



Targeted Surveys on application of core labour standards Pakistan

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Ergon



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Targeted Surveys on application of core labour standards, Pakistan

This report has been developed to provide a picture of the application of core labour standards in Pakistan. The report is based on a combination of desk research and stakeholder interviews. The assessments of the issues covered in the report are based on the views of credible international organisations, national governments, employer organisations, trade unions, experts and other stakeholders

Progress

- Provincial governments' ownership of CLS issues
- Provincial legislative efforts on child and bonded labour
- Identification of cases of bonded labour and trafficking
- Levels of tripartite dialogue at federal and provincial level

Challenges

- Alternative forms of labour sub-contracting as an anti-union tactic
- Enforcement of non-discrimination
- Perceived corruption and impunity relating to labour issues
- Weak enforcement, inspection, prosecution and judicial capacity
- Lack of recent data on bonded and child labour

Key context

The application of core labour standards in Pakistan has been heavily shaped by the devolution process, which began in 2010. Since devolution, responsibility for labour legislation and enforcement has resided with the four provinces - Sindh, Punjab, Khyber Pakhtunkhwa (KP) and Balochistan. While devolution has provided opportunities for innovative, grassroot solutions to issues relating to the core labour standards, it has also created significant challenges as provincial authorities have varying capacities to adopt and enforce labour laws.

Pakistan has experienced consistent economic growth in recent years, but the translation of economic gains into social development outcomes has been muted. A major brake on this process is Pakistan's sizeable informal economy, comprising almost three-quarters of the workforce, notably in agriculture and home-based work. The extent of the informal economy represents a significant challenge for the implementation of core labour standards, primarily because in most provinces, informal workers remain outside the scope of existing labour law.

The new government, elected in July 2018, has promised to launch a labour policy to safeguard Pakistani workers, as well as promising to prioritize generating employment and upskilling the labour force.

Overall, enforcement of core labour standards continues to lag significantly behind legislative gains, resulting in limited progress in practice. While provinces have gradually improved legislation relating to the core labour standards in recent years, weak capacity of the inspectorate and other administrative bodies is widely cited as a key constraint in the application of all core labour standards. This issue is widely recognised and government, together with the ILO, continues to work to improve the capacity of the inspectorate.

National stakeholders and international observers have been pleased by the levels of 'ownership' of core labour standards now assumed by the provincial governments, particularly Sindh and Punjab. Of the four core labour standards fields, child labour is recognised as having gained the most momentum among provincial governments, with less progress reported in relation to issues such as non-discrimination and freedom of association

Freedom of association and collective bargaining

Federal and provincial industrial relations acts (IRAs) broadly confer the right to workers to join and form trade unions and to bargain collectively. Balochistan and Sindh amended legislation to include informal workers in agriculture and fisheries in their IRAs, thus providing trade union rights to these workers. Nevertheless, several legislative gaps with the conventions remain, somewhat impeding rights to freedom of association, collective bargaining, and the right to strike.

Despite gradual progress with legislation, and notable enforcement efforts in Sindh, which has reportedly sought to raise awareness of trade union rights among the large informal workforce, little has yet to change in practice. Trade unions highlight continued negative perceptions of unions, anti-union discrimination and efforts by employers to thwart worker organisation, particularly in the private sector. This includes labour sub-contracting, forming 'yellow unions', and attempts to circumvent provincial law by establishing operations in other provinces. In addition, commentators report that enforcement is weak, with insufficient resources and a lack of political will from authorities noted as constraints.

Forced labour

Legislation has been enacted in all provinces except Balochistan, where the federal legislation applies. While legislative gaps with ILO Conventions 29 and 105 remain, including references to compulsory labour as a penalty, some improved protections exist in provincial legislation, such as protections against worker debt cycles in Punjab and KP.

Bonded labour is a serious and entrenched issue in Pakistan, and it remains widespread. It is typically present in informal contexts, such as agricultural, domestic and brick kiln work. Although poor enforcement is again the major constraint, there have been some advancements, including efforts by some provinces to regulate brick kilns and increased identification of trafficking victims. However, District Vigilance Committees (DVCs), local citizen reporting bodies on bonded labour, are only functioning in Punjab, which was also the only province to launch a bonded-labour prosecution in 2017. Some trade unions claim that DVCs have become quickly politicised, hindering their functioning. Indeed, international observers note that corruption and official complicity in bonded labour is a constraint (USDOS, 2018).

Child labour

While Sindh, Punjab and KP have enacted child labour legislation, they have not addressed all the historic gaps that exist between federal legislation and the Conventions. These include issues with minimum age thresholds for 'light work', disparities in compulsory schooling ages and unclear provisions regarding activities that constitute 'hazardous work' for under-18s in some provinces and territories. Nevertheless, child labour has been a priority issue in Pakistan in recent years, with a number of provincial projects in place, and reports of ongoing efforts to strengthen legislation. National stakeholders and international observers appear most concerned about the high and persistent rates of child labour in its worst forms, such as in brick kilns, as well a child domestic work, which has gained increasing visibility as an issue. Considering the scale of the problem, many agree that enforcement is inadequate, and some claim it is virtually absent. Across provinces, labour inspection capacity is weak, and inspections are limited to the formal sector, where child labour is less common. Even in cases where child labour is identified, legal action is not always taken, and penalties are inadequate. Inspectors reportedly lack resources and training on child labour issues, particularly in its worst forms. Nevertheless, international observers, including the ILO, again recognise progress by Punjab and Sindh on improving enforcement.

Discrimination

Gaps exist between protections against employment discrimination and the Conventions, including relating to the concept of equal pay for work of equal value and sexual harassment protections. Progress by provinces to adopt anti-discrimination legislation developed by federal government in coordination with the ILO remains slow. Considering the prevalence of discrimination, particularly against women and religious minorities, greater enforcement efforts are needed. Understanding of the concepts of employment discrimination and harassment remain low among employers, and discrimination within authorities, such as the inspectorate, hinders right to redress, according to international observers. Furthermore, the administrative apparatus for discrimination issues is weak and some recently-launched initiatives have subsequently ceased due to a lack of funding.

Other working conditions

Pakistan's labour market continues to experience low levels of women's participation, limited creation of decent jobs, and a growing reliance on sub-contracted labour in export industries. The high level of informality (73%) is a major obstacle to ensuring decent work and adequate worker protection.

Occupational safety and health. Sindh is the only province with its own OSH law. In other provinces, there is an absence of an effective framework for enforcing OSH and, where enforcement exists, it is ineffective, overburdened and at risk of corruption (CNV Internationaal, 2017). OSH is poor across sectors. However, export- sectors are developing better provisions. Mining is a concern, with high rates of fatalities. The large informal workforce is unprotected by OSH regulation.

Wages. Minimum wages do not apply to the large informal sector. Some also claim that increases have been insufficient, remaining far below the cost of living (FES, 2017). Compliance with minimum wage provisions is reportedly low, owing to weak enforcement and bureaucracy. It is reported that minimum wage regulations are generally only

complied with at export-oriented factories, owing to pressure from audits by international buyers.

Employment protection legislation. Employment is reportedly insecure in most sectors, owing to informality, a lack of written contracts, and growing and repeated use of temporary contracts or subcontracted workers in export industries. The latter is generally preferred by employers to provide flexibility (CNV Internationaal, 2017).

Social security coverage. Employment is reportedly insecure in most sectors, owing to informality, a lack of written contracts, and growing and repeated use of temporary contracts or subcontracted workers in export industries. The latter is generally preferred by employers to provide flexibility (CNV Internationaal, 2017).

Status of ratification and reporting

Pakistan has ratified all eight ILO fundamental (core) labour conventions and two of the four ILO governance (priority) conventions (C81 and C144). Reports indicate that Pakistan does not have the intention to ratify outstanding governance conventions at present. Pakistan failed to meet its reporting obligations to the ILO supervisory machinery in 2017. However, it was reported in 2018 that Pakistan had since sent replies to the majority of CEACR comments.

		Application issues - latest ILO CEACR observations and direct requests on core conventions
Freedom of association & collective bargaining	C87	(2017): Requested govt. to remove legislative prohibitions on the right strike and remove penal sanctions for participation in peaceful strikes. Noted eligibility criteria for trade unionists to hold office is too broad. (2017): Noted legislative restrictions on certain workers forming and joining trade unions and the possibility of union deregistration without judicial review.
	C98	(2018): Requested govt. clarifications and amendments on: trade union rights for all workers; excessively high thresholds for collective bargaining; prohibitions of workers to join multiple unions; and impartiality in compulsory arbitration.
Forced labour	C29	(2018): Requested govt. improve enforcement of bonded labour legislation in brick kilns; ensure functioning of district vigilance committees in all provinces; and tackle low rates of trafficking convictions.
	C105	(2018): Requested govt. continue efforts to amend legislation stipulating compulsory labour as a penalty for certain offences.
Child Labour	C138	(2018): Requested govt. clarify / amend issues surrounding: minimum age for light work in all provinces; minimum age for work in family establishments has no exceptions; and any inconsistencies between minimum age for work and compulsory schooling.
		(2018): Requested govt. adopt child labour legislation, including

		hazardous work legislation, in provinces where these are outstanding.
	C182	<p>(2018): Requested govt. adopt a National Strategy to Eliminate Child and Bonded Labour, pass law prohibiting domestic work for minors, and noted insufficient enforcement measures.</p> <p>(2018): Noted various issues including no compulsory education in Gilgit-Baltistan, weak law enforcement, insufficient penalties and limited efforts to tackle cross-border child trafficking.</p>
Discrimination	C100	<p>(2018): Requested information on enforcement of equal pay for equal work and a copy of relevant draft legislation.</p> <p>(2018): Requested govt. improve definitions in KP legislation regarding equal pay for equal work and provide information on application.</p>
	C111	<p>(2018): Requested govt. provides information on measures taken to ensure women's access to vocational training and placement services.</p> <p>(2018): Requested govt. ensure provincial legislation defines and prohibits direct and indirect discrimination, in all aspects of employment for all workers; and provide information on efforts to formalize women's work; and outstanding sexual harassment legislation in provinces.</p>

References

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