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**Protection of Rights of Vulnerable Labour Groups**

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## ABSTRACT

*The workers in vulnerability are less likely to have formal work arrangements, and are therefore more likely to lack decent working conditions, adequate social security and 'voice' through effective representation by trade unions. The employment is often characterized by inadequate earnings, low productivity and difficult conditions of work which undermines even fundamental rights of the workers. The situation poses a threat for socio economic development of the country. Special policy measures are required to mitigate the sufferings of these workers. The present Paper examines the situation of working children, bonded labourers and women workers in Pakistan. Along with focusing on the existing legal mechanism, the paper also highlights the various interventions of the Government of Punjab for the vulnerable workers. It also proposes a way forward for the policy makers to devise comprehensive interventions for amelioration of the conditions of these workers.*

**Key Words:** child labour, women workers, bonded labour, vulnerability, working conditions.

### 1. Introduction

The South Asia Region shares common history of cultural background, legal system, colonialisation, industrialization and socioeconomic development. It also houses the largest population in the modern world where nations are economically interdependent. In modern world where economic, social and political capitals are interlinked; large population is a blessing if managed, but it becomes a threat to development if it is disoriented. Management of human capital is the most significant challenge for this region followed by contemporary fundamental economic shift which is associated with development of human resource management, responsibilities of state and question of regional cooperation.

South Asia has the world's largest working age population, ¼th of the world's middle class consumers, the largest number of poor and undernourished in the world, and several fragile states of global geopolitical importance.<sup>1</sup> Liberalization of economies, globalization, consumer societies, migratory population and human resource management are core challenges for this developing region. The world's largest share of labour resides in Asia. In 2005, 1.7 billion workers or 57.3% of world's labour force was in Asia. South Asia, with about 23% of world's population, accounted for about 21% of the world labour force. Projections suggest that South Asia's labour force is likely to increase by about 24% by 2015 and by 51% by 2030. The share of South Asia in the Asian labour force is likely to increase from 34.79% in 2005 to 42.34% in 2030. South Asia will be one of the regions in the world that witnesses a very fast growth in the size of its labour force.<sup>2</sup> If his rapidly growing labour force is not dealt with proactively, the region may face a socio-economic dilemma of a large uncontrolled work force that will not contribute much to the economy and would rather be a burden. This Paper focuses on the issues related to vulnerable labour groups i.e. child labour, forced labour and women workers. The Paper highlights situation of vulnerable groups of workers in Pakistan with particular reference to their working conditions, vulnerability and legislative and administrative measures. In the end, the Paper puts a way forward for to tackle the issues of the workers of this category.

## **2. Defining Vulnerability**

Vulnerability in general refers to the inability of a person, a community or a social system to withstand the effects of a hostile environment. The workers in vulnerability are less likely to have formal work arrangements, and are therefore more likely to lack decent working conditions, adequate social security and 'voice' through effective representation by trade unions and similar organizations. Vulnerable employment is often characterized by inadequate earnings, low productivity and difficult conditions of work that undermine workers' fundamental rights<sup>3</sup>. There may be many forms and types

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<sup>1</sup> <http://siteresources.worldbank.org/INDIAEXTN/Resources/295583-1328744264781/RegionalUpdate2012.pdf>

<sup>2</sup> [http://panossouthasia.org/pdf/Labour\\_Globalisation.pdf](http://panossouthasia.org/pdf/Labour_Globalisation.pdf)

<sup>3</sup> [http://www.ilo.org/global/about-the-ilo/newsroom/features/WCMS\\_120470/lang--de/index.htm](http://www.ilo.org/global/about-the-ilo/newsroom/features/WCMS_120470/lang--de/index.htm)

of vulnerable labour groups but the most eminent of them in South Asia region are forced labour, child labour and women workers.

### **3. Vulnerable Groups**

#### **(a) Child Labour**

Massive poverty, high youth unemployment, unchecked population growth, neglected education and socio-cultural conditions are some major reasons on the supply side for the child labour to thrive in Pakistan. Technology, cheapness, expansion in the demand of the products prepared by children, docility of children and less likeliness of the children to change job are major reasons on the demand side for employment of children. Children are generally found in agriculture, food processing, brick making, carpet weaving, footwear, leather and leather items, laundry, tailoring, restaurants, and garment sector. Education is either costly or not in line with demand. Poor parents, therefore, has no choice, but, to send their children to work. Progressive poor parents, however, send their children to apprenticeship in motor car workshops, with cobblers, bicycle repairing, trading, hair dressing, etc. so that after a certain period they could learn skills and can run their own business.

Despite the recurring threat of child labour, the latest information about its magnitude and gravity is lacking in the country. The first ever survey on child labour was held during the year 1996. According to that survey, total number of economically active children in the age group of 5-14 was 3.3 million in the country. A majority of the working children (73 %) were boys. Most of the children involved in child labour (2.1 million) were found in the higher age groups i.e. 10-14 years. Child labour was maximum in rural areas i.e. 2.9 million as compare to 0.4 million in the urban areas. The concentration of working children in rural areas was 8 times higher than the urban areas. Three-fourth of the working children working in rural areas was engaged in unpaid family labour whereas the manufacturing sector was employing 11 % children. Majority of the working children (70 %) were unpaid family helpers. About one-third of the employed child labour force was illiterate. However, the literacy level was higher among the working children engaged in urban areas.

As far as the working conditions are concerned, National Survey on Child Labour highlighted that 36 % of the working children worked for 15-34 hours per week and 29 % of them were found working 35-48 hours a week. The situation of work hazards at the workplace is clear from the fact that '7 % of working children suffered from work related illness and injuries<sup>4</sup>'.

Child labour is criticized on the ground that it is hazardous, having long working hours, awkward postures, denial of suitable education and training, denial of leisure of childhood and play, love and care of the children. Premature burden poses a direct threat to the capacity, quality and life span of children. The situation is rather more alarming in urban informal sector due to congested work place, poor lighting, exposure to open machinery, fumes, dust, noise and non-availability of precautionary health and safety measures. Moreover, child labour at the cost of schooling and human resource development implies under-utilization of country's human capital and potential.

The incidence of child labour in Pakistan, particularly, its worst forms, poses great threat to development and growth of the country. Efforts, therefore, are required for policy integration in the fields of education and socio-economic development and strict enforcement of available laws for eradication of the menace of child labour.

### **(b) Forced and Bonded Labour**

Globalization through openness has exposed all forms of exploitation of labour in the developing countries - forced and bonded labour being one of them. The countries using forced and bonded labor have to face threats of trade sanctions by the advance countries, USA and Europe. For instance, USA uses different preferential tiers approach to do trade with countries where forced labour, bonded labour and trafficking in person prevail. Pakistan has been placed at tier- 2 due to some positive efforts made by the country to control and tackle this menace. According to 2010 Trafficking in Person Report, Pakistan is a source, transit and destination country for men, women and children subject to forced labour and prostitution. Bonded labour is concentrated in

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<sup>4</sup> National Child Labour Survey, 1996

Sindh and Punjab in the agriculture and brick making, and to lesser extent in mining and carpet-making.

Forced and bonded labour is prevalent in agriculture, brick kilns, carpet weaving, mining, quarrying and domestic work. The magnitude of forced and bonded labour so far has not been determined as no nation-wise survey in this regard has been conducted. Under the “bonded labour” “workers render services under conditions of bondage arising from economic considerations, notably, through a loan or advance”<sup>5</sup>. Where “debt is the root cause of bondage, the implication is that the worker (and his dependents and heirs) is tied to a particular creditor for a specified or unspecified period until the loan is repaid”<sup>6</sup>. Workers entrapped in forced or bonded labour have to forfeit their other human rights they are otherwise entitled to. They have to compromise the education of their children as well as their political independence. The cases of physical punishment and sexual abuse are also common among bonded labourers. The system of advance payments (Peshgi) is hundreds of years old in some sectors of informal economy of Pakistan. Poverty is said to be the root cause of “*peshgi*” system which traps the workers into bondage. They “accept these bondages due to their socio-politico-economic vulnerability, lack of alternate employment opportunities and non-availability social safety nets”<sup>7</sup>.

“*Peshgi*” is wide spread in the brick kiln industry of Pakistan which more than often leads to debt-bondage. Semi-skilled workers and their families are involved in brick making under a contract which is informal and unwritten and carried out through a middle man called “*jammadar*”<sup>8</sup>. Under the contract, the worker, accompanied by his family including women and children is bound to prepare bricks for brick kiln owner until the loan is paid off. He has also to pay commission to the middleman out of the

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<sup>5</sup>Javaid, 2006 available at <http://www.lahoreschoolofeconomics.edu.pk/JOURNAL/Vol-11No.1.doc>

<sup>6</sup>ILO, 2001.

<sup>7</sup>Javaid, 2006 available at <http://www.lahoreschoolofeconomics.edu.pk/JOURNAL/Vol-11No.1.doc>

<sup>8</sup>*Jamadar* is a very strong institution, who may be head of family of bonded labourer, his relative or a co-worker who acts as middleman in the informal contract leading to bondage and receives commission form the bonded labourer.

payments he receives for making bricks. The engagement of migrant workers in the bonded system has further aggravated the situation. The system is so deep rooted in the socio-cultural and traditional work patterns that legislative measure alone cannot resolve it.

Although no significant evidence of bondage has been seen in the informal sector, yet system of advance payment to the skilled and semi-skilled workers, where those skills are restricted to certain communities or segments of the society, is common in this sector as well. For instance, advances are common in surgical goods manufacturing, tanneries, footwear industry and garments industry. These advances, at times, may lead to exploitation of workers by the owners and middlemen due to massive poverty, particularly, in the absence of alternative job opportunities to the workers.

### **( c ) Women workers**

Women participation rate in the labour force of Pakistan is 15.5 % whereas for men it is 49.5 %<sup>9</sup>. Female participation in the labour force participation, however, is increasing gradually over the period from 1999 to 2010. The following table shows female labour force participation rate over the last ten years which shows a gradual increase from 9.3 % in 1999- 2000 to 15.5 % in 2009-10. Graph also reflects the rising trends in female labour force participation during the last ten years.

#### **Female Labour Force Participation Rate**

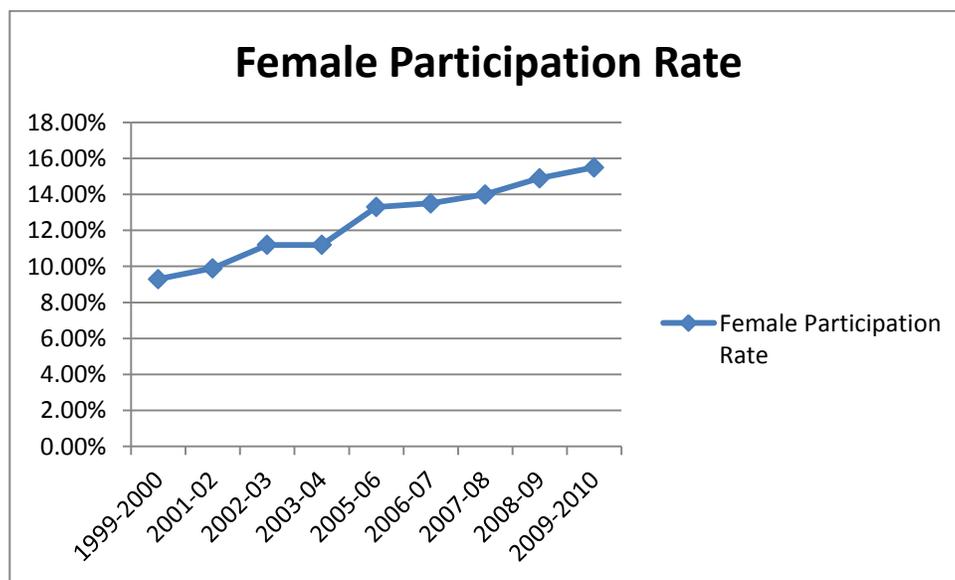
<b>Year</b>	<b>Female Participation Rate (%)</b>
1999-2000	9.3
2001-2002	9.9
2002-2003	11.2
2003-2004	11.2

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<sup>9</sup> Labour Force Survey of Pakistan, 2009-10.

2005-2006	13.3
2006-2007	13.5
2007-2008	14.0
2008-2009	14.9
2009-2010	15.5

Source: Labour Force Surveys of Pakistan 1999 – 2010



Source: Labour Force Surveys of Pakistan 1999 – 2010

Compelled by poverty, unskilled and semi-skilled lady workers joined the informal sector, agriculture and export processing zones. 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 with part-time workers is usually discriminative, it evades implementation of labour laws<sup>10</sup>.

A chunk of women labour force is engaged in the home-based industries because in view of socio-cultural constraints, home is considered to be an appropriate workplace for women as it frees them from the hassle of moving into public sphere. The position of women HBWs is more vulnerable as they are involved in manufacturing and post-manufacturing tasks for nominal remuneration or as unpaid family workers. Being docile in nature, women have to work for long hours, under deplorable working conditions, on stern terms of employment and at much lower wages than the legally prescribed<sup>11</sup>. Young girls also work for long hours and help their mothers in making and finishing these tasks under harsh working conditions and usually at the cost of their schooling.

#### **4. Informal Sector and vulnerable groups**

In Pakistan, employment in informal sector is on rise. The sector accounts for more than 73 % of the employment in main jobs outside agriculture<sup>12</sup>. The share of informal sector in terms of employment during the last ten years has been increasing continuously. Informal economic activities take place either in suburbs or in the rural areas which are underdeveloped and lacking basic amenities. Physical infrastructure is weak; manufacturing is carried out in the small congested work places which do not have basic health and safety provisions. Among others, traditionalism, invisibility, out-dated technology, tax evasion, illiterate workers, evasion from application of labour laws, non-availability of old-age benefits, lack of social protection, non-provision of various benefits, absence of right to form union, unsafe working conditions at the work place, exploitation by middleperson, lack of credit facility and limited access to the market are important features of informal sector. Informal sector workers, mostly children and women, have to work long hours for nominal wages. Most of them are engaged on temporary basis, piece-rate basis and casual or unpaid family workers. Usually, relatives and known are

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<sup>10</sup>PILER, 2010.

<sup>11</sup> Women are paid less as compared to men for the same amount of work.

<sup>12</sup> Pakistan Labour Force Survey, 2009-10.

preferred for employment. A significant proportion of informal sector workers represent migrant, displaced or footloose labour<sup>13</sup> facing their own set of additional problems.

Home based industry is another name of the informal sector. According to figures extracted from Labour Force Survey of Pakistan for the year 2008-09, 3.18 % of the total labour force above 15 years was engaged in the home based industries. Out of 1.62 million home based workers in 2008-09, 0.48 million (29.6 %) were male whereas the rest, 1.13 million (70.4 %) were female. Male Home Based Workers (HBWs) as a percentage of total male labour force was 1.20 and female HBWs as percentage of total female labour force were 10.41. The HBWs currently are not covered under any country labour laws. Neither are they protected under any social protection schemes, like, medical care and old-age pension. They cannot form union like the workers of informal sector and are not entitled to benefits under various workers' welfare programmes. Another important aspect of home based work is that HBWs are extremely vulnerable due to their weaker economic and financial position. They, therefore, are prone to exploitation by the middlemen and the employers.

Most of the HBWs are piece rated and unpaid family members. They also include children who are engaged in production and post-production tasks, like, garments, leather work, embroidery, carpet weaving, wood work, handicraft, bangle making, dates cleaning and packing, prawn peeling, packing and many other similar tasks relating to agriculture. Young girls also work and help their mothers in making and finishing the tasks assigned to them by the middleperson against low remuneration while working long hours under conditions that are frequently harsh, unhealthy and hazardous. HBWs are extremely poor, illiterate and due to lack of capital, technical knowhow, access to market, fierce competition and lack of initiatives they find it difficult to progress further.

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<sup>13</sup> Footloose labour implies that labour which migrates from one place to another in search of employment or livelihood due to change in seasons.

## 5. International Labour Standards

Abolition of forced and bonded labour has been considered as one of the basic human right and is protected under “Forced Labour Convention, 1930 (No. 29).” “This fundamental Convention prohibits all forms of forced or compulsory labour, which comprises all types of work or services extracted from any person or family by force and under the menace of any penalty. The Convention requires from the ratifying state that illegal extraction of forced or compulsory labour be punished as a penal offence, and the ratifying state should also ensure that the relevant penalties imposed by law are adequate and strictly enforced”<sup>14</sup>.

The other ILO Convention to deal with forced labour is Abolition of Forced Labour Convention, 1957 (No. 105). The Convention “prohibits forced or compulsory labour as a means of political coercion or education or as a punishment for holding and expressing political views or views ideologically opposed to the established political, social or economic system; as a method of mobilizing and using labour for purposes of economic development; as a means of labour discipline; as a punishment for having participated in strikes; and as a means of racial, social, national or religious discrimination”<sup>15</sup>.

Child labour is prohibited under two fundamental Conventions of ILO, namely, “Minimum Age Convention, 1973 (No. 138)” and “Worst Forms of Child Labour Convention, 1999 (No. 182)”. Convention 138 sets the general minimum age for admission to employment or work at 15 years. It sets the initial age at 14 where the economy and educational facilities are insufficiently developed. Convention, 182 “defines ‘child’ as a person below 18 years of age. It requires from the ratifying states to eliminate the worst forms of child labour including all forms of slavery or practice similar to slavery”<sup>16</sup>. “They are bound to eradicate trafficking of children, debt bondage and serfdom, forced or compulsory labour, including forced or compulsory recruitment of

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<sup>14</sup> ILO, 2008

<sup>15</sup> ILO, 2008

<sup>16</sup> Convention 182 of ILO

children for use in armed conflicts, child prostitution and pornography; using children for illicit activities, in particular for the production and trafficking of drugs; and work which is likely to harm the safety, health and morale of children. The Convention requires ratifying states to provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration. It also requires states to ensure access to free basic education and, wherever possible and appropriate, vocational training for children removed from the worst forms of child labour”<sup>17</sup>.

Equal opportunities for men and women in employment and equal remuneration are covered under ILO Conventions No. 100 and 111. “Equal remuneration Convention, 1951(No. 100) requires ratifying countries to ensure the application of the principle of equal remuneration for men and women workers for work of equal value”<sup>18</sup>. 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. It requires ratifying states to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in these fields. This includes discrimination in relation to access to employment and to particular occupations, and terms and conditions of employment”<sup>19</sup>.

Besides, Convention No. 177 deals with Home based workers. Convention No. 189 protects the right of the domestic workers and Maternity benefits are covered under Maternity Protection Convention No. 183.

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<sup>17</sup> ILO, 2008

<sup>18</sup> ILO, Convention 100

<sup>19</sup> ILO, Convention 111

## **6. Constitution of Islamic Republic of Pakistan and Labour Legislation**

Constitution of Islamic Republic of Pakistan under Article 11(3) and 37 (e) specifically prohibits child labour. Apart from ILO Conventions No. 138 on Minimum Age and No. 182 on Worst Forms of Child Labour, Pakistan has also ratified UN Convention on the Rights of the Child. An exclusive law on the subject of child Labour, the Employment of Children Act, was enacted in 1991. The Act prohibits employment of children below 14 years in 38 occupations and processes considered as hazardous for child labour. The law regulates the working conditions of children engaged in non-hazardous work and caters to their health and safety concerns. Labour laws like, Factories Act, Mines Act, Shops and Establishments Ordinance and Road Transport Workers Ordinance prohibit the employment of children in factories, mines, shops/establishments and road transport, respectively.

Pakistan's Constitution (Article 11) prohibits forced labour, including slavery, servitude, and trafficking in persons. Pakistan's Penal Code under Section 359-374 establishes fines and imprisonment on violations of provisions on forced labour and trafficking. To give effect to the obligations under the Constitution and the ILO Conventions, Pakistan has enacted the law namely Bonded Labour System (Abolition) Act, 1992 and framed the Bonded Labour System (Abolition) Rules, 1995. The law extinguished all bonded debts on its promulgation. The District Vigilance Committees (DVC) are established under the law "to advise the District Administration on effective implementation of the law; to help in the rehabilitation of freed bonded labourers; to keep an eye on the working of the law; and to provide necessary assistance to the bonded labourers"<sup>20</sup>.

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. Article 27 provides safe-guard against the discrimination in service. If a citizen of Pakistan is qualified for appointment in the

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<sup>20</sup> Bonded Labour System (Abolition) Act, 1992

service of Pakistan, s/he cannot be refused appointment merely on the ground of race, religion, caste, sex, residence or place of birth. Pakistan has ratified UN Convention on elimination of all forms of racial discrimination, 1966 and Convention on Elimination of Discrimination against Women, 1979. Pakistan has ratified the ILO Convention 100 on Equal Remuneration and Convention No. 111 on Discrimination (Employment and Occupation). The labour laws in Pakistan do not allow any discrimination whatsoever as required under the ILO Conventions. The current labour policies also seek to promote equality of opportunity and treatment in respect of employment and occupation.

Besides, various labour laws of the country ensure worker's security of employment, safe working conditions, fair wage, health and safety, payment of wages and social protection. For instance, '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. 'West Pakistan Shops and Establishments Ordinance, 1969' deals with working conditions, working hours etc. in shops and establishments. 'Payment of Wages Act, 1936' prescribes standards of payment of wages to the workers of industrial and commercial establishments. 'Factories Act, 1934' determines working conditions, working hours, holidays, leaves, industrial hygiene and health and safety at the work place in factories. 'Minimum Wage for Unskilled Workers Ordinance, 1969' determines a threshold of minimum wage for unskilled workers employed in industrial and commercial establishments. 'Workmen Compensation Act, 1923' determines compensation to the effected workers in case of injury or death at the workplace. 'Employees' Old Age Benefits Act, 1976' deals with old age pension whereas provincial social security laws are providing medical coverage to the registered employees. The country has also promulgated laws for employment, vocational training, apprenticeship, labour welfare, workers' share in profit and prohibition of sexual harassment at work place. Maternity benefits are covered under Provincial Employees Social Security Ordinance, 1965 and Maternity Benefits Ordinance.

## **7. Initiatives and Direct Interventions**

The Government of Pakistan gives priority to address the issues confronted by the workers of the vulnerable groups. Various policy interventions, legislative and administrative measures were taken at the Federal and Provincial levels. The issue of child labour was addressed through National Policy and Action Plan to Combat Child Labour, 2000 which stresses the need for progressive elimination of child labour in all employment sectors in collaboration with social partners, NGOs, and International Organizations. National Strategy to tackle child labour under the Action Plan was:

- a) Immediate withdrawal of children from hazardous and exploitative situation and rehabilitation of vulnerable children through expanding infrastructure for vocational training, skill development and youth apprenticeship program, and
- b) Progressive elimination of child labour through awareness raising, involving social partners and community, expansion of educational opportunities, empowerment of poor families, social safety nets, law enforcement and establishment of monitoring bodies.

National Policy and Plan of Action for Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers was launched in 2001 with commitment to eliminate all forms of bonded labour and pledge to adhere to all international instruments, conventions, conventions and protocols whether ratified or not which deal with fundamental human rights. Specific projects on child labour and bonded labour with the technical support of ILO were also initiated by the Government of Pakistan in soccer ball, surgical manufacturing goods, carpet weaving, brick kilns, glass bangles, deep sea fishing sectors, etc. Besides, colonies for the freed “haries” and establishment of Legal Aid Cells were other important interventions under the Bonded labour Welfare Fund.

The Government of Punjab has been very instrumental to eradicate bonded and child labour from various districts of the Province. The laws on bonded labour and prohibition of employment of children have been reviewed in the light of the ground realities and ILO Conventions and are being redrafted. The Government of Punjab replicated CACL-

It in four Districts of the province with the objectives to establish non-formal schools, skill training and provision of micro credit to the families of child workers. Elimination of Bonded Labour in Brick Kilns (EBLIK) was started in two Districts with the objectives to establish non-formal schools, provide micro credit to effected families and provision of veterinary services. This Project has been replicated in other four Districts of the Province.

For protection of lady workers at the workplace, “The Protection Against Harassment of Women at Workplace Act, 2010” was promulgated. Women Development Department was established in the province of Punjab in 2012. Chief Minister’s Women Economic Empowerment Package, 2012 has much to empower women financially and through enhancing their quota in the public service and membership in statutory bodies. The facility of Day care center has been extended to the industrial and commercial establishments employing 25 women workers through an amendment in the law. The Punjab Home Based Workers’ Policy has been announced and law for protection of home based workers is in the drafting stage.

## **8. Way Forward**

The prevalence of vulnerable groups of workers poses great threat to the socio-economic development of the country. Child workers, bonded labourers and women workers have to work in the informal economy under harsh working conditions owing to economic compulsion and socio-economic imbalances. Enforcement of legislation and some special interventions to address the problems of these workers may have positive impact, but the real improvement can be brought only if such measures are supplemented with better education, appropriate skill development, entrepreneurial development, provision of micro-credit and special package for the workers of informal sector, home based workers including extension of coverage of labour laws and social protection schemes.

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