



LABOUR LEGISLATION

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Before delving into the status of existing labour legislation in Pakistan, it is necessary to know about its background and source many centuries ago during the Middle Ages.

Pakistan had inherited the following key labour legislations among many others, from the British India: Trade Unions Act, 1926; Industrial Employment (Standing Orders) Act, 1946; Industrial Disputes Act, 1947 and Factories Act, 1934. These four laws provided the basis for labour laws and policy making in the country.

These laws were quite forward looking and progressive in the sense that they allowed trade union activities in all the sectors except armed forces and police and the workers had the rights of collective bargaining and even strike.

At present there are nearly 200 labour laws and the rules made thereunder in Pakistan, yet successors of the above-mentioned laws i.e., the Industrial Relations Ordinance, 1969, Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 and the Factories Act, 1934, continue to remain on top of the list.

Labour legislation has its origins from the law of contract (earlier the 'law of master and slave' and later 'the law of master and servant') and industrial relations regulations are considered as deviations from common law and violation of the principles of 'laissez – faire'.

The driving principle behind 'laissez – faire', a French term that translates to 'leave alone' or 'let you do', is that the less the government is involved in the economy, the

better off business will be, and by extension, society as a whole. Another core feature of 'laissez – faire' economics is the principle of a free market economy.

Pakistan has nearly adopted all the laws of British India and also the interventionist attitude of the government in regulating labour management relations. It has been observed that during the tri-partite labour conferences, the government representatives have always tried to dominate the other two stakeholders, i.e. workers and the employers. They have been averse to any efforts for improvement, novel ideas and thoughts coming from the latter.

Prior to the devolution through the 18th Amendment passed in April 2010, labour legislation was a concurrent subject under the Constitution, i.e. these laws could be framed by both the federal and the respective provincial governments. Nevertheless, the labour laws were usually enacted by the federal government and then the provincial governments would promulgate rules/regulations in accordance with their specific conditions and needs.

The 18th Amendment abolished the concurrent list, and Pakistan has become only the third country in the world after the US and Australia to not have it. The concurrent list should not have been abolished in the interest of uniformity of essential labour laws in the country, such as the laws on employment, fixation of wages and leave, etc. As the provinces have full liberty to make any amendments to the labour laws, they do so mostly based on political expediency and without any guiding rationality.

In 2021, the Balochistan government increased the workers benefits substantially in comparison to the other three provinces even though it has the least number of industries. In the Balochistan Industrial and Commercial Employment (Standing Orders) Act, 2021, the wages payable to a worker in case of termination of his employment by the employer, have been increased from one to three months. Similarly, the amount of gratuity has been increased from one to two months' salary for every completed year of service.

In the matter of discipline, action has to be initiated against a worker guilty of 'gross misconduct' within a week instead of one month in the other provinces, from the date when the misconduct comes to the knowledge of the employer. The term 'gross misconduct' has been coined instead of only 'misconduct', mentioned in the Acts of the other three provinces. In the Balochistan Factories Act, 2021, the per year quantum of annual leave has been increased from 14 to 20 days, casual leave from 10 to 15 days and sick leave from 16 to 20 days.

The federal government should develop coordination with the provinces to provide necessary guidelines to ensure that besides having commonality of provisions in certain laws across the country, provincial labour laws represent international commitments and adherence to the Constitution. The tripartite labour conference should be held regularly, to make certain the viability and concordance of laws with all stakeholders.

As the labour laws had become quite cumbersome and unwieldy to implement, during the 1970's, progressive employers had been asking the federal government to consolidate and make them simple. In this respect a commission comprising Justice (Rtd) Zakiuddin Pal and Justice (Rtd) Shafiqur Rehman, was constituted in the late 1980's but its recommendations were not implemented.

Similarly, Moeenuddin Qureshi, the caretaker Prime Minister from July to October 1993, had constituted another commission under the chairmanship of Naseem Shujaat Mirza, Chairman of ICI Pakistan at that time, with the same purpose. The commission had consolidated three of the leading labour welfare laws, introducing one-window operation for payment of contributions to the government, under those acts. The draft act to this effect prepared and submitted to the government, was not legislated.

Another remarkable effort was made in 2010 to consolidate the labour laws into the following five broad categories: Industrial Relations; Employment and Service Conditions; Occupational Safety and Health; Human Resource Development; and Labour Welfare and Social Safety Net. An Act was also drafted incorporating this great initiative, but it fizzled out in the wake of the 18th Amendment.

Besides emoluments of the job, workers have been getting some additional benefits from the statutory labour welfare schemes, providing them adequate relief

from the rising costs. The social security scheme provides medical cover to them and their families including parents. The Companies Profits (Workers' Participation) Act gives them share in their company's annual profit. The Employees' Old-age Benefits Act caters to monthly pension after their retirement.

Following the devolution of labour laws in 2010, the operations of both profit sharing and old-age pension Acts, which were more suited to remain as federal laws, have been severely hampered. The Sindh and Punjab governments promulgated the profit-sharing Acts in 2015 and 2020 respectively. The workers in these two provinces remained deprived of benefits until enforcement of the Acts.

The federal law of profit-sharing has not been amended since devolution in 2010 and is still applicable to workers drawing a monthly salary of Rs. 5,000, while the existing minimum wage is Rs. 32,000. The federal law is applicable to trans provincial companies i.e., those which have establishments in more than one province. The federal government, after the forthcoming general elections, should make amendments to this law, immediately after its formation.

The federal government has not parted with the administration of Employees' Old-age Benefits Institution (EOBI) since devolution. Over the last 13 years, employers all over Pakistan have been challenging before the superior courts any increase by EOBI in the amount of monthly contribution. Conversely, the EOBI makes increases in the amount of pension with gaps of many years. For instance, the last increase in pension, from Rs. 8,500 to Rs. 10,000 per month, has been made effective July 2023, after 3.5 years. To put an end to the prolonged legal battles between employers and the EOBI, the next federal government should regularise the latter's status as a federal institution through a simple majority in the parliament.

The nascent country's first tripartite labour conference was held in February 1949, which was inaugurated by the then Prime Minister Liaquat Ali Khan. Subsequently, the government ratified the International Labour Organization's (ILO) Conventions 87 and 98 relating to freedom of association and collective bargaining respectively.

Pakistan has been an active member of the ILO since 1947 and has so far ratified 36 Conventions, including 8 out of 10 fundamental Conventions and two governance Conventions. This includes Freedom of Association and Protection of the Right to Organize Convention 1948 (No 87) and Right to Organize and Collective Bargaining Convention, 1949 (No 98). However, Pakistan's record of compliance with international labour standards remains a challenge, specifically in the context of these two Conventions.

Pakistan needs to ratify the important ILO Conventions of Health and Safety of Workers and establish a strong mechanism for the proper implementation and monitoring of such laws.

The federal and provincial governments should bring up the matter of labour law reforms in their respective priority lists, so that some relief from the unprecedented inflation is provided to the hard-pressed workers employed in the industrial and commercial establishments.

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