

A CASE FOR UNIONISATION

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Amidst the discourse on the ongoing economic crisis in Pakistan, a crucial yet often overlooked aspect is poor labour relations and its consequences for building a resilient economy. Unionisation is one of the foundational aspects of labour relations, which allows workers to organise and collectively bargain for their rights. While Pakistan has recognised the importance of securing workers' bargaining position by unionisation, through both its domestic policies and international commitments, the uptake of union activity has not seen promising trends. As workers grapple with economic challenges, employment uncertainties, and the broader economic fallout, enabling the role of unions in safeguarding their rights and well-being has become urgent.

The Constitution of Pakistan recognises the right to unionise under Article 17 which states that "Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law."¹ Pakistan has also been an active member of the International Labour Organization (ILO) and has ratified a number of international conventions, demonstrating its willingness and commitment to uphold international labour standards. However, its policies have fallen short of ensuring genuine freedom of association and collective bargaining, as outlined in the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)² and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98)³.

Under Pakistan's constitutional structure following the 18th Amendment to its Constitution, labour relations is a provincial subject. To that effect, both the national and provincial legislatures have passed laws on how trade unions can be formed and registered within their geographical domains. Under this existing framework, however, little push towards the increase in unionisation has been seen. The ILO reports that only 4% of the workforce in Pakistan was unionised in 2018⁴, while trade unionists state that it is as low as 2%⁵. The major obstacles to unionisation in Pakistan are the practices of union busting and establishment of 'yellow' unions⁶, which have become common practices in the industrial sector. The Right to Organise and Collective Bargaining Convention 1949 provides that workers' organisation must be protected against any 'acts of interference'⁷, however, the framework for formation of unions in Pakistan under the Industrial Relations Act 2010 fails to achieve this.

¹The Constitution of the Islamic Republic of Pakistan, 1973

²Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)

³International Labour Organization (ILO), Right to Organise and Collective Bargaining Convention, C98, 1 July 1949, C98, available at: <https://www.refworld.org/docid/425bc23f4.html>

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⁵Iftikhar Ahmed, Labour and Employment Law: A Profile on Pakistan, available at: www.efalidnbmnnibpcajpcgiciefindmkaj/https://wageindicator.org/documents/Labour_and_Employment_Law-A_Profile_on_Pakistan.pdf

⁶<https://www.hrw.org/report/2019/01/23/no-room-bargain/un-fair-and-abusive-labor-practices-pakistan>

⁷International Labour Organization (ILO), Right to Organise and Collective Bargaining Convention, C98, 1 July 1949, C98, available at: <https://www.refworld.org/docid/425bc23f4.html>

The requirements in the Act in itself enable interference through the restrictions it places on formation of unions and membership. While first and second unions do not have a minimum membership requirement, a third union must have one-fifth of the total workers' employed as its members. This is nearly impossible to accomplish for unions in large-scale establishments, where yellow unions by employers are often formed to prevent genuine union activity. These unions are made up of non-existent or chosen employees to prevent workers from holding genuine bargaining power.

Workers have attempted to overcome this issue by joining the yellow unions and gradually progressing to decision-making positions so it may be taken over by a genuine leadership, as seen in a case involving Hi-Tech Feeds⁸. This strategy has also seen little success as employers push back against such takeovers, leading to reprisals towards the union leaders. Threat of reprisals is a commonly used union busting tactic, with workers being dismissed or denied increments for being involved in union activity. The Hi-Tech Feed case demonstrates the impact of these actions, with its labour union members spending two years before the Labour Courts to get their rightfully-earned increments from their hostile employer. While this case was successful due to the perseverance of the workers involved, most workers do not have access to funds or support to pursue lengthy claims.

The ILO has also emphasised the need for workers' access to diverse unions. Its Committee of Experts on the Application of Conventions and Recommendations (CEACR) has recommended in its latest report that Pakistan must amend its laws to enable workers to freely join or change memberships to unions 'for reasons of independence, effectiveness or ideological choice'⁹. The present structure prevents such diverse union activity, by restricting membership to one union at a time¹⁰.

These obstacles have adverse consequences for women workers in particular, who are severely under-represented in labour union activity. Women constitute only 2% of labour union members in Pakistan¹¹, leaving the specific challenges faced by women in the workplace unaddressed. This figure is especially shocking. Issues such as sexual harassment, termination of pregnant workers and non-payment of maternity leave are some of the many issues reported by women workers¹². Lack of representation, coupled with the legal restrictions on establishment of unions, creates twice as many barriers for women in bargaining for their rights.

In turn, unsafe workplaces and poor working conditions for women prevents them from entering the workforce. At 20%, Pakistan's rate for women in the workforce is one of the lowest globally.¹³ Women's economic participation is tied to empowerment in the household, better nutrition and higher educational attainment¹⁴ - all factors that increase the likelihood of their children receiving education and better economic opportunities in the future.

Suppression of union activity, therefore, not only negatively impacts labour relations within the industrial sector, but has consequences for labour conditions and the wider economy. Research has shown the increase in unionisation decreases income disparity for both unionised and non-unionised workers, and increases economic growth¹⁵. While preventing increases in income and benefits is preferred by employers, policies placing the majority of profits in the hands of the wealthiest segments of society have been noted to harm the economy in the long-run¹⁶. This is particularly relevant to Pakistan, where a preference for investment in rent-based sectors such as real estate has been criticised for its failure to boost production and economic benefits for the wider economy¹⁷. In contrast, workers who earn higher wages are more likely to spend money in a way that boosts economic activity¹⁸.

Pakistan's policy-makers must recognise that national economic prosperity is tied to the prosperity of its workers. Workers are the backbone of the economy, and as stakeholders, their concerns must be represented in policy agendas.

The authors are lawyers and founders of the Centre for Labour Defence.

⁸The author represented labour union members in a case before a Labour Court against Hi-Tech Feed.

⁹https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---rel-conf/documents/meetingdocument/wcms_868115.pdf

¹⁰Section 3(ii) of Industrial Relations Act 2010.

¹¹https://www.ilo.org/islamabad/info/public/pr/W-CMS_187903/lang--en/index.htm?ssSourceSiteId=asia/lang--en/index.htm

¹²<https://www.hrw.org/report/2019/01/23/no-room-bargain/unfair-and-abusive-labor-practices-pakistan>

¹³<https://www.worldbank.org/en/results/2022/07/07/supporting-legal-reforms-to-increase-womens-workforce-participation-pakistan>

¹⁴<https://asiapacific.unwomen.org/en/countries/pakistan/wee/wee-participant/employment-and-earnings>

¹⁵<https://www.epi.org/publication/unions-help-reduce-disparities-and-strengthen-our-democracy/>

¹⁶<https://tcf.org/content/report/how-unions-work-for-the-economy/>

¹⁷<https://www.brecorder.com/news/40187266/in-twitter-thread-economist-atif-mian-highlights-pakistans-economic-woes>

¹⁸<https://tcf.org/content/report/how-unions-work-for-the-economy/>