

THE IMPACTS OF INTERNATIONAL LABOR ORGANIZATION ON PAKISTANI LABOR LAWS

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Abstract

International labor organization has great impacts on labor law making exercise among the member countries. Since its basic objectives to protect labor rights, it has some basic conventions. In this research article, the researchers tried to explore what are the impacts of ILO direction and guidelines on Pakistani labor laws for the welfare of Pakistani labor class.

Keywords ILO, Bonded Labor, Factories Act 1934, Industrial Relation Act, Standing Order Ordinance,

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1. Introduction

The International Labor Organization (ILO) is a United Nations agency dealing with labor problems, particularly international labor standards, social protection, and work opportunities for all.[1] The ILO has 187 member states: 186 of the 193 UN member states plus the Cook Islands are members of the ILO. In 1969, the organization received the Nobel Peace Prize for improving peace among classes, pursuing decent work and justice for workers, and providing technical assistance to other developing nations.[2] ILO was set up, with an aim to develop the conditions of labors not only in Pakistan but also around the world, in the year 1919. Pakistani Labor Organization through its resolutions and recommendations supports countries to lure their own set of labor legislations for the well conduct of the labor class, and the preservation of their rights. The primary objective of action in the ILO is the creation of the International Labor Standards in the form of Resolutions and Recommendations. Resolutions are international treaties and instruments, which generate legally binding responsibilities on the nations that ratify those nations. Recommendations are non-binding but better set out guidelines orienting countrywide policies, procedure and help in developing actions. Labor Law controls matters, such as, remuneration, labor employment, and conditions of employment, trade unions, industrial and labor management relations. They also include social legislations regulating such characteristics as reimbursement for accident triggered to a worker at work place, maternity benefits fixation of minimum wages, and distribution of the company's profit of the organization's workers, etc. Most of these acts regulate rights and the responsibilities of employee. The ILO registers complaints against entities that are violating international rules; however, it does not impose sanctions on governments. [3]

The 18th Amendment to the Constitution devolved labour, along with 46 other subjects, in April 2010 to the provincial level. This had a major effect on the development of labour policies in the country. The goal of the 18th Amendment was to decentralize power and grant greater autonomy to the provinces that would filter down to districts leading to more equitable development. [4] The foremost issue raised by labour unions and NGOs after the 18th Amendment, was the question of harmonizing labour laws across provinces: the need for an over-arching framework, a blueprint embodying fundamental principles of rights and responsibilities of stakeholders as established by the ILO conventions and enshrined in the Constitution of Pakistan. [5]

Unfortunately, uniformity was compromised when the provinces adopted separate laws concerning labour. Furthermore the provinces enacted separate industrial relations laws largely based on the Industrial Relations Ordinance 1969[6]. This resulted in a plethora of labour laws that are different in each province. Given that each province has their own labour laws, each province has specific challenges where it comes to the promotion of labour standards and a living wage. Due to the pervasiveness of the Ready Made Garment (RMG) industry in Sindh and Punjab, this report will point out specific laws in these provinces, and where necessary references will be made to federal legislation. [7]

The federal government has tried to uphold the labour laws through the introduction of article 270 AAA of the Constitution of Pakistan that protects 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 has been finalized. [8] More amendments are needed to harmonize the provincial Labour Legislations in line with Pakistan's ratified ILO conventions. This was also agreed by the representatives from the four provincial departments of labour, Gilgit-Baltistan, Employers Federation of Pakistan (EFP) and Pakistan Workers Federation (PWF) who jointly reviewed the labour laws in a four days' workshop, in 2013. [9] History of Pakistani labor legislation is obviously interlaced with the history of British colonialism. British political economy was considered natural paramount in modeling some of these early laws.

In the initial phases it was very difficult to get adequate regular Pakistani workers to run British organizations and hence labor laws became essential. This was obviously labor law giving in order to protect the interests of British bosses. The outcome was the Factories Act. It is well known fact that Pakistani textile goods offered unbending competition to British textiles in textile market and hence in order to make Pakistani labor costlier. The Factories Act was first time introduced in 1883 because of the pressure carried on the British parliament by the then textile tycoons of Manchester and Lancashire. Thus we acknowledged the first requirement of eight hours of work for labor, the abolition of child labor, and the rheostat of employment of women in night, and inaction of overtime wages for labor who work beyond eight hours.

Further the attitude of Pakistan with respect to International Labor Standards has always been very constructive. The Pakistani Labor Organization tools have provided procedures and useful framework for the development of legislative and administrative procedures for the protection and progression in the interest of labor. To that point the impact of ILO Resolutions as a regular for reference for both labor legislation and practices in Pakistan, rather than legally binding norm, has been substantial. Ratification of a Resolution enforces legally binding responsibilities on the nation concerned and, consequently, Pakistan has been very careful in ratifying Resolutions. It has always been in the exercise in Pakistan that we ratify a Resolution when we are entirely satisfied that these laws and practices are in conformity with the appropriate ILO Resolution. It is now measured that a better course of action is to proceed with progressive implementation of the standards, leave the formal ratification for consideration at a later stage when it becomes practicable. Pakistan have so far ratified 39 Conventions of the ILO, which is much better than the position obtaining in many other countries. Even where for special reasons, Pakistan may not be in a position to ratify a Convention, Pakistan has generally voted in favor of the Conventions reserving its position as far as its future ratification is concerned. The ILO asserts that its members have an obligation to work towards fully respecting these principles, embodied in relevant ILO conventions. The ILO conventions which embody the fundamental principles have now been ratified by most member states. [10]

II. Objective

The main objective of this article is to explore the impacts of ILO direction and guidelines on Pakistani labor laws for the welfare of Pakistani labor class.

A. Methodology

In present study, the researchers have used the narrative literature review methods for describing the impacts of ILO directions and guidelines on Pakistan Labor Legislations.

B. Ratified Conventions

Pakistan has ratified a total of 34 ILO conventions, including eight core conventions - Freedom of Association & Collective Bargaining, Child Labour, Forced Labour, and Discrimination (equal treatment in employment and occupation and equal remuneration for equal value of work). With

the passage of 18th Amendment, the labour legislation and its implementation now solely rests with the provincial governments. [11] Pakistan is among 20 percent of Asian countries that have ratified all the eight core labour conventions. [12]

As the core labour conventions are also part of the European Unions Generalized System of Preferences Plus (GSP+), there is an increased political will to work on the improvement and implementation of the above mentioned conventions. However in a country where officially 60 million workers have been registered, there are only 336 labour inspectors and only three of them are women. Therefore a formidable efforts still need to be made to increase compliance on the work floor. [13]

Pakistan has ratified 36 ILO Conventions including all eight

Fundamental Conventions:

C.29 - Forced Labour Convention, 1930

C.87 - Freedom of Association and Protection of the Right to Organize Convention, 1948

C.98 - Right to Organize and Collective Bargaining Convention, 1949

C.100 - Equal Remuneration Convention, 1951

C.105 - Abolition of Forced Labour Convention, 1957 (Not in force)

C.111 - Discrimination (Employment and Occupation) Convention, 1958

C.138 - Minimum Age Convention, 1973

C.182 - Worst Forms of Child Labour Convention, 1999

According to the Declaration on Fundamental Principles and Rights at Work and its Supplement, each Member country of the ILO is anticipated to give outcome to the principles restricted in the Core Resolutions of the ILO, regardless of whether or not the Core Resolutions have been approved by them.

Under the reporting procedure of the ILO, detailed reports are due from the member States that have ratified the priority Conventions and the Core Conventions every two years. Under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, a report is to be made by each Member State every year on those Core Conventions that it has not yet ratified.

One of the foremost reforms introduced recently is the introduction of the “Active Partnership Policy” whose main objective is to bring ILO nearer to its constituent countries. The key instrument for execution of the ILO policy is the multi-disciplinary team, which will help in providing support and identify special areas of concern to member States. For South-Asia the multi-disciplinary team is in Islamabad. It consists of specialists on industrial relations, employment, labors and employers’ activity, small-scale industries and International Labor Ethics.

Also ILO’s interest in child labor, young persons and their problems is well known. It has adopted a number of Conventions and Recommendations in this regard. In Pakistan, within a framework of the Child Labor (Prohibition and Regulations) Act, 1986 and through the National Policy on Child Labor, ILO has funded the preparation of certain local and industry specific projects. In two projects, viz. Child Labor Action and Support Programs (CLASP) and International Program on Elimination of Child Labor (IPEC), the ILO is playing a vital role.

The implementation of IPEC programs in Pakistan has certainly created a very positive impact towards understanding the problem of child labor and in highlighting the need to eliminate child labor as expeditiously as possible. A major contribution of the IPEC program in Pakistan is that it has generated a critical consciousness among all the social partners for taking corrective measures to eliminate child labor.

C. Major impact of ILO on Labor legislations in Pakistan

Amendments are needed to harmonize the provincial Labour Legislations in line with Pakistan’s ratified ILO conventions. This was also agreed by the representatives from the four provincial departments of labour, Gilgit-Baltistan, Employers Federation of Pakistan (EFP) and Pakistan Workers Federation (PWF) who jointly reviewed the labour laws in a four days’ workshop, in 2013. [14]

With the evolution and expansion of small plants, factories and industries in the Pakistani subcontinent starting in the mid of the nineteenth century, new possibilities for employment were

generated, resulting in an ongoing migration of the labor from poor rural areas to factories and mills located basically in urban areas. During time, in the lack of any control on organization's labor by the state, the employers were very less concerned for the needs of their workers; wages were very low, very long working hours, and unsatisfactory the employees' employment conditions. The situation led to the depiction of a large number of labor legislations beginning since the year of 1881. These labor legislations includes, The Factories Act 1934, Workmen's Compensation Act -1923, Mines Act 1923, Trade Unions Act-1926, Trade Disputes Act -1929, Payment of Wages Act -1936, Employment of children act- 1938, Shops and Establishment Ordinance, 1969 and Employee's Old Age Benefits Act, 1976

Labour Laws

In addition to the Labour Policy, different laws have been promulgated for the benefit of labour force. Some of these laws are briefly discussed below:

The Factories Act, 1934

The Factories Act is applicable to almost all the industries. According to the Act, "Factory" means any "premises" or "Precincts" thereof, where ten or more workers are or were working, in which a manufacturing process is being ordinarily carried on with or without the aid of power. This act is the basis of all industrial and labor laws in Pakistan. It contained requirements for working hours of women and workers with the minimum age of children for employment. When International Labor Organization was established in 1919, this Act was amended and subsequently retracted, resulting in the declaration of the Factories Act 1934. It makes provision for health, safety, and hygienic condition of the workers, special provision for women and young workers. It also forbids child labor. It provides limits of work for a child in factories, including seasonal factories. Factory Legislation is the most widely diffused. [15]

Mines Act 1923

This Act make provisions for labors working in Pakistani mines. The working hours for labor employed on surface were limited fifty per week and ten per day. According to Mines Act periods of work shall not be more than 12 hours in any day, this also include rest period. For workers who are employed underground, the daily limit for them is nine hours per day. The Act

does not cover provisions related to overtime work. No worker can work more than six days in a week. The Act does not make any provision for wages during the day of rest.

Trade Union Act and Payment of Wages Act

The Pakistani government under British set up an enquiry committee in 1926 to determine the shortcomings for anomaly of payment of wages to industrial labors. As the result Trade union act of 1926 come up. The Royal Commission on Labor was appointed in 1929, the commission considered the reports and suggestions of the enquiry committee and recommended for implementing prevention of disorders relating to payment of wages. The Payment of Wages Act 1936 was passed to regulate the payment of wages to definite classes of people employed in industry. The object of the Act obviously was to offer a low-priced and quick therapy for employees to whom the Act applied and to recover wages due to these employees. For this purpose, a special tribunal was created, but due to some integral imperfections in the statute the repossession of judgmental wages remained difficult.

The Weekly Holidays Act of 1942

This act recommends one paid holiday in a week for people working in any restaurant, shop, or theatre excluding position of management, and confidential positions. The government is authorized to award additional paid half-day holiday in a week.

The Industrial Disputes Act, 1947

This act came into being on the 1st day of April 1947. The Act provided for establishment of industrial tribunals by the appropriate government in British Pakistan. It established a full-fledged industrial tribunal for adjudication of industrial disputes for the first time. Industrial relations are organized on a federal level through the industrial relations act of 2012 [16], and provincial policies were introduced in Punjab in 2010 [17] and in Sindh in 2013 [18]. This provincial division further complicates the implementation and monitoring of the diverse industrial relation polices.

The Industrial Employment (Standing Orders) Act, 1946

This act came into force for the first time to employers in industrial establishments which are employing hundred or more workers. This act provides the way to define the terms and conditions of employment of worker in the form of standing orders. The Merchant Shipping Act, 1923 provided for an agreement between the master of the ship and seaman concerning their terms of service.

Companies Profits (Workers' Participation) Act, 1968

A company engaged in industrial undertaking, if the number of workers employed at any time during a year is 50, or more, or the paid up capital as on the last day of the accounting year is Rs. 2 million or more or the value of fixed assets as on the last day of the accounting year is Rs. 4 million or more, is required to establish a Workers' Profit Participation Fund and pay to it, 5% of its profits every year. The workers' share in the fund depends on the category of his average monthly salary, subject to a maximum of Rs. 14,000.

Industrial Relations Act

This Ordinance relates to the formation of trade unions, the regulation of relations between employers and workmen and the avoidance and settlement of any differences or disputes arising between them or related matters. Besides, the Act also deals with the Registration of trade unions, Collective Bargaining Agents, Worker's Council, Management Board, etc. The law as mentioned below after the 18th amendment in the constitution of Pakistan making labour law as provincial subject, have a different shape that is four provincial Industrial Relation laws in respective provinces and one Federal Industrial Relation law for federal capital area and for establishment , workers , industry wise trade union , and federations having operation in more than one province.

Employees' Cost of Living (Relief) Act, 1973

Employee's Cost of Living (Relief) Act, 1973 provides for the payment of cost of living allowance to employees getting wages not exceeding four thousand and sixty Rupees per month. The Act is applicable to an establishment to which West Pakistan Shops and Establishment Ordinance, 1969 applies. The amount of cost of living allowance varies based on the wage level

of employees. The amount of allowance has been increased from time to time through amendments in the Act.

Shops and Establishment Ordinance, 1969

The Ordinance provides for the maintenance of statutory records of wages, leave, holidays, working hours, overtime, etc. It applies to all shops and establishment where any workman is employed.

Minimum wage law

We have a minimum wage law which provide for the determination of minimum wage periodically through consultative mechanism the current minimum wage is Rs. 14000 per month

Employee's Old Age Benefits Act, 1976

The Act is applicable to every industry or establishment employing five or more persons. The employer is required to insure the workers who draw wages up to Rs.14, 000 per month. However, in case where an employer opts for self-assessment scheme, the maximum wage limit of the employees required to be insured under this Act is Rs. 12,000. The contribution is made @ 5% of workers' wages by the employer and such contribution cannot be recovered in any manner from the employee, however workers also have to contribute 1%. Through an amendment the application of the old age benefit law has been extended now to the self-employed workers also. They have to take care of their own contribution.

Industrial and Commercial Employment (Standing Orders) Ordinance, 1968

Every industrial or commercial establishment where 20 or more workmen are employed is required to comply with the conditions of employment of workmen and other incidental matters contained in the standing orders. Organising and bargaining rights are most limited in Pakistan some of the major working sectors i.e., agriculture, textile, garment, teachers, hospital workers are uncovered under the country's industrial relations system, workers of these sectors are more insecure due to their contractual status of job. There is no direct labour legislation provided them support in combating with their precarious employment problems.

In response of present government policy some of the public service organizations regularized their contractual or daily wage workers in recent past.

Conclusion

Most of the labor legislations in Pakistan are before independence. The Fundamental Rights of the Constitution for providing safeguards to labors. Although most of the pre – constitutional labor legislations have been revoked or curtailed following the Doctrine of Severability and Doctrine of Eclipse, but not a lot of changes had been made to the labor legislation which were came before the adoption of Constitution. The achievement of these labor laws must be credited to the ILO. The ILO guidelines provided basic principles on which most of labor legislations were drawn. By observation on various amendments and enactments in labor laws, it can be easily seen that the ILO have countless impacts on the Pakistani Labor Laws. A large number of laws were passed to incorporate the guidelines of the resolutions of the ILO. All these revised and ratified legislations create provisions for the common welfare and protection of importance of the Pakistani labors. The constructive effect of ILO is seen in the form of appreciation of many new kinds of rights that were previously not available for the Pakistani labor class, which were made available after the creation of ILO.

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