of »decent work«, even in formal sectors, the majority of workers are denied legal entitlements due to omnipresent division of permanent and casual employment status.

Factors responsible for generating and sustaining **forced and child labour** are pervasive, and include poverty wages, lack of productive employment opportunities, poor enforcement of laws, and deficits of basic social and development needs, such as education and health. No holistic and sustainable policy is in place to tackle these challenges and eradicate the worst forms of working conditions.

Restrictions on Freedom of Association and the Right to Collective Bargaining

(ILO Conventions No. 87 and 98)

Labour governance is among the weakest organs of governance structure and performance. Highly restrictive labour laws combined with a near total lack of enforcement have allowed the continuous exploitation of

workers' fundamental rights. Though there is a considerable array of laws and statutory provisions for workers to access legal protection and entitlements, individual workers are powerless and vulnerable to benefits from available protections and entitlements in the environment of flagrant violations and circumventions of laws. In the absence of enforcement, helpless individual workers are left with sole recourse to their representative trade unions—if they exist and are allowed to function freely. But do workers have the freedom of to form and associate in trade unions and exercise the right to collective bargaining?

It is important to recall that international labour standards and conventions are the results of tripartite consultations, and all parties are responsible for implementing them. This is the true spirit of tripartism. Constitutional guarantees are universal, and it is the state that needs to protect the weak from the strong. But these responsibilities have been long abandoned. The burden of compliance, protecting, and improving labour standards - which are indeed collective objectives and acts of society as enshrined in the Tripartite ILO Conventions system and state Constitution - are now squarely left to unions alone.

Article 17 of the Constitution of Pakistan states: »Every citizen shall have the right to form associations or unions, subject to any reasonable restriction imposed by law. In reality, these restrictions under law are widely expansive. The 18th Constitutional Amendment from 2010 devolved labour to provincial jurisdictions, but the extraordinary hold-up in the formulation and enactment of provincial labour laws has deteriorated compliance and the uniform application of the ratified ILO Conventions.

In the last few years, the provinces have enacted the most important labour law—namely, the Industrial Relations Act (IRA).



These IRA laws set up the structure of unions and provide procedures for the establishment and registration of unions, collective bargain-

ing, the role of labour authorities, the management of industrial disputes and labour adjudication processes.

Legal Framework and Structures of Trade Unions in Pakistan

The structure of unions are determined by IRA laws which implies that trade union is a workplace (plant) organisation of workers, meant for regulating the work relations at a particular work place. The workplace is an industry or establishment. After fulfilling a number of requirements including internal elections of office bearers, a union applies for the registration with the Registrar Trade Unions designated under IRA laws in the respective provinces. If the industry or establishment is nationwide (i.e., if it exists with branches or departments in more than one province), then the union of this trans-provincial industry or establishment is registered with the National Industrial Relations Commission (NIRC). The **registration confers legal existence of a union** after which it starts recruiting members in the establishment.

The registered union can also apply to the Registrar for the status of **Collective Bargaining Agent (CBA)** of a particular establishment, by proving one third of the employees of the establishment as its own members. A CBA union is thus considered an agent of workers employed in a particular establishment. The CBA union is entitled to undertake collective bargaining at an establishment (plant) level with the employer on matters connected with employment or any rights guaranteed or secured to it or any worker by or under any law, or any award or settlement.

More than one union can be registered at a plant level. For the registration of first two unions the size of membership does not apply. However **for the registration of third or any more union in the same establishment the applicant union needs to prove and provide its own membership of at least 20 per cent employees of the establishment.**

When there are more than one registered unions in an establishment, the Registrar, upon an application by any such trade union which has at least one-third of the workers employed in the establishment, is required to hold a **secret ballot** within fifteen days of making the application to determine the representative collective bargaining agent.

Trade unions (and worker organisations) can establish or join a **federation** which is called »federation of trade unions«. A federation's member (or affiliates) can belong to variety of unions in industries or establishments, or unions and industrial federations of particular sectors (such as garment, textile, sugar, newspaper hawkers, construction), or unions of one particular province. Thus federations are either national centres of unions and industrial sector federations or independent industrial/sectoral federations. Federations are not directly part of collective bargaining. Federations are also registered under IRA laws and their governing bodies are mostly comprised of heads of its member unions. Federations help the functioning and developing capacities of its member unions, represent them at the political and tripartite level dialogue, defend and promote workers' and unions' position in statutory tripartite bodies and the focal forums for consultations and decisions on labour issues. Federations are affiliated with international organisations of workers and represent workers and member unions at global forum including ILO. **One of the most important roles of federations is to go out to form unions and organise workers in unorganised sectors and establishments.**

Two or more federations can make or join **confederation**, and the same registration process applies as for federations. A confederation is an embodiment of unity of federations, unions and their members as well as working class in the country. It functions at the highest political levels in the country.

Union membership is number of workers in an establishment who are members of that particular union. Membership of a federation refers to membership of its affiliated unions. A Confederation's membership is the membership of its federations. Thus confederation is the most representative body of employees and workers.



The IRAs, however, exclude public sector employees in state administration, security staff in vital installations, clerical staff, healthcare workers, and teachers. Agriculture workers in the provinces of Punjab and Khyber Pakhtunkhwa are not covered. The Essential Services Maintenance Act prohibits the organization of workers' unions in certain public sectors, as well private units connected to the supply and services to the armed forces. The workers in Export Processing Zones and Special Economic Zones are excluded from the coverage of IRAs. Banking and Companies Ordinance restricts unions to conduct their activities in working hours which has restrained unions to raise work place issues with the administration, thus rendering representative trade unions practically dysfunctional.

The legal framework (in IRAs) lacks the provisions to form unions based on occupational, sectors or general unions and to participate in collective bargaining. This is of crucial importance for effective- collective representation of workers engaged in both the formal and informal economies.

ILO Convention 144, which was ratified by Pakistan, obligates the country to hold meaningful consultations with trade union representatives on enacting and reforming labour-related policies and laws. Neither on the occasion time of the 18th Constitutional Amendment nor when enacting IRAs, were the representative unions taken on board. A legal and transparent procedure to nominate genuine workers' (and employers') representatives in several (not all) tripartite bodies and forums does not exist.

Hence in sectors where IRAs and legal rights of establishing unions are applicable, are workers able to exercise their rights to freedom of association and collective bargaining?

To begin with practical steps to for ensuring labour compliance, the foremost requirement is to ensure the visibility of production units and

places. Besides home-based and domestic work, millions of production enterprises, units, and places are not registered in government records. In the city of Lahore alone, about 4,500 of 9,000 medium and small units are unregistered and employ 5 to 50 workers. Similar or worse situations prevail throughout the country. Production and industrial units are established in residential areas. Narrow streets and approaches obstruct the handling of emergency situations. These »disguised« units continue to function in collusion with government departments. In short, the deliberate and systemic invisibility of these units evades labour inspection, thus implying no protection for workers.

A large majority of workers do not receive legally required appointment/employment-contract letters from their employers, a widespread practice that prevents workers from claiming and proving their legal identity as workers. This practice circumvents applicable labour rights, entitlements and wages, and obstructs workers' registration in social welfare schemes (e.g. social security, pension fund, workers welfare fund).

Because only permanently employed workers (or workers with employment contract) can form or join unions, most workers are employed on casual basis to impede the right to unionise. Workers in the same enterprise and occupation are assigned different employment status, such as permanent (regular fixed wages) and casual (daily wagers, hired through contractors, piece rate). Only half (women only 40%) of these wage-earning employees have regular and fixed wage status. The rest have casual employment status without legal employment protection and entitlements. Barely one in five of the entire workforce can potentially exercise the core rights of unions and collective bargaining. Understandably, this divisive practice serves two ends: first, to decimate workers' collective strength in an enterprise; and secondly, to dodge legal entitlements of majority of workers including wages,



job security, medical and health facilities, and social welfare contributions.

To start forming their unions, workers have to first undergo a complex lengthy union registration process with the Registrar Trade Unions. With vast discretionary powers, Registrars often misuse, delay, or deny the registration process in collusion with employers. As explained in the text box above, the IRAs impose a condition of at least 20% membership of total employees for the registration of third or more unions in an establishment. This was included in the law to inhibit the proliferation of unions. **But, what if the first two unions are »pocket-yellow unions«?**

This is where employers misuse the law in collusion with Registrar. The employers would have clandestinely registered two »unions« themselves with Registrar. Workers are generally unaware of the existence of such »unions« in their establishment and neither a record is available with or provided in transparent manner by the Registrar. Once workers apply for the registration of their union the Registrar would disclose the existence of two »unions« in their establishment and demand for proof of 20% membership. Meanwhile the employers of the establishment would get to know (from Registrar) about attempts by workers to register their union. Immediately the applicant union's officials and active members face threat of certain dismissals in order to refrain workers to form their union. The employers with impunity use social pressure and intimidation by outlaws in the society, or transfers 'troublesome' workers to a different distant branch of the plant, immediate sacking or involve workers in endless litigations, and refuse to reconcile even if reinstated by courts. It is a common practice that workers are forced to sign blank papers at the time of appointment, which are used as hanging threat, or forged as resignation letters to discourage workers from forming or joining unions and demanding better working conditions. Even when workers are issued factory cards, they are collected at the gates on entry

and given back once workers leave the premises. Not only this has caused proliferation of fake »unions« which would never have presented a workers' charter of demand to employers, but it retards growth of representative-democratic unions, depriving workers of the ability to exercise their collective bargaining rights. Further, the IRAs give Registrar the powers to control a union's internal activities.

Related to this is the issue of **»outsiders«** in a union's executive body. The IRAs laws allow unions to include up to 25% (in some provinces 20%) membership of their executive body who are not employees of a given enterprise. This legal provision helps unions to benefit from the expertise and advice of experienced trade union leadership drawn from country's labour movement and trade union federations because an enterprise union would not possess adequate capacities for effective representation, negotiations and amicable resolutions of disputes arise in industrial relations. Often these experts are retired senior labour activists who are full time engaged with federations to guide their member unions. However, the benefit of this legal provision has been curtailed by a verdict of the High Court of Punjab in the recent past. **The verdict imposed that »outsiders« must be a currently employed workman.** As a consequence plant unions are now unable to benefit from the IRA provision to enlist senior labour activists in their executive bodies who are not employed elsewhere. Thus, verdict has curtailed freedom of unions to choose their own officer bearers and impacted in their collective bargaining processes. Another benefit of the »outsiders« clause is to protect union officials from losing their union membership in case they are dismissed amidst a dispute with employer. Through the court verdict, the available safeguard is compromised until a court stay order is secured against dismissals. This is one manifestation of inconsistent court decisions causing abject violations of workers rights to freely organise and exercise collective bargaining.



Trade Union Membership

Given the context described in this section—where both a weak and exclusionary legal framework deprives large number of workers of the rights of association and collective bargaining, combined with chronic deficits in enforcement of labour laws— only a small minority of workers are able to organise in unions. Another problem is the lack of attention and diligence by government labour departments to maintain union membership records. Their records mostly show the size of membership at the time of unions’ registrations or the number of votes secured by a CBA union at the time of ballot. In due course, CBA- and non-CBA unions continue to gain (or loose) members but fail to give periodic updates to the respective labour departments. This is in itself a major challenge of developing an **effective system of labour market information**, both in the wake of devolution of labour subjects to the provinces and GSP Plus process. Thus no reliable figures are available for the present state of trade union density. ILO has reported union density figures until the year 2008. According to Danish Trade Union Council for International Development Cooperation’s *Labour Market Profile of Pakistan, in 2013 there were 1,905 trade unions with collective bargaining status, with 1.8 million members*. PWC concurs with these figures. With this membership figure, density of CBA unionised workers in labour force is 3.0%, in employed labour force 3.3% and in wage employees 8.4% in 2013, and this as proxy hints about the overall trade union density in Pakistan.

There are about 15 active national/regional trade union centre federations and about the same number of sectoral/industrial federation. Most of them are affiliated with PWC.

Discriminations and Inequalities in Labour Market

ILO Conventions No. 100 and 111

The compliance of labour standards cannot be achieved where workplace discrimination and inequalities persist. The Constitution guarantees protections against all forms of discrimination. There are, however, serious deficits both in terms of laws and implementations. Laws are missing to ensure the equal remuneration of men and women workers, as well as to remove discriminations in employment and occupation, to comply with the stipulation of core ILO Conventions 100 and 111, which were ratified by Pakistan 2001 and 1961 respectively.

Gender-based discrimination in the labour market has seen little improvement. Extremely low participation due to opportunity constraints, concentration in unpaid marginal activities and low-paid sectors, and occupational segregation with large wage gaps are the visible features of gender discriminations in labour market.

Another significant aspect of discrimination

among workers (both women and men) is the division of workers into employment status of permanent and casual (which includes daily wagers, work charge, employed through contractors or on piece-rates works, as described in earlier sections) with later usually in majority. Casual workers toil side by side with permanent workers in blatantly discriminated conditions without job security and proper wages, medical or maternity leaves, medical treatments and welfare entitlements, and without legal compensation of overtime work. Pattern of such multifarious segmentation in employment relationship are prevalent across the country and sectors - including public (government and semi-government) and private sectors.

Another aspect of labour market discrimination concerns workers from religious minorities and migrant workers, who are segregated into low occupations (janitors and sanitation, social taboos also play its part), forced work in brick kilns and agriculture. Migrant workers in search of shelter, food, and the basic necessities of life are forced into inhumane working conditions of bondage and domestic work, in violation of labour laws.



Child Labour

ILO Conventions No. 138 and 182

Pakistan has ratified both ILO Core Conventions (138, 182) for the eradication of child labour. Constitutional guarantees and labour laws exist to prevent work by children under the age of 14 impart compulsory free education by the state to children up to 16.

A planned survey to determine the current state of child labour has remained pending since 2012, on the pretext of complexities in the wake of the devolution of many governance issues - including labour - from the federal to provincial governments under the 18th Constitutional Amendment. An earlier survey in 1996 reported that among 40 million children aged 5-14, 3.3 million children - i.e., 8.3% - were economically active, with the majority (83%) in the age group 10-14. About one-third of them were literate from the formal education system, and more than 60% were working in excess of 25 hours or more per week. For recent years, partial information is available from the Labour Force Survey, according to which in 2013-14 about 2.7 million children in the age group 10-14 were economically active. The ILO World Report on Child Labour (2015) estimates that 1.3 million (13.5%) adolescents of aged 15-17 are trapped in hazardous work. Almost all of child labour takes place in agriculture and the informal economy.

With regard to education, 42% of Pakistan's population of aged 10 and above are illiterate (including a 53% female illiteracy rate). Progress has been frustratingly slow from the benchmark of 46% literacy rate in 1991. Though Millennium Development Goals stipulated 100% primary school enrolment of (children of aged 5-9) by 2014, we have lagged far behind, as mere 57% of the age group (female 53%) are enrolled, with pronounced provincial disparities. Despite a notable increase in education expenditures in recent

years, dropouts are increasing with worrying numbers. This is one picture of gross negligence of human development and major cause ending with children for wholesome work in marginal activities. International and national organizations project the number of child labour may have exceeded 10-12 million, which seems close to reality as only 30 million out of 41.4 million children aged 5-14 years are enrolled in public and private sector schools.

Widespread poverty, families with a large number of children, lack of decent living wages and productive employment opportunities for adult workers, (two-thirds of wage earners earn poverty wages less than the statutory minimum wage) are important factors that force parents to send their children to work, to supplement meagre incomes. Thus causing permanent damage to children's right to human development.

The state's failure to fulfil constitutional obligations to provide essential social services, education, health, along with the lack of universal social protection, productive employment opportunities in required numbers and quality, the dismal enforcement of labour laws, employment protection and securities, as well as the failure to establish social justice in society forced children of poor and vulnerable families into the labour market. The loss of income from an adult family earner inevitably pushes children into excessive hours and hazardous work. Exploitative indebtedness in families has forced children to join adult family members in occupations, or early-age entrance in labour market.

The high level of unemployment and under-employment among educated youth discourages parents from sending their children to school or allowing them to pursue further education (resulting in low enrolment and dropouts); instead parents prefer that their



children learn employable skills to supplement the families' earnings.

A series of natural disasters in recent years have pushed many down-trodden poor further into poverty and unemployment, which has increased child labour in the country.

Citizens, workers' unions, politicians, and the labour department are all fully aware of the rampant existence of child labour in farms, factories, textile, garments and carpet industrial units, brick kilns, hotels and restaurants, auto workshops, and in the mines and stone quarries. Further, the incidence of child labour in the past even in formal sectors increased, either because of the abolition of the labour inspection system or imposing restrictions on inspection through replacement by a voluntary self-declaration or conditioned to employers' permission. The presence of child labour in formal employment sectors is a direct testament to the absence of representative workers' unions.

Forced Labour

ILO Conventions No. 29 and 105

It is not difficult to imagine why workers perform forced labour. Destitution, lack of essential life necessities (shelter, livelihood, and productive assets), and an absence of rule of laws and protection are critical drivers of forced working conditions. The lack of living wages, the failure to enforce the implementation of minimum wages, and the absence of social safety nets force workers in certain occupations (brick, kilns, agricultures, mining and quarries, domestic work, carpet), to seek loans that cause indebtedness and lead to forced working conditions.

The lack of human resources development and management policies results in the lack of productive capabilities for gainful employment in vast sections of underprivileged areas

and generates the conditions to find and perform work against one's will.

Though poverty is often cited as root cause of bondage conditions, the continued existence and even proliferation of the incidences of labour in forced and bondage conditions of work perpetuate poverty and preserve social ills. The workers and other human rights organizations criticize that it is the lack of proper implementation of laws and failure of the state to ensure social, welfare, and employment securities to its poorest citizens, which keeps them trapped and struggling in the unending cycle of bondage. Forced working conditions and child labour continue to exist because of the failure of the labour inspection machinery.

State of Labour Inspection System

An effective labour inspection system is indispensable to monitor the enforcement of workers' rights, workplace discriminations, labour laws relating to working conditions, occupational safety and health, standardisation of wages and working hours, social security registration compliance, factory facilities, and check on employment of child labour and forced labour. A thorough examination of working conditions is also important to bring to the notice of administrative authorities loopholes and defects in existing laws. Pakistan has ratified the ILO Labour Inspection Conventions No. 81 which is in force since 1953. Health and safety of workers are guaranteed in the national Constitution. But how seriously the labour inspection is taken up by authorities is evident from the facts that labour inspection had remained banned in the province of Punjab for 10 years and was only lifted in 2013 when the disastrous factory accident of Ali Enterprise in Karachi occurred in 2012. In Sindh the labour inspection has remained practically discontinued. Consequently, an alarming number of 2.3 million workers suffer on annual basis from occupational accidents



and hazards along with huge number of unreported cases and violations of labour laws. Deadly factory accidents and infernos are routinely reported in media. Due to inspection bans workers and employers had remained unaware about technical advices from labour inspectors, who themselves were deprived of the opportunity of retaining and raising technical capacities for competent inspections.

Existing ambiguities in the jurisdictions of labour laws are important factors hindering proper development and administration of efficient inspection system. Applicability of various labour laws is based on the number of employed workers. Factories Act-1934 is applicable where 10 or more workers are employed, while the Shops and Establishment Ordinance-1969 is applicable for workplaces employing less than 10 workers. Employers manage to escape the inspection by taking advantage of such duality by showing fake records of employment. Labour inspectors also close eyes to the strength of employment by ignoring temporary workers and those recruited through contractors. Large number of factories and establishment are not registered in government records. Agriculture sector, huge numbers of informal, home-based and domestic workplaces, road transport, construction sites, commercially run health and educational establishments are out of purview of labour inspection. In Sindh the above two laws do not apply to bonded labour while Bonded Labour Act 1992 does not have the provisions of labour inspection.

According to a working paper prepared for a recent (2015) meeting by the federal Ministry of Overseas Pakistanis and Human Resource Development (OP&HRD), in 2014 the total registered factories all over Pakistan were 23,983, shops and establishments were 327,706 while the appointed labour inspectors were only 547 (2 lady inspectors). The strength of labour inspectors has not appropriately increased since the decade of 1970, indeed because the independent inspection

was completely abandoned for long time. Only two training institutes exist for labour inspection training in Karachi and Lahore. The low share in budgetary allocations for labour administration leaves only a fraction for managing labour inspection. The labour inspectors complain the absence of inspection equipments and transport facilities to visit sites. Employers criticize the corruption and high handedness of labour inspectors but would happily bribe inspectors (*through monthly*). If that does not work they use influence to get restrained or banned the inspection exercise altogether. Employers tend to deny medical treatments and financial compensations to workers who suffer permanent injuries or deaths in accidents within their own establishments. They refuse to accept injured or deceased as their own workers, and shift responsibilities of compensation on contractors in violation of labour laws. Resultantly, the labour inspection on which depends the proper application of labour laws has become rather a trivial activity. According to OP&HRD meeting paper 14,439 factories were inspected and 5,003 were penalised in 2014. In Sindh where 8,572 factories are registered, only 12 were prosecuted and penalised for a paltry sum of PKR 4,000 combined. The huge cost incurred from occupational accidents and illness, labour conflicts, and loss of productivity are the consequences of the appalling negligence of labour inspection in the country.

Limitations of Employment Social Security Schemes

For private sector employees, there are three important institutions: employees' social security institutions, old-age pension, and workers' welfare funding scheme.

Social security institutions are under provincial governments and take care of the medical needs of workers and their families in their respective jurisdictions. It is applicable to units employing five or more workers. In reality, a



small fraction (10–25%) of formal sector employees are registered, which is an insignificant fraction of total employees. Contributions to the scheme are made by employers.

Old-age pensions for the private sector are managed by Employees Old-Age Benefit Institution (EOBI), which is under the federal government. It is applicable to units employing five or more workers. Nearly 20% of employees are covered, which is 8% of total employment. The contribution is made by employers and workers, yet the government has decisive control in all its decisions and operations. In recent years, large-scale corruption scandals and embezzlement, along with a high level of administrative expenditures as well as sluggish growth in registration and contribution have weakened and threatened the performance and financial positions of this institution.

Workers Welfare Fund (WWF) is also managed by the Federal Government and applicable to workers who are registered either in EOBI and/or social security. This scheme takes care of the residential facilities, schooling of workers' children and various social grants. The scheme is linked to and funded by the profits of registered industrial and commercial units.

Under the Constitution, the state is to provide social security to everyone employed, through compulsory social insurance. In reality, however, a vast number of employees are deprived of social security rights, as only a fraction of units and their workers are registered.

The constitutional devolution of labour subject to the provinces had created grave complications for EOBI (and WWF), because

of pending court case to decide the fate of territorial (federal or provincial) jurisdictions of these schemes. Consequently the EOBI contributions by employers are collected on the basis of old minimum wage of Rs. 8,000 instead of current level of 13,000. This has seriously weakened the financial position of EOBI fund and impacted its services to registered pensioners.

Critical Challenges for the Labour Justice System

The access to justice is crucial in terms of checking and redressing the violation of workers' rights. Labour laws, including the IRA, provide extra forums of adjudication and judicial process for disputes related to labour and industrial relations. A weak and faulty legal framework impinges on the effectiveness of the labour judiciary and the overall judicial system. Judges for specialized labour courts and forums are appointed by and remain under executives (labour ministries/departments), instead of an independent judiciary. Retired judges are appointed instead of working judges. Judges in labour courts do not enjoy professional facilities, like judges in other cadres, which affects their performance. The incompetency of judges in labour law, industrial relations law, and international conventions contribute to the prolonging of cases and contradictory rulings and verdicts. Justice is expensive, unaffordable for workers and their unions who remain in disadvantageous positions to access justice vis-à-vis employers and corporations.



A Brief Look at the Performance of Government and other Stakeholders in the Wake of GSP Plus

As members of PWC, we hope that the European Union GSP Plus incentive programme for Pakistan continues and that it achieves its objectives. The programme began in January 2014, and we have a long way to go in the next eight years before the tenure concludes in 2023.

In the first two years, the performance of the state machinery towards labour governance in the context of fundamental ILO Conventions was far behind what was required. The response has been sluggish, with a largely indifferent attitude. Nevertheless, there were some important steps taken by the federal and provincial governments and other stakeholders.

- Federal and provincial government of the Punjab created special GSP cells to coordinate and monitor the activities.
- Pending country reports for the ratified ILO conventions have been submitted. On several observations of CEACR regarding inconsistencies of relevant labour laws with the ratified core ILO Conventions, the government expressed its intentions to remove discrepancies by reforming Industrial Relations Acts, though yet to be implemented.
- Tripartite committees were formed.
- The provincial government of Khyber Pakhtunkhwa included better conditions to regulate employment by contactor (Schedule Clause 1, Standing Orders KP Act No. XI of 2013) as well as to check workplace discriminations. The Khyber Pakhtunkhwa government has also passed the law to provide effective prohibition of slavery and debt bondage, and to regulate matters leading to debt bondage of workers

(Khyber Pakhtunkhwa Bonded Labour System (Abolition) Act 2015).

- More frequent meetings of the national and provincial tripartite bodies took place.
- There are signs that the GSP Plus process has helped to sensitize the administration and raise their attention and field activities for labour compliance.
- Draft legislations prepared for domestic and home-based workers are under process for legislation in Punjab, and home-based workers' policies have been presented to the relevant tripartite committee.
- At the non-governmental level, GSP Plus helped to revive the social dialogue forum between workers' and employers' organization, as well as the reorganization of Workers Employers Bilateral Council of Pakistan in two provinces (Punjab and KP).
- Increased willingness and instances of employers to resolve the industrial conflicts from WEBCOP forum.
- Initiatives of Punjab Government to undertake (by the end of October 2015) to check on and eliminate the presence of child labour in brick kilns of Punjab, and rehabilitate children in schools.
- The trade union bodies have started to spread awareness about the GSP Plus scheme, its benefits, and conditionalities to its members through concerted campaigns and published material; raising the issue in their collective bargaining negotiations with employers, increase dialogue platform with employers and government, and discuss strategies for organisation challenges in precarious working conditions.

While these steps are necessary, they are still far from sufficient.



As part of our mandate from workers, PWC presents its suggestions to achieve tangible progress towards achieving the aims of GSP Plus. One part of our suggestion comprises actions that need to be taken in the next two years, as we near the halfway point of the GSP Plus tenure (the end of 2018). If taken, these measures will provide the proof of our government's political will to establish good governance, to make a difference in the lives of millions of exploited workers, and to provide the basis for adopting long-term actions for sustainable development. The actions we suggest here present benchmarks for determining tangible progress and provide targets that state authorities and concerned stakeholders need to engage with diligently.

Way Forward

Legal Framework

- Provinces need to enact and reform pending labour legislations in light of observations of ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) in their respective jurisdictions. This is their unavoidable constitutional obligation in the aftermath of the 18th Amendment, and includes filling the gap of missing law to eradicate discrimination in wages, working conditions, entitlements, and welfare benefits.
- To address the enormous challenge of labour standards' compliance for the vast majority of workers employed in agriculture and the informal economy, it is of central importance to make clear and effective legal provisions of allowing general unions (such as existing home-based workers unions, and mines quarries union), industrial sectors-wise unions and occupational unions, for ensuring workers' rights in sustainable way.
- Registration of unions directly through

labour courts to restrict and check the coercive control of administration/registrars of unions, including mandatory implementation of secret ballot to determine the representative collective bargaining agent when necessary.

- Reforming laws against child labour in matters concerning working age, to bring them in consistency with the ratified ILO Conventions, as well as the constitutional obligation of the state to provide free compulsory education to all children under the age of 16.
- Amending social security laws to change the composition of the governing bodies of Employees Social Security Institutions, Employees Old-age Benefit Institution, and Workers Welfare Board by increasing the representation of workers and employers to 40% each, and government representation to 20%.
- Labour judiciary (Labour Courts and National Industrial Relations Commission) is required to be brought under the purview of Ministry of Law and Justice at National and provincial levels.
- Judicial policies should be amended so that cases within the purview of eight Core ILO Conventions and other Conventions under GSP can be concluded on a priority basis.
- Dedicated benches in High Courts should be established to take on labour cases on an exclusively priority basis, in order to avoid lengthy litigations and the prolonging of labour cases.

Labour Governance

- A quick and comprehensive campaign by administrative authorities, facilitated by tripartite stakeholders, to complete the registration and documentation of



industrial and commercial units by the middle of 2016 to pave the way for labour compliance governance and rule of law at work places.

- Ensuring effective roles and regular functioning of tripartite committees through:
 - Reforms for ensuring transparent procedures to elect/select workers' representatives in tripartite committees and bodies to oversee various areas of labour administration.
 - To meet at regular quarterly intervals each year.
 - Reforms to institute accountability mechanisms, checks and balances of the labour administration authorities through tripartite mechanisms to remove hurdles, malpractice, and corruption in labour governance, which contravenes conventions, laws, and Superior Courts' rulings.
- To put in place federal-provincial coordination institutional mechanisms for uniformity and compliance of labour standards.
- Establishment of the Office of Labour Ombudsman to take cognizance of compliance status of the state's international commitments with regard to international covenants, conventions, and treaties.
- Effective labour inspection policy, to check formal and informal economic sectors including supply chains, allocation of required resources by the respective national and provincial governments to utilise for raising and strengthening the administrative and inspection capacities of labour departments to check and apprehend widespread violations of labour rights, evasion of social and welfare obligations, and the deterioration of occupational and safety standards.
- Urgent and effective implementation of Supreme Court rulings regarding elimination of employment and occupational discriminations, as well as gender discriminations, regularization of employment to eradicate prevalent practices for hiring workers on contract and daily wage basis instead of giving them permanent jobs, formulation and mandatory application of model appointment/contract letter to fulfil statutory conditions of employment, urgent campaign to ensure workers' registrations in social security and pension schemes, use of media and administrative campaigns to raise awareness of legal requirement to fulfil legal conditions of employment, technology-based solutions to ensure visibility of an employee through bio-metric registration procedures.
- Effective awareness campaign and administrative steps to eliminate workplace harassments, forced and child labour, giving it a national priority to promote cultural awareness and sensitization of children's education through media and education curricula.
- Immediate steps to connect households with child labour and bonded labour to existing national and provincial social safety net programmes.
- Integration of Decent Work Country programme in the Federal Plan of Vision 2025 and provincial development plans.
- Ensuring effective functioning of the District-level Vigilance Committees (DVCs) for the eradication of bonded labour constitution/reconstitution of DVCs by effective involvement of representative of recognized trade union bodies.



- Undertaking long-pending national statistical surveys to assess the state of child and bonded labour.
- Targeted programmes to raise the orientation, and professional competencies of judges in labour standards, rights, laws, and GSP Plus conditionalities.
- Performance assessment of labour courts and National Industrial Relations Commission by the heads of respective judicial branch and publish it in regular annual reports.

These recommendations will help to strengthen labour governance in the country and pave the way for long-term reform, including formulating and presenting progressive employment/labour market policies and incentive programmes in consultation with tripartite stakeholders to:

- Enhance labour productivity and increase productive employment opportunities, enhance gender participation in labour markets.
- Effective implementation and mechanisms to remove discriminations in the labour market at all levels.
- All parties have promised labour rights and welfare measures in their election manifestos, it is time to fulfil promises and begin implementations.
- Eradicate root causes of generating and continuing child and forced labour with an emphasis on compulsory quality education and productive employment opportunities for adult population.
- Income-generating and social safety net programmes, especially for deprived areas and sections of the population where child labour and bonded labour are most pervasive.

- Simplification and consolidation of labour laws.
- Ratification of ILO Conventions relating to home-based workers, domestic workers, new conventions on health and safety, development of effective labour inspection policy in all provinces, including dedicated independent institution to administer Occupational Safety and Health and Labour Inspection system; development and implementation of an adequate well-functioning labour market information system.
- Establish clarity, credibility, deterrence, and comprehensiveness of legal system as well as speedy justice on the basis of equality before the law and the prompt execution of just and final orders.
- Supreme Courts to ensure close surveillance on all subordinate judicial tiers with powers of suo moto to be vested on all courts having appellate jurisdictions with necessary check-balance.
- Court orders and decisions need to include time-bound actions and implementation plan for executive authorities;

Further, the labour movement needs to develop and campaign for an improved system of workers' organizations across sectors and occupations. The role of trade union federations and confederations is of crucial importance. They need to seek and develop partnerships to enhance their capacities and resources, to be able to effectively help their members unions and to start a rigorous campaign to organize workers, focusing on export sectors.



Conclusion

Collective bargaining without unions is impossible. Without bargaining, the economic and commercial benefits of GSP Plus cannot be shared with workers and Pakistan's citizens. To begin with, the additional profits of exporters under GSP Plus must start to reach workers in the export sector industries - in particular, textile and garments sectors - without any further delay. Hence, the formation and freedom of representative workers' unions in the textile and garment sectors will be the litmus test for the success of the GSP Plus scheme.



Annexure

Results and Illustrations of a Rapid Survey by PWC to Assess the Current State of Labour Standards Compliance

Pakistan Workers Confederation carried out a rapid assessment of the current state of labour compliance by surveying 136 factories in 11 industrial sectors in the four provinces, to supplement the preparation of this report. The survey was conducted during June-September 2015 with the helpful assistance offered by active trade union activists of the constituent member federations.

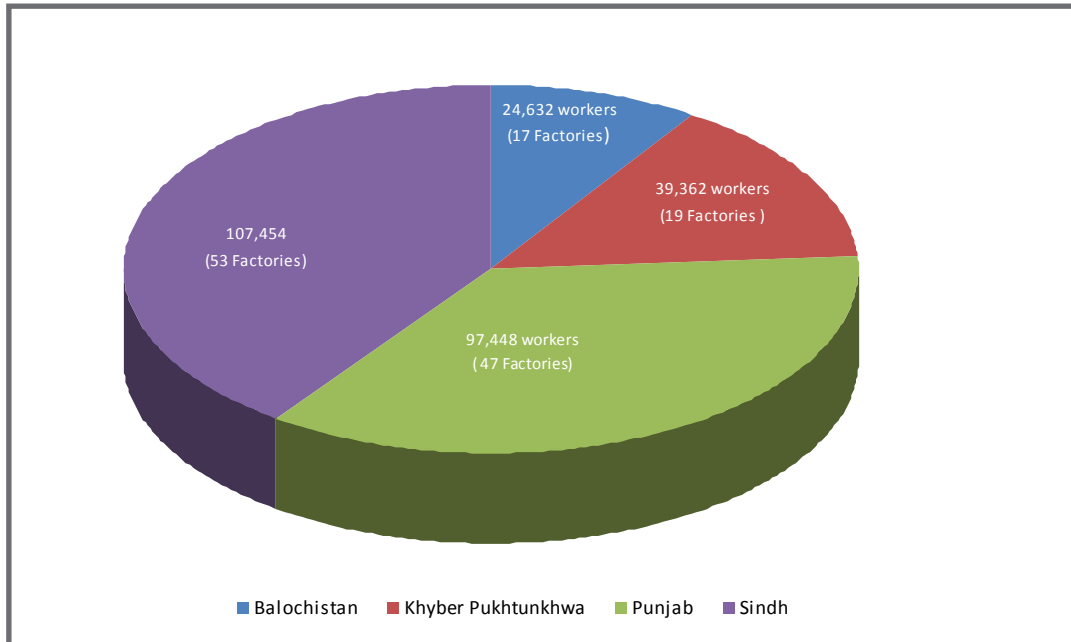
The results of the assessment, summarised and illustrated below, conform to the analyses presented in this report.

- Overall employment of women is 10%, with highest in media sector followed by garments and sports industries;
- In total permanently employed workers are barely above 50%. In the case of women workers mere 19% have permanent employment status;
- Less than 50% workers have written employment contract (women only 19%). Same is the pattern of the registration of workers in Employees Social Security (total 42%, women 13%) and EOBI (total 33%, women 11%);
- 59% respondents reported the presence of union at their workplace, but 77% of them reported their union is a 'pocket union'. In 18% units the presence of 3 or more unions were reported. In about 23% cases the CBAs exercise collective bargaining.
- Labour inspections were conducted in 44 % cases, 33% workers reported they were inquired by labour inspectors during the inspection. Incidences of industrial accidents were confirmed in one-third cases;
- Only 37% cent confirmed availability of maternity leaves and 69% for general medical leaves. Only 12% reported the facility of day care;
- Overall 50% responded to have worked more than 48 hours, while only one-fourth receive the legal payment (double-rate) for overtime work compensation;
- 65% reported the payment of minimum wages, 61% confirmed the wage discrimination to women workers and 60% reported delayed payment of salaries.

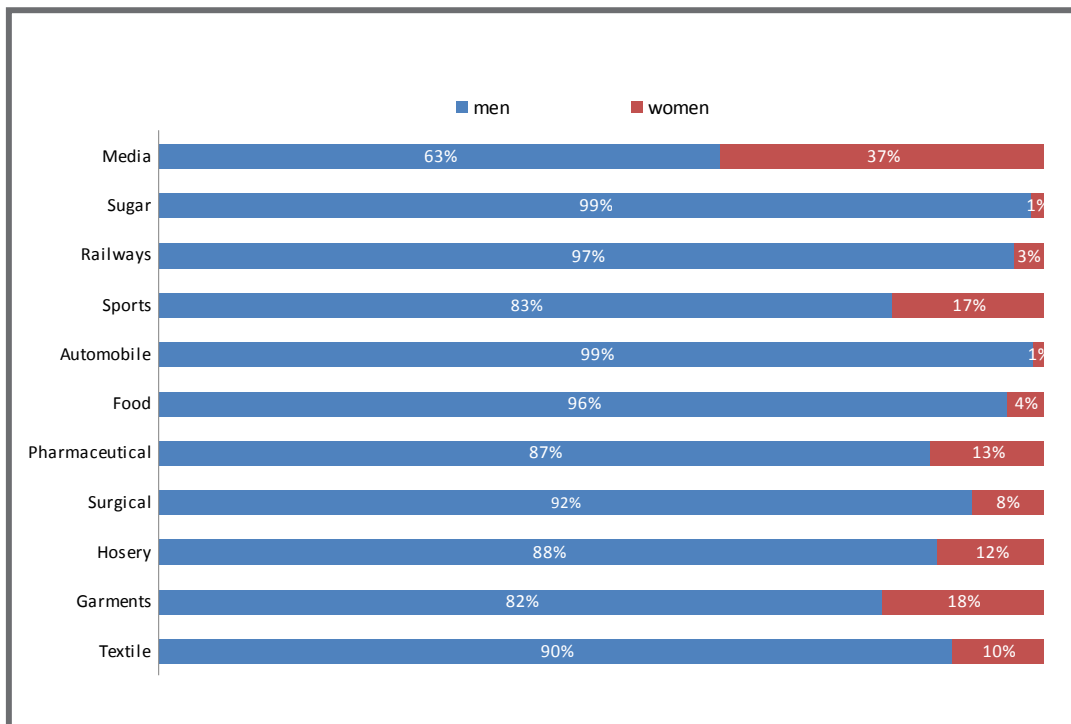
The results are further illustrated in the graphs below.



Graph 1: No. of factories surveyed with employed workers in each province

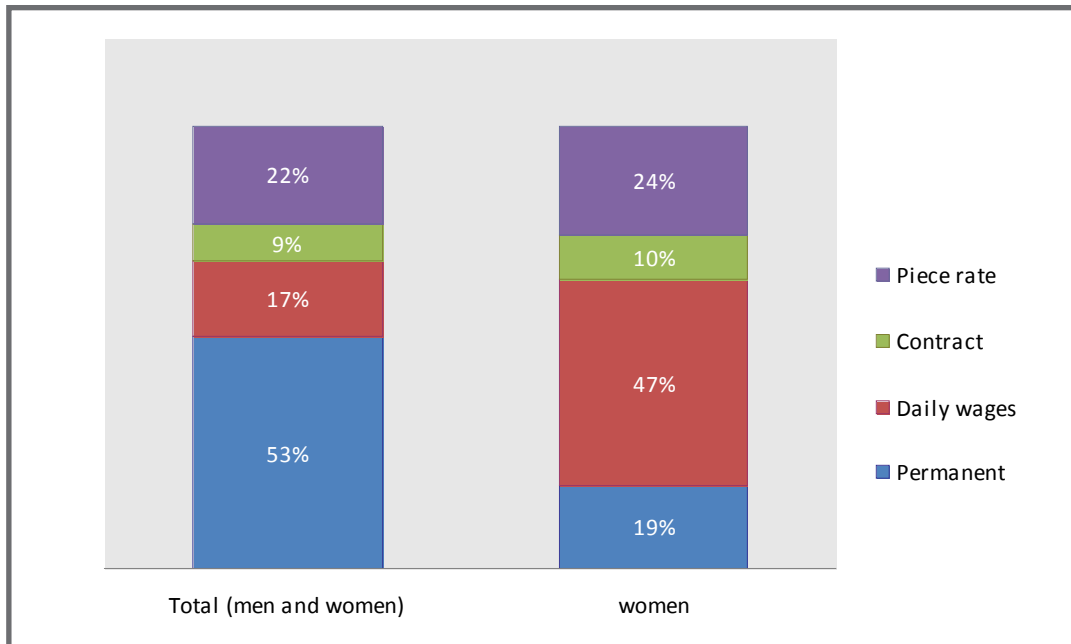


Graph 2: Gender-wise distribution of employed in surveyed sectors

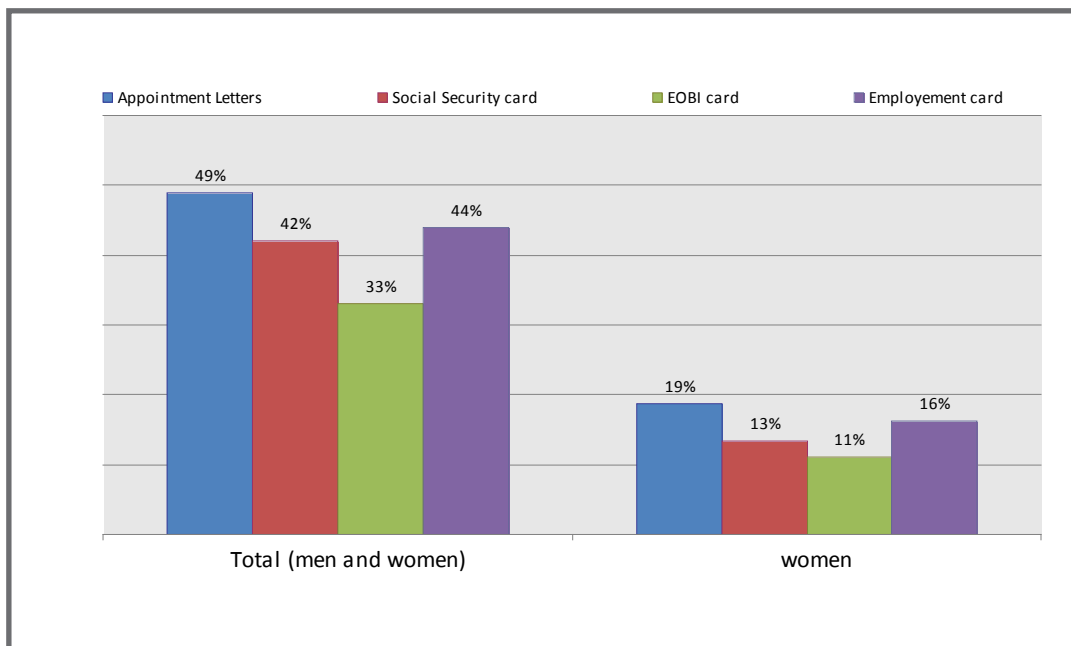




Graph 3: Employment Status of Workers

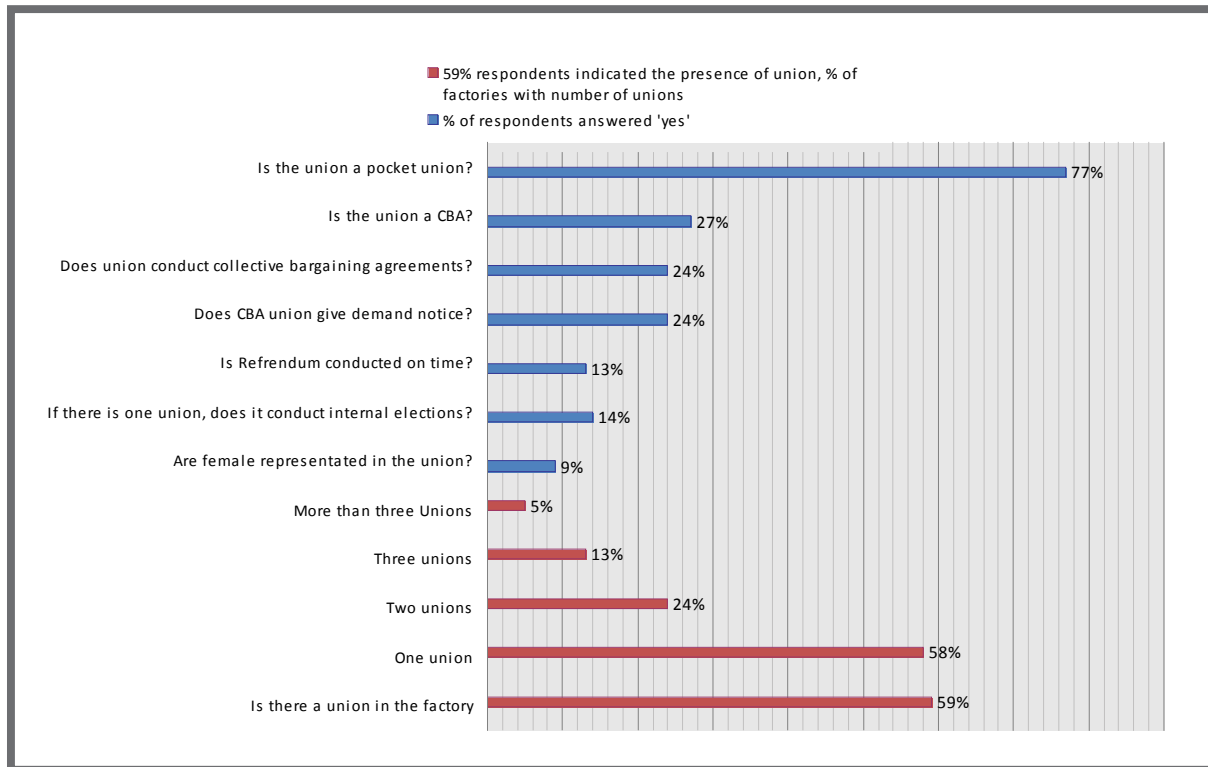


Graph 4: Share of employed workers with employment securities and registration in social security & pension schemes

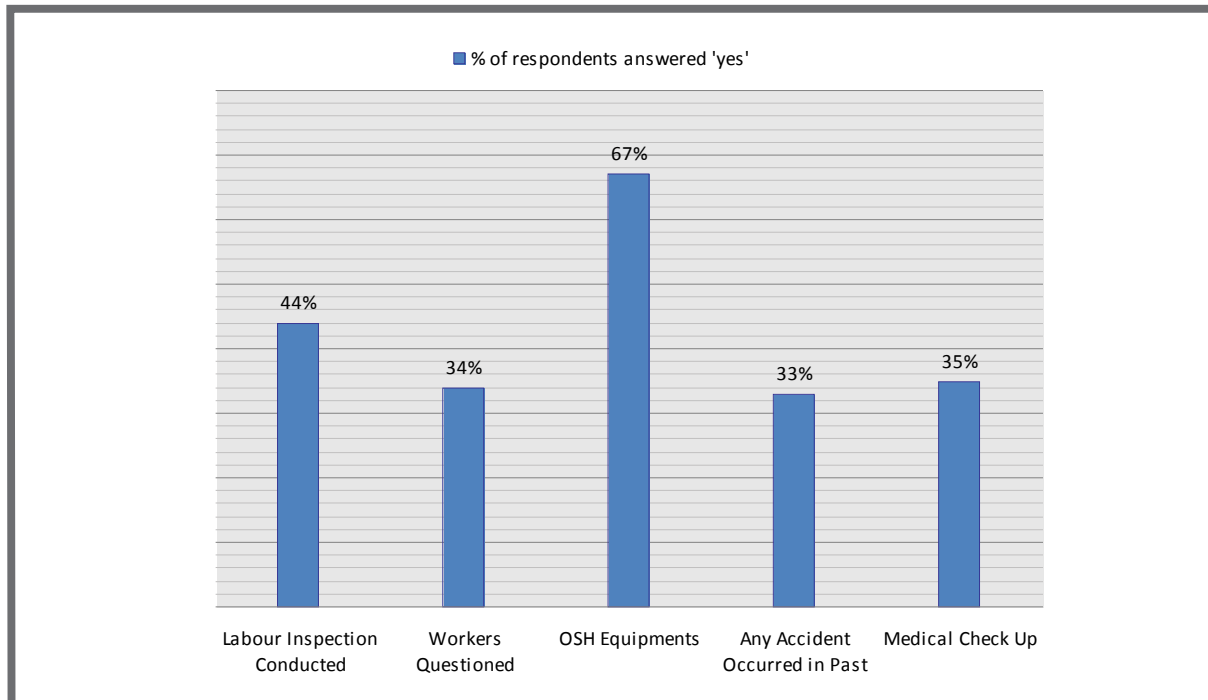




Graph 5: Situation of Trade Unions in Factories

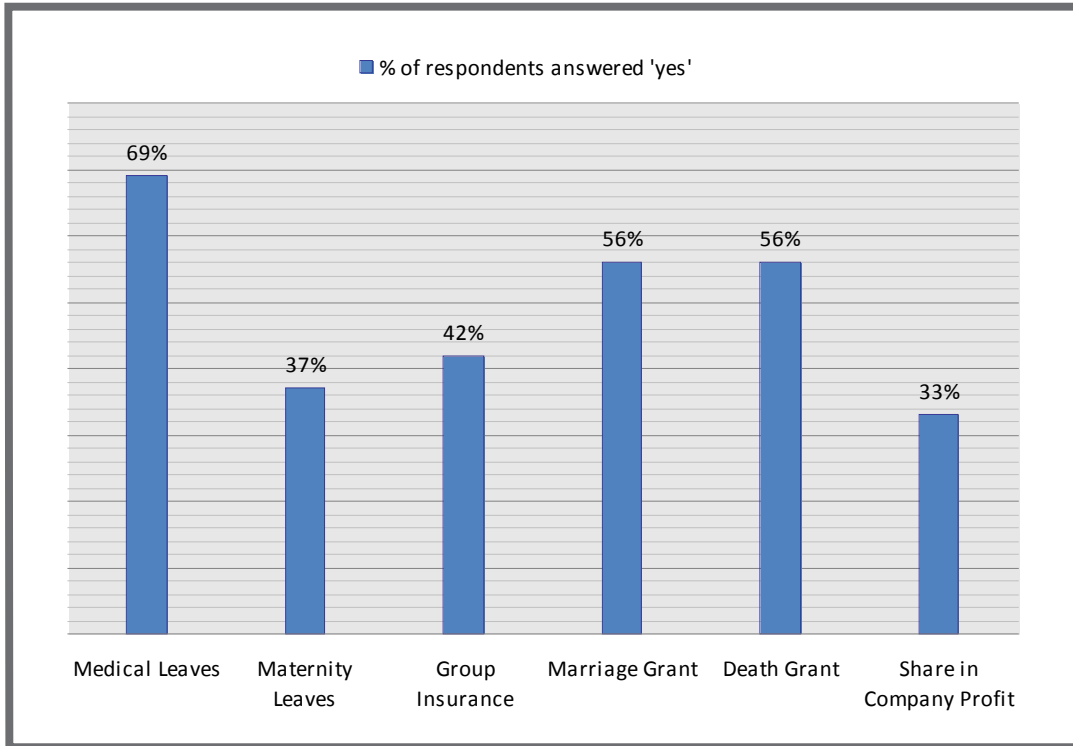


Graph 6: Situation of Labour Inspection

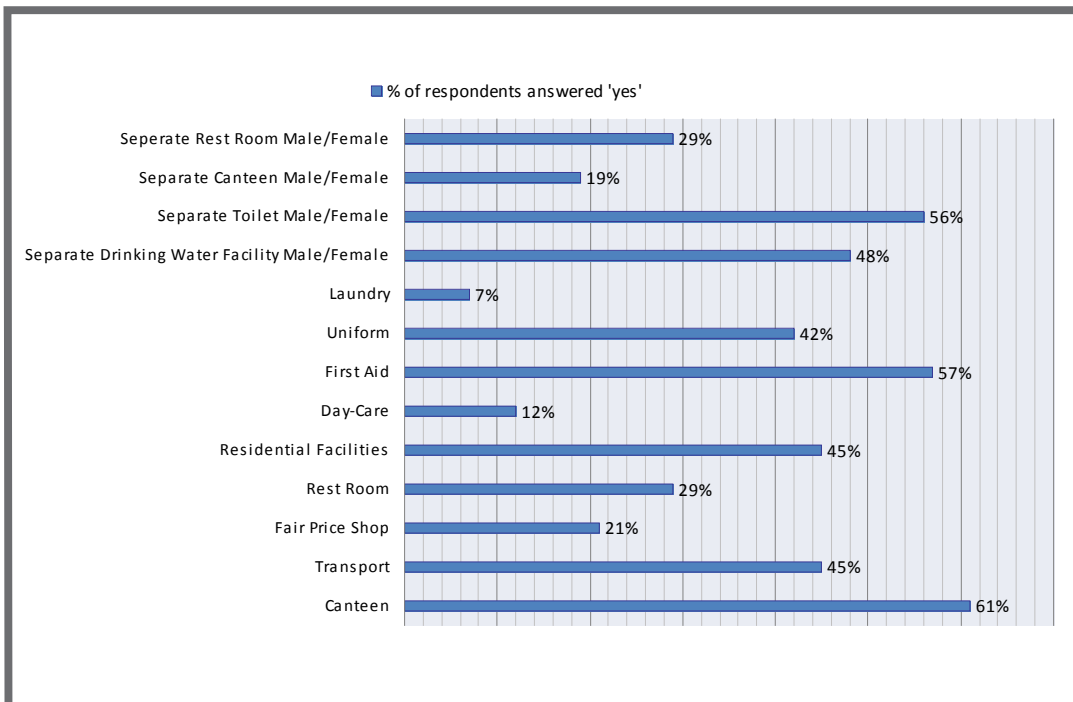




Graph 7: Employment & Social Benefits

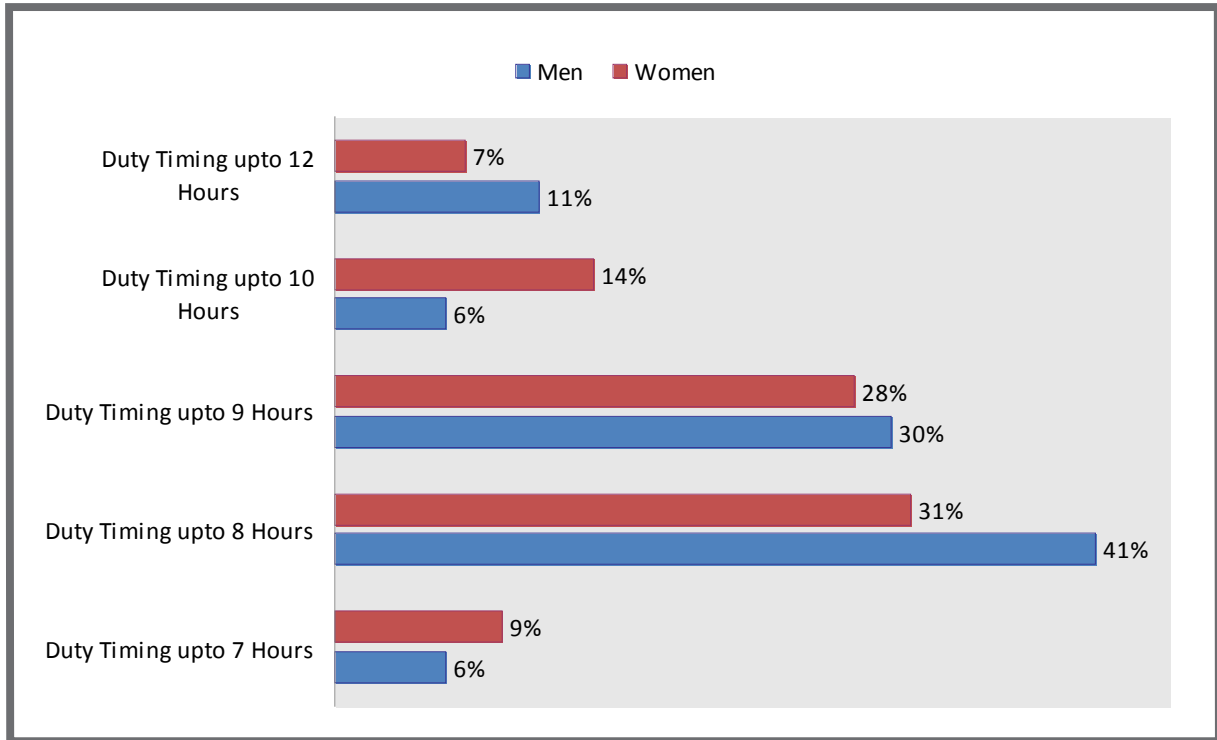


Graph 8: Factory Facilities

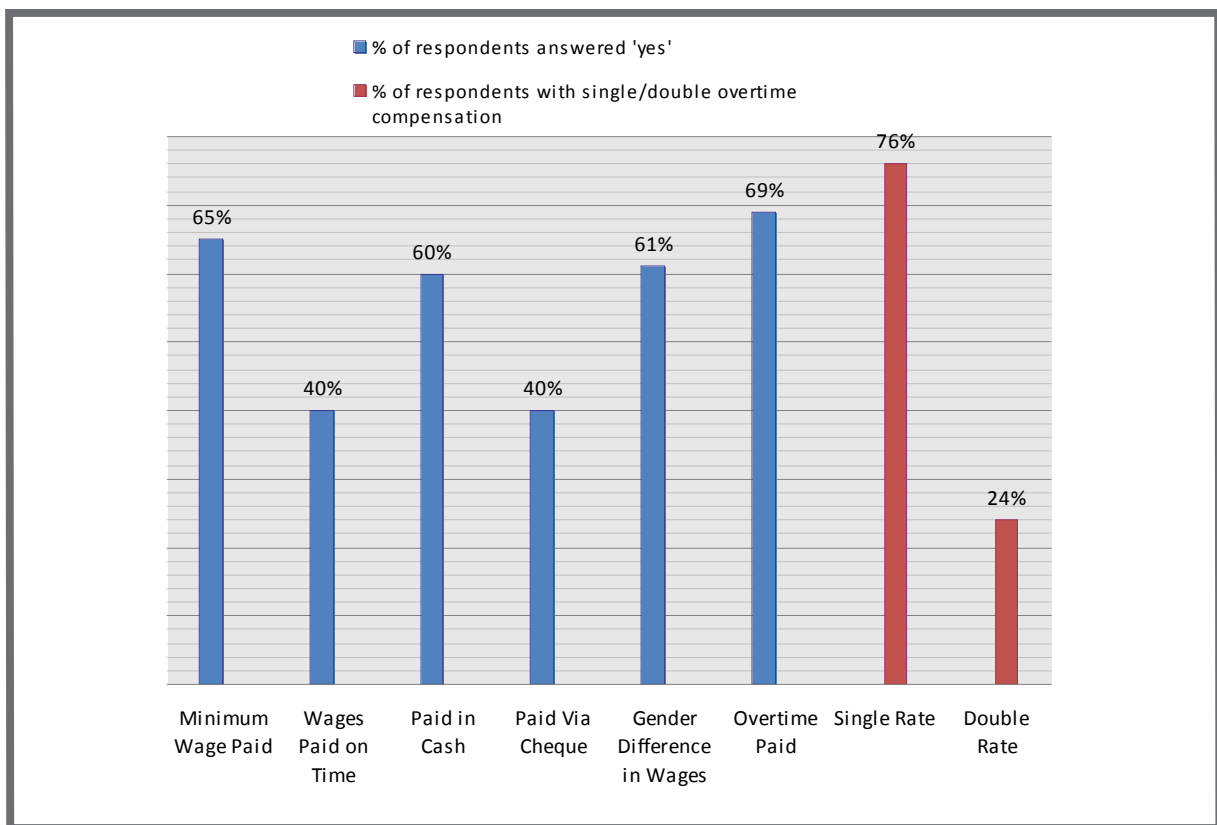




Graph 9: Daily Working Hours



Graph 10: Wages and Overtime Compensation





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About Pakistan Workers Confederation

Neo-liberal policies of liberalisation of financial and trade flows pushed for structural adjustments programmes, privatisation of states' assets, dismantling and de-regulations of labour markets and creation of supply chains. Growing power of capital produced grave implications, especially for developing countries' capacities to deliver on promises of economic and social security, threatened social cohesion in societies by increasing inequalities and political upheavals, and weakened the foundation of labour movements and unions to protect the livelihood of workers. This resulted in rise in unemployment, informal employment, cheap and precarious forms of labour without adequate protection for jobs and wages, weakened social security and deterioration of occupational safety and health at work places. The increasing casualisation of employment rendered it very difficult for trade unions to retain membership and organize new workers. To respond to these grave challenges, Pakistan's trade unions adopted strategies of alliance building. By putting aside their political and ideological differences, all six important trade union federations of the country decided to unite workers of Pakistan at a common strong platform and founded Pakistan Workers Confederation (PWC) on 19th March 1995.

The PWC objectives are to organise workers in unions,

strive for removing the obstacles in the way of right to organise and collective actions, eliminate discriminations, struggle for reforming and implementing labour laws according to international labour standards, living wages, expanding social security coverage, and campaign to eradicate forced labour and child labour. It sought to strengthen the voices of workers at the national level and enlarge trade union agenda by joining hands with progressives forces of intelligentsia, civil society, human and women right activists to establish social justice, ensure economic and political rights, oppose privatisation of national assets, alleviate poverty and enhance welfare of society, and representation of working class in legislatures and policy making institutions.

Despite internal and external challenges, the membership of PWC has grown stronger since its inception by extending membership to national, regional and sector-wise federations and workers organisations, along with establishing active national and provincial chapters. Its founding member federations include: **Pakistan Workers Federation**, **Muttahida Labour Federation**, **Port Workers Federation**, **All Pakistan Trade Union Federation**, **Pakistan Mazdoor Mahaz**, **Watan Dost Mazdoor Federation**, **Pakistan Trade Union Federation (Sindh)**, **Sindh Sugar Mill Workers Federation**.

About the authors



Chaudhary Mohammad Yaqoob is the Chief Organiser of Pakistan Workers Confederation and Chairman of Muttahida Labour Federation Pakistan. He started his union carrier from Ravi Riyan in 1970. He was jailed

in 1980 in a »pamphlet case« by the then martial laws regime for more than two years and during imprisonment he completed his Bachelor of laws and Master in political science. After release from the jail, he led numerous movements and toured the country to unite workers' and peasants' bodies, and established common platforms of workers' unions including Punjab Workers Front (1979), Joint Labour Federation (1982), Muttahida Labour Federation (1988), All Pakistan State Enterprises Workers Action Committee (1990) and Pakistan Workers Confederation (1995). During the past more than four decades he has remained an active member of workers' movements and keen observant of their successes and setbacks. He represented workers organisation at numerous national and international forum and published a monthly magazine »Jamhoori Sangat« for five years.



Shaukat Ali Chaudhry is the Deputy Secretary General of Pakistan Workers Confederation, founding member and the Secretary General of Pakistan Mazdoor Mahaz. He started his political career from National

Students Federation and took part in the student movement against the then Martial Law regime in 1968. Later he joined Airway Employee Union in Pakistan International Airlines and also become member of a national level organisation of Qaumi Mazdoor Mahaz. He studied economics and worked in shipping carriers, joined International Sea Men Union and visited 27 countries during his job. Later he worked in Airways Employees Union and Railway Workers Unions. He is also the editor of a monthly labour magazine »Man-shoor« which is being issued since 1964.

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.

Islamabad, December 2015

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