

ILO Conventions and Gender Dimensions of Labour Laws in Pakistan

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Abstract

Like in the other developing countries, women labour force participation rate is rising gradually in Pakistan. Their employment is mostly concentrated in the informal sector, agriculture sector and in the home-based industries. Pakistan is signatory to ILO Conventions 100 and 111. As a result, various efforts were made in the country to make labour laws and policies in line with these conventions. The paper examines country labour laws with an objective to explore whether these are in accordance with the Pakistan's international commitments. The paper analysis how far various provisions of the labour laws regarding women workers have been able to address the concerns of these two conventions. It also highlights weaknesses of labour laws and suggests means and ways as a way forward for overhauling of these laws, especially, in the context of the scenario after the 18th Constitutional Amendment.

Key words: Gender, Discrimination, remuneration, occupation, employment, labour legislation

Introduction

The last three decades have seen a number of developments which promoted international trade, restructured work organization and led to “flexibilization” of labour processes. The boundaries of production extended to homes and more and more women entered into the labour market as “employment elasticity and annual average employment growth rates were higher for women than for men” (ILO 2010). Manufacturing of international brands extended to all over the world, particularly, in the developing countries and “women workers make up the overwhelming majority of the workforces of labour-intensive export industries in developing countries, dominate the international migration of care services workers, and tend to be concentrated in the most vulnerable jobs of global production system” (Dejardin 2008). For instance, “in manufacturing, this started with the East Asian ‘miracle’ economies and also Mexico and spread to other parts of Asia and Latin America. In the garment industry in Honduras 65 % of the

workforce is women; they are 85 % in Bangladesh and 90 % in Cambodia” (Dolan and Sorby, 2004).

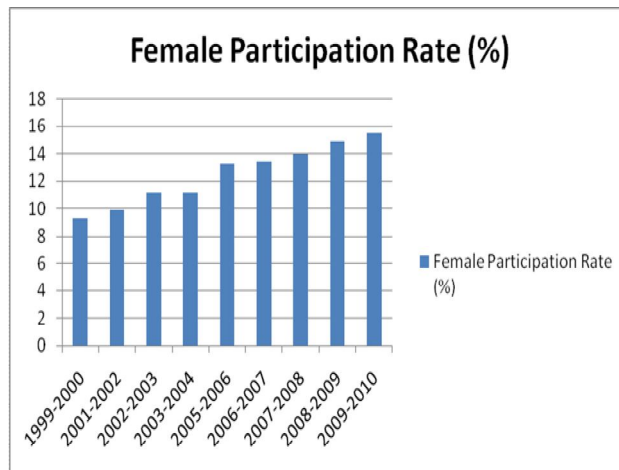
“Women are much more likely than men to be informally employed. They are over represented in the most vulnerable poorest forms of informal employment and earn significantly less than men in informal employment” (ADB-ILO, 2011). “They are over-represented in home-based and sub-contract work in exploitative exchange relationships. Such a link between gender and informality arises out of social, cultural and economic barriers often reflected in their original endowments and creates situations of poverty. Social and cultural norms also restrict the nature of economic activities women can engage in. These norms are operated through caste and religious customs along with the household responsibilities of rearing and caring thrust upon women” (Unni and Rani, 2003). ‘Informal women workers often belong to socially marginalized sections and their bargaining power is weak’ (Jhabvala, 2003). A lot of literature is available to highlight that women workers are being exploited. According to Chen and Marilyn (2004) ‘female workers are marginalized (or excluded) not by being unemployed but by being engaged in types of work and working conditions that condemn them to low-wage, low-productivity occupations that involve increasing pressure and drudgery as companies resort to “sweating” their labour force’. Afshar and Barrientos, 1999), (Elson, 1999) and (Cagatay, 1996), all feminists and women’s interest groups highlight that ‘women’s employment is characterized by long hours, job insecurity and unhealthy working conditions, as well as low pay. They also point out that women’s wages and working conditions in export-oriented production, particularly in multinationals or their subcontractors can be better than the alternative’ (Lim, 1990) and ‘these jobs may even be coveted by women’ (Kabeer, 2000), ‘indicating just how harsh conditions are for them in alternative forms of work in general’ (Sen, G., 1999).

“Women inclusion in the global economy has increased their volatility and vulnerability which is the most in South Asia as it had the highest rate of vulnerable employment among all regions in the world at 84.5 per cent for women and 74.8 per cent for men”(ILO 2011, P. 46). ‘Under-investment in human capital is a major insecurity faced by women workers in the informal economy. This leads to lack of marketable skills. Most women workers had very low or limited skills’ (Unni and Rani, 2003). It is believed that “there are structural differences between men and women which mean that the legal issues which are important to them are also different” (Bennett, 1995). In order to address these issues various instruments were introduced by at the international level. ILO Conventions 100 and 111 are two important commitments of the international community to address the issue of gender imbalance in the world of work. Pakistan has ratified both these Conventions. The Constitution of the Islamic Republic of Pakistan guarantees basic rights for women. These guarantees are ensured through promulgated various labour laws. These laws, in general, contain various provisions to deal with issues relating to terms of employment, working

conditions, health and safety provisions at the workplace, social protection and right of association and bargain collectively. Some of the provisions of these laws also address issues, like, gender balance, workplace environment conducive to lady workers and certain special provisions to accommodate the biological needs of the lady workers. The present paper is an attempt to examine Pakistani labour laws in the light of commitments made by the country under ILO Conventions 100 and 111 in the world of work¹. Along with highlighting weaknesses and strengths of country labour laws the paper also suggests a way forward to achieve objectives of equal remuneration for equal amount of work and equal opportunities in employment and occupations through improvement in labour laws.

Women and Labour Market in Pakistan

Women’s participation in the labour force of Pakistan is rising gradually. They were contributing just 9.8 % to the total labour force in 1999-2000. Their labour force participation rose to 15.5 % against that of for men (49.5 %) during the year 2009-10². This gradual increase, over the period of ten years i.e. from 1999 to 2010 is reflected below:



Source: Labour Force Surveys of Pakistan 1999 – 2010

With the passage of time employment in the formal sector is shrinking and most of the women employment is concentrated in few sectors like garments, electronics, knitting and other informal activities. They are working either on contract basis or on piece rate basis even in the factory premises where the work is purely of temporary nature and manual, involving little skills. Women constitute a majority of part-time workers and the treatment of part-time workers is usually discriminatory, it evades implementation of labour laws³. ILO, 2011 finds out that in Pakistan women working in construction sector are facing so many socio-cultural, religious, discrimination, harassment and lack of equal opportunities barriers. Social, cultural and religious barriers refrains them of taking part in

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various trades. However, the study did not find out any gender wage gap in the sector.

More women as compare to men are engaged in precarious employment. Female's share as unpaid family workers and employees is higher as compared to male⁴. Important chunk of women labour force is engaged in the home-based industries i.e. 71.4 % of female workers as compared to 29.6 % male workers were engaged in the home based sector during 2008-09⁵. PILER, 2011 finds out 'less favorable treatment of part-time workers, seasonal workers, workers of informal sector, domestic workers, workers of agriculture sector and home based workers, where most of the women workers are engaged, under labour laws of Pakistan leads to indirect gender discrimination. There are also evidences of gender discrimination and wage gaps between men and women of the same qualification and undertaking the same amount of work'. For instance, Yasin et al (2010) 'points out gender discrimination in participation and wage differentials in Pakistan'. Farooq and Sulaiman (2008) find out that 'male workers enjoy an economic advantage over the female workers having the same characteristics in the labour market of Pakistan'. As far as gender aspect of labour laws is concerned, UNDP (2010) highlights that 'maternity benefits are restricted to formal sector. There is no specific law on equal pay in Pakistan'. With this backdrop the proceeding sections of the paper will analyze how far the legislative framework in Pakistan has been able to address gender issues in the light of country's international commitments, i.e. ILO Conventions 100 and 111.

ILO Conventions 100 and 111 and Constitution of Pakistan

Equal remuneration Convention, 1951(No. 100) requires ratifying states to ensure the "application of the principle of equal remuneration for men and women workers for work of equal value". Convention 100 stipulates that each Member by means of national laws or regulations, legally established or recognized machinery for wage determination, collective agreements between employers and workers, or through combination of all these various means, shall ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value. Whereas "Discrimination (Employment and Occupation) Convention, 1958 (No. 111)" defines 'discrimination as any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation'. This includes discrimination in relation to access to vocational training access to employment and to particular occupations, and terms and conditions of employment. It requires from the ratifying state to declare and pursue a national policy for equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination through cooperation with employers' and workers' organizations and to launch educational programmes for acceptance and observance of national policy. The Member has to enact appropriate legislation, to

repeal any statutory provisions, modify any administrative instructions and practice which are inconsistent with the policy and to pursue the policy in respect of employment under the direct control of a national authority. The Member State is further required to ensure observance of the policy in respect of vocational guidance, vocational training and job placement services under the control of national authority and to indicate in its annual reporting on the application of Conventions the progress in regarding this policy.

The Constitution of Islamic Republic of Pakistan, 1973 guarantees the rights to education, rights of the children, rights of women, rights of minorities and rights of all segments of society. It ensures socio-economic and political independence and protects human rights to decent employment, protection from all sorts of exploitation and social protection. Article 3 ensures elimination of all types of exploitation whereas Article 11 prohibits all kinds of slavery, forced labour, bonded labour, human trafficking and child labour. Freedom of association under Article 17 is considered as a fundamental right of the workers. Article 18 of the Constitution of Islamic Republic of Pakistan provides for the freedom to enter any lawful trade, profession or business to all the citizens without any discrimination. Article 25 of the Constitution of Pakistan provides equal justice and equality of legal status among the citizens. It also highlights equality of citizens and announce that there shall be no discrimination on the basis of sex. Article 27 of the Constitution of Pakistan provides safe-guard against the discrimination in service. If a citizen of Pakistan is qualified for appointment in the service of Pakistan, he/she cannot be refused appointment merely on the ground of race, religion, cast, sex, residence or place of birth. Article 37 stipulates promotion of social justice, eradication of social evils and ensures that “*State shall (e) make provision for securing just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment*”. Article 38 guarantees promotion of social and economic well-being of the people, “*equitable adjustment of rights between employers and employees, and landlord and tenants, provision of facilities for work and adequately livelihood with reasonable rest and leisure and to provide all persons employed in the service of Pakistan or otherwise, social security by compulsory social insurance or other means*”.

By guaranteeing basic fundamental rights to the workers and decent employment opportunities for its citizens, children’s equal right to education, equality of gender in employment and at workplace, workers’ right to unionize, safety at the workplace and harmonious relations between the employers and workers, the Constitution of Pakistan, in fact, provides basis for policy formulation and legislation in the field of labour.

National Policies and ILO Conventions No. 100 and 111

Pakistan ratified ILO Convention 100 on 11.10.2001 and Convention 111 in 1961. Both the Conventions require from the ratifying state to ensure through its policies

and plans of action that there is no gender discrimination in terms of wages and in terms of provision of equal opportunities for employment and occupations. After ratification the member state is bound to design its national policies in accordance with international commitments. Pakistan, in its Labour Policy, 2002 confirms the need to improve the role of contribution of women in the labour force and to provide them equal opportunities for employment and making workplaces more conducive for women workers. The policy stipulates provision of principle of equal pay for work of equal value according to ILO Convention 100. The policy contained provisions for coverage to the contract workers, workers of informal sector, home based workers and seasonal workers, of which most of them are women. Labour Protection Policy, 2005 shows Government's commitment towards implementation of ILO Conventions on Equal Remuneration and Discrimination (Employment and Occupation) and stipulates that 'minimum and above minimum wages will be paid on the basis of equal pay for equal work, and equal pay for work of equal value to men and women in accordance with Convention 100 and 111'. Under the policy, the Government for the first time recognized the importance of sensitive issues like, sexual harassment and violence against women at the workplace. The Government showed its commitment for provision of better arrangements, even at the workplace of the informal sector with improved working conditions, maternity arrangements, code of conduct on sexual harassment, day care centre for their children through necessary amendment in labour laws. Gender equality with regard to pay and wages was referred to be a key component of the policy. The policy stressed the need to extend implementation of labour laws and social protection to informal and agriculture sectors, where women are employed in bulk. The policy also cleared the ambiguity of maternity leave which is provided in two laws, namely, Maternity Benefits Ordinance and Provincial Social Security Ordinance. The Policy makes it clear that "the payment of wage equivalents⁶ during the period of maternity leave should be the responsibility of the social security system, and not the responsibility of the employer, he rather has to ensure leave period entitlement and to keep the job open for the returning worker on completion of maternity leave period". Payment of wages to the lady workers on maternity leave, in case an establishment is not registered under social security scheme, is the sole responsibility of the employer. National Inspection Policy, 2006 enunciates extension of labour inspection to the informal sector, meaning thereby to improve working conditions, health and safety, terms of employment and social protection in the informal workplaces where most of the women are employed or self-employed. Labour Policy, 2010 stipulates empowerment of women, adoption of adequate strategies for gender equality in skill development and small and medium scale enterprise, advocacy for implementation of labour laws to home-based workers and pilot activities for integration HBWs into main stream. The Policy ensures implementation of provisions of ILO Conventions 100 and 111. Under the policy, lady workers would also benefit from improvement in working conditions, better maternity

arrangements, mechanism to address sexual harassment and provision of day care centers at the workplace in the informal sector. The Policy announces amendment in labour legislation for better employment opportunities to women.

Country Labour Laws

In order to ensure implementation of guarantees provided in the Constitution of Pakistan application of the principle of equal remuneration for men and women for work of equal value and equal treatment in respect of occupation and employment Pakistan has promulgated various labour laws from time to time. 'Factories Act, 1934' relates to working conditions in the factories. The Act contains various provisions regarding working hours, conditions at the workplace, health and safety, rest interval, medical care, working hours for adolescent and women, prohibition of employment of children, overtime, holidays etc. Under ordinary circumstances, it applies where manufacturing process is going on and at least ten workers are employed on any day during the preceding year⁷. Under the Act every person whether employed directly or through a contractor is a worker. There are certain special provisions regarding women. For instance, under Section 45 women are protected against exemption of daily hours as provided under Section 36. Women are also exempted to work in factories before 6 A.M. and after 7 P.M. However, if employer provides the transport facilities women, with their consent, work till 10 P.M. is permitted. Section 33-Q relates to establishment of day care centre and requires from the employer employing more than 50 lady workers to provide separate room for the children under the age of 6 years. Section 33-F stipulates that women will not lift or carry excess weight which may likely to cause injury. Under Section 32 women and children are prohibited to work in any part of a factory pressing cotton in which cotton opener is at work. Under Section 21 separate urinal and latrine are required to be provided for male and female workers by the occupier. Under "Factories Canteen Rules, 1959" a factory where canteen is applicable, is required to provide separate dining-table /facility to women workers.

Mines Act, 1923 relates to working conditions in mines. The law contains provisions for health and safety, working hours, rest interval, holidays, overtime, medical etc. for the benefits of mine workers. The Act, under Section 23-C prohibits employment of women below the ground and prohibits work by women in a mine above the ground between the hours of 7 P.M and 6 A.M. 'Shops and Establishment Ordinance', 1969 deals with working conditions in shops and establishments. The Ordinance envisages provisions of working hours, health and safety at workplace, rest interval, holidays, overtime and medical coverage for the workers engaged in shops and establishments. However, the law does not contain any special provision regarding employment of female workers; their timing, workplace requirement and other facilities to them irrespective of the fact that most of the employment opportunities for women after globalization are generated in this sector. 'Road Transport Workers Ordinance', 1961 relates to working

conditions for the employees in public vehicles and vehicles used for commercial purposes. A number of lady workers during the recent years have been engaged in the road transport sector. They are engaged in offices, ticket counters and even on the transport as hostesses but the law does not contain any special provision for working conditions and issues connected with their biological needs.

‘West Pakistan Industrial and Commercial Establishments (Standing Orders) Ordinance, 1968’ guarantees terms of employment, gratuity, bonus and disciplinary proceedings in case of any allegation of misconduct on the part of a worker. The law is applicable to the establishments employing at least 20 workmen. There is no specific provision in this law also to address the issues pertaining to women workers.

There are certain special laws for the lady workers. “West Pakistan Maternity Benefits Ordinance, 1958” applicable to the whole of Pakistan, consolidates the law relating to employment of women in establishments. Section 3 of the Ordinance states that “no employer shall knowingly employ a woman and no woman shall engage in employment in any establishment during the six weeks following the day on which she is delivered of a child”. Under the Ordinance lady worker, if she delivers a baby, is entitled to 12 weeks maternity leave (six weeks before and six weeks after she gives birth) on full pay. No notice of dismissal shall be issued under Section 7 of the Ordinance when a woman absents herself from work in accordance with the provisions of this Ordinance. Under Section 14, the law requires from an employer to exhibit in a conspicuous manner an abstract of the Ordinance and the rules there under in the regional language. “The Protection Against Harassment of Women at the Workplace Act, 2010” was promulgated to protect working women from harassment. Under the Act, each organization shall constitute inquiry committee of which along with others a woman shall also be a member. For industrial and commercial establishments a member of the CBA or a senior worker, in case there is no CBA, shall be a member of the Committee. The committee has to inquire into the complaint within a specified period of time and recommend punishment to the accused in case he is proved guilty. The complaint of sexual harassment can be lodged before the committee or ombudsman appointed for the purpose.

Industrial Relations laws deal with regulation of industrial relations and registration of trade unions in the industrial and commercial establishments in the country. There is no special provision regarding women in any of the provincial laws in this regard. However, “Industrial Relations Act, 2012” of the federal government under Section 3 provides that in the establishment where women are also employed the trade union shall include the women in the executive body of the said trade union with the same proportion in which they are employed in the establishment.

Laws relating to wages are; “Payment of Wages Act, 1936”, “Minimum Wages (for Unskilled) Workers Ordinance, 1969” and “Minimum Wages Ordinance, 1961”. These laws fix minimum wages for the unskilled workers and

for different categories of the workers in various industries. Payment of Wages Act prescribes the way of payment of wages and explains the procedure for lodging of complaints if wages are delayed, paid less or not paid by the management. The law does not have anything against women workers however it does not have anything specific or special for them. Minimum Wage Boards with tripartite representation are established at provincial level to fix wages for workers of various categories in different industries. "Workmen Compensation Act, 1923" deals with compensation to the workers or their heirs in case of injury or death at the workplace. The law does not contain any special provision regarding women workers.

Under the "Workers' Welfare Ordinance, 1971" workers of industrial and commercial establishments are provided with houses, flats, plots, marriage grant, death grant and talent scholarships for their children. Their children can get free education in the schools of Workers Welfare Boards. Under "Companies Profits (Workers' Participation) Act, 1968" 5% of the net profit of the companies is being distributed to the eligible workers. "Workers' Children Education Cess, 1972" also deals with provision of teaching aid and other facilities to the schools out of the fund created on the basis of the contribution made by the industrial establishments. Although not specified, lady workers can benefit from these schemes if they are employed on regular basis.

"The Apprenticeship Ordinance, 1962" regulates systematic apprenticeship programme in the industrial establishments for promotion of skills in the country, however, this law does not contain any special provision for promotion of women as apprentices.

Bonded labour prevails in informal and agriculture sectors. The "Bonded Labour System (Abolition) Act, 1992" abolishes bonded labour and provides for rehabilitation of the freed bonded labourers and their families. Being vulnerable, women are the most affected segment under the bonded labour system. Unfortunately, there is nothing special mentioned about women in this law also.

"Employment of Children Act, 1991" prohibits employment of children in certain occupations and process whereas at the same time regulates the employment of children in certain other occupations and processes. The law has no separate provisions for female child workers. It excludes family labour and domestic child work where most of the girls are involved doing various types of hazardous work.

Law relating to social protection are; "Employees' Old-age Benefits Act, 1976" and "Provincial Social Security Ordinance, 1965". Employees' Old-age Benefits Act deals with provision of old-age pension, invalidity pension, widow's pension, survivor pension, disability pension and death grant against a contribution of 7 percent of employees wages (6 % by the employer and 1 % by employees). Under Section 1 (4) of the Act, the scheme is applicable to every industry or establishment wherein five or more persons are employed by the employer directly or through any other person whether on behalf of himself or any other person. According to Section 22 (1) an insured person shall be entitled to monthly old-age

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pension at the specified rate. Under the voluntary registration scheme, a self-employed, home-based worker, contract worker, piece-rate worker and even domestic worker can register himself/herself against 7 % contribution of the minimum wage.

“Provincial Social Security Ordinance, 1965” deals with provision of benefits to the registered employees and their dependants in the event of sickness, maternity, employment injury or death or for matters ancillary thereto⁸ against a contribution of 6% of the employee’s wages by the employer. A secured woman worker is entitled to get maternity benefits under Section 36 of the “Provincial Employees Social Security Ordinance, 1965” and medical care during sickness and maternity under Section 38 of the Ordinance, Ibid. Under Section 37, where husband of secured woman dies, she is entitled to receive “idaat”⁹ benefit equal to the daily rate of her wages during the period of confinement. The law has wider coverage and scope as according to its Section 1(3) “the Government is empowered to apply it to such areas, classes of persons, industries or establishments, from such date or dates and with regard to the provision of such benefits as Government may by notification, specify in this behalf”. Under self-assessment scheme an employer can contribute a fixed amount in respect of its employees to avoid any intervention of the Government officials.

18th Amendment and future of Labour Laws

As a result of “18th Constitutional Amendment during 2010”, the Concurrent Legislative List was abolished and the following matters pertaining to labour were transferred to the provinces:

“26. Welfare of labour; conditions of labour, provident funds; employers’ liability and workmen’s compensation, health insurance including invalidity pension, old age pensions.

27. Trade unions; industrial and labour disputes.

28. The setting up and carrying on of labour exchanges, employment information bureaus and training establishments.

30. Regulation of labour and safety in mines, factories and oil-fields”.

After devolution all the functions relating to labour transferred to the provinces and they are independent in respect of labour legislation whereas international treaties, conventions, agreements and international arbitration¹⁰ become a part of the Federal Legislative List and federation is now responsible for monitoring of labour laws from international angle and coordination of labour legislation in provinces.

In the wider context of Constitutional provisions the provinces are now independent to frame new legislation or to adopt the already available national labour laws. They do not have direct interaction with the international arena and cannot understand the scope of International Labour Standards (ILS) and their link with international trade, commerce and Direct Foreign Investment (DFI). Drafting

of labour legislation in isolation may clash with country's international commitments. For instance, the "Punjab Industrial Relations Act, 2010", does not allow formation of trade union in an establishment, if number of workmen is less than 50. Similarly, in the absence of strong coordination between the federation and the provinces, the implementation of National Labour Policy, Inspection Policy, Labour Protection Policy, National Plan of Actions would be at stake. There will also be a question mark in respect of implementation of labour laws in general, and provisions relating to equal remuneration for equal amount of work and discrimination in (employment and occupation) Conventions of the ILO.

Limitation of Labour Laws

The Constitution of Pakistan guarantees all the commitments made by the country under ILO Conventions 100 and 111. The analysis of the labour policies shows that they actually reflect the spirit of country's international commitments. Labour Policies, Labour Protection Policy and Labour Inspection Policy, all contain various provisions for promotion of gender balance, protection of the rights of the lady workers, creation of workplace conducive for lady workers, coverage of labour laws to informal and agriculture sectors and extension of social protection to workers of informal sector and self-employed. These policies, however, could not be translated in letter and spirit into laws and programs.

An overview of labour laws of Pakistan points out that in general there is no provision in any labour law which goes against Conventions 100 and 111, but at the same time these laws do not contain any single provision indicating equal remuneration for equal value of work for both men and women as committed by Pakistan in Convention 100. Similarly, there is no separate law or any legal provision in any labour law clearly indicating that there is no discrimination in respect of employment and occupation for both sexes.

Labour laws of Pakistan lack both scope as well as coverage. For instance, "Factories Act, 1934" is not applicable to the industrial establishments employing less than ten workers. "Standing Orders Ordinance, 1968" is applicable to the establishments employing twenty or more workers. "Maternity Benefits Ordinance, 1958" is generally applied to the factories. Number of commercial establishment is increasing gradually and more and more lady workers are employed over there, however, they do not get benefits otherwise entitled to them if employed as regular workers in the industrial establishments. Transport sector has also expanded during the last two decades. A number of women are employed there as receptionists, clerks, hostesses, supervisors and attendants but they are deprived of their legal rights, like maternity benefits, exemption from night duty, separate bath rooms and dinning place etc due to lack of provisions under the "Road Transport Workers Ordinance, 1961". Social security, old-age coverage and benefits from Workers Welfare Fund are restricted to the regular and permanent workers. Most of the women are employed temporarily and in the informal and home-based sectors where these laws are not applicable. There is no gender

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discrimination in respect of wages and employment and occupation in labour laws of Pakistan but interpretation of these laws leads to indirect discrimination in respect of women.

Labour laws of the country needs overhauling, updating, simplification, consolidation and rationalization. There are different laws for the employees working in the shops and establishments and that of the industrial establishments. As a result, rights and privileges of the employees of industrial workers cannot be compared with that of the workers of shops and commercial sector. Some of them also overlap, for instance, maternity benefits are provided under Maternity Benefits Ordinance and Provincial Employees Social Security Ordinance.

Most of the women employment is on temporary basis, contract basis and on piece rate basis. The majority works in the informal and home-based sector where working conditions, health and safety and work environment do not suit to women. The coverage of labour laws, maternity benefits and social security are restricted to the formal employment. Agriculture sector, where 54 % of women are engaged, falls outside the scope and protection of labour laws.

Lack of awareness about labour laws is also one of the reasons of non implementation of provisions regarding women workers. For instance, lady workers are engaged on temporary jobs and are not being regularized as required under Standing Orders Ordinance. As a result, they are deprived of various welfare measures, maternity benefits, legal rights and social security. According to Factories Act, all workers, whether employed directly or indirectly, are entitled to legal rights but due to lack of awareness among the workers managements do not consider piece rate workers and contract workers for these benefits. Employment of young women and high turn-over in respect of lady workers are other examples of evading legal provisions due to high unemployment, poverty and lack of awareness of labour laws amongst the workers.

Recommendations and Way Forward

The Constitution of Islamic Republic of Pakistan guarantees equal rights to men and women in connection with remuneration and employment and occupation. National Policies highlight assurance of the Government of Pakistan to abide by its all international and Constitutional commitments in respect of these basic human rights. However, labour laws of the country could not have been able to translate these commitments in clear terms. As a result, there is always a room for exploitation. What is required is a complete overhauling of labour laws with gender lens by incorporating all the relevant provisions to make them gender friendly and extending legal coverage to informal sector, agriculture sector and home based workers where most of the women are employed.

The biggest challenge Pakistan is facing today is that after the 18th Constitutional Amendment, the legislation on labour has gone to the provinces. Observance of international commitments, like, ILO Conventions in letter and spirit through provincial legislation appears to be a major task for the Federal

Government for the times to come. The Government has to ensure firstly, that provincial laws are framed according to these standards and secondly, to ensure that these laws are implementation in true sense. Female labour force participation is gradually increasing in Pakistan, the efforts, therefore should be focused to make their entry smooth and comfortable. In this context, the Federal Government should prepare broad policy guidelines in the light of ILO Conventions and Constitutional provisions for guidance of the provinces in framing their labour legislation. The Federal Government has to establish a strong coordination set up which along with providing necessary guidelines should also ensure that provincial laws exactly correspond with the Constitution and international commitments on the basis of equity in all the provinces. The laws should be framed after consultation with all the stakeholders and women workers with an objective to make it plain and simple. Vague and absurd terminology must be avoided as it may lead to exploitation. After ensuring that all the relevant provisions are incorporated in the provincial laws, sincere efforts should be made by the provinces to implement these laws as it is through implementation the fruits of these laws can reach to women workers of informal sector, agriculture sector and home-base workers.

Awareness of labour laws to women workers should also be focus of efforts to realize basic rights to women as in the absence of any knowledge they may not be able to benefit out of them. Focusing on organizing women workers through promotion of their right to freedom of association and bargain collectively may help them raise voices against exploitation and to fight for their legal rights.

Notes

1. The Government of Pakistan has launched various National Policies and programmes for gender balancing from time to time, either at its own or with the support of some donors like, for example, Gender Reform Action Programme (GRAP) but these all are out of the scope of this paper.
2. Labour Force Survey of Pakistan, 2009-10.
3. PILER, 2010.
4. Pakistan Labour Force Survey, 2009-10.
5. Extracted from Pakistan Labour Force Survey, 2008-09.
6. Payment of wage equivalents implies payment of wages to the eligible lady workers during leave period equal to the wages they were getting while at work.
7. Under special circumstances, the Government is authorized to make the law applicable to the factories engaging even less than ten workers.
8. It is in the Preamble of the Provincial Employees Social Security Ordinance, 1965.
9. "Iddat" is a period of (4 months) confinement of a widow in home after the death of her husband.
10. In the Fourth Schedule of the Constitution of Islamic Republic of Pakistan, in Part I, entry 32 substituted by the Constitutional (Eighteenth Amendment) Act, 2010.

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