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## **PUNJAB RESOURCE MANAGEMENT PROGRAM**

### **SCOPING EXERCISE TO ROLLOUT INTERVENTION FOR ILO / GSP Plus**

**Final Report**

**5<sup>th</sup> June, 2017**

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Government of Punjab	The Government
Annual Development Program	ADP
Assistant Directors Labour Welfare	ADLW
Binding Tariff Information	BTI
Chief Minister	CM
Collective Bargaining Agent	CBA
Committee of Experts on Application of Convention and Recommendations	CEACR
Computerized National Identity Card	CNIC
Directorate General of Labour Welfare	DGLW
District Vigilance Committees	DVCs
Elimination of Bonded Labour in 4 Districts of Punjab	EBLIK-4D
Employers Federation of Pakistan	EFP
European Union	EU
Free Trade Area	FTA
Generalized Scheme of Preferences	GSP
Headquarter	HQ
Industrial Relations Institute	IRI
International Labour Organization	ILO
International Labour Standards	ILS
Jobs and Competitiveness Program for Results	J&C P for R
Labour Inspection Computerization System	LICs
Legal Aid Service Unit	LASU
National Database and Registration Authority	NADRA
Non Formal Education	NFE
Non Formal Education Centers	NFECs
Non-Formal Basic Education Schools	NFBESs
Non-Government Organizations	NGOs
Occupational Safety and Health	OSH
Pakistan Workers Federation	PWF
Program Director of Integrated Projects	PDIP
Bureau of Statistics Punjab	BOS
Punjab Education Foundation	PEF
Punjab Employees Social Security Institution	PESSI
Punjab Growth Strategy	PGS

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Punjab Industrial Estates	PIE
Punjab Labour and Human Resource Department	L&HRD
Punjab Industrial Relations Act	PIRA
Punjab Minimum Wages Board	PMWB
Punjab Resource Management Program	PRMP
Punjab Social Protection Authority	PSPA
Punjab Workers' Welfare Board	PWWB
Saeed Ahmed Awan Center for Improvement of Working Conditions and Environment	SAA-CIWC&E
South Asian Association for Regional Cooperation	SAARC
Statistical Information and Monitoring Program on Child Labour	SIMPOC
Technical Inspectors	TI
Vocational Training Institutes	VTIs



# 1. Executive Summary

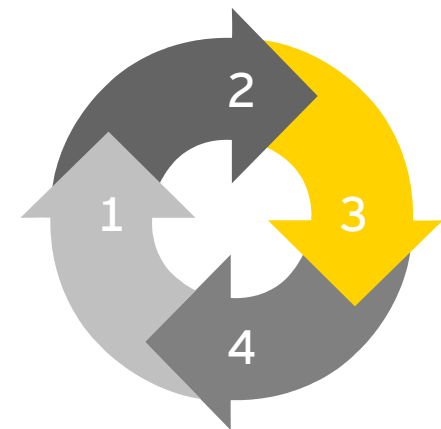
## 1. Executive Summary

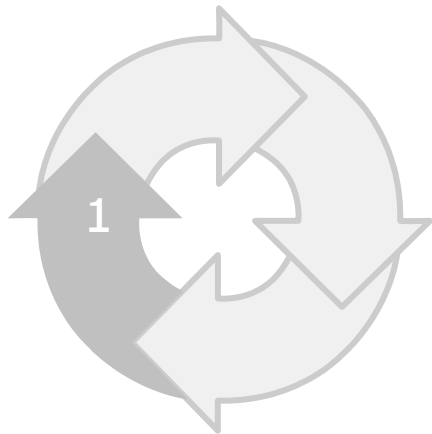
Punjab Resource Management Planning (PRMP) appointed EY Ford Rhodes to perform the current assessment of labour regulation and administration in the Province of Punjab, as per terms of reference agreed with PRMP.

As part of the scope of work, EY mapped recent initiatives (post 18<sup>th</sup> amendment) taken by the Government to improve the labour situation, performed a gap analysis between current labour regulations in the Province and International Labour Organization (ILO)'s 8 Core Conventions (focusing on freedom of associations, forced labour, discrimination, and child labour), obtained perspectives to improve labour condition from various stakeholders, and identified areas of intervention in respect of the gaps identified.

In order to achieve the objectives of the assignment, the following tasks were performed:

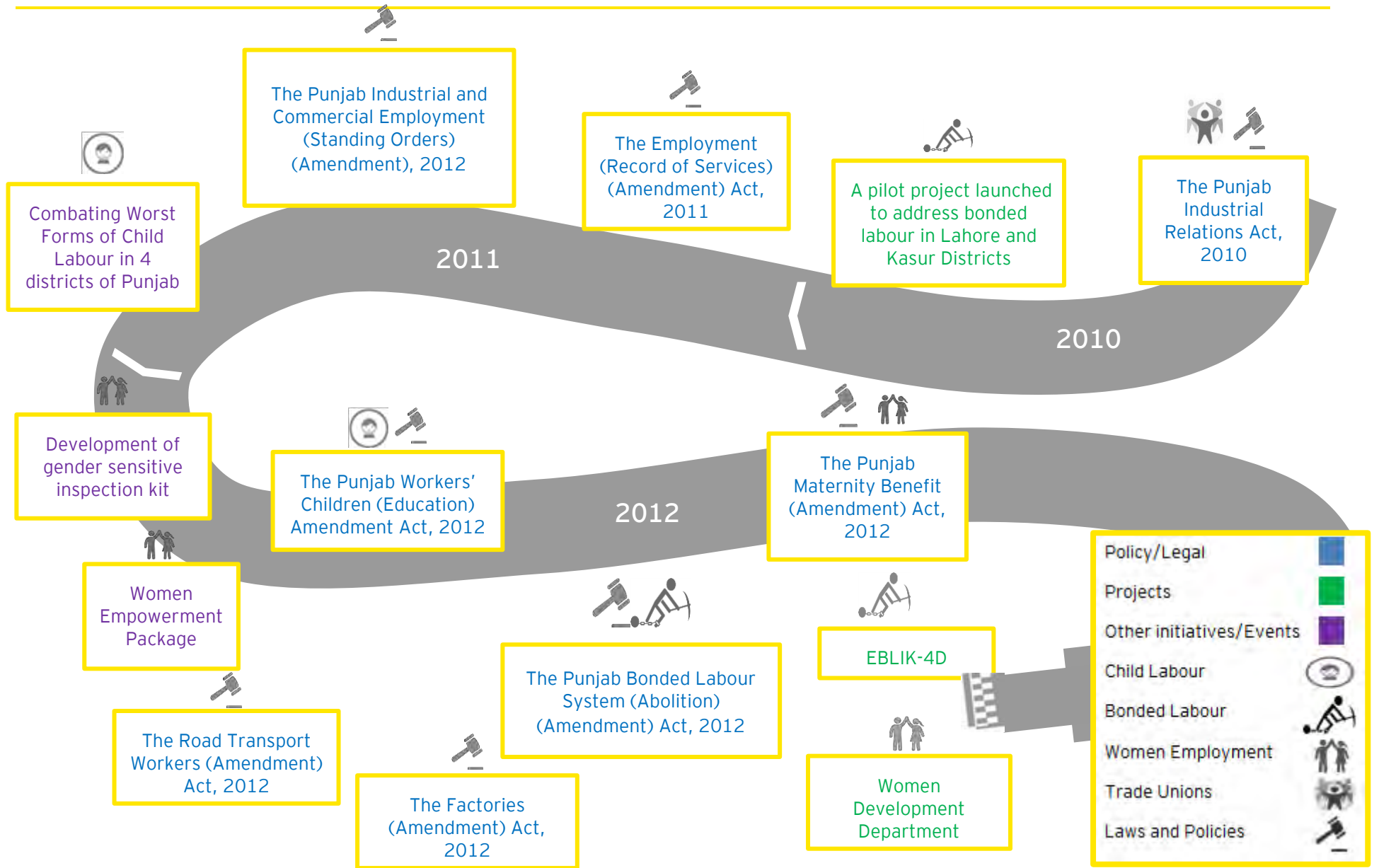
- ▶ A mapping of recent initiatives in the Province to improve labour regulation and administration. This exercise covered a total of 6 years from 2011 to 2017.
- ▶ A gap analysis between the requirements of the 8 Core ILO Conventions and the current regulation in Punjab was performed. As a result of this exercise, detailed recommendations for updating the relevant laws were developed.
- ▶ Perspectives were obtained from various stakeholders on how to improve the labour regulation and administration. These included NGOs, Government organizations, Chambers of Commerce and Industrial Associations.
- ▶ Based on the results of the three steps above, recommendations were developed to bridge the gaps that were identified. These were grouped into themes to provide the Government with a high level view of the way forward.





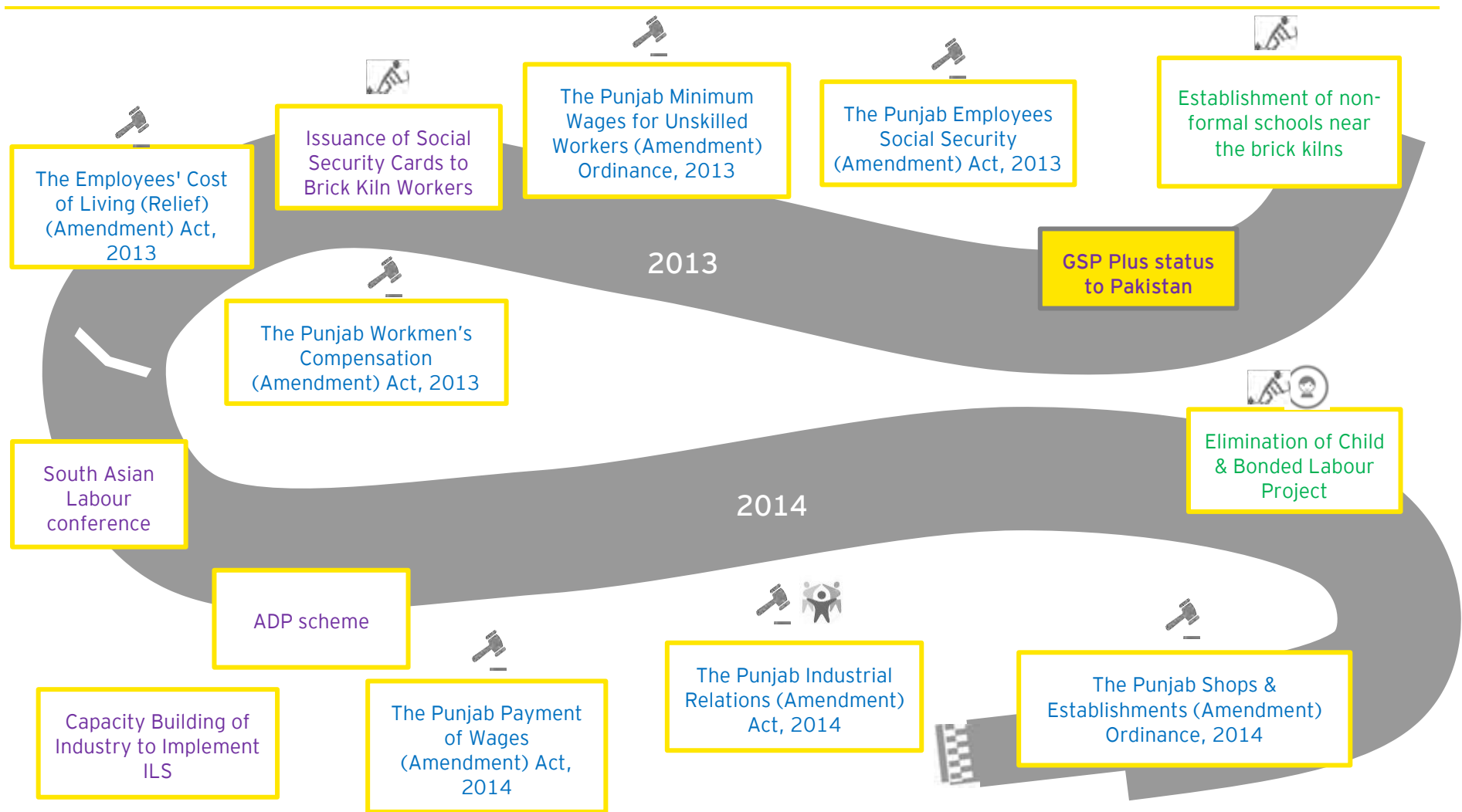
Mapping of recent initiatives in the province to improve labour regulation and administration

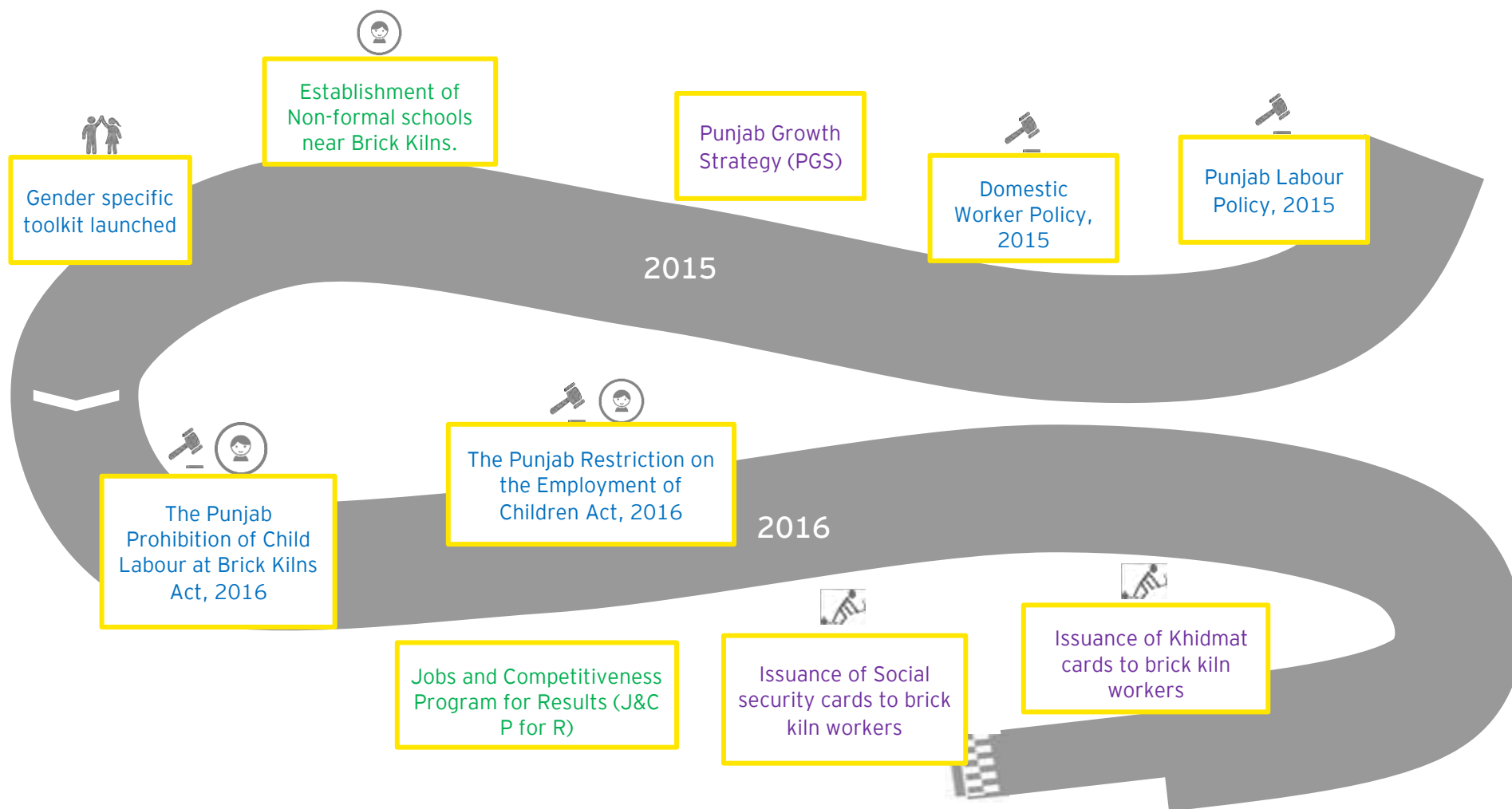
Executive Summary



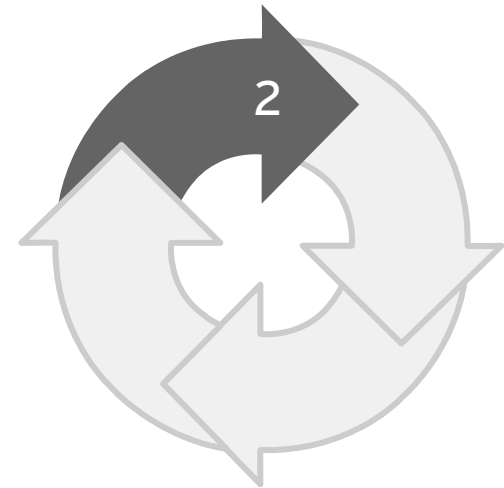


Executive Summary





Gap assessment of relevant laws as compared to the requirements of the 8 Core ILO Conventions



## Definitions

It is recommended that definitions of:



- ▶ "adult", "child" and "young person" be included in all relevant laws.
- ▶ "young person" and "non-adult" be substituted with "adolescent" in all relevant laws.
- ▶ "young children" be substituted with "child" in all relevant laws.



- ▶ "bonded labour" should cover forced and compulsory labour.
- ▶ "establishment", "employer" and "inspector" should be incorporated in Bonded Labour System (Abolition) Act, 1992.



- ▶ "discrimination", "employment" and "occupation" are recommended to be incorporated in relevant laws.
- ▶ "organization", "establishment", "settlement" and "industry" in PIRA 2010 need to be updated..



## Scope Extention

It is recommended that:



- ▶ The Provincial Committee on Elimination of Child Labour have statutory force to get its recommendations implemented by all the relevant stakeholders.



- ▶ The scope of work of vigilance committees on bonded labour be enhanced for its objectives.



- ▶ Scope of PIRA 2010 be extended so that workers in the informal sector are also empowered to make trade unions.



## Policy Proposals

It is recommended that:



- ▶ Form-B and Birth Registration be made mandatory for determination of age of workers.
- ▶ Under Factories Act 1934, certificate of fitness be issued to adolescents and not to children.
- ▶ Working hours for adolescents be prescribed and arranged so as to restrict overtime.
- ▶ Every establishment employing adolescents be made responsible to maintain record regarding adolescents.



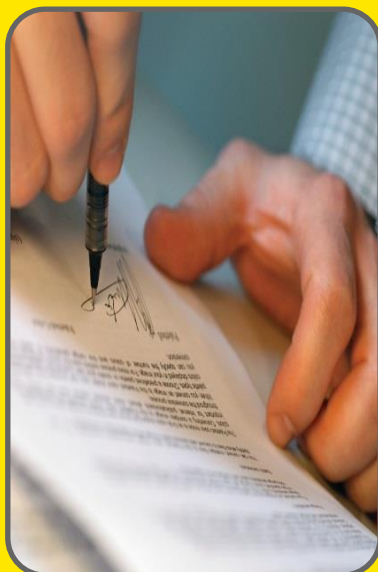
- ▶ Penalties under the Bonded Labour System (Abolition) Act, 1992 be enhanced.

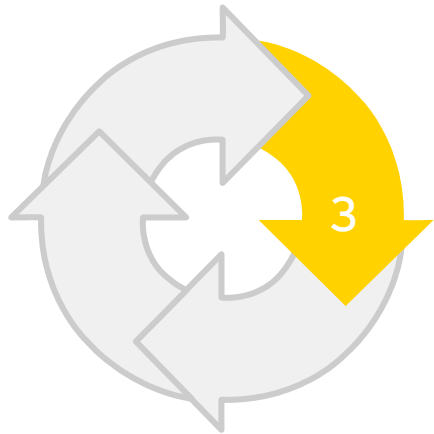


- ▶ The labour laws impliedly negates discrimination in wage or other remunerations / emoluments yet this concept is not addressed expressly to make it cognizable under the laws.
- ▶ Provisions regarding protection against discriminatory treatment be incorporated in the law to ensure protection.



- ▶ Right of workers employed in export zones not to be overlooked by notification of exemption from the Government.
- ▶ The terms and conditions of employment not be ammended without consent of the representatives of workers in the Workers Management Council.
- ▶ Labour laws should cover the domestic and home based workers.





Perspectives from various stakeholders

**Appreciated initiatives**

18<sup>th</sup> Amendment was appreciated by stakeholders as they felt that the provincial model of governance is more effective in bringing the Government closer to people, and enhances accountability.

Stakeholders appreciated the initiatives by the Punjab Government in the last few years such as:

- ▶ Punjab Labour Policy, 2015
- ▶ Women Empowerment Package, 2012 and 2014,
- ▶ The Punjab Restriction on Employment of Children Act, 2016, and,
- ▶ The Punjab Prohibition of Child Labour at Brick Kilns Act, 2016.

No transition phase was planned and executed after the 18<sup>th</sup> amendment which has caused a lack of co-ordination between different governmental departments.

There are no independent processes and continuity in governmental departments which results in ad-hoc policies being made by every new government.

There is no law covering the education of domestic child labour, agriculture workers and domestic workers.

Women do not get remunerated equally, and there is blatant discrimination against working women who are in child-bearing age. Furthermore, no variations are available in maternity laws.

The lack of trade unions is the foundational problem behind the rampant exploitation of labour. Employers, through various discreet measures, discourage and sometimes outright forbid workers to join a trade union.

Despite attaining the GSP+ status, the exports of Pakistan have been declining significantly in the past few years due to non-friendly export policies of the government.

The lack of implementation was due to under-staffing of labour inspectors with regards to the momentous scope of work entrusted on them, hiring of incompetent labour inspectors on the basis of reference, lack of training and political will, corruption, and a deficit in the power of trade unions.

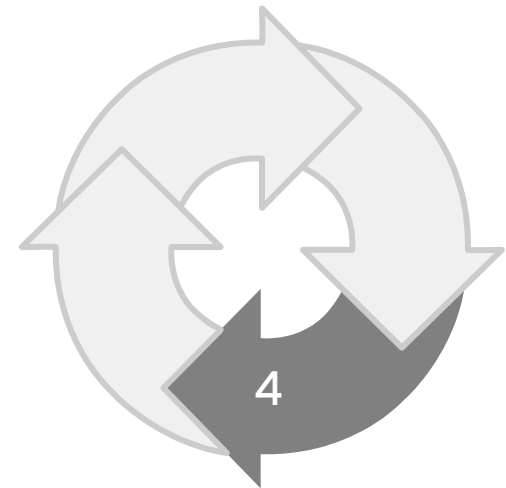
The majority of current inspections are focused on record-keeping, which dilutes the core purpose of the inspectors and encourages non-compliance.

Self-governance should be promoted by incentivising compliance.

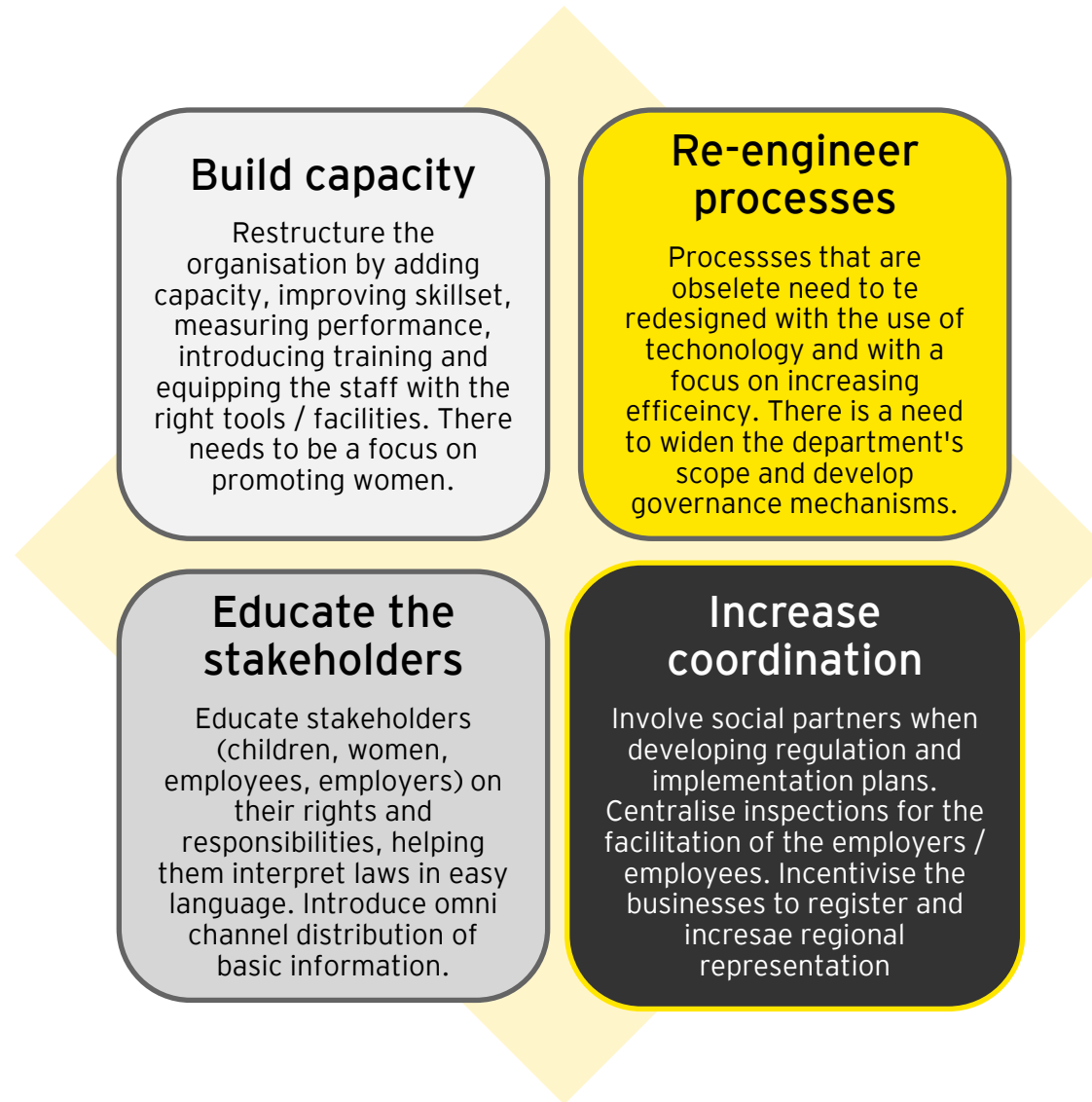
Tripartite forums should be enhanced and institutional mechanisms should be developed for improving quality of labour market data and information.

**Contravening Opinions**

## Recommendations and entry points





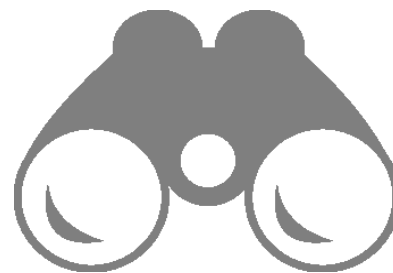




## 2. Introduction

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### 2.1 Assignment Background



The Government of Punjab (the Government) approved the Punjab Growth Strategy (PGS) in March 2015. The PGS set a target of doubling Punjab's GDP growth by 2018 (from 3.5% to 7%) which will be necessary to absorb the one million people entering the workforce every year. The Government of Punjab, with the support from the World Bank, is currently undertaking a Jobs and Competitiveness Program for Results (J&C P for R) that will support the implementation of the PGS, especially in driving forward industrial development. The J&C P for R consists of two result areas:

- ▶ Business Environment Reforms
- ▶ Spatial Development

These two result areas are interlinked and together aim to remove constraints to improve Punjab's industrial competitiveness. Business Environment Reforms are expected to improve the regulations and the capacity of the Government to reduce the compliance cost for businesses. As part of this initiative the Government aims to generate investment, facilitate women employment, improve worker's safety and address equal remuneration issues.

Punjab Resource Management program (PRMP) intends to provide technical support to the Punjab Labour and Human Resource Department (L&HRD) to improve the labour regulation and administration within the Province. The idea is to comply with International Labour Organization's (ILO) Conventions which will help Punjab and ultimately Pakistan maintain its GSP Plus status. The GSP Plus is a component of the European Union (EU) Generalized Scheme of Preferences (GSP) for developing countries. It offers additional trade incentives to developing countries already benefitting from GSP to implement core international Conventions.

The EU granted the GSP Plus status to Pakistan in December 2013 which became effective from 1st January, 2014. Ratification and implementation of 27 ILO Conventions is an important condition to maintain GSP Plus status. These Conventions pertain to human rights, labour rights, the environment, narcotics control and corruption. The provisions of these Conventions focus on good governance and sustainable development. As per the EU, countries which hold the GSP Plus status are required to implement all 27 ILO Conventions through its constitution (laws), enhancement of policies, and implementation of administrative actions.

At the foundation of the 27 ILO Conventions lie the 8 Core ILO Conventions which focus on freedom of associations, forced labour, discrimination, and child labour. The Government wants to map the recent initiatives that have been taken to improve labour regulations and labour administration to continue its drive towards achieving high standards and maintaining the GSP Plus status. The GSP Plus scheme is designed to encourage beneficiary countries to show a genuine commitment to implementing core human and labour rights and the EU has put in place a strengthened monitoring mechanism to ensure that those rights are respected by the GSP Plus beneficiary countries. An understanding of the current state of things which fall within the mandate of the L&HRD is expected to provide the basis for future initiatives to be planned effectively.

### 2.2 Assignment Objective

Continuing with its intention to make Punjab a secure, economically vibrant, knowledge focused and caring Province, the Government wants to understand the current state of the labour regulation and administration. As such the Government has set out the following objectives for this assignment.

- ▶ It is important to map out all the initiatives that have been taken recently to improve the labour regulation and administration within the Province. This will help



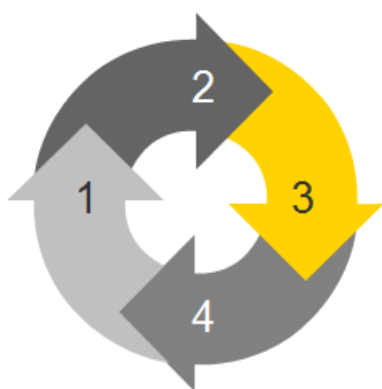
consolidate the efforts that have been made in the recent past to make improvements in the area. It will also help identify initiatives that were made in silos and areas where efforts were duplicated.

- ▶ It is key to understand the progress that has been made in areas of child labour, worker's safety, women employment and trade unions as these are focus areas for the Government and also align nicely with the areas that the 8 Core ILO Conventions focus on: freedom of associations, forced labour, discrimination, and child labour.
- ▶ It is vital to include the key stakeholders and obtain their opinions on how the Province can better align itself with the requirements of the 8 Core ILO Conventions. This will help in understanding the challenges faced by employers, employees, relevant Government departments and the wider civil society at the ground level. The Government aims to obtain a detailed current state assessment and use it as a basis for future decision making i.e. identifying areas which will require more focus to achieve international standards.

### 2.3 Scope of Work

In order to achieve the objectives of the assignment there are four areas that have been scoped:

- ▶ Mapping of recent initiatives in the Province to improve labour regulation and administration,
- ▶ Performing a gap analysis between the requirements of the 8 Core ILO Conventions and the current regulation in the Province,
- ▶ Obtaining perspectives from various stakeholders on how to improve the labour regulation and administration, and
- ▶ Identifying the entry points i.e. areas of intervention to bridge the gaps identified.



The four tasks above go hand in hand in developing a detailed current state picture of the labour regulation and administration in the Province. Once a detailed understanding of the gaps has been obtained, recommendations will be developed identifying the areas of intervention. The actual intervention i.e. the steps that will need to be taken in order to close the gaps are NOT included within the scope of this assignment.

For the purposes of this assignment and owing to further discussions with representatives from the L&HRD including the Secretary and the Director Headquarters(HQ) it was agreed that "recent" initiatives will be defined as initiatives post the 18th Amendment to the Constitution of Pakistan. The amendment bill was passed by the Senate of Pakistan on April

15, 2010 and it became an act of parliament when it was signed by the President of Pakistan on April 19, 2010.

Given the size and mandate of L&HRD, there are several initiatives that might have been undertaken in the recent past, however for the purposes of this assignment the focus will be on the following areas:

- ▶ Child labour
- ▶ Worker's safety
- ▶ Women employment
- ▶ Trade unions

The areas mentioned above map onto the 8 Core ILO Conventions which focus on:

- ▶ Child labour (Convention No. C138 and C182)

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- ▶ Forced labour (Convention No. C029 and C105)
- ▶ Discrimination (Convention No. C100 and C111)
- ▶ Freedom of association (Convention No. C087 and C098)

Implementation of Conventions is ensured through ILO's governance Conventions; and the scope of this assignment will also include C 081 which relates to inspections and is highly relevant to this assignment.

The 8 Core ILO Conventions plus the labour inspection Convention which will be reviewed include the following:

- ▶ C029 - Forced Labour Convention, 1930
- ▶ C087 - Freedom of Association and Protection of the Right to Organize Convention, 1948
- ▶ C098 - Right to Organize and Collective Bargaining Convention, 1949
- ▶ C100 - Equal Remuneration Convention, 1951
- ▶ C105 - Abolition of Forced Labour Convention, 1957
- ▶ C111 - Discrimination (Employment and Occupation) Convention, 1958
- ▶ C138 - Minimum Age Convention, 1973
- ▶ C182 - Worst Forms of Child Labour Convention, 1999
- ▶ C081 - Labour Inspection Convention, 1947

For the purposes of the gap assessment that will be performed as part of this assignment, the following laws will be reviewed and compared to the requirements of the 8 Core ILO Conventions:

- ▶ The Punjab Shops and Establishments (Amendment) Ordinance, 2014
- ▶ The Factories (Amendment) Act, 2012
- ▶ The Punjab Employees Social Security (Amendment) Act, 2013 (XXIV of 2013)
- ▶ The Punjab Industrial and Commercial Employment (Standing Orders) (Amendment), 2012 (federal law administered by provincial Government)
- ▶ The Employment (Record of Services) (Amendment) Act, 2011
- ▶ The Road Transport Workers (Amendment) Act, 2012
- ▶ The Punjab Workers' Children (Education) Amendment Act 2012
- ▶ The Punjab Bonded Labour System (Abolition) (Amendment) Act, 2012
- ▶ The Punjab Maternity Benefit (Amendment) Act, 2012
- ▶ The Punjab Workmen's Compensation (Amendment) Act, 2013
- ▶ The Punjab Payment of Wages (Amendment) Act, 2014
- ▶ The Punjab Minimum Wages for Unskilled Workers (Amendment) Ordinance, 2013
- ▶ The Employees' Cost of Living (Relief) (Amendment) Act, 2013
- ▶ The Punjab Industrial Relations Act, 2010
- ▶ The Punjab Industrial Relations (Amendment) Act, 2014
- ▶ The Punjab Prohibition of Child Labour at Brick Kilns Act, 2016
- ▶ The Punjab Restriction on the Employment of Children Act, 2016
- ▶ The Mines Act, 1923

As part of this assignment, several stakeholder perspectives will be gathered on how to build the

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capacity of the Government to improve labour regulation and better labour administration. Consultations with the following stakeholders will be conducted:

- ▶ Government officials including Secretary Labour, Directorate General of Labour Welfare (DGLW), Director Law, Commissioner PESSI, Head of CIWC&E and Head of Industrial Relations Institute (IRI)
- ▶ Chairman or CEO of Punjab Industrial Estates (PIE)
- ▶ Chambers of Commerce from the following cities; Lahore, Sialkot and Faisalabad
- ▶ Employer associations for the following industries; Textile, Sports Goods and Brick Kilns
- ▶ Representatives of Employers Federation of Pakistan (EFP)
- ▶ Representatives of Pakistan Workers Federation (PWF) and Muttahida Labour Federations including the respective women wings / office bearers
- ▶ Civil society organizations including; Bunyaad, Sudhaar, Shirkat Gah, Aurat Foundations and Home-based Workers Network

For the purposes of this assignment and owing to further discussions with representatives from the L&HRD including the Secretary and the Director HQ it was agreed that the scope of this assignment will be limited to developing recommendations to bridge the gaps.

The actual implementation of the recommendations is NOT in the scope of this assignment and will be rolled out as a separate project by PRMP at a later stage.





### 3. Legal Framework

### 3. Legal Framework

A functioning and effective legal system is the backbone of any flourishing society. Without a proper legal system, society becomes dysfunctional causing numerous social, economic and political problems. An effective legal system ensures that justice is served impartially irrespective of a person's social status and power. It is transparent and swift in dispensation of justice. Moreover, it promotes social unity and coherence by protecting rights and liberties of each citizen in a society. Because of these characteristics, it ensures that citizens respect the law and that order is maintained.



In the context of Punjab, the labour legal framework incorporates legislation on the majority of areas which are required to maintain the GSP Plus status. Although there are some categories of workers that are not covered in law, Punjab labour laws cover the majority of the areas to promote labour rights in the Province. However, the implementation of these legal provisions is a cause of concern and requires immediate attention. As per the scope of this assignment, what follows is the current legal assessment of the labour situation, particularly focusing on child labour, forced labour, equal remuneration and freedom of association.

#### 3.1 Child Labour

The following laws, in the Province of Punjab, prohibit or restrict child labour in different occupations, and establishments:

- ▶ The Factories Act, 1934
- ▶ The Punjab Shops & Establishments Ordinance, 1969
- ▶ The Road Transport Workers Ordinance, 1961
- ▶ The Punjab Restriction on Employment of Children Act, 2016
- ▶ The Punjab Prohibition of Child Labour at Brick Kilns Act, 2016
- ▶ The Mines Act, 1923

**The Factories Act, 1934**, forbids employment of children under the age of 14, and requires a certificate of fitness for adolescents and children who have attained 14 years of age. It stipulates that a child cannot work in a factory for more than 5 hours a day, and that a "Notice of Periods for Work for Children" is displayed in every factory. The law also states that a register must be maintained including the details of the child and the nature of his work, and that if an Inspector has any reason to believe that a child or adolescent is not fit to work in a factory, he may demand a medical examination without which a child or adolescent may not be allowed to work.

**The Punjab Shops & Establishments Ordinance, 1969**, states that no child (under 14 years of age) is allowed to work in any establishment.

**The Road Transport Workers Ordinance, 1961**, states that no person under the age of 18 is allowed to work, with the exception of drivers who ought to be 21 years old.

**The Punjab Restriction on Employment of Children's Act, 2016**, prohibits the employment of children (under the age of 15) across the board in all the establishments and also prohibits adolescents from being involved in hazardous work. It sets conditions on the working hours of adolescents and that at a minimum, one holiday per week is granted. It requires that registers are maintained containing the details of adolescents and the nature of their work, and that an Inspector can demand any adolescent to have a medical examination if Form-B document is not provided.

**The Punjab Prohibition of Child Labour at Brick Kilns Act, 2016**, exclusively prohibits employment of children at brick kilns. The object of the law is to take immediate action against the brick kilns' owners / employers keeping in view hazardous nature of the employment, if they are found



employing children in the process of brick kilns. Besides, advance / "*peshgi*", which is rampant in the brick kiln sector has been regularized to some extent by limiting the advance / "*peshgi*" at rupees fifty thousand. "Peshgi" translates to "bonded money," and is a system of bonded labour which consists of giving advance payments to a person for future work, in essence creating a debt. As long as the debt remains outstanding, the debtor i.e. the worker is bound to the creditor. This turns into a viscous cycle where the debtor is always playing catch-up.

**The Mines Act, 1923**, states that no child (under 15 years) is allowed to work or be present in a mine below ground level. In addition, a young person below 17 years of age must possess a certificate of fitness in order to work and his work should be structured in such a way as to allow a 12 hour interval of rest. Lastly, any dispute on the age of workers may be resolved by conducting a medical examination to determine the correct age of the employee.

### 3.2 Forced Labour / Worker's Safety

To deal with issues of forced labour, currently the following legislations are in place in the Province of Punjab:

- ▶ The Punjab Bonded Labour System (Abolition) (Amendment) Act, 2012
- ▶ The Punjab Prohibition of Child Labour at Brick Kilns Act, 2016

Further, clause (2) of Article 11 of the Constitution of the Islamic Republic of Pakistan prohibits all forms of forced labour.

In 1989, the Supreme Court of Pakistan took cognizance of the Bonded Labour as a Human Right Case having resolve on Article 11(2) and through a landmark judgment under the title of "Darshan Masih alias Rehmatay and others. Vs. The State" (PLD 1990 SC 513), provided a strong judicial mechanism which ultimately resulted in enactment of "Bonded Labour System (Abolition) Act, 1992 (III of 1992)".

Bonded Labour System (Abolition) Act, 1992 (III of 1992) was enacted to provide for abolition of bonded labour system with a view to preventing the economic and physical exploitation of the labour class in the country and for other matters connected therewith or incidental thereto i.e. rehabilitation for the improvement of their social and economic stature in the society.

As a prime objective, this law negated the system of bonded labour, slavery and any form of forced labour across the board. Rendering bonded labour is an offence cognizable by police under this law. Furthermore the law also provides for rehabilitation of the freed bonded labourers through a system of District Vigilance Committees to be constituted for the purpose. On certain points, this law does not conform to the principles laid down and dictums of the Judgment of August Court, particularly, regularization of advances / "*peshgi*", its documentation and recovery.

This law was a federal legislation and after 18th Constitutional Amendment, which devolved the legislative authority to the Provinces and consequently, it has been adapted by the Government of the Punjab through the Punjab Bonded Labour System (Abolition) (Amendment) Act, 2012 (XXIV of 2012) with effect from February 11, 2012.

**The Bonded Labour System (Abolition) Act, 2012** prohibits any kind of bonded labour. Furthermore, it prohibits advances to be provided to pursue or compel any person to render bonded or other forms of forced labour.

Under this law no employer is allowed to pay nominal wages. Nominal wages means a wage which is less than the minimum wage fixed by the Government. If no such minimum wage has been fixed in relation to any form of labour, the wages that are normally paid, for similar labour, to the labourers working in the same locality, is considered to be the minimum wage. The person who exacts any kind of bonded labour through any custom, practice, tradition, contract, or by any other virtue is punishable with imprisonment and fine as prescribed in law.

### 3.3 Women Employment / Discrimination

The labour laws at present, in force in Punjab, in one way or the other define and protect different financial benefits of workers directly paid by the employer or indirectly extended by the state agencies against contributions received from the employers on different accounts. Moreover, these laws impliedly negate any kind of discrimination among the employees.

Moreover, they protect the rights of workers in employment, and also regulate the terms and conditions of employment including remunerations and leaves. These laws formulate a mechanism for determination of minimum rates of wages based on cost of living and economic conditions on the recommendations of a board constituted for the said purpose. Broadly, there are no special provisions made in regards to women employees. The following labour laws are relevant on the subject:

- ▶ Workmen's Compensation Act, 1923
- ▶ Factories Act, 1934
- ▶ Payment of Wages Act, 1936
- ▶ Minimum Wages Ordinance, 1961
- ▶ The Road Transport Workers Ordinance, 1961
- ▶ Apprenticeship Ordinance, 1962
- ▶ Provincial Employees' Social Security Ordinance, 1965
- ▶ Punjab Industrial & Commercial Employment (Standing Orders) Ordinance, 1968
- ▶ Minimum Wages for Unskilled Workers Ordinance, 1969
- ▶ Punjab Shops & Establishments Ordinance, 1969
- ▶ Employees' Old-Age Benefit Act, 1976

Further, 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 annunciate that there shall be no discrimination on the basis of gender.

**Factories Act, 1934**, deals with working conditions in factories. It contains provisions regarding working hours, conditions at the workplace, health and safety, fencing of machinery, rest interval, medical care, working hours for women, overtime, holidays, leaves etc. There are certain special provisions relating to women, such as Section 33-Q which stipulates establishment of day care centers and where more than 50 women workers are employed, a separate room for children under the age of 6 years.

**Punjab Shops & Establishments Ordinance, 1969**, deals with working conditions in shops and establishments. This law formulates a mechanism for determination of minimum rates of wages based on cost of living and economic conditions on the recommendations of a Board constituted for the said purpose. It contains provisions regarding working hours, health and safety, rest interval, holidays, overtime and medical coverage. There are no special provisions made in regards to women employees.

**Punjab Industrial & Commercial Employment (Standing Orders) Ordinance, 1968**, deals with terms of employment, gratuity, bonus and disciplinary proceedings. There are no special provisions made in regards to women employees.

**Apprenticeship Ordinance, 1962**, deals with promoting, developing and regulating apprenticeship programmers in industries. There are no special provisions made in regards to women.

**Payment of Wages Act, 1936, Minimum Wages for Unskilled Workers Ordinance, 1969, and Minimum Wages Ordinance 1961**, fixes minimum wages for different categories of workers in multiple industries. There are no special provisions made in regards to women employees.

**Workmen's Compensation Act, 1923**, deals with compensation of workers in relation to injury or death at the workplace. There are no special provisions made in regards to women employees.

**Employees' Old-Age Benefit Act, 1976**, deals with provision of old-age pension, widow's pension, survivor pension, invalidity pension and disability pension. There are no special provisions made in regards to women employees.

**Provincial Employees' Social Security Ordinance, 1965**, deals with provision of benefits in relation to sickness, maternity, injury, death, employment or ancillary matters against a contribution of 6% of employee's wages by the employer. Secured women employees are eligible for a variety of benefits including sickness, death grant, medical care during sickness and maternity, medical care of dependents, disablement gratuity, survivor's pension etc.

**The Road Transport Workers Ordinance, 1961** deals with working conditions for employees in vehicles used for commercial purposes. There are no special provisions made in regards to women employees.

Generally there are no provisions in these laws which contradict any Articles of the Conventions. These laws impliedly negate discrimination; however no explicit reference is stated except under Rule 15 of **The West Pakistan Minimum Wage Rules, 1962**, which states that the principle of equal remuneration for men and women workers for work of equal value shall be applied

### 3.4 Trade Unions / Freedom of Association

The **Punjab Industrial Relations Act, 2010** regulates formation of trade unions, regulation and improvement of relations between employers and workmen employed in any establishment, group of establishments and industry with certain exemptions:

- ▶ The persons employed in defense services of Pakistan; police, armed forces including ordinance factories maintained by the Federal government.
- ▶ Administration of state other than Pakistan Railway and Pakistan post
- ▶ Institutions not being run on commercial basis for treatment or care of sick, destitute or mentally unfit persons
- ▶ Institutions not being run on commercial basis providing education or emergency services etc.

However, definition of industry is inflexible which at the outset excludes the informal sector like domestic, home based and agriculture from the purview of this law.

The Punjab Industrial Relations Act, 2010 provides procedure for formation of trade unions including federations and confederations of workers and employers in any establishment, group of establishments and industry and determination of collective bargaining agents to protect the right to bargain collectively.

Moreover, for raising industrial disputes and their settlement, a complete procedure of social dialogue, conciliation, arbitration and award of court of law has been given in this law. Right of strike and lock out is protected; however, certain restrictions in public utility service are imposed in the public interest.

Collective as well as individual grievances are resolved through labour judicial system having two vertical tiers i.e. Labour Courts and Labour Appellate Tribunal. Besides this, certain offences of unfair labour practices on the part of workmen and employers have been made cognizable and subject to imposition of penalties.

The Punjab Industrial Relations Act, 2010 is a provincial law enacted immediately after the 18th Constitutional Amendment, when the existing federal legislation on the subject i.e. Industrial Relations Ordinance, 2008 stood repealed in consequence of its own sunset clause. Subsequently, in year 2012, a law at the federal level was also promulgated with the name and style of "the Industrial Relations Act, 2012" to protect the spirit of these Conventions in the federally administered areas and the workers employed in the establishments having trans-provincial territorial boundaries.

The two legislations on the same subject i.e. industrial relations at the federal level and at the provincial level have created anomalies because of their overlapping and concurrent jurisdiction of different functionaries, which has frustrated the spirit of devolution and provincial autonomy.

The workers are facing hardships running pillar to post and post to pillar between the judicial and administrative hierarchy created under both legislations for acquisition of their rights, which requires serious review of the situation by the Government to resolve this issue in the best interest of all stakeholders.

### 3.5 Labour Inspection

The different sections of following laws require inspections by specified authorized personnel.

- ▶ Workmen's Compensation Act, 1923
- ▶ Factories Act, 1934
- ▶ Payment of Wages Act, 1936
- ▶ Punjab Maternity Benefit Ordinance, 1958
- ▶ Minimum Wages Ordinance, 1961
- ▶ Road Transport Workers Ordinance, 1961
- ▶ Industrial and Commercial Employment (Standing Orders) Ordinance, 1968
- ▶ Punjab Shops and Establishments Ordinance, 1969
- ▶ Punjab Fair Price Shops (Factories) Ordinance, 1971
- ▶ Workers Children (Education) Ordinance, 1972
- ▶ Bonded Labour System (Abolition) Act, 1992
- ▶ Punjab Industrial Relations Act, 2010
- ▶ Punjab Prohibition of Child Labour at Brick Kilns Act, 2016
- ▶ Punjab Restriction on Employment of Children Act, 2016

As per law, the workplaces should be exposed to inspection machinery for the enforcement of labour rights. These labour laws determine the rights of the workers and responsibilities of the employers and also the procedure to be followed for their enforcement through Inspectors and remedy in case of non-acquisition of rights.

This two fold arrangement for the enforcement of these laws results in imposition of penalties by the courts of law and directions to provide the guaranteed rights to the aggrieved persons. These laws are to protect the labour rights in the industrial and commercial workplaces, where the workers are employed.

Applicability of various labour laws is based on the number of employed workers. Factories Act-1934 is applicable where 10 or more workers are employed, while the Shops and Establishment Ordinance, 1969 is applicable for workplaces employing less than 10 workers.



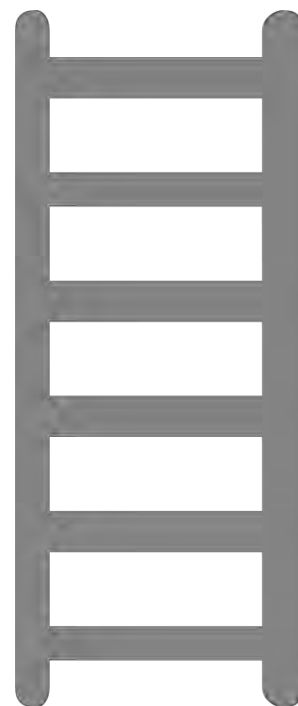
## 4. Labour Administration

## 4. Labour Administration

### 4.1 Importance of Labour Administration

A broad range of activities are considered to be part of labour administration. These include the following

- ▶ enforcement of labour policies,
- ▶ enforcement of employment policies,
- ▶ enforcement of labour legislation,
- ▶ implementation of labour standards and labour laws,
- ▶ development of action plans,
- ▶ development and delivery of training,
- ▶ manpower / capacity planning,
- ▶ dealing with demand and supply of labour,
- ▶ development and use of labour statistics,
- ▶ fixation and implementation of minimum wage, and
- ▶ regulation of industrial relations and matters interconnected with trade unions.



Labour administration focuses on a number of areas such as protection of employment and working conditions, the promotion of equal opportunity, and fundamental principles and rights at work.<sup>1</sup>

The importance of labour administration and labour inspection system in the context of economic and social development is recognized in the Constitution of the ILO, the Declaration of Philadelphia and the ILO Declaration on Social Justice for a Fair Globalization. The same principles have been further developed by numerous ILO Conventions, recommendations and other instruments<sup>2</sup>. An effective labour administration system is also crucial in the context of heightened global competition, rapid changes in technology, and new forms of production and work organization. The significance of labour administration has also been seen in reporting on International Labour Standards (ILS) and under GSP Plus.

*“Effective labour administration systems, public employment services and labour inspection, are vital for good governance of labour matters and for economic and social progress. These systems can make decent work a reality in the workplace by enforcing labour standards and improving working and employment conditions, thus increasing accountability, occupational safety and health (OSH), competitiveness and productivity with social equity. At the same time, labour administration systems can help stimulate economic growth by developing and implementing economic and social policies designed to produce higher employment rates, social cohesion and decent work.” (ILC, 100, 2011)*

Effective labour administration through standardized processes, using optimal technology and relying on talented individuals with the right skillset / knowledge can help progress the socio-economic development of the Province.

### 4.2 Labour Administration System in Punjab

The L&HRD is responsible for labour administration and labour inspection in Punjab. It is

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<sup>1</sup> C150 - Labour Administration Convention, 1978 (No. 150), Convention concerning Labour Administration: Role, Functions and Organization (Entry into force: 11 Oct 1980) Adoption: Geneva, 64th ILC session (26 Jun 1978) - Status: Up-to-date instrument (Technical Convention).

<sup>2</sup> For instance, the key ILO's instrument on labour administration is Labour Administration Convention, 1978 (No. 150).

responsible for addressing child labour, combating forced labour, dealing with discrimination and ensuring freedom for associations. The L&HRD is essentially concerned with:

- ▶ The promotion of healthy labour management and industrial relations for greater socio-economic progress and development,
- ▶ Protecting the rights of workmen and labour force, laying equal stress on employee housing, health, safety and protection in order to make them more committed to their work,
- ▶ Prevention of child and bonded labour keeping in view the national and international standards, and

The L&HRD functions through its following subsidiary organisations:

- ▶ Directorate General Labour Welfare (DGLW)
- ▶ Punjab Employees Social Security Institutions (PESSI)
- ▶ Punjab Workers' Welfare Board (PWWB)
- ▶ Punjab Minimum Wages Board (PMWB)

These organizations are in addition to the Secretariat and the Labour Courts which also fall within the ambit of the L&HRD. Labour issues in the Province are mainly administered through inspections which form the crux of the labour administration process. Given the socio-economic condition of the country and specifically the Province of Punjab, the general population and businesses need to be educated on their responsibilities followed by policing to ensure that the requirements set out by the L&HRD are adhered to.

### 4.2.1 Labour Inspection in Punjab

Implementation of the Core Conventions is ensured through ILO's governance Conventions; one of which is C081 - Labour Inspection Convention, 1947. It is important to evaluate the inspection elements within the Province of Punjab to understand how successfully the other Core Conventions have been implemented. Inspection is the mechanism used to achieve compliance of the requirements set out by the other Conventions.

C081 requires establishment of a system of labour inspection with the ability to:

- ▶ Secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours, wages, safety, health and welfare, the employment of children and young persons, and other connected matters,
- ▶ Supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions, and
- ▶ Bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions.

The Convention also highlights the requirement to have the inspections supervised by a central authority, defining what its role and responsibility should be. It also focuses on the need for collaboration with social partners and cooperation with relevant stakeholders. The Convention lays out the roles and responsibilities of inspectors for them to perform their role in a fair and transparent manner.

The DGLW is the key organisation responsible for enforcement of labour laws in industrial and commercial establishments with the objective of maintenance of industrial peace and welfare of industrial workforce. It is an attached department of the L&HRD and responsible for the following:

- ▶ Enforcement of labour laws
- ▶ Registration and deregistration processes
- ▶ Imparting training to the officers of the department, trade union leaders / workers and various cadres of management



- ▶ Settlement of industrial disputes through the process of conciliation, arbitration and adjudication.
- ▶ Improvement of safety, health and working environment at workplaces through training, awareness and advisory services

### 4.2.1.1 Inspection Process

Basic labour inspection is carried out by an “Inspector” notified under labour laws. The inspector may be a

- ▶ “Labour Inspector” in case of shops and establishments, or
- ▶ “Labour Officer” in case of factories

The Assistant Directors, Deputy Directors and Directors are also notified inspectors under labour laws and conduct supervisory inspections based on their quota of inspections required. The officers of headquarters i.e. DGLW Punjab, Director HQ, Deputy Director Inspection, Technical Inspectors and Assistant Director Inspection can also conduct inspections under special circumstances.

The OSH experts from the Saeed Ahmed Awan Center for Improvement of Working Conditions and Environment (SAA-CIWC&E) also conduct inspections on “whenever required” basis.

The inspection is carried out in the following sequence:



After an inspection is conducted, the results are discussed with the management of the concerned organization. The inspecting official documents the observations/ findings on the “Inspection Performa” and submits it to the supervisory authority. A consolidated report on a monthly basis is then submitted to the DGLW, which is the central authority defined under Convention No. 81.

### 4.2.1.2 Performance of the Inspection Machinery during 2013-16

It is important to evaluate the performance of the inspections as it has a direct impact on compliance regarding the core issues i.e. child labour, forced labour, discrimination and freedom of association. The DGLW maintains records of the number of factories, shops and establishments and brick kilns that are registered with them.

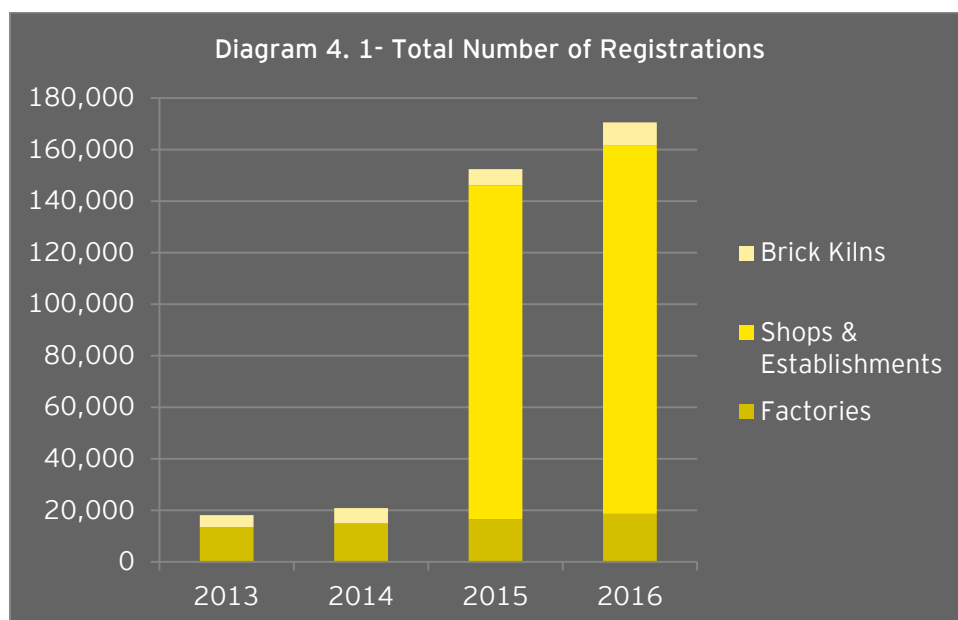
Positive leaps have been made in the last four years with the total number of registrations (as seen in the diagram that follows):

- ▶ For factories increasing by 12.8% from 2015 to 2016<sup>3</sup>
- ▶ For shops and establishments increasing by 10.4% from 2015 to 2016
- ▶ For brick kilns increasing by 41.7% from 2015 to 2016

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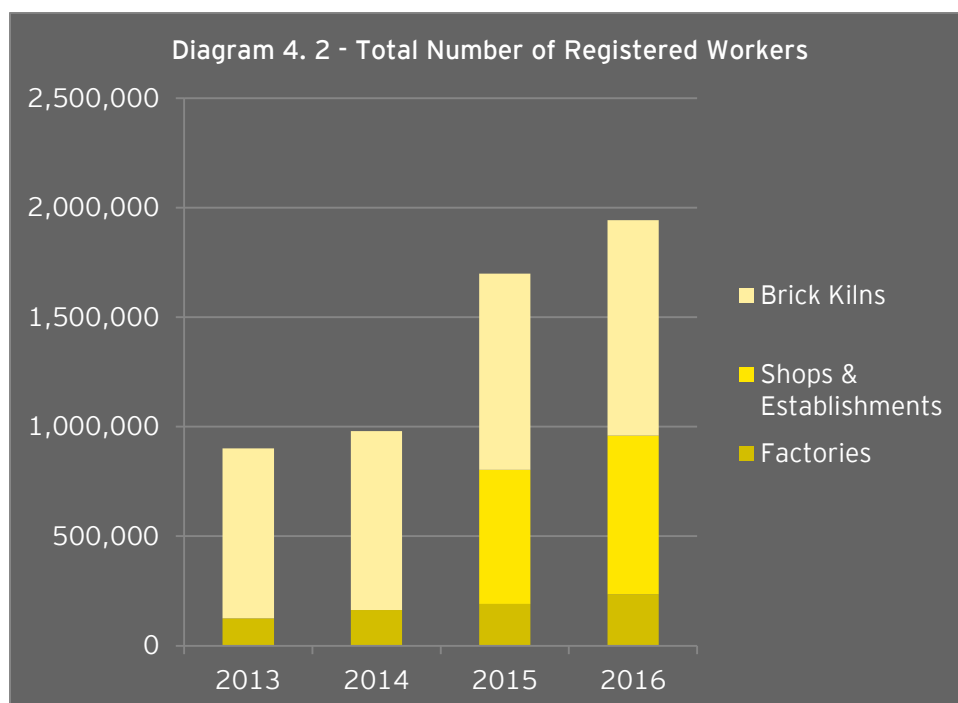
<sup>3</sup> Analysis and diagram are based on the data obtained from Directorate General of Labour Welfare





In addition there has been a positive impact on the workers / employees registration side as well, with employer registrations (as seen in the diagram that follows):

- ▶ For factories increasing by 9.8% from 2015 to 2016<sup>4</sup>
- ▶ For shops and establishments increasing by 18.3% from 2015 to 2016
- ▶ For brick kilns increasing by 23.0% from 2015 to 2016s



The increased effort to register commercial organizations is evident from the diagrams above, which has been done through educating the public and increasing the number of inspections to encourage the users to register with the relevant departments.

<sup>4</sup> Analysis is based on the data obtained from Directorate General of Labour Welfare

The charts below show how the number of inspections has increased or decreased in the recent past highlighting the performance of the inspection machinery of the DGLW. The inspections as a percentage of total registrations have gradually

- ▶ decreased for factories,
- ▶ increased for shops and establishments and
- ▶ increased for brick kilns.

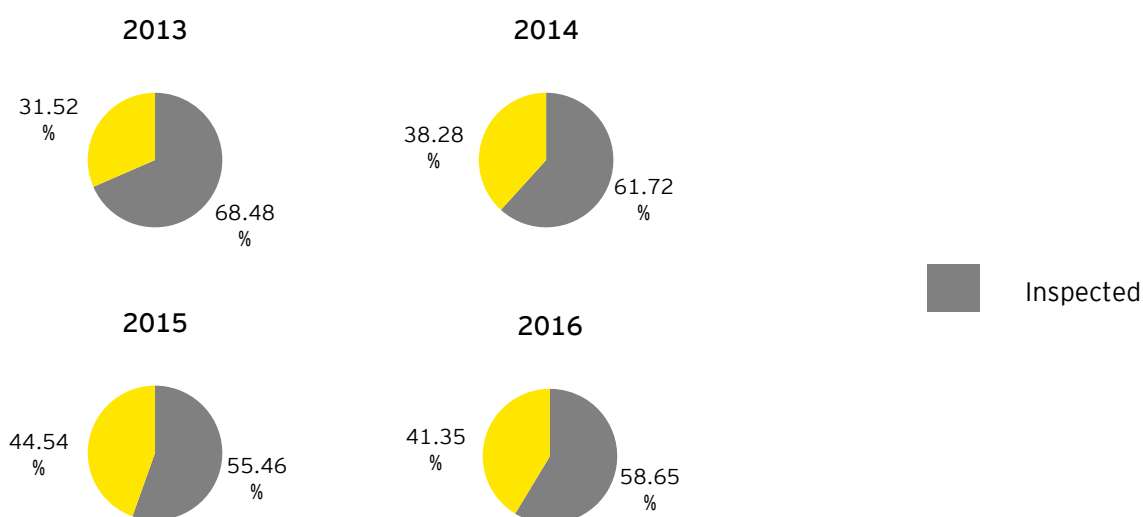
The overall increase in inspections is evidence of the effort that is being made by the DGLW to enforce compliance in areas which are core to the ILO i.e. child labour, forced labour, discrimination and freedom of association.

Inspections as a percentage of total registration for factories has shown a decrease compared to 2013 however the 2016 percentage shows a slight increase compared to 2015. Although an increase in inspections leads to increased monitoring resulting in more compliance, inspections can decrease when the stakeholders get into a habit of compliance.<sup>5</sup>

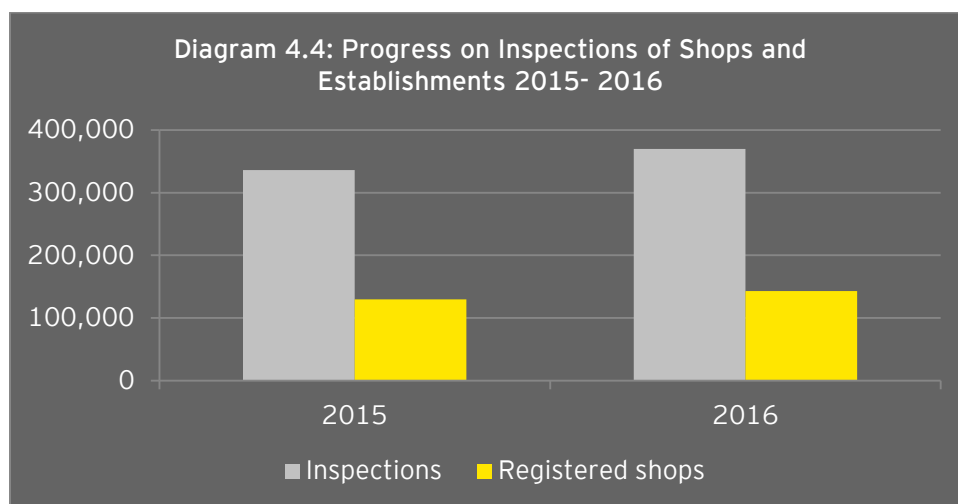
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<sup>5</sup> Analysis and diagram are based on the data obtained from Directorate General of Labour Welfare

Diagram 4.3: Progress on Inspections of Factories 2013-2016



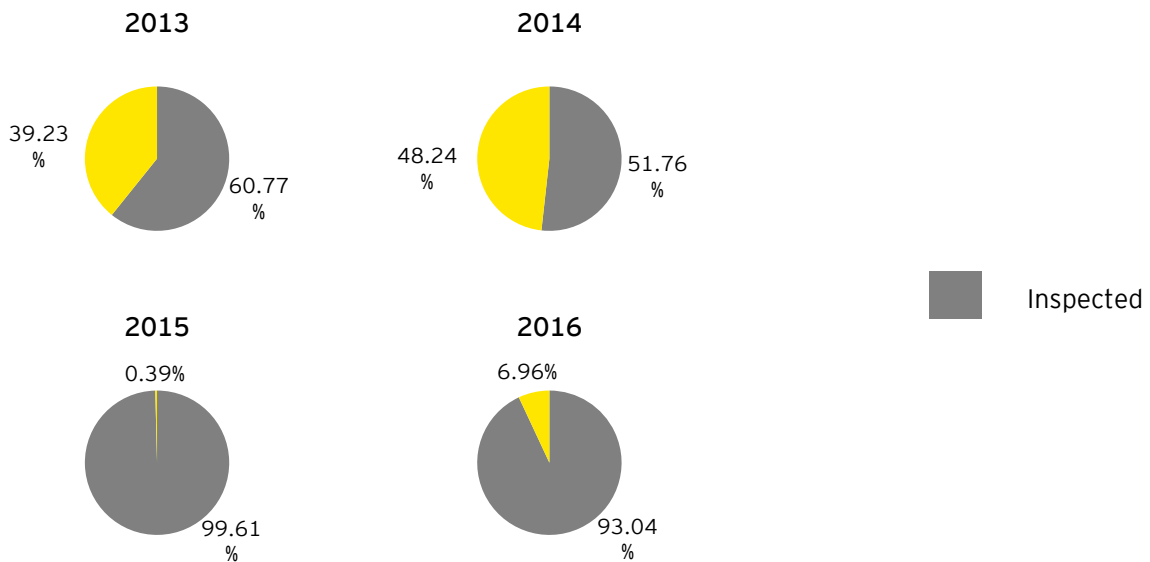
As the diagram below shows, the total number of inspections is higher than the total number of shops and establishments that are registered. This is because not all shops and establishments are registered, and the inspectors can inspect a larger amount based on random visits across the districts. Although it is appreciable that the number of inspections exceed the registrations, in the long run the goal should be to increase the number of registered shops and establishments.



Inspections as a percentage of total registration for brick kilns have increased sharply year on year, almost achieving 100% inspection rates in 2016 which is a significant jump from the levels in 2013. There has been increased media focus on the issue of bonded labour in recent years which has been one of the primary reasons why the Government has focused more on this area. Brick kilns have been a key issue highlighted in recent years with social workers campaigning for the rights of the workforce which include both men and women, promoting the passing of a new law on 2<sup>nd</sup> September, 2016; The Punjab Prohibition of Child Labour at Brick Kilns Act, 2016.<sup>6</sup>

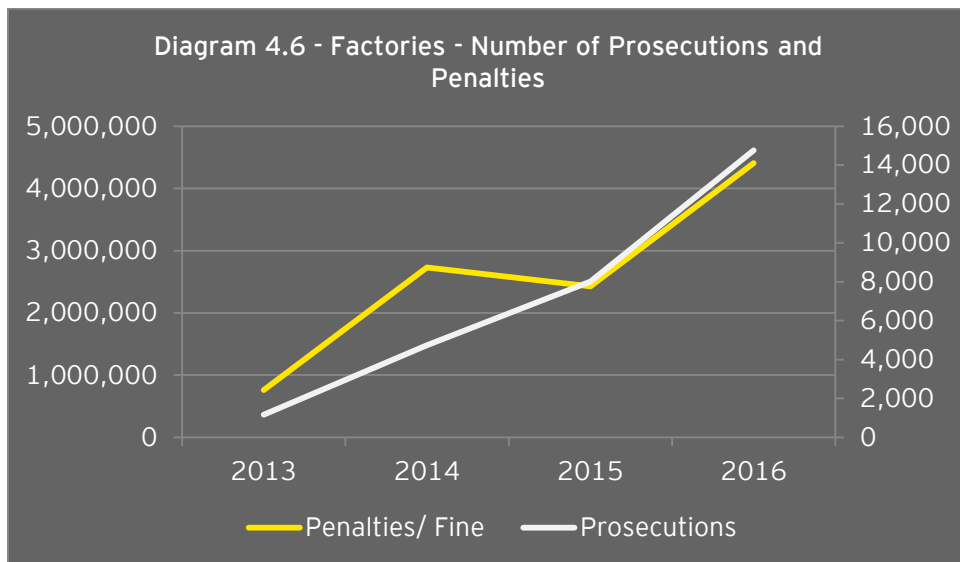
<sup>6</sup> Analysis and diagram are based on the data obtained from Directorate General of Labour Welfare

Diagram 4.5: Progress on Inspections of Brick Kilns 2013-2016



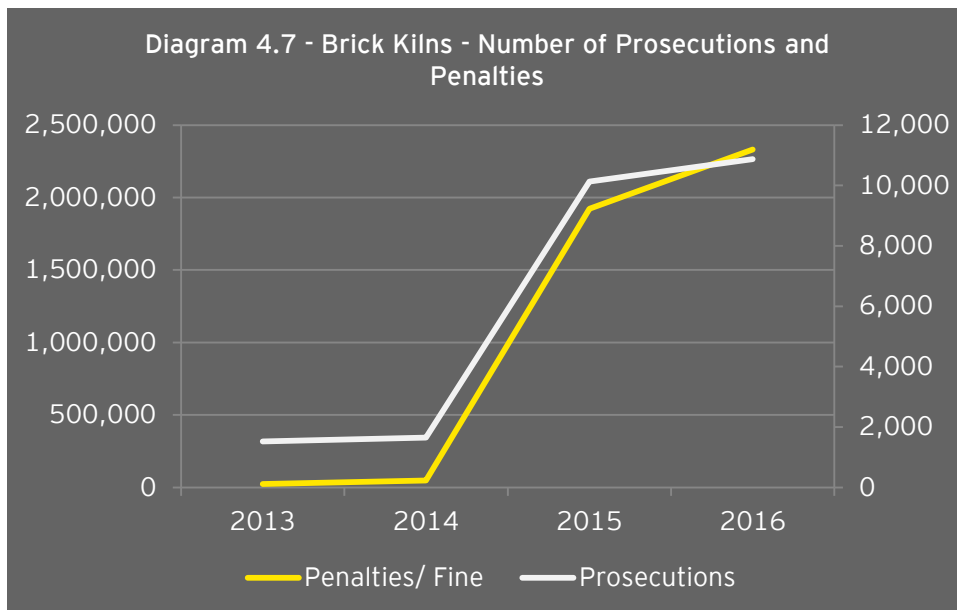
Another area which has shown significant progress in the recent years is prosecutions. One of the most effective methods of achieving compliance is by imposing fines and penalties for the non-compliers. The Government has enhanced penalties in recent years and defaulters have been prosecuted. Changes to several labour laws post the 18<sup>th</sup> amendment have allowed for the penalties to be imposed by the provincial Government.

The diagram below for factories shows the penalties hitting PKR 4.4 Million in 2016 which is an 81.5% increase compared to 2015. In 2015 the penalties dropped slightly by 11.1% however the number of prosecutions was still on the rise. The prosecutions in 2016 have increased by 84.3% compared to 2015 which is good from a labour enforcement point of view but overloads the judicial system and labour courts.



The diagram below for brick kilns shows the penalties hitting PKR 2.3 Million in 2016 which is a 21.2% increase compared to 2015. In 2015, the penalties increased hugely by 3886% compared to

2014 driven by the increase in prosecutions by 513%. This sharp rise is in line with the increased focus on Brick Kilns as a special area which the Government has targeted in the recent past.<sup>7</sup>



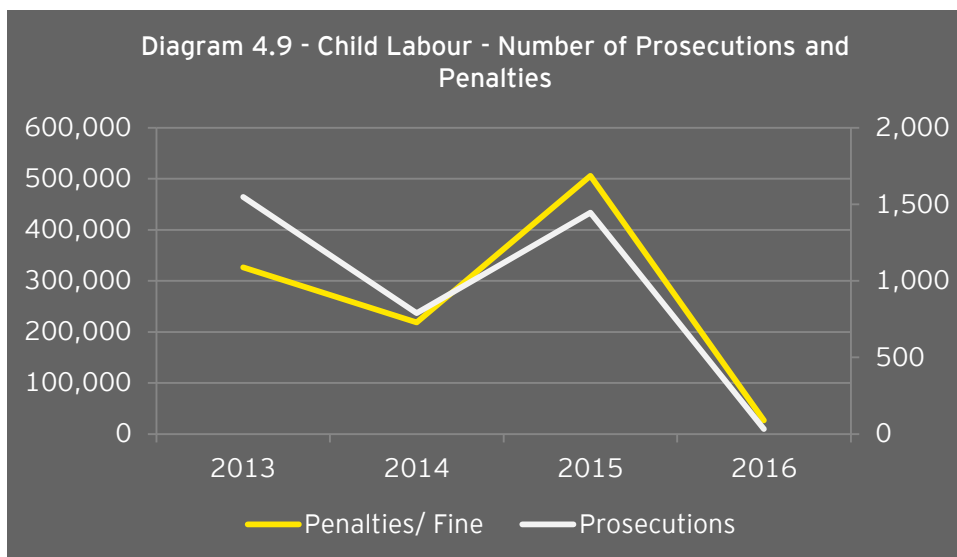
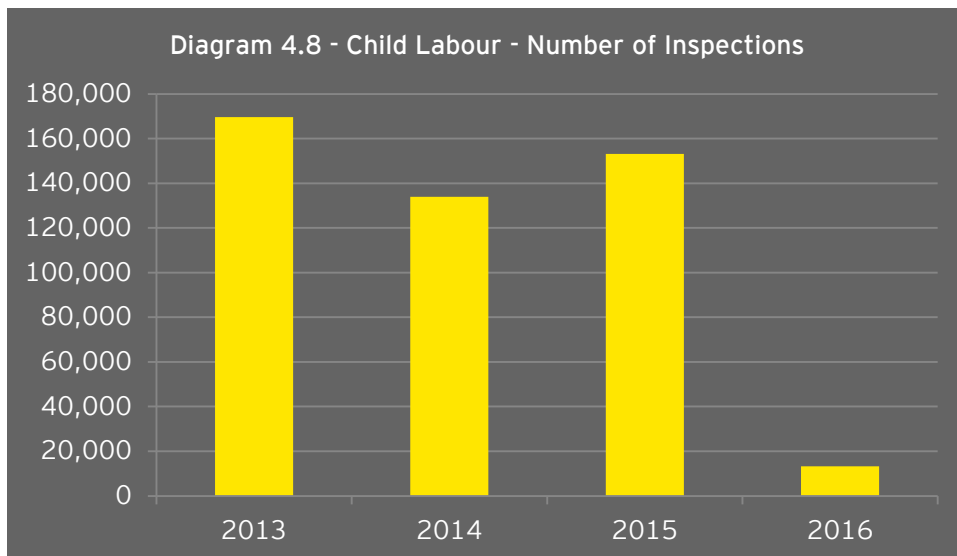
The increased focus on brick kilns exposed the Government on the capacity side as the number of inspections, prosecutions and penalties relating to child labour have all decreased sharply. Although child labour has also been highlighted as a key issue in recent past and is visibly obvious in commercial and agricultural areas, the data suggests that it has not been the priority of the Government.

The diagram below shows how the inspections in the child labour area have fallen off the cliff dropping down to a petty 13k only.

This is also reflected in the number of prosecutions which dropped significantly. One of the major reasons for this decline is the restriction of powers for inspectors under the Punjab Restriction on the Employment of Children Act 2016. The powers of conducting inspection were restricted to only a few officers and the existing Inspectors in the Labour Department were not notified as Inspectors under this Act. This has a direct effect on the number of inspections carried out in the child labour area which is one of the most sensitive issues that the Government needs to address.

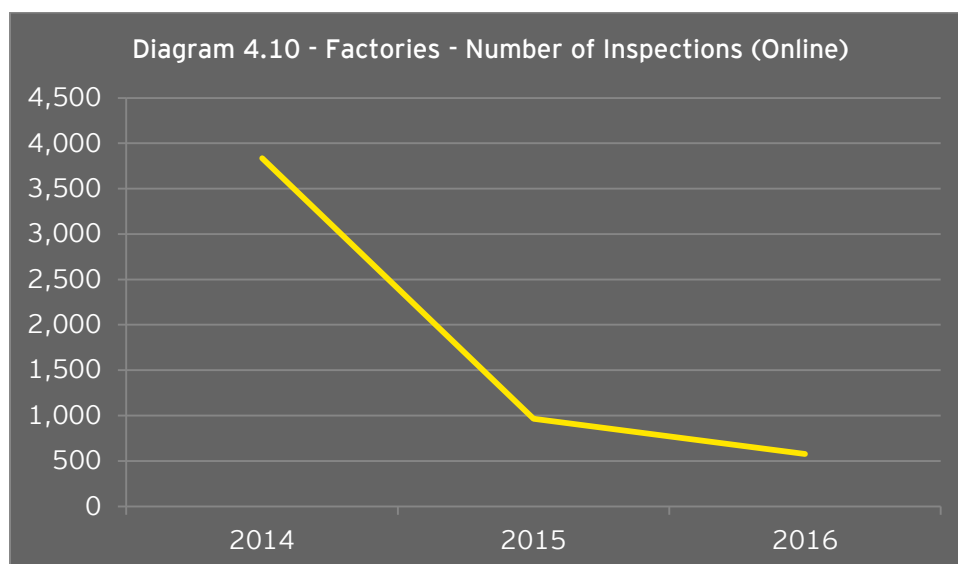
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<sup>7</sup> Analysis and diagram are based on the data obtained from Directorate General of Labour Welfare

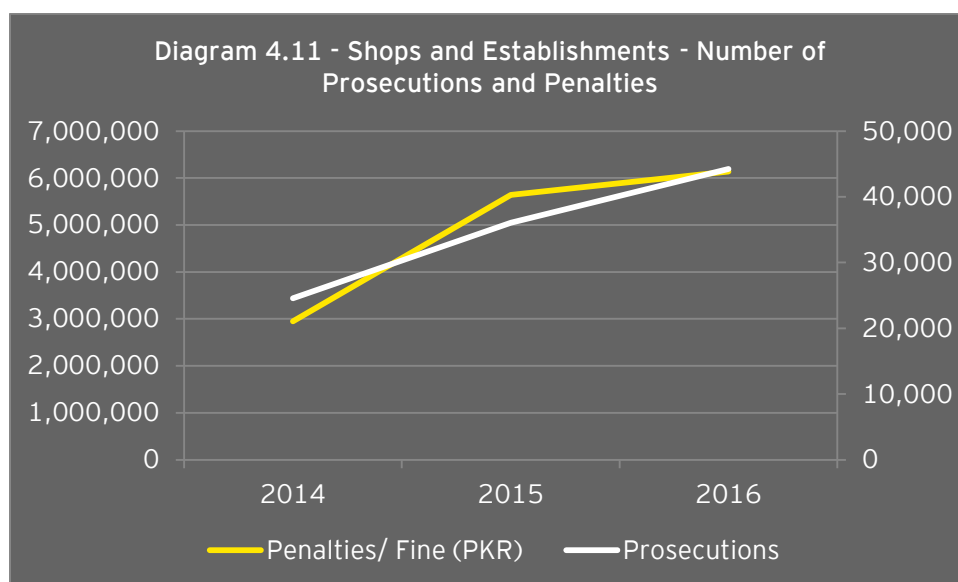


The following diagram shows how the number of inspections conducted for factories under the Labour Inspection Computerization Systems (LICs) project has decreased significantly from 2014 to 2016. Once an inspector completes a field inspection and returns to the office premises, the results are punched in and uploaded into a system. However the results below show that the uploading has decreased since its initial year in 2014. An attempt at automation which is only to the extent of uploading results has not been that successful with a sharp decline from 2014 to 2016.<sup>8</sup>

<sup>8</sup> Analysis and diagram are based on the data obtained from Directorate General of Labour Welfare



Finally, the number of prosecutions and penalties for shops and establishments has increased over the last few years as seen in the diagram below. The focus on brick kilns has increased resulting in decrease in focus on child labour, however the inspections of shops and establishments has shown a steady increase over the last three years. Both the penalties and prosecutions in this area have steadily increased with the focus on getting more shops and establishments registered.<sup>9</sup>



#### 4.2.2 Enforcement of Law on Bonded Labour

One of the key areas of focus across the globe is the elimination of bonded labour which in Pakistan is addressed through The Bonded Labour System (Abolition) Act, 1992. The Government currently used The Punjab Bonded Labour System (Abolition) (Amendment) Act, 2012. The 2012 provincial level Act in summary refers to the 1992 federal Act. The implementation of these Acts is carried out through DVCs which have the following functions:

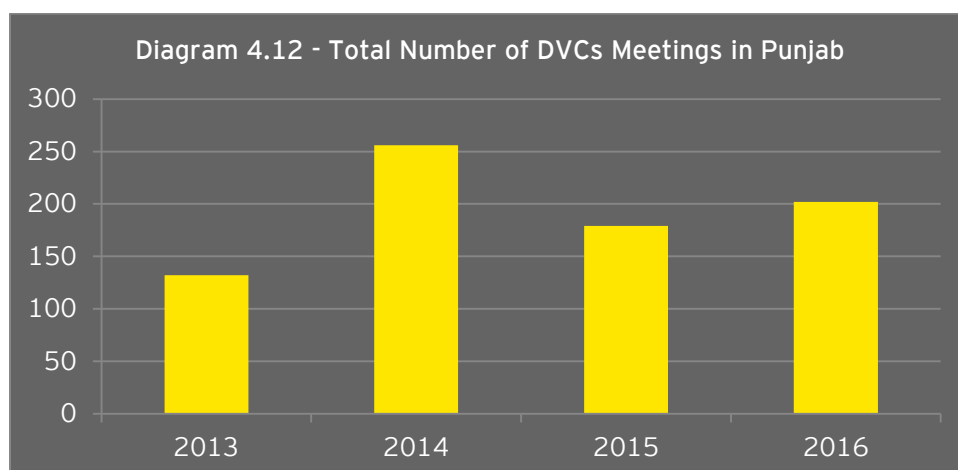
- ▶ To advice the district administration on matters relating to the effective implementation of the law and to ensure its implementation in a proper manner,
- ▶ To help in rehabilitation of the freed bonded labourers,

<sup>9</sup> Analysis and diagram based on the data obtained from Directorate General of Labour Welfare

- ▶ To keep an eye on working of the law, and
- ▶ To provide the bonded labourers such assistance as may be necessary to achieve the objectives of the law.

Bonded labour is a key area under the two Conventions on Forced Labour i.e. C029 and C105 and the role of the DVCs is fundamental in ensuring compliance with regards to elements of bonded labour.

The Bonded Labour System (Abolition) Rules, 1995 requires that a DVC has to be set up in each district of the Province (in this case the Province of Punjab) consisting of the Deputy Commissioner of the District, representatives of the police, representatives of the judiciary, representatives of the bureaucracy (education, health, agriculture, social welfare), representatives from Non-Government Organizations (NGOs) representatives of the press and representatives of gender organizations.



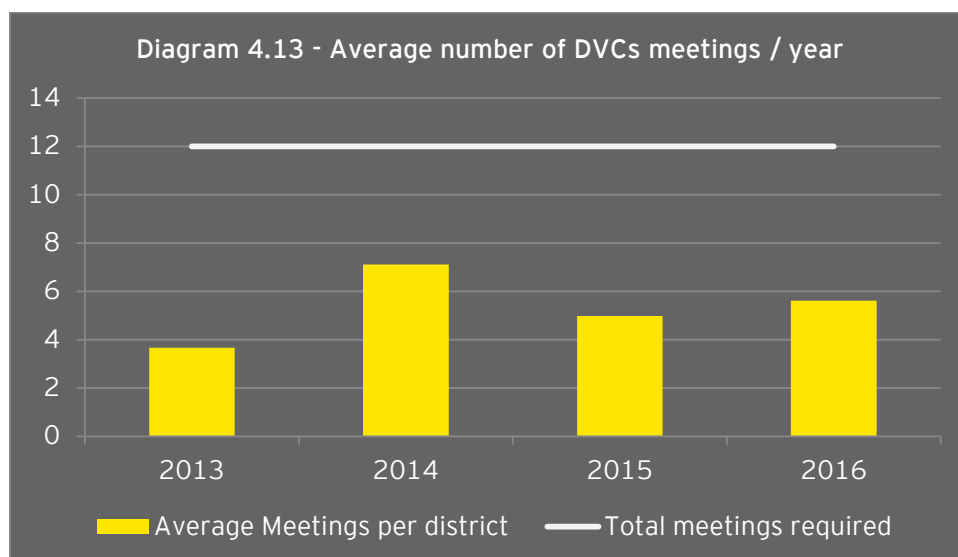
The DVCs meetings held during the last four years were analyzed to understand if the frequency has been sufficient enough and secondly to compile the issues that have been raised in these meetings.

The total number of meetings across Punjab in 2016 was 202 compared to 2015 when the total number of meetings held were 179 which is a 12.8% year on year increase. The number of meetings in 2013 and 2014 were 132 and 256 respectively. There is inconsistency in the number of meetings that are held across the 36 districts. The Bonded Labour System (Abolition) Rules, 1995 requires a DVC meeting to be held every month within the first week. However the actual numbers of meetings that have been held are much lesser than this. The best performing year was 2014 when on average a total of 7.1 meetings were held in each district over a 12 month period compared to the worst performing year i.e. 2013 when only 3.6 meetings were held on average over a 12 month period. The diagram below shows the gap between the requirement and the actual number of meetings conducted.<sup>10</sup>

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<sup>10</sup> Analysis and diagram are based on the data obtained from Directorate General of Labour Welfare





The quantity of meetings although important only reflects if the actual event took place. What is more important are the matters that were discussed in these meetings followed by the action that was taken to address the issues that were raised. The agenda items and the major decisions that were taken were analyzed to see if they lined up with the requirements set out by the eight core ILO Conventions. The table below lists out the key agenda items from each year and the major decisions that were taken in order to address these issues. Agenda items which align to the eight core ILO Conventions have been highlighted with the relevant Convention listed. This shows how many of these meetings actually focused on issues that the 8 Core ILO Conventions address.

Year	Major Agenda Items <sup>11</sup>	Major Decisions
2013	<ul style="list-style-type: none"> <li>▶ Issuance of social security cards</li> <li>▶ Non-implementation of minimum rates of wages</li> <li>▶ Registration of brick kilns under factories Act, 1934</li> <li>▶ Elimination of Bonded Labour (C029 &amp; C105 - Forced Labour)</li> <li>▶ Admission of brick kiln workers children in Government schools (C182 - Child Labour)</li> <li>▶ Provision of Computerized National Identity Card (CNIC) to brick kilns workers</li> </ul>	<ul style="list-style-type: none"> <li>▶ Direction to PESSI to issue social security cards to brick kiln workers</li> <li>▶ Regular inspections to be made and submission of challenges in courts to implement minimum wages</li> <li>▶ Conduction of survey register the maximum brick kilns under factories Act, 1934</li> <li>▶ Establishment of complain cells for bonded labour.</li> <li>▶ Establishment of non-formal schools near the brick kilns with the help of NGOs and Literacy Department so that working children at brick kilns can be enrolled in these schools.</li> <li>▶ Requested National Database and Registration Authority (NADRA) to provide mobile van to facilitate issuance of CNIC of the brick kiln workers.</li> </ul>
2014	<ul style="list-style-type: none"> <li>▶ Awareness of brick kiln workers on labour rights(C029 - Forced Labour)</li> <li>▶ Implementation of minimum wages at brick kilns (C029 -</li> </ul>	<ul style="list-style-type: none"> <li>▶ Display of banners and brochures for the awareness of the brick kiln workers regarding their rights</li> <li>▶ New notification of minimum wages circulated amongst the workers and owners for its</li> </ul>

<sup>11</sup> Information regarding Major Agenda Items and Decisions of DVC meetings is obtained from Directorate General of Labour Welfare

Year	Major Agenda Items <sup>11</sup>	Major Decisions
	<p><b>Forced Labour)</b></p> <ul style="list-style-type: none"> <li>▶ Education for the children of brick kiln workers (<b>C182 - Child Labour</b>)</li> <li>▶ Issuance of social security cards</li> </ul>	<p>implementation</p> <ul style="list-style-type: none"> <li>▶ Literacy Department directed to chalk out a plan to broaden the network of non-formal schools in brick kilns sector with the help of NGOs</li> <li>▶ Social Security Department directed to issue social security cards to brick kiln workers</li> </ul>
2015	<ul style="list-style-type: none"> <li>▶ Implementation of minimum wage (<b>C029 - Forced Labour</b>)</li> <li>▶ Recovery of default amount of social security contribution from brick kiln owners</li> <li>▶ Issuance of social security cards to the brick kiln workers</li> </ul>	<ul style="list-style-type: none"> <li>▶ Ensure provision of minimum wages as per the notification to the brick kiln workers</li> <li>▶ Recovery of default amount of contribution of social security from the brick kiln owners</li> <li>▶ Social Security Department directed to improve its performance and maximum number of social security cards would be issued to the brick kiln workers</li> </ul>
2016	<ul style="list-style-type: none"> <li>▶ Elimination of child and bonded labour. (<b>C029 &amp; C105 Forced Labour and C138 Child Labour</b>)</li> <li>▶ Issuance of Khidmat cards to brick kiln workers</li> <li>▶ Enrollment of children of brick kiln workers in schools (<b>C182 - Child Labour</b>)</li> <li>▶ Minimum rates of wages should be implemented in letter and spirit</li> <li>▶ Maximum number of social security cards should be issued to the brick kiln workers</li> </ul>	<ul style="list-style-type: none"> <li>▶ Literacy Department requested to establish schools near brick kilns located in remote areas</li> <li>▶ Punjab Social Protection Authority (PSPA) directed to issue Khidmat cards to the brick kiln workers</li> <li>▶ Ensure enrollment of children of brick kiln workers</li> <li>▶ Start awareness campaign for education of the basic rights to the brick kiln workers towards their basic rights</li> <li>▶ Social Security Department directed to issue more social security cards to brick kiln workers and to convince the owners of brick kilns to pay the required contribution and submit requisite data for the purpose.</li> </ul>

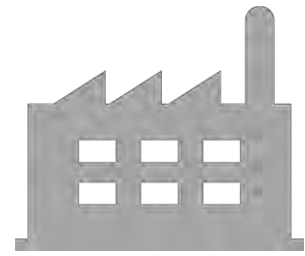
- ▶ **2013** - The focus in 2013 was primarily tilted towards brick kilns to ensure that issues of bonded and child labour were addressed. There was an emphasis on registering the maximum number of brick kilns and bringing the employees on the national social security and identification grid. In addition access to education to the children currently working at these brick kilns was also provided.
- ▶ **2014** - The focus in 2014 was a continuation of the efforts made in the previous year with the objective of educating the workers on their rights through effective marketing.
- ▶ **2015** - The focus in 2-15 running was on brick kilns again, specifically on the social security aspect. This was part of the agenda from 2013 and shows that progress had been slow in the three years as the same issues were being discussed repeatedly.
- ▶ **2016** - Brick kilns were once again the focus of the meetings held in 2016. It would have been better if the Government were to identify all the brick kilns and then pushed for initiatives i.e. enrolling the employees for social security and enrolling children at school. Moreover 2016 would have been better utilised for measuring the impact of the initiatives that were taken in the previous years.

In summary the focus in the DVCs meetings was consistently on brick kilns addressing social security and child labour. Although the initiatives are appreciable, the fact that only brick kilns were targeted reveals that progress was slow and inadequate.

### 4.2.3 Regulation of Industrial Relations

The DGLW is also responsible for the following:

- ▶ Regulation of industrial relations,
- ▶ Registration / deregistration of trade unions,
- ▶ Holding of referendums, and
- ▶ Conciliation and maintenance of industrial peace.



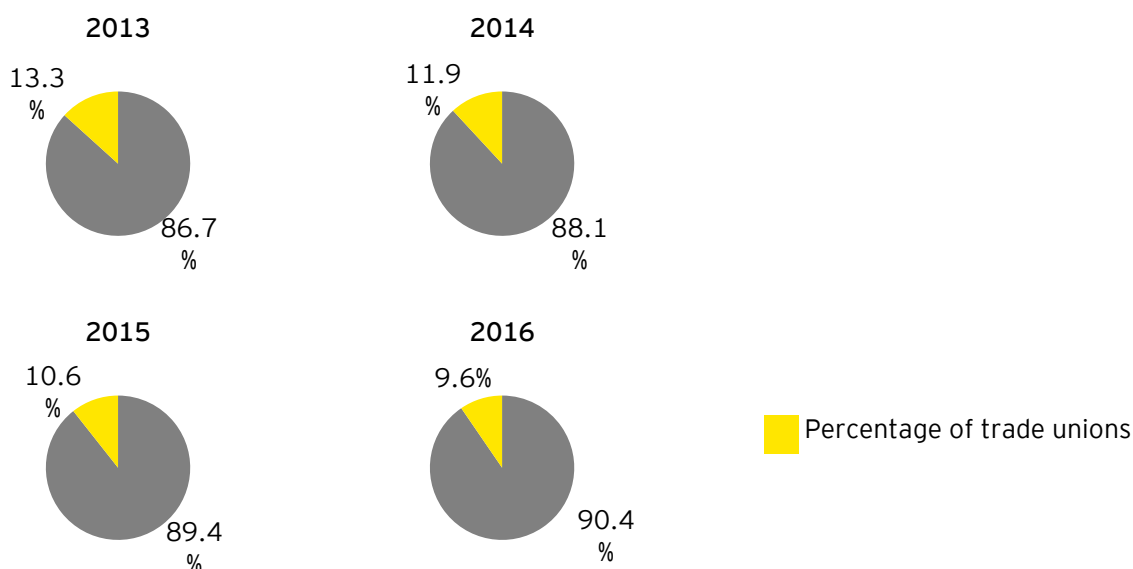
All Regional Directors in the DGLW are notified as “Registrar” of trade unions in their respective regions and the DGLW is notified as provincial “Registrar” of the trade unions under Punjab Industrial Relations Act, 2010.

The diagram below shows the number of trade unions as a percentage of the total number of factories. The number floats around the 10% mark over the last four years which shows that not all factories have registered trade unions which indicates that a large number of employees in the factories have no voice to fight for their rights. An increase in the number of registered trade unions can lead to more voices being represented on a platform where problems can be resolved.<sup>12</sup>

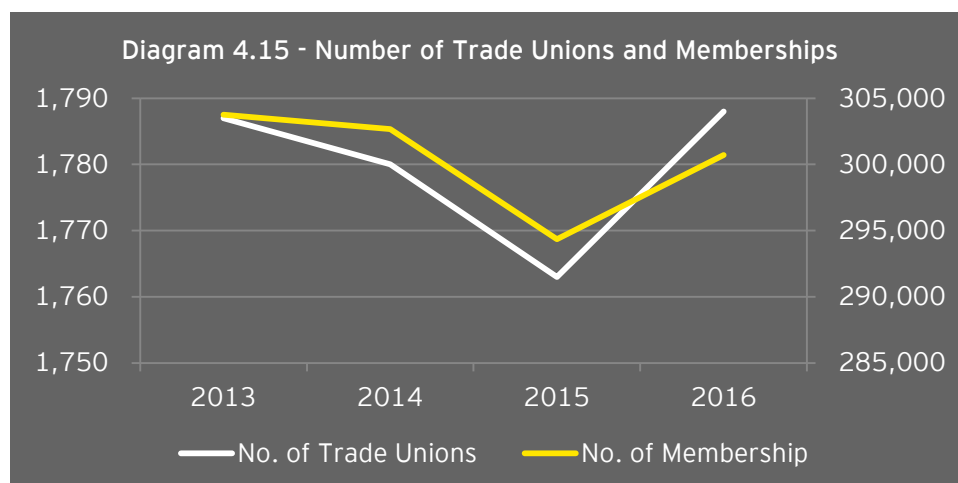
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<sup>12</sup> Analysis and diagram are based on the data obtained from Directorate General of Labour Welfare

Diagram 4.14 - Trade Unions in Punjab



The diagram below shows that the total number of registered trade unions hovers around the 1,700 mark with the total number of members around the 300,000 mark. There has not been any increase in the last four years showing that there is no initiative on a practical basis to attract more employees to register trade unions to represent their rights.<sup>13</sup>



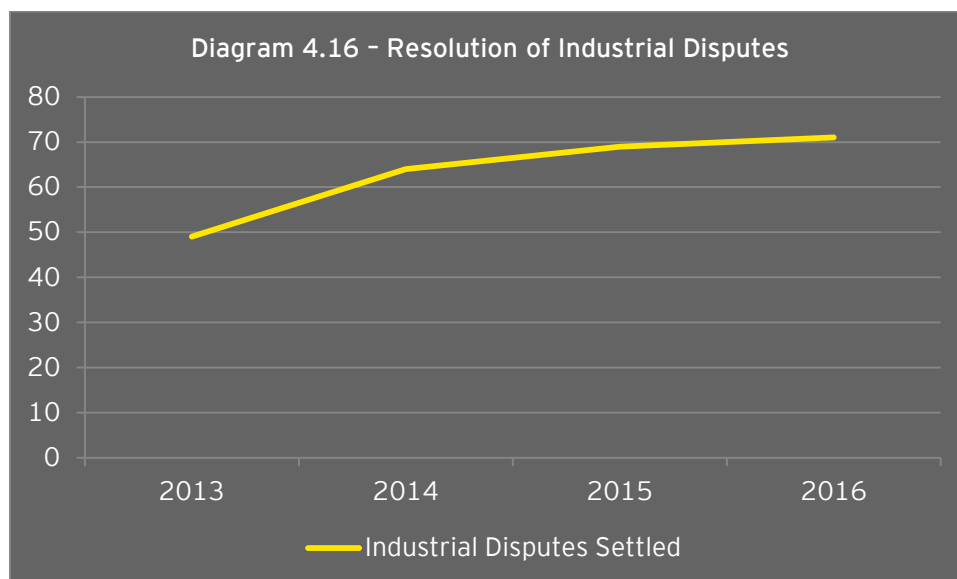
Registrars of trade unions are also responsible for conducting referendum of the trade unions in their respective areas of jurisdiction. Successful unions under these referendums, enjoy the status of Collective Bargaining Agent (CBA) for a period of two years under Punjab Industrial Relations Act, 2010. The L&HRD was unable to provide data for CBAs therefore the performance could not be analyzed.

Assistant Directors Labour Welfare (ADLWs), for the regional offices and Director HQ for the Province are notified as “Conciliators” under the Punjab Industrial Relations Act, 2010. Conciliatory proceedings are critical to avoid strikes and to facilitate between the parties to negotiate for diffusion of tension and amicable solution on charter of demands.

The diagram below shows that the number of disputes settled in the last four years has increased slightly, however only 71 disputes were resolved in 2016. This is a good increase from 2013 when

<sup>13</sup> Analysis and diagram are based on the data obtained from Directorate General of Labour Welfare

only 49 cases were resolved; however it is still not significant given the number of disputes that remain unreported across the Province of Punjab.



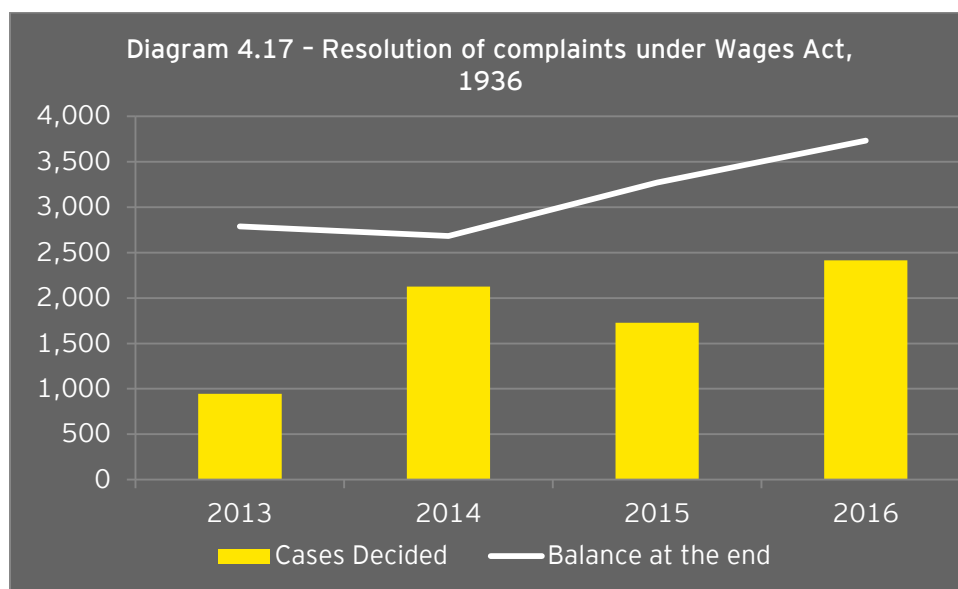
#### 4.2.4 Settlement of Wages and Compensation Claims

As per Payment of Wages Act, 1936, in case of non- payment, less payment or delay in payment of wages, a worker can lodge a complaint in the court of Authority under the Payment of Wages Act, 1936. Although under the law there are several positions defined as "Authority", in practical terms only Assistant Directors act as Authorities under the Payment of Wages Act, 1936. A number of complaints are lodged every year; however most of them remain unresolved.

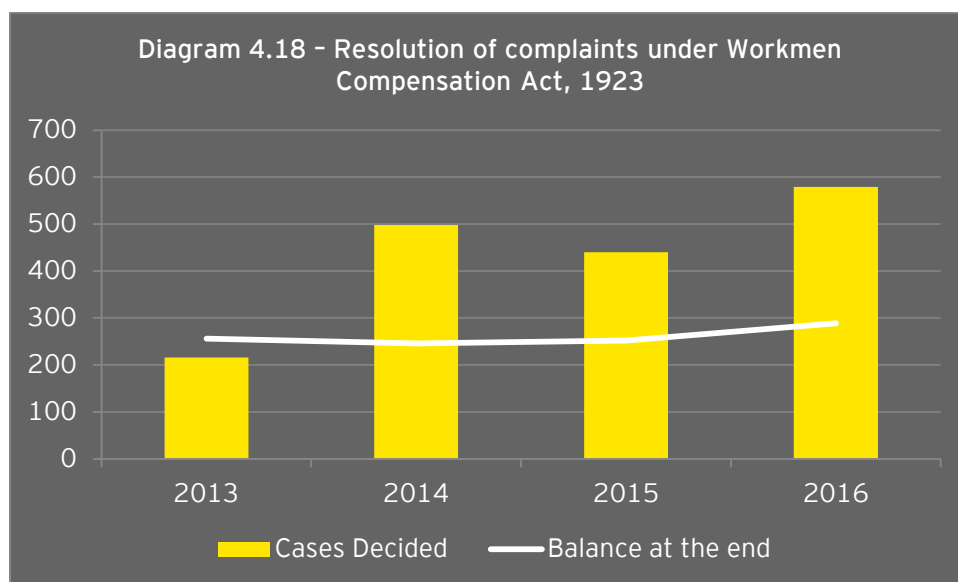
In the last three years, on average the total number of new cases received hovered around the 2,405 mark, and the number of cases that were decided or resolved in the same period were around 2,089. This means that each year, the number of undecided cases increase and hence the back log keeps on increasing. This is reflected in the diagram below where the total numbers of cases at the end of each year are constantly increasing with the number of cases decided each year varying. At this pace the back log will keep on increasing and a severe catch up exercise will be required, which might need to be driven an increase in capacity.<sup>14</sup>

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<sup>14</sup> Analysis and diagram are based on the data obtained from Directorate General of Labour Welfare

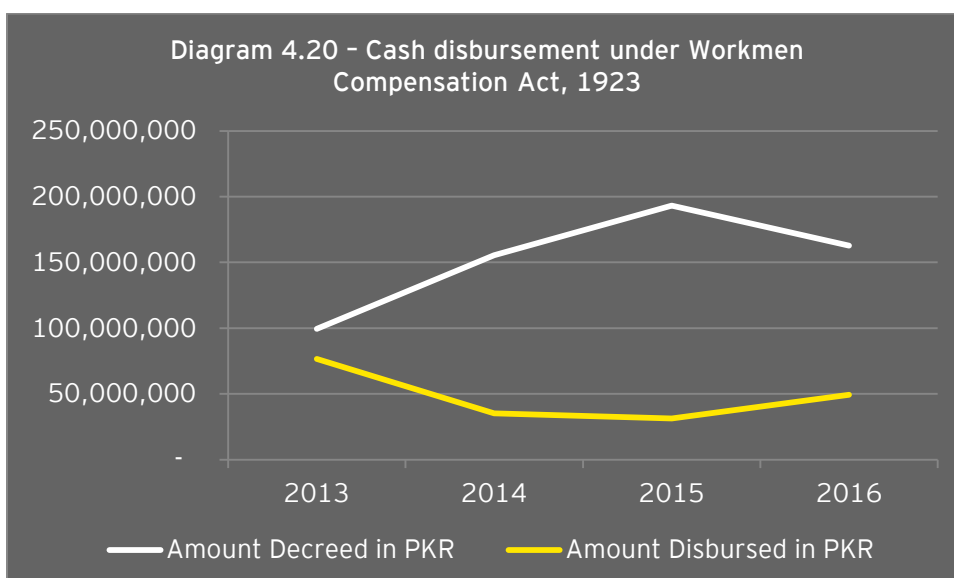
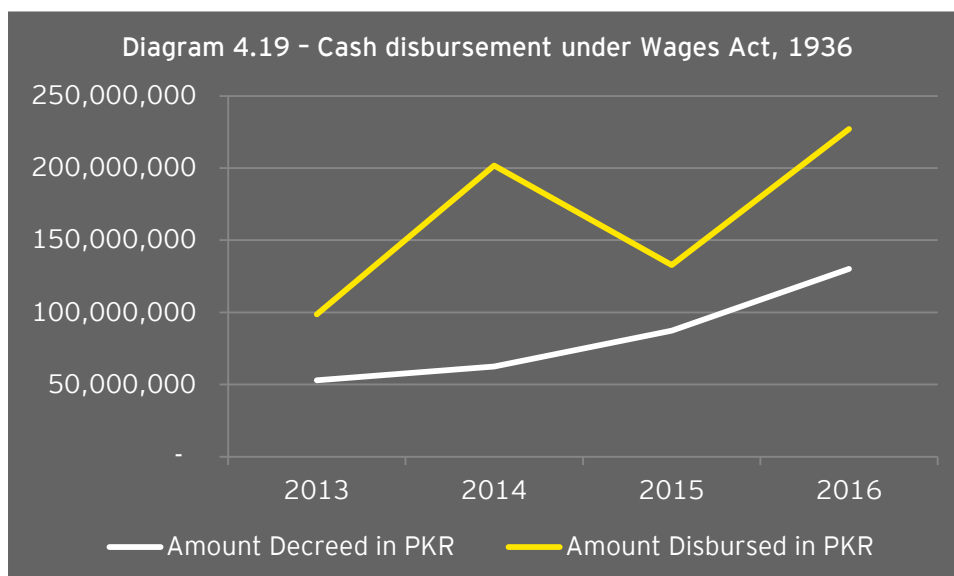


As per Workmen Compensation Act, 1923, in case of any injury or death of a worker, the workers or their representative claim for compensation may be lodged in the court of Workmen Compensation Commissioners. On a practical basis the Assistant Directors act as Commissioners under the Workmen Compensation Act, 1923. The numbers of new cases that come in each year are roughly 450 each year (average based on the last four years) and the numbers of cases that are decided or resolved amount to about 433 per annum. This does not create the issue of a huge backlog issue and a steady outstanding balance is maintained.



Cash disbursement for complaints that are decided under the Wages Act, 1936 is not an issue as the amount disbursed is more than the amount that is decreed each year. However, disbursement is an issue for cases decided as per Workmen Compensation Act, 1923 where the amount disbursed is significantly lower than the amount that is decreed. A simple solution is to combine the two cash pools so that the gaps can be met.<sup>15</sup>

<sup>15</sup> Analysis and diagram are based on the data obtained from Directorate General of Labour Welfare



#### 4.2.5 Gender Dimension of Labour Administration

Gender equality is one of the most debated issues in the current socio-economic environment. The field formations of the DGLW are responsible for the enforcement of similar rights for both men and women. This is done via inspections. A gender sensitive inspection kit was developed by the IRI with technical support of the ILO during 2013. This is covered by C100 and C111 which focus on equal remuneration and discrimination. This is a toolkit that can be used by labour inspectors as a guide on how to conduct a comprehensive inspection with gender at the core of the questions. It covers wages and benefits, labour practices, support services and benefits and, participation and recognition. Training was imparted to the inspecting staff on how to use this toolkit making the inspections more gender sensitive.

It is important to understand that participation of women in the labour force varies from one sector to another:

- ▶ Agriculture forms a major portion of Pakistan's economy (20% of GDP), a sector where women are engaged in the rural areas as large families work together on fields. Women are actively involved in the end to end process from sowing to harvesting. However most of the women and children who are employed in such arrangements are either not paid or are paid

minimum wages which are lower than the wages men earn. Female participation in the agricultural sector is highest, with 73.35% of working women involved in this sector.<sup>16</sup>

- ▶ The industrial sector which contributes 21% of GDP to Pakistan's economy is heavily dominated by the male population, as it involves physical labour. However the sports industry in Sialkot now actively employs women to make sports goods. The percentages are still low but there has been an initiative in the business community of the city in association with NGOs to employ more women and provide them with opportunities. 13.57% of working women in Punjab work in the industrial sector, which is higher than any other province in the country.<sup>17</sup>
- ▶ The services sector (59% of GDP) provides the best opportunities for women to be involved in, and 13.08% working women are involved in this sector. However, many women are employed for public interaction positions instead of managerial or technical positions.<sup>18</sup> Areas where women are actively pursuing opportunities in Pakistan include:
  - Education: a significant portion of teachers in schools are women
  - Medical Doctors and Nursing: 50% of the seats in top medical colleges are bagged by women
  - Domestic help: although these are low paying jobs i.e. below the minimum wage, most domestic jobs such as cooking and cleaning are performed by women.

Even though women's share of total employment rose from 22.3% in 2002 to 38.7% in 2013, most women remain engaged in unpaid family work or the agricultural sector.<sup>19</sup> To achieve gender equality, female participation needs to be improved in sectors where their percentages have been low traditionally. The empowerment of women can be gauged through their ability to enter into different value-added sectors of the economy seamlessly and earn higher wages from it. However, that is only one aspect of empowerment. However as noted in the stakeholder feedback that was obtained, there are hardly any female inspectors to conduct gender sensitive elements of the inspections.

## 4.3 Labour Administration Capacity in Punjab

### 4.3.1 The Strength of the Inspection Staff

Labour laws are implemented through inspections, which is a mechanism to ensure that the relevant bodies adhere to the requirements and in turn achieve compliance with the 8 Core ILO Conventions. The total approved capacity of inspectors at the DGLW is 246, out of which 90% are currently filled i.e. a total of 223. There are different inspectors across the DGLW:

- ▶ Labour Inspectors are the basic inspecting officials notified under Shops and Establishments Ordinance, 1969 as "Inspectors" and are therefore responsible for enforcement of labour laws in shops and establishments. These inspectors have yet to be notified under the Punjab Restriction on Employment of Children Act, 2016,
- ▶ Labour Officers are responsible for inspection of factories,

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<sup>16</sup> International Labour Organization, Pakistan Decent Work Country Program: [http://www.ilo.org/islamabad/whatwedo/publications/WCMS\\_532847/lang--en/index.htm](http://www.ilo.org/islamabad/whatwedo/publications/WCMS_532847/lang--en/index.htm)

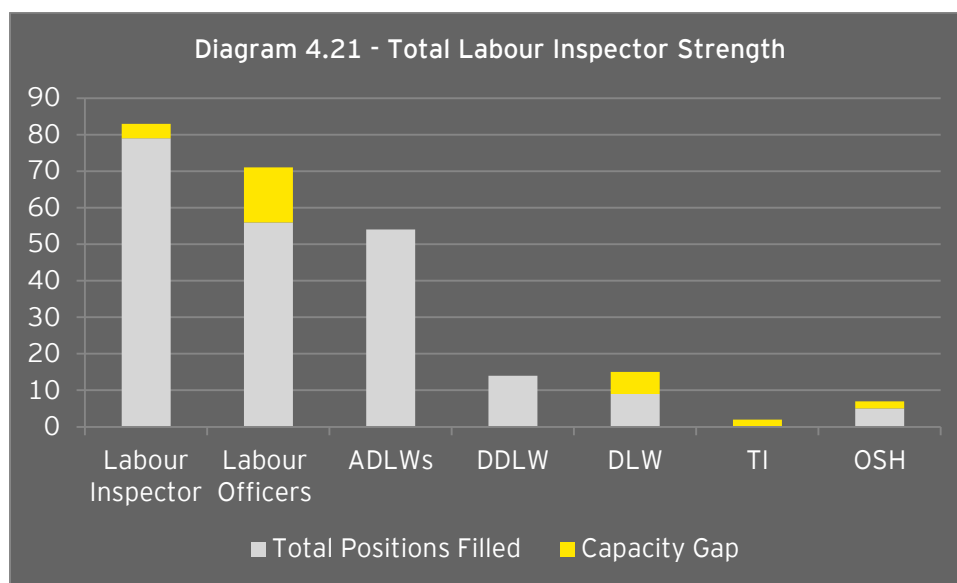
<sup>17</sup> International Labour Organization, Pakistan Decent Work Country Program: [http://www.ilo.org/islamabad/whatwedo/publications/WCMS\\_532847/lang--en/index.htm](http://www.ilo.org/islamabad/whatwedo/publications/WCMS_532847/lang--en/index.htm)

<sup>18</sup> International Labour Organization, Pakistan Decent Work Country Program: [http://www.ilo.org/islamabad/whatwedo/publications/WCMS\\_532847/lang--en/index.htm](http://www.ilo.org/islamabad/whatwedo/publications/WCMS_532847/lang--en/index.htm)

<sup>19</sup> International Labour Organization, Pakistan Decent Work Country Program: [http://www.ilo.org/islamabad/whatwedo/publications/WCMS\\_532847/lang--en/index.htm](http://www.ilo.org/islamabad/whatwedo/publications/WCMS_532847/lang--en/index.htm)



- ▶ The inspection work of both the Labour Inspectors and the Labour Officers is monitored by Assistant Directors Labour Welfare (ADLWs), Deputy Directors Labour Welfare (DDLWs) and Director Labour Welfare (DLWs), and
- ▶ In addition to these there are OSH inspectors.
- ▶ And finally, the Technical Inspectors (TI's). TI's are usually mechanical engineers who have technical expertise to inspect industries. There are currently two positions, both of which are currently vacant and have been so for years.<sup>20</sup>



The ratio of total monitoring staff i.e. the ADLWs, the DDLWs and the DLW to the total inspection staff i.e. the Labour Officers and Labour Inspectors is 54% which is sufficient in number to ensure quality. Although the size of the districts across can vary significantly, on average each district will have 4.2 inspectors which seems to be low given the population. It will be interesting to see the results of the population census to establish if the inspection teams are over stretched given the number of commercial establishments across the Province.

### 4.3.2 Facilitation and Support to the Inspecting Staff

It is important to incentivize the inspection staff for them to perform at optimal levels and meet the goals / requirements of the DGLW and ultimately align with the eight core ILO Conventions. There are some serious gaps in the incentive schemes for inspectors.

- ▶ The supervisory staffs i.e. the ADLW, DDLW and DLW all have offices; however the inspection teams in the field only have offices that they can share. This is not different to the office sharing mechanism that other countries use as the assumption is that the inspection staff will be out in the field completing their work.
- ▶ The biggest gap is the availability of transport facilities or a travelling allowance for the inspectors. In order for the inspection staff to complete their job, they need to travel to different shops, factories and commercial establishments, however if they do not have the relevant support facilities, it is difficult for them to complete their jobs. Travel facilities are basic for any field team without which it is hard for this team to function.
- ▶ The field inspectors do not have any support staff, which is not different to other countries and should not be a problem when it comes to performance of the inspections and the inspectors are expected to be in the field on their own conducting these inspections.

<sup>20</sup> Analysis and diagram are based on the data obtained from Directorate General of Labour Welfare

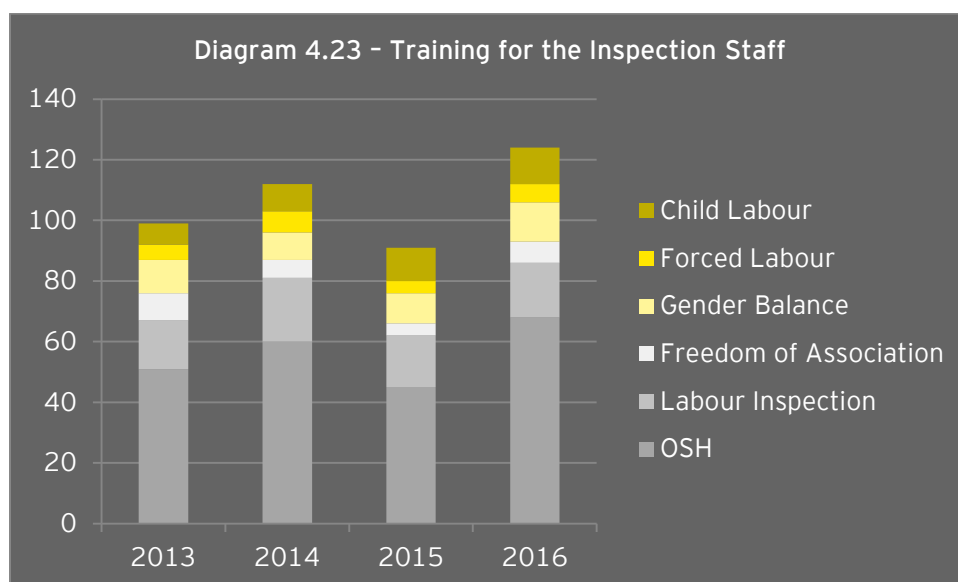
Diagram 4.22 - Facilitation of the Inspection Staff

Nature	Labour Inspectors	Labour Officers	ADLW	DDLW	DLW
Office	Yes, on sharing basis	Yes, on sharing basis	Yes	Yes	Yes
Transport	Nil	Nil	Nil	Nil	Partially
Travelling allowance	Nil	Nil	Nil	Nil	Partially
Support staff	0	Partially	Yes	Yes	Yes

### 4.3.3 Training and Capacity Building

The IRI and SAA-CIWC&E are responsible for training of the inspecting staff on labour administration laws, labour issues and OSH. It is important to increase the capacity of the team not only through fresh hiring of new inspectors but by training the existing workforce to perform at optimal levels. The table below shows the different trainings that are delivered each year.

Out of a total of 223 inspectors a total of 99, 112, 91 and 124 have been trained each year from 2013 to 2016. This is about 55% for the year 2016, which seems like a good amount, however training is necessary for all inspectors and some of the trainings on different issues might be attended by the same individual therefore not having an impact on the overall capacity but only the capacity of a few individuals.<sup>21</sup>



<sup>21</sup> Analysis and diagram are based on the data obtained from IRI and CIWC&E

## 4.4 Important Initiatives of L&HRD in Punjab

In addition to the labour administration system and the capacity development, there are several other initiatives that the Government has taken over the years to improve the conditions in the Province. These initiatives help the Province align itself with the requirements of the ILO Conventions which in turn work in favour of the country retaining its GSP Plus status.

### 4.4.1 Cabinet Sub-Committee on GSP Plus

A Cabinet Sub-Committee under the chairmanship of Minister Industries was constituted in Punjab with the mandate of coordination and facilitating implementation on all 27 Conventions under GSP Plus and ensuring reporting obligations to the Federal Government/ Treaty Implementation Cell in the Ministry of Commerce.

It is responsible for reviewing and ensuring progress on the implementation on several “score cards” developed for these purposes. This Sub-Committee comprises of Provincial Ministers, Members of National and Provincial Assemblies and Secretaries to the Government of the concerned Provincial Departments. The Minister Labour and HR along with Secretary Labour and HR represent the Labour Department in the Sub-Committee and are responsible for ensuring that due focus is given to labour issues at this forum.

The first meeting of the Cabinet Sub-Committee on Production and Exports was held in August, 2015 and is a platform where Labour issues can be represented. Due to the unavailability of the meeting minutes, further analysis on these meetings was not performed to understand how many Labour issues were highlighted at this platform.

### 4.4.2 South Asia Labour Conference

The Government in collaboration with ILO and the EU organized the South Asia Labour Conference from 24-26 April, 2014. The theme of the conference was “Strengthening Regional Cooperation to Promote Decent Work in South Asia”. ILO provided technical support to the Government, L&HRD in organizing this with the conference discussing seven thematic areas of common interest for South Asian countries including labour migration, labour market information, vulnerable workers, labour laws and OSH. More than 300 delegates from Bangladesh, Nepal, Sri Lanka, Maldives, India, Pakistan and Afghanistan participated in this conference.



The conference ended with a joint declaration, a set of recommendations and the way forward. Some of the key recommendations and ways forward concluded at the conference included:

- ▶ The inclusion of labour related issues into the South Asian Association for Regional Cooperation (SAARC) Secretariat with the aim to get technical support from SAARC to develop a plan of action to implement the joint statement.
- ▶ The need for regional level researches to fill knowledge gaps, knowledge sharing and capacity building on key labour issues.
- ▶ The need for continuing dialogue on the relationship between working conditions, productivity and competitiveness and holding periodic thematic consultations in South Asia to review challenges and progress.
- ▶ The establishment of a tripartite SAARC labour forum, labour information exchange centers, regional body to coordinate and promote dialogue, research, policy and sharing of best practices and establishment of working groups for follow-up and implementation of the recommendations
- ▶ The development of a regional cooperation strategy with the aim to expand coverage of labour laws according to ILS, gradually;
  - ▶ To improve working conditions, enhancing productivity and competitiveness of the working communities in South-Asia,
  - ▶ To institute robust and comprehensive Labour Market Information [LMI] Systems for purposes of evidence-based policy making,

- ▶ To have a common platform collectively to endeavor and bargain for better working conditions for 'South-Asian Migrant Workers' with the labour-hosting countries and provide better working conditions to migrant workers within the South Asian Countries,
- ▶ To improve Occupational Safety and Health systems,
- ▶ To enhance relevance, quality and outreach of 'Social Protection Systems',
- ▶ To eliminate exploitative labour practices and to protect and support vulnerable workers including women, workers with disabilities, migrant workers, and informal economy workers, and
- ▶ To propose to constitute a South Asia Labour Forum to facilitate regional cooperation on labour issues with the consent of South Asian Countries.

In summary the recommendations of the conference focused on the simplification, rationalization and harmonization of labour laws with international best standards. The delegates highlighted the need to strengthen capacity and effectiveness of labour inspections. Furthermore it was agreed that there is a need to strengthen institutional arrangements, hold tripartite dialogue, and ensure representation of industry and workers to develop effective solutions to improve working conditions. The conference recommended that ensuring consistency between international agreements (e.g. GSP Plus, Free Trade Area (FTA), Binding Tariff Information (BTIs). and implementation domestically was of supreme importance. The need for speedy enactment of legislation, covering all workers in both formal and informal sectors was also highlighted. The delegates proposed improvement of OSH statistics and data management systems along with establishment of a national helpline for reporting of workplace accidents and occupational diseases. Finally it was agreed that there is a need for consistent and inclusive terminology/definition related to children, women and the third gender, supported by improved national data collection on their work/employment and working conditions.

Stakeholders felt that although the conference talked about the right elements, no significant implementation of the actions identified has been done on the ground.

### 4.4.3 Punjab Labour Policy, 2015

After the 18<sup>th</sup> Amendment in the Constitution, the Province of Punjab announced its first ever Labour Policy in 2015. The policy highlights the Government's commitment for elimination and rehabilitation of child and bonded labour, gender balance, facilitation of women at workplace, promotion of freedom of association and revitalization of the existing inspection regime. All these themes line up with the requirements set out by the eight core ILO Conventions. The policy identifies a number of priority areas which include:

- ▶ Industrial relations
  - ▶ This element of the policy addresses areas in Conventions **C087 and C098**
- ▶ Tri-partism
- ▶ Labour law reforms
- ▶ Dispute settlement
- ▶ Elimination and rehabilitation of child and bonded labour
  - ▶ This element of the policy addresses areas in Conventions **C029, C105, C138 and C182**
- ▶ Occupational safety and health
- ▶ Labour inspections
  - ▶ This element of the policy address areas in Convention **C081**
- ▶ Worker welfare and social security
- ▶ Gender equality and non-discrimination
  - ▶ This element of the policy addresses area in Conventions **C100 and C111**

- ▶ Enterprise development
- ▶ Technical Vocational Education and Training (TVET) competence
- ▶ Employment facilitation
- ▶ Managing migration
- ▶ Gradual extension of labour protection
- ▶ Implementation mechanism

The policy has a provision for review after every two years in case any gaps are identified. One of the most important recommendations of the policy include a 33% representation of women workers in key areas including tri-partite structures of labour related institutions, boards of statutory organizations, public sector companies and committees, and apex bodies.

Furthermore the policy also focuses on the elimination and rehabilitation of child and bonded labour, simplification and codification of labour laws, introduction of modern labour inspection regimes such as joint inspections, capacity development and on-line inspections, ensuring OSH of workers through revamped inspection machinery, awareness creation and well equipped institutional structure.

#### 4.4.4 Provincial Level Tri-partite Committees

Tri-partite committees have representation from the Government, the employers and representatives of the workforce. This tripartite structure is a unique forum in which the Government and the social partners of the economy can freely and openly debate and elaborate labour issues. In order to steer working of labour department and in line with the recommendations from the conferences and policy, four provincial tripartite committees have been constituted:

- ▶ Provincial Committee to Combat Bonded Labour - This committee focused on overseeing the working of the Bonded Labour System (Abolition) Act, 2012. The committee advises the government on the working on the law
- ▶ Provincial Committee on Child Labour - This committee has the responsibility to advise the government on the schedule of hazardous occupations under the Punjab Restriction on Employment of Children Act, 2016.
- ▶ Provincial Tripartite Consultation Committee - This committee advises the government on labour laws and their enforcement. It also advises on labour protection and welfare issues.
- ▶ Provincial Occupational Health and Safety Council

#### 4.4.5 Provincial Plan of Action to Combat Bonded Labour in Punjab

Bonded labour is one of the key issues in the Province of Punjab and to address this the Government developed "Action Plans to Combat Bonded Labour" with the technical support of the ILO which entails a number of legislative, financial, administrative and socio-economic arrangements for eradication and rehabilitation of bonded labourers. The Action Plan was devised in 2013 and subsequently approved by the Provincial Cabinet in 2015.

Stakeholder feedback suggested that there is no on the ground evidence on the actions being implemented

#### 4.4.6 Punjab Domestic Workers Policy, 2015

Continuing the focus on labour, the Government also drafted the Punjab Domestic Workers Policy, 2015. It is an effort to recognize and accept the domestic workers as workers through legislative and administrative actions and to accord equality to the domestic workers in status and rights in relation to other wage earners without any discrimination and irrespective of caste, creed, colour and religion. The policy document focuses on possible ways forward for:

- ▶ The formulation of specific legislation for the domestic workers,
- ▶ The provision of benefits to the domestic workers at par with their counter parts in the formal commercial and industrial sector,

- ▶ A mechanism for effective enforcement of existing laws to address the issues of physical abuse, violence and harassment of domestic workers,
- ▶ Ensuring effective promotion and protection of the human rights of domestic workers,
- ▶ Reviewing existing laws for extending social protection and other benefits to the domestic workers,
- ▶ Resolution of disputes between the domestic workers and their employers,
- ▶ Provision of social protection specific to domestic workers, and
- ▶ For coverage of domestic workers under the scheme of Employees' Old-Age Benefits Institution.

This policy is still in draft and has not been approved which means that although it addresses the right elements, it has not been put into action on the ground.

### 4.4.7 Specific Programs/ Projects in Punjab

#### 4.4.7.1 Bonded Labour

The Government, Labour and HR Department launched a pilot project<sup>22</sup> to address bonded labour at the cost of PKR: 123 Million (USD: 1.16 Million) in two districts of Punjab i.e. in District Kasur and Lahore under its Annual Development Program (ADP) 2008 to 2012<sup>23</sup> with the following interventions:



- ▶ Provision of non-formal basic education to the children involved in bonded child labour,
- ▶ Provision of micro-credit to the families of brick kiln workers,
- ▶ Distribution of hygiene kits to the children involved in bonded child labour at the brick kilns in these two districts,
- ▶ Facilitating in provision of veterinary health services to the donkeys of brick kiln workers, and
- ▶ Facilitation in issuance of CNIC to brick kiln workers.

The project was successful in:

- ▶ Establishing 200 Non Formal Education (NFEs),
- ▶ Mainstreaming 2,998 children into formal education system,
- ▶ Providing micro-credit to 7,940 brick kiln workers to the tune of PKR:166 Million (USD:1.6 Million) through Punjab Rural Support Program (PRSP),
- ▶ Issuing CNIC to 7,292 workers, and
- ▶ Providing veterinary services to 1,104 animals.

Another project by the name of "Elimination of Bonded Labour in 4 Districts of Punjab" (EBLIK-4D) i.e. Faisalabad, Sargodha, Bahawalpur & Gujrat with the total cost of PKR: 196.987 Million (USD: 1.9 Million) was launched in October, 2012 under ADP (2012-16). The focus of the scheme was on elimination of child and bonded labour. Major achievements of the project were as follows

- ▶ 200 NFE centers are operational in which 5,984 (Male 3001 Female 2983) learners are now studying and 525 learners have already been mainstreamed into formal schools,
- ▶ 20 Adult Literacy Centers are currently operational where 450 adult learners are enrolled. 663 adult learners have already completed their six month literacy cycle,

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<sup>22</sup> The information has been obtained from the Project Direct of Integrated Projects (PDIP).

<sup>23</sup> Later on the project period was extended to 2014 with no cost

- ▶ Computerized Identity Cards have been delivered to another 5,495 brick kiln workers, and
- ▶ Other areas of impact include; medical check-up of brick kiln workers, provision of hygiene kits, legal aid services and coordination for holding of DVCs meetings.

### 4.4.7.2 Child Labour

An ADP Scheme titled “Combating Worst Forms of Child Labour in 4 districts of Punjab” i.e., Chakwal, Jehlum, Jhang & Layyah, at the cost of PKR: 180.832 Million (USD: 1.7 Million) is also under execution. The focus of the scheme is to eradicate worst forms of child labour as defined under ILO Convention C182. The project interventions are being carried out with the support of NGOs. The gestation period is from 2011 to 2016 Major achievements of the project were as follows:

- ▶ Establishment of 120 Non Formal Education Centres (NFECs) in 4 districts where more than 4,200 children have been enrolled and studying in different grades,
- ▶ 1,500 adolescents have been educated i.e. are now literate and trained in demand-driven skills,
- ▶ 750 adolescents are getting literacy cum skill training, and
- ▶ Work on establishment of model workplaces is under process.



A mega project titled as “Elimination of Child & Bonded Labour Project (Integrated Project for Promotion of ‘Decent Work for Vulnerable Workers’ in Punjab Province) covering 36 districts of Punjab, at the total cost of PKR. 5,159.6 Million (USD: 50 Million) as ADP scheme was initiated from July, 2014. Major objectives of the project were as follows

- ▶ Rehabilitation of 375,000 children through non-formal basic education and skill development,
- ▶ Economic empowerment of 100,000 child labour families,
- ▶ Amendment in labour laws dealing with eradication of child labour and improvement in legislation,
- ▶ Capacity building of the inspection staff of labour department,
- ▶ Issuance of social security cards to 150,000 families of brick kiln workers,
- ▶ Establishment of model workplace, and
- ▶ Integration of all the efforts to eradicate child labour.

During the first phase, the project is being executed in ten districts (Sialkot, Shaikhupura, Hafizabad, Okara, Gujranwala, D.G.Khan, Rahim Yar Khan, Bahawalnagar, Multan, and Khanewal). Major achievements of the project to date are as follows

- ▶ 333 household heads of Bonded & Child Labour have been linked with micro-credit institutions,
- ▶ SAA-CIWC&E<sup>24</sup> assessed 50 hazardous workplaces for establishment of model workplaces,
- ▶ 10 potential NGOs hired as implementation partners to establish Non-Formal Basic Education Schools (NFBESs). These NGOs have established 1633 NFBESs where 50229 children are enrolled,
- ▶ 5,917 adolescents have been enrolled in Vocational Training Institutes (VTIs),
- ▶ Process of issuance of CNIC to 21,567 brick kiln workers completed with NADRA,
- ▶ Birth registration of 6,506 children of brick kiln workers completed,

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<sup>24</sup> SAA-CIWC&E the only institution in Pakistan doing technical research and development on workplace safety and work environment

- ▶ Social Security Cards<sup>25</sup> have been issued to 288 brick kiln workers,
- ▶ Legal Aid Service Unit (LASU) has been established, and
- ▶ 20 volunteer lawyers have been identified for legal support to brick kiln workers.

In order to address the ground realities, the PC-I of the project has been revised. Under the revised PC-I, the project will be launched in the whole of the Province in one go. The Chief Minister (CM) Punjab's initiatives on child labour focus mainly on three sectors, namely motor workshops, restaurants and petrol pumps, which are now included in the "Integrated Project". The intervention of model workplaces has been dropped. The focus of the project has been restricted to the working children in the age bracket of 5 to 15 years and the target working children to be withdrawn from and rehabilitated at the end of the project will be 344,000. The project will work under "referral system" i.e. linking the target children to formal schools, Punjab Education Foundation (PEF) schools and VTIs and providing financial assistance to the target families through PSPA.

### 4.4.7.3 Projects to Strengthen Labour Inspection

Punjab Labour Department has initiated an on-line inspection reporting of factories wherein the inspectors of factories are required to upload all the relevant information during inspection on the online available format. Super inspection of factories is also online. A database is being prepared in the Headquarters of the DGLW to further streamline the on line inspection reporting system. The record of registration of factories, brick kilns and shops and establishments is also being streamlined under this initiative.

Another project titled "Capacity Building of Industry to Implement ILS" has been initiated under ADP, 2014-15. The project will strengthen existing capacity of labour inspection through provision of transport and OSH kits to inspectors and introduction of mobile inspection program.

### 4.4.7.4 Other Initiatives

- ▶ Bureau of statistics Punjab (BOS) under an ADP scheme and with the financial support of UNICEF is conducting the Punjab Child Labour Survey under Statistical Information and Monitoring Program on Child Labour (SIMPOC) methodology to assess the extent and magnitude of working children in Punjab
- ▶ BOS with the support of UN Women conducted the Punjab Home Based Workers Survey in 2016 which will help understand the issues confronted by female home based workers. This will help devise the solution through appropriate policy interventions by the concerned public authorities in the Province. As per survey results 91.3% of home based workers are women and with discrimination part of the eight core ILO Conventions it is key to address their issues.

### 4.4.7.5 Chief Minister's Punjab Special Initiative

On the direction of the Chief Minister Punjab a special drive has been launched to eradicate child labour from the brick kiln sector. A sector specific law, namely, "the Punjab Prohibition of Child Labour at Brick Kilns Act, 2016" has been promulgated to eradicate bonded child labour and regulate advances in the brick kiln sector of the Province. Earlier, a survey of brick kilns in Punjab was conducted by the Urban Unit and 124,000<sup>26</sup> children were identified. According to the program, all such children have to be enrolled in educational institutions with the following incentives:

- ▶ Free education and provision of books to the children enrolled,
- ▶ Free uniform and shoes,
- ▶ One time grant of PKR. 2,000/ per child at the time of enrollment, and
- ▶ Scholarship of PKR. 1,000/ per month by PSPA through Khidmat Card.

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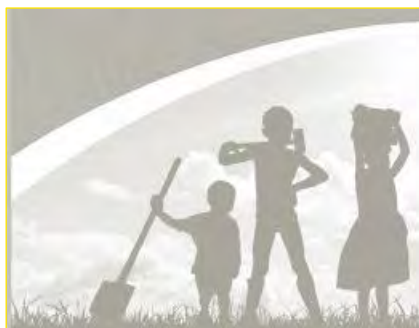
<sup>25</sup> L&HRD, Government of the Punjab

<sup>26</sup> L&HRD, Government of the Punjab



So far, 87000 children of the brick kiln workers have been enrolled in formal and non-formal schools. Moreover, The Chief Minister's Special Initiative has been decided to be expanded to all the sectors.

## 4.5 Labour Administration in Punjab and GSP Plus



### Child Labour

C138 - Minimum Age Convention, 1973

C182 - Worst Forms of Child Labour Convention, 1999

Relevant Provisions in ILO Conventions regarding labour administration	Situation in Punjab
<ul style="list-style-type: none"> <li>▶ Each member state for which these Conventions are in force shall endeavor to design and pursue a national policy that focuses on the elimination of child labour.</li> <li>▶ Each member shall pursue effectual law enforcement to ensure effective implementation of the national policy the eradication of child labour.</li> <li>▶ Member states shall keep their Federal Government updated on the progress of the implementation of Conventions such that it can be reported further to the ILO.</li> <li>▶ Each member state shall liaison with the workers and employer’s associations, and other concerned groups to design and implement programs of action for the elimination of the worst forms of child labour.</li> <li>▶ Members shall ensure that there is a free educational system to cater for the needs of children, along with making special</li> </ul>	<ul style="list-style-type: none"> <li>▶ The Punjab Labour Policy, 2015 provides provisions towards the elimination of child labour. The policy also focuses on rehabilitation of children as well. However the policy has not been put into action and there are no implementation measures that are visible to apply this policy across the Province.</li> <li>▶ The Government has initiated a National Plan of Action for the elimination of child labour. However, no efforts are being focused towards ensuring its implementation on the ground.</li> <li>▶ Reporting on law enforcement and on other aspects of child labour and relevant ILO Conventions is yet to be institutionalized.</li> <li>▶ Theoretically, the “Integrated Project” provides a mechanism to integrate the interventions and measures to eradicate child labour with other organizations in the public sector. But the Integrated Project does not include any mechanism for such integration within the Labour Department.</li> </ul>

<p align="center"><b>Relevant Provisions in ILO Conventions regarding labour administration</b></p>	<p align="center"><b>Situation in Punjab</b></p>
<p>dispensations for children that are at high risk, especially girls.</p> <ul style="list-style-type: none"> <li>▶ Members shall cooperate with other members in giving effect to the provisions of this Convention (elimination of worst form of child labour) through providing support on social and economic development, poverty eradication programs and universal education.</li> <li>▶ Each member shall provide a revision of list of hazardous occupations as and when applicable.</li> <li>▶ Member shall conduct consultation with representative organization of workers and employers during enforcement laws, monitoring mechanism and revision of list of hazardous occupations.</li> </ul>	<ul style="list-style-type: none"> <li>▶ The practice of revising the list of hazardous occupations, after consultation with the workers' and employer's organizations under the Punjab Restriction on Employment of Children Act, is nonexistent.</li> <li>▶ The involvement of the social partners in the process of inspection and monitoring is rather limited.</li> <li>▶ Although government schools offer free education, a major portion of the population still remains uneducated as people are not enrolled in schools. There are separate schools for girls however attendance of teachers and students remains an issue.</li> <li>▶ The Government in collaboration with ILO and the EU organized the South Asia Labour Conference from 24-26 April, 2014. The theme of the conference was "Strengthening Regional Cooperation to Promote Decent Work in South Asia" but the issues of child labour were not addressed.</li> </ul>



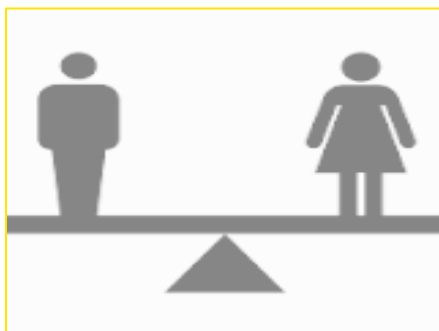
## Forced Labour / Worker's Safety

● C029 - Forced Labour Convention, 1930

● C105 - Abolition of Forced Labour Convention, 1957

Relevant Provisions in ILO Conventions regarding labour administration	Situation in Punjab
<ul style="list-style-type: none"> <li>▶ Each member state for which these Conventions are in force undertakes to take effective measures for the complete abolition of forced/compulsory labour.</li> <li>▶ Each member state shall make provisions for effective enforcement of laws that deal with the abolishment of forced/compulsory labour.</li> <li>▶ The Federal Government of member states shall be reported on the status of forced labour as per the ILO Conventions 29 and 105.</li> <li>▶ Each member state shall produce a Convention ratification reports, stating the measures undertaken for Convention implementation, along with other relevant information.</li> <li>▶ Competent authorities of member states shall have no right to impose forced or compulsory labour for the benefit of private persons.</li> <li>▶ In the event a competent authority of a member state decides to enforce forced labour, it shall satisfy that the work:</li> </ul>	<ul style="list-style-type: none"> <li>▶ Currently, the enforcement of law regarding bonded labour is carried out through DVCs. However, these DVCs are struggling to perform their roles (monitoring of enforcement of law, rehabilitation and welfare of freed bonded labourers) effectively.</li> <li>▶ Currently, no action plan is being implemented to combat bonded labour in Punjab. However the "Elimination of Bonded Labour in 4 Districts of Punjab" project is underway in Punjab focusing on brick kilns.</li> <li>▶ Reporting on law enforcement and on other aspects of child labour and relevant ILO Conventions is yet to be institutionalized.</li> <li>▶ Authorities in the Province do not impose forced labour for personal benefits.</li> <li>▶ As punishment for crimes, inmates in prisons are required to work, however that is within the premises of the prison.</li> <li>▶ No one can be forced to work in underground mines if they do not will to do so.</li> </ul>

<b>Relevant Provisions in ILO Conventions regarding labour administration</b>	<b>Situation in Punjab</b>
<ul style="list-style-type: none"><li>▪ Is for the direct interest to the community,</li><li>▪ Is an imminent necessity, and</li><li>▪ Will not lay a heavy burden upon the labourers.</li></ul> <ul style="list-style-type: none"><li>▶ Further to that, it shall also satisfy that it is impossible to obtain volunteer labour for such work, and the working conditions are satisfactory, or at least at levels comparable to that of similar working areas.</li><li>▶ Compulsory/forced labour for works of construction can be enforced by a competent authority of a member state if all the necessary safeguards have been put into place, guaranteeing satisfactory health and medical care.</li><li>▶ Compulsory/forced labour shall not be handed out as the penalty/punishment for punishable crimes.</li><li>▶ Compulsory/forced labour shall not be used to conduct work at underground mines.</li></ul>	



## Women Employment / Discrimination

**C100 - Equal Remuneration Convention, 1951**

**C111 - Discrimination (Employment and Occupation) Convention, 1958**

Relevant Provisions in ILO Conventions regarding labour administration	Situation in Punjab
<ul style="list-style-type: none"> <li>▶ Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.</li> <li>▶ Member shall co-operate as appropriate with the employers' and workers' organizations concerned for giving effect to the provisions of this Convention.</li> <li>▶ Each Member for which this Convention is in force undertakes 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 respect thereof.</li> <li>▶ Each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice:                             <ul style="list-style-type: none"> <li>▪ To seek the co-operation of employers' and workers' organizations and other appropriate bodies in promoting</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▶ There is a set minimum wage standard for different categories of workers, fixed by a tripartite board. However, there are no specific measure taken to ensure that equal remunerations are paid to men and women working at the same levels.</li> <li>▶ There are no initiatives undertaken by the Government to involve and cooperate with the employer's and worker's organizations, to ensure compliance with the provisions of Convention C100.</li> <li>▶ The Punjab Labour Policy, 2015 provides provisions towards gender equality and discrimination. However the policy has not been put into action and there are no implementation measures that are visible to apply this policy across the Province.</li> <li>▶ The constitution of Pakistan guarantees equal opportunities and treatment with respect to occupations and employment. However, no laws or provision have been drafted since to address this in the Province.</li> <li>▶ There is a 33% quota fixed for women in employment in all the departments, due to the administrative orders in Punjab.</li> <li>▶ There is no practice of producing an annual report on the compliance</li> </ul>

<p><b>Relevant Provisions in ILO Conventions regarding labour administration</b></p>	<p><b>Situation in Punjab</b></p>
<p>the acceptance and observance of this policy,</p> <ul style="list-style-type: none"> <li>▪ To enact such legislation and to promote such educational programs as may be calculated to secure the acceptance and observance of the policy,</li> <li>▪ To repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy,</li> <li>▪ To pursue the policy in respect of employment under the direct control of a national authority,</li> <li>▪ To ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority, and</li> <li>▪ To indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.</li> </ul>	<p>of these Conventions.</p> <ul style="list-style-type: none"> <li>▶ The Punjab Labour Policy, 2015 exists and covers cooperation of employers and workers and gender discrimination, however the implementation of the policy is haphazard.</li> </ul>



## Trade Unions / Freedom of Association

C087 - Freedom of Association and Protection of the Right Convention, 1948

C 098 - Right to Organize and Collective Bargaining Convention, 1949

<b>Relevant Provisions in ILO Conventions regarding labour administration</b>	<b>Situation in Punjab</b>
<ul style="list-style-type: none"> <li>▶ The public authorities should refrain from interference in the workers' and employers' right to freedom of association.</li> <li>▶ Appropriate measures shall be taken by the member states to ensure compliance of workers/ employers' right of freedom of association.</li> <li>▶ Machinery appropriate to national conditions shall be established, where necessary, to ensure that the workers and employers can freely exercise their right to organize.</li> <li>▶ Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Currently, the public authorities refrain from interfering in worker's efforts for freedom of association and collective bargaining.</li> <li>▶ There are administrative setups available in the shape of institution of Registrar, Conciliator and other institutional arrangements.</li> <li>▶ There is a platform of Workers' and Employers' Bilateral Council of Pakistan (WEBCP) in place for voluntary negotiation.</li> <li>▶ The concept of Alternate Dispute Resolution (ADR) has been introduced in the Punjab Labour Policy, 2015. However, this concept has not yet been enforced on ground.</li> </ul>







## Labour Inspection

### C081 - Labour Inspection Convention

<b>Relevant Provisions in ILO Conventions regarding labour administration</b>	<b>Situation in Punjab</b>
<ul style="list-style-type: none"> <li>▶ Each Member of the ILO for which this Convention is in force shall maintain a system of labour inspection in industrial workplaces</li> <li>▶ The functions of the system of labour inspection shall be:                             <ul style="list-style-type: none"> <li>▪ To secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours, wages, safety, health and welfare, the employment of children and young persons, and other connected matters, in so far as such provisions are enforceable by labour inspectors:                                     <ul style="list-style-type: none"> <li>○ To supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions, and</li> <li>○ To bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions.</li> </ul> </li> </ul> </li> <li>▶ Any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their</li> </ul>	<ul style="list-style-type: none"> <li>▶ A system of labour and OSH inspection is in place in Punjab to inspect industrial and commercial establishments for enforcement of labour laws.</li> <li>▶ There is no systematic mechanism in place to share and disseminate technical information to employers and workers concerned.</li> <li>▶ The defects of inspection system are rarely shared with the central authority.</li> <li>▶ Inspectors are not entrusted with any responsibilities other than their primary roles.</li> <li>▶ No arrangements are in place on the part of the competent authority to ensure cooperation and collaboration of labour inspections and other similar inspections.</li> <li>▶ Inspection staff is recruited through Punjab Public Service Commission on permanent basis and without any political interference. A change in Government does not affect their employment.</li> <li>▶ Inspection staff is recruited through a set system and</li> </ul>

<p align="center"><b>Relevant Provisions in ILO Conventions regarding labour administration</b></p>	<p align="center"><b>Situation in Punjab</b></p>
<p>primary duties or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers.</p> <ul style="list-style-type: none"> <li>▶ The competent authority shall make appropriate arrangements to promote:           <ul style="list-style-type: none"> <li>▪ Effective co-operation between the inspection services and other Government services and public or private institutions engaged in similar activities, and</li> <li>▪ Collaboration between officials of the labour inspectorate and employers and workers or their organizations.</li> </ul> </li> <li>▶ The inspection staff shall be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of changes of Government and of improper external influences.</li> <li>▶ Subject to any conditions for recruitment to the public service which may be prescribed by national laws or regulations, labour inspectors shall be recruited with sole regard to their qualifications for the performance of their duties.</li> <li>▶ Labour inspectors shall be adequately trained for the performance of their duties.</li> <li>▶ Both men and women shall be eligible for appointment to the inspection staff; where necessary, special duties may be assigned to men and women inspectors.</li> <li>▶ Each Member shall take the necessary measures to ensure that duly qualified technical experts and specialists, including specialists in medicine, engineering, electricity and chemistry, are associated in the work of inspection, in such manner as may be deemed most appropriate under national conditions, for the purpose of securing the enforcement of the legal provisions relating to the protection of</li> </ul>	<p>qualification criteria, however in practice favours can be made.</p> <ul style="list-style-type: none"> <li>▶ Training institutions are available; however, the quality of training is not up to the mark.</li> <li>▶ Both men and women are eligible for the job of Inspectors, but only a few women apply. The percentage of female inspectors in Punjab is less than 5%.</li> <li>▶ Technically qualified professionals are available, but not linked with labour inspection to support the inspection staff on technical matters.</li> <li>▶ The number of Labour Inspectors has not been raised since 70s. More analysis on numbers can be seen in section 4.3.1 of this report.</li> <li>▶ The materials and means placed at the disposal of inspectors are not sufficient to ensure fair and transparent inspection.</li> <li>▶ Labour Inspectors and Labour Officers have to share offices.</li> <li>▶ No transport is provided to the basic inspectors. It is partially available with the higher officers but is not used for inspection purposes.</li> <li>▶ No travelling and incidental allowances are available and labour inspectors, labour officers and supervisory officers cannot claim these expenses due to non-availability of budget.</li> <li>▶ Inspectors can enter the workplaces without any barriers; however, labour inspection is not taken seriously by the management and inspectors face difficulties accessing the requisite records.</li> <li>▶ There are capacity and skill gaps. Inspectors are not technically sound to document records, and physically inspect the workplaces.</li> </ul>

<p align="center"><b>Relevant Provisions in ILO Conventions regarding labour administration</b></p>	<p align="center"><b>Situation in Punjab</b></p>
<p>the health and safety of workers while engaged in their work and of investigating the effects of processes, materials and methods of work on the health and safety of workers.</p> <ul style="list-style-type: none"> <li>▶ The number of labour inspectors shall be sufficient to secure the effective discharge of the duties of the inspectorate and shall be determined with due regard for:           <ul style="list-style-type: none"> <li>▪ The importance of the duties which inspectors have to perform, in particular:               <ul style="list-style-type: none"> <li>○ The number, nature, size and situation of the workplaces liable to inspection,</li> <li>○ The number and classes of workers employed in such workplaces, and</li> <li>○ The number and complexity of the legal provisions to be enforced.</li> </ul> </li> <li>▪ The material means placed at the disposal of the inspectors, and</li> <li>▪ The practical conditions under which visits of inspection must be carried out in order to be effective.</li> </ul> </li> <li>▶ The competent authority shall make the necessary arrangements to furnish labour inspectors with:           <ul style="list-style-type: none"> <li>▪ Local offices, suitably equipped in accordance with the requirements of the service, and accessible to all persons concerned, and</li> <li>▪ The transport facilities necessary for the performance of their duties in cases where suitable public facilities do not exist.</li> </ul> </li> <li>▶ The competent authority shall make the necessary arrangements to reimburse to labour inspectors any travelling and incidental</li> </ul>	<ul style="list-style-type: none"> <li>▶ Labour inspectors are empowered to take steps in case of defects observed in plants or workplace. However, the inspectors usually ignore this due to a lack of capacity, interest and shortage of time.</li> <li>▶ Currently, the reporting of accidents in the work place is very substandard. The reporting of accidents within the 24-hour timeline of its occurrence is very rarely carried out by most factory management.</li> </ul> <p>Currently:</p> <ul style="list-style-type: none"> <li>▶ Inspector carries out inspections of the workplaces randomly and not periodically.</li> <li>▶ Inspector is empowered to prosecute the defaulting managements.</li> <li>▶ The concept of inspectors issuing warning doesn't exist in the Province of Punjab.</li> <li>▶ Reports are submitted to the Regional Heads and Central Authority periodically.</li> <li>▶ There is no precedent of publication of any annual report by the central authority.</li> <li>▶ Inspectors notify the employers of their presence.</li> <li>▶ Are required to keep all inspection details confidential, however in practice this might be a risk due to unavailability of checks.</li> </ul>

<p align="center"><b>Relevant Provisions in ILO Conventions regarding labour administration</b></p>	<p align="center"><b>Situation in Punjab</b></p>
<p>expenses which may be necessary for the performance of their duties.</p> <ul style="list-style-type: none"> <li>▶ Labour inspectors provided with proper credentials shall be empowered:           <ul style="list-style-type: none"> <li>▪ To enter freely and without previous notice at any hour of the day or night any workplace liable to inspection;</li> <li>▪ To enter by day any premises which they may have reasonable cause to believe to be liable to inspection; and</li> <li>▪ To carry out any examination, test or enquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed, and in particular:               <ul style="list-style-type: none"> <li>○ To interrogate, alone or in the presence of witnesses, the employer or the staff of the undertaking on any matters concerning the application of the legal provisions,</li> <li>○ To require the production of any books, registers or other documents, the keeping of which is prescribed by national laws or regulations relating to conditions of work, in order to see that they are in conformity with the legal provisions, and to copy such documents or make extracts from them,</li> <li>○ To enforce the posting of notices required by the legal provisions, and</li> <li>○ To take or remove for purposes of analysis samples of materials and substances used or handled, subject to the employer or his representative being notified of any samples or substances taken or removed for such purpose.</li> </ul> </li> </ul> </li> </ul>	

<p align="center"><b>Relevant Provisions in ILO Conventions regarding labour administration</b></p>	<p align="center"><b>Situation in Punjab</b></p>
<ul style="list-style-type: none"> <li>▶ On the occasion of an inspection visit, inspectors shall notify the employer or his representative of their presence, unless they consider that such a notification may be prejudicial to the performance of their duties.</li> <li>▶ Labour inspectors shall be empowered to take steps with a view to remedying defects observed in plant layout or working methods which they may have reasonable cause to believe constitute a threat to the health or safety of the workers.</li> <li>▶ In order to enable inspectors to take such steps they shall be empowered, subject to any right of appeal to a judicial or administrative authority which may be provided by law, to make or to have made orders requiring: <ul style="list-style-type: none"> <li>▪ Such alterations to the installation or plant, to be carried out within a specified time limit, as may be necessary to secure compliance with the legal provisions relating to the health or safety of the workers, or</li> <li>▪ Measures with immediate executory force in the event of imminent danger to the health or safety of the workers.</li> </ul> </li> <li>▶ The labour inspectorate shall be notified of industrial accidents and cases of occupational disease in such cases and in such manner as may be prescribed by national laws or regulations.</li> <li>▶ Subject to such exceptions as may be made by national laws or regulations, labour inspectors: <ul style="list-style-type: none"> <li>▪ Shall be prohibited from having any direct or indirect interest in the undertakings under their supervision,</li> <li>▪ Shall be bound on pain of appropriate penalties or disciplinary measures not to reveal, even after leaving the service, any manufacturing or commercial secrets or working processes</li> </ul> </li> </ul>	

<p align="center"><b>Relevant Provisions in ILO Conventions regarding labour administration</b></p>	<p align="center"><b>Situation in Punjab</b></p>
<p>which may come to their knowledge in the course of their duties, and</p> <ul style="list-style-type: none"> <li>▪ Shall treat as absolutely confidential the source of any complaint bringing to their notice a defect or breach of legal provisions and shall give no intimation to the employer or his representative that a visit of inspection was made in consequence of the receipt of such a complaint.</li> </ul> <ul style="list-style-type: none"> <li>▶ Workplaces shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions.</li> <li>▶ Persons who violate or neglect to observe legal provisions enforceable by labour inspectors shall be liable to prompt legal proceedings without previous warning: Provided that exceptions may be made by national laws or regulations in respect of cases in which previous notice to carry out remedial or preventive measures is to be given.</li> <li>▶ It shall be left to the discretion of labour inspectors to give warning and advice instead of instituting or recommending proceedings</li> <li>▶ Labour inspectors or local inspection offices, as the case may be, shall be required to submit to the central inspection authority periodical reports on the results of their inspection activities.</li> <li>▶ These reports shall be drawn up in such manner and deal with such subjects as may from time to time be prescribed by the central authority; they shall be submitted at least as frequently as may be prescribed by that authority and in any case not less frequently than once a year.</li> <li>▶ The central inspection authority shall publish an annual general report on the work of the inspection services under its control.</li> <li>▶ Such annual reports shall be published within a reasonable time</li> </ul>	

<p align="center"><b>Relevant Provisions in ILO Conventions regarding labour administration</b></p>	<p align="center"><b>Situation in Punjab</b></p>
<p>after the end of the year to which they relate and in any case within twelve months.</p> <ul style="list-style-type: none"> <li>▶ Copies of the annual reports shall be transmitted to the Director-General of the International Labour Office within a reasonable period after their publication and in any case within three months.</li> <li>▶ The annual report published by the central inspection authority shall deal with the following and other relevant subjects in so far as they are under the control of the said authority:                             <ul style="list-style-type: none"> <li>▪ Laws and regulations relevant to the work of the inspection service,</li> <li>▪ Staff of the labour inspection service,</li> <li>▪ Statistics of workplaces liable to inspection and the number of workers employed therein,</li> <li>▪ Statistics of inspection visits,</li> <li>▪ Statistics of violations and penalties imposed,</li> <li>▪ Statistics of industrial accidents, and</li> <li>▪ Statistics of occupational diseases.</li> </ul> </li> </ul>	





## 5. Stakeholder Perspectives

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### 5.1 Purpose of the Stakeholder Consultations

The purpose of stakeholder Consultations is to obtain their opinions on how the Province can better align itself with the requirements of the 8 Core ILO Conventions. It provides an understanding into the challenges faced by employers, employees, relevant Government departments and the wider civil society, at ground level.



### 5.2 Stakeholders

Following stakeholders were identified for consultations:

- ▶ Government officials including Secretary Labour, Director General Labour, Director Law, Commissioner PESSI, Head of CIWC&E and Head of IRI
- ▶ Chairman or CEO of Punjab Industrial Estate
- ▶ Chambers of Commerce from the following cities; Lahore, Sialkot and Faisalabad
- ▶ Employer Associations for the following industries; Textile, Sports Goods and Brick Kilns
- ▶ Representatives of Employers Federations of Pakistan
- ▶ Representatives of Pakistan Workers Federation and Muttahida Labour Federations including respective women wing / office bearers
- ▶ Civil Society organizations including; Bunyaad, Sudhar, Shirkat Gah, Aurat Foundations and Home-based worker's network

### 5.3 Key Concerns Raised by Stakeholders

Based on the consultation sessions conducted with the stakeholders, the following key concerns were raised by stakeholders:

#### 5.3.1 18<sup>th</sup> Amendment

The 18<sup>th</sup> amendment which saw the devolution of power from the federal level to provincial level was seen as a positive development by the stakeholders. It was said that the provincial model of governance proves to be more effective as it brings the government closer to people, and situates them in a position which enhances accountability. The stakeholders confided that, despite their concerns and complaints with the current labour situation, the 18<sup>th</sup> amendment was overall a positive step which most importantly helped in creating a mechanism of change which was previously missing.

The only complaint regarding this matter was that no transition phase was planned and executed after the 18<sup>th</sup> amendment which has caused a lack of co-ordination between different governmental departments. The stakeholders felt that the different Government departments are working in silos and are not on the same page. For example, EOBI and WWF departments have not been devolved to provincial governments which has resulted in decreased contributions to workers' pensions despite increases in minimum wage as the case is in court. A more transitioned approach to devolve power from the federal to provincial level would have worked better with the aim of educating every one of their mandates and interlink between others. There are no independent processes and continuity in governmental departments which results in ad-hoc policies being made by every new government. This should be rectified, and a harmonization process should be carried out to bring uniformity in the laws of federal and provincial governments.

#### 5.3.2 Child Labour

On the subject of child labour, stakeholders appreciated the initiatives by the Punjab Government in the last few years such as The Punjab Restriction on Employment of Children Act, 2016 and the Punjab Prohibition of Child Labour at Brick Kilns Act, 2016 but felt there was ample room for

improvement. There is no law covering the education of domestic child labour, for example, and it was stressed that the government should establish good schools to eradicate child labour. Furthermore, it was pointed out that as the last national survey on child labour was conducted in 1996, a new survey should be conducted as soon as possible to identify the graveness of the situation and so that appropriate measures can be taken to rectify the menace of child labour.

It was noted that child labour has decreased the most in those industries in which UNICEF or importers have intervened, such as the football stitching industry. In this regard, the elimination of child labour in Sialkot is a success story which needs to be highlighted more, and replicated as a model in other cities. Another salient point that was raised during the interviews was that child labour proliferated primarily due to the exploitation of unskilled workers. Left with poverty staring at their face, these workers are left with no choice but to force their children to work in order to survive.

All in all, the main complaint in relation to child labour was the lack of implementation which hampered further progress in this area.

### 5.3.3 Women Employment / Discrimination

With regards to women empowerment, the stakeholders generally felt that despite good measures being taken by the Punjab government in the form of Women Empowerment Package 2012 and 2014, real change seemed distant due to a lack of implementation of these measures, namely Sexual Harassment Act, Day Care Centre policy etc. Women do not get remunerated equally, and there is blatant discrimination against working women who are in child-bearing age. Furthermore, no variations are available in maternity laws and policy regarding transfer of female employees needs to be revised.

Generally, women are not encouraged to work in industries because the environment is not suitable, and the lack of skill and career development causes low motivation. Although better than other Provinces, participation of women in the Punjab workforce is only 23% which needs to be boosted further.

### 5.3.4 Trade Unions / Freedom of Association

The stakeholders were of the view that no improvement has been made in recent years, legislatively or administratively, with regards to workers right of freedom of association and right to bargain collectively. Women do not hold any key position in trade unions and as such, there are no women trade unions. In fact, many of them strongly felt that the lack of trade unions was the foundational problem behind the rampant exploitation of labour. Employers, through various discreet measures, discourage and sometimes outright forbid workers to join a trade union. Setting up a trade union should be made easier, and the Industry Department should not favor employers unions over trade unions in pursuit of personal interest.

One stakeholder spoke highly of the tri-partite model of consultation consisting of labour unions, employers unions and government to resolve issues that used to be operative before General Zia took power. This was a successful model, and should make a comeback especially considering that ILO Conventions require tri-partite consultations on labour issues. Moreover, it was stressed that it is vital a culture of mutual trust between workers and employers is developed in that neither parties interfere in each other's operations as this causes misconduct and hurts the overall industry of Pakistan. This will increase productivity, and solve many of the labour issues that workers have to face today.

### 5.3.5 Declining Exports

Despite attaining the GSP+ status, stakeholders feel that the exports of Pakistan have been declining significantly in the past few years due to non-friendly export policies of the government. There are several different taxes on exports, and Pakistani exporters have to pay more taxes compared to other competitive nations. This makes it tough for them to compete in the international market, and hence exports suffer. This is a major concern, as Pakistan is not able to take advantage of the zero and preferential rates offered by GSP+.

The reason for non-friendly export policies was said to be that lawmakers are incompetent and lack

expertise and exposure to industry. Therefore, it was suggested that all the major stakeholders should be brought on-board in order to improve policy-making and boost exports. The government should simplify processes and laws in order to boost trade. Imports of key raw materials should be made cheaper, and tax laws should be simplified so as to encourage people to pay taxes.

### 5.3.6 Skill-Development

There is a concerning issue of unemployment of youth which is only going to be exaggerated in the coming years as the West closes its door to Pakistanis due to the rise of far-right parties. Furthermore, even Middle Eastern countries where a lot of Pakistanis go to earn their living is closing its doors due to our reputation and because labour is cheaper in Bangladesh and India. Unless our working population is given a platform in the form of training programs sponsored by the government, the issue of unemployment will pose a serious threat to the prosperity of Pakistan.

### 5.3.7 Legal and Administration Matters

With regards to legal issues, the stakeholders felt that core labour standards have been incorporated in law; nonetheless there is room for improvement. There are no laws covering agriculture workers and domestic workers, hence legislation on this should be introduced to facilitate inspection. Moreover, it was recommended that Parliamentarians should be provided training in law and order to improve policy-making.

As far as administration is concerned, a recurring theme that came up in the interviews was the lack of implementation of the many initiatives introduced by Punjab government in the last few years. The stakeholders felt that the lack of implementation was due to under-staffing of labour inspectors with regards to the momentous scope of work entrusted to the inspectors, hiring of incompetent labour inspectors on the basis of reference, low budgetary allocation, lack of training and political will, corruption, and a deficit in the power of trade unions who ought to pressurize exploitative employers to enforce the law. Moreover, as Inspection mechanism was suspended for 12 years, labour issues have mounted further.

The two major problem areas as identified in the interviews were the Inspection System and the Informal Sector. According to the stakeholders, the majority of current inspections are focused on record-keeping, which dilutes the core purpose of the inspectors and encourages non-compliance. For example, there is no data available in relation to industrial accidents. Workers should be registered annually so database of workers is kept updated. In addition, there are hardly any women inspectors to inspect women-related issues.

Secondly, the Punjab government seems to prioritize Lahore over other cities for political point-scoring, so it was recommended that other cities of the Province are also kept in focus in order to alleviate exploitation of labour in other parts of Punjab. A holistic approach should be taken, and a roadmap should be developed for the next 10-15 years so processes are streamlined and made independent of political considerations.

One stakeholder was adamant that the government should either adopt the German model of inspection, which has proven results, or it should license inspection to the private sector in order to improve efficiency and effectiveness.

In respect of the Informal Sector, the stakeholders demanded that a mechanism be developed in order to monitor this large sector which goes unchecked in the eyes of law. As workers in this informal sector are not documented, they are not entitled to any social benefits and other perks guaranteed by law which adds to their marginalization, especially given the fact that labour is abundantly available in Pakistan.

### 5.3.8 Forced Labour / Worker's Safety

Stakeholders remarked that Brick Kiln owners avoided registering the correct number of works in order to avoid application of labour laws and paying social security. With regards to the "Peshgi" (advance) system, one stakeholder indicated that since the supply of labour is limited as only specific families are involved in brick making, employers were forced to pay "Peshgi". And as such, this system of "Peshgi" is unfavorable to employers as workers often take huge sums in advance which they are unable to repay even after years which causes tussle between employers and

employees.

In addition, some of the stakeholders raised a concern that why only workers in the brick kiln industry are called bonded labourers when the system of “*Peshgi*” is also present in other industries e.g. textile.

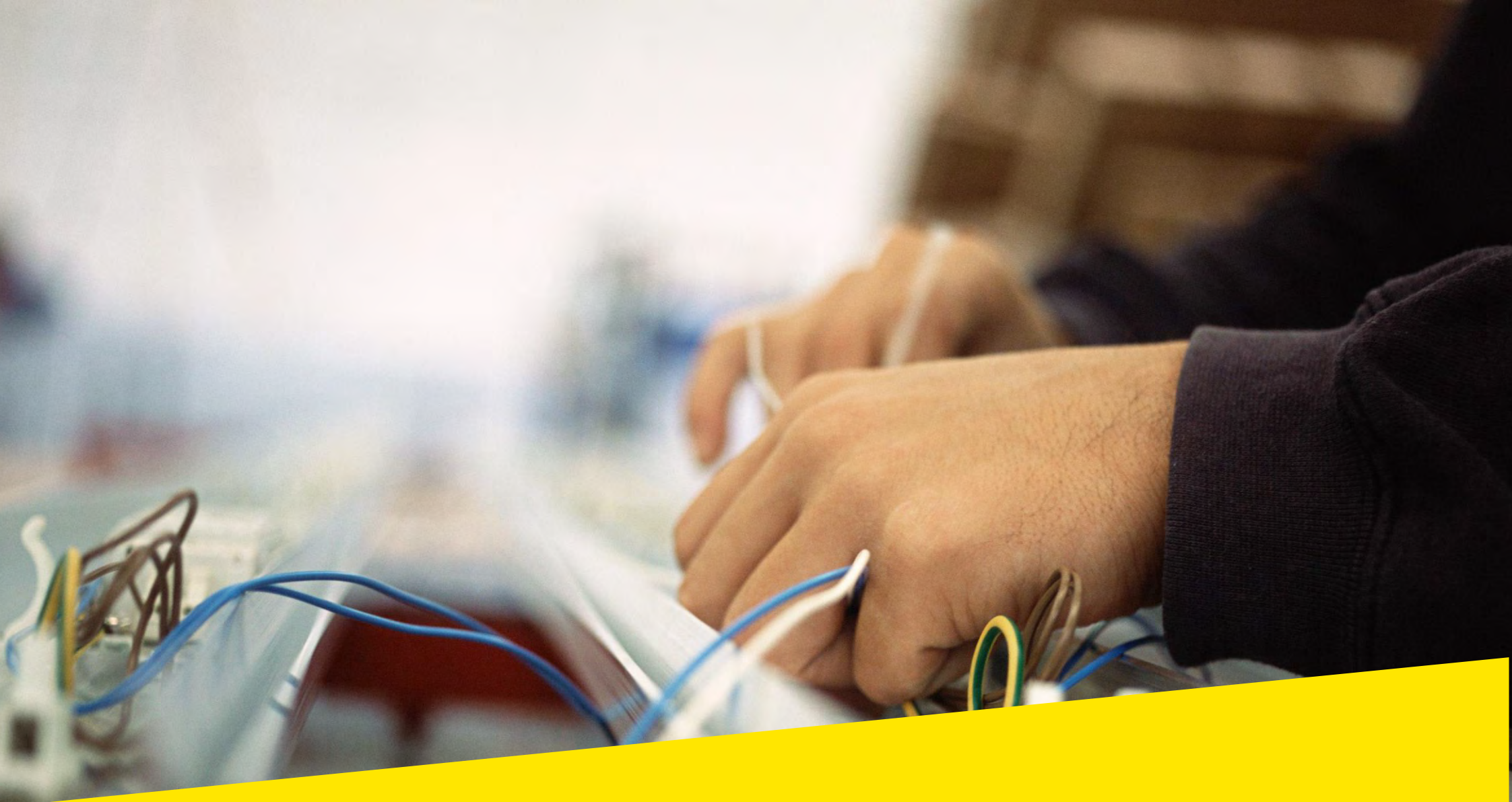
“*Peshgi*” was outlawed as per Bonded Labor Act, 1992 however this was criticized as brick kiln owners were not taken onboard and as such this legislation was against practical realities as no worker provided their services without receiving “*Peshgi*”. Instead of outlawing it, “*Peshgi*” system should’ve been reformed which would’ve triggered further progress in this area.

Even by conservative estimates, there are at least 1.5 to 2 million children present at brick kilns while the government survey only estimates 124,000 of them. Stakeholders felt that there is a difference in the figures that are real and the figures that the Government quotes. Programs initiated with regards to children at brick kilns are therefore limited in scope and only a small segment is benefitting from these initiatives.

Punjab Prohibition of Child Labor at Brick Kilns Act, 2016, was appreciated by the stakeholders; especially the clause that outlaws “*Peshgi*” in excess of Rs. 50,000. Moreover, it was suggested that the father of child labourers should also be penalized alongside employers as some parents often force their children to work in order to pay off their debts.

It was suggested that owners of those brick kilns that do not employ child labour and provide good working and housing conditions to their workers should be given incentives by the Government in order to encourage compliance with law.

Moreover, Brick Kilns should be declared as a separate industry whereby a special law covering only Brick Kilns is introduced to regulate it. This way, brick kiln owners will know what laws are directly applicable to them. One stakeholder felt that Brick Kiln owners were being needlessly vilified and their image tarnished due to misinformation propagated by the media. It was claimed that working and living conditions were much better at brick kilns compared to other industries. Therefore, it was said that the law should be such which facilitates employees while also benefitting employers.



## 6. Legal and Administrative Gaps

## 6. Legal and Administrative Gaps

### 6.1 Gaps in Labour Administration

Despite a number of initiatives undertaken by the Government in the field of labour, compliance with labour laws is still a cause for concern. Recently there has been a lot of hue and cry regarding bonded labour, particularly in the brick kiln sector. However, not a single case of bonded labour has been proven in court. In addition, several accidents in factories (Sundar Industrial Estate, industrial boiler explosion at a bakery production, and countless incidents of fire in various factories) have escaped prosecution, with the violators of the law evading legal attention due to the poor current enforcement mechanism in place.



The ILO's Committee of Experts on the Application of Convention and Recommendations (CEACR), while scrutinizing the information received on Convention 138 and 182 during its last meeting (conducted in 2013), observed certain problems in the enforcement section and directly advised the Government of Pakistan to adhere to the following:

- ▶ The CEACR requested the Government to take the necessary measures to ensure that persons who violate the provisions giving effect to the Convention are prosecuted and that penalties are applied in practice. It also requested the Government to provide information on the number and nature of violations relating to the employment of children and young persons detected by the labour inspectorate, the number of persons prosecuted, and the penalties imposed. Lastly, it requested the Government to continue providing information on the measures taken to adapt and strengthen the labour inspectorate (Adopted in ILC-103, 2014- Observation under C138).
- ▶ CEACR urged the Government to strengthen its efforts to ensure that persons who violate the legal provisions giving effect to the Convention are prosecuted and that sufficiently effective and dissuasive penalties are imposed in practice (Adopted in ILC-103, 2014-Observation under C182).

Based on our review of the administrative framework, the following gaps in labour administration have been identified:

#### 6.1.1 Lack of Coverage:

The existing labour inspection regime does not account for the incidence of bonded labour and enforcement of labour legislation in the informal economy, home based workers, domestic workers, and agriculture sector. Bonded Labour System (Abolition Act), 1992 deals with cases of bonded labour and the law does not provide any inspection framework; rather it is being administered through District Vigilance Committees. In 1995, the Bonded Labour System (Abolition) Rules were established. These rules required the establishment of District Vigilance Committees (DVC) in each district of the Province, with the purpose of ensuring compliance with regards to the bonded labour laws. However, when analyzing the frequency of these DVC meetings, it was found that there were huge inconsistencies, with the data not representing an ideal monotonic increase over the last four years. Along with that, these Bonded Labour System Rules, 1995 require a DVC meeting to be held in the first week of each month, however that data suggested that the actual number of meetings conducted were well below this required quantity. Finally, even though DVCs are a good initiative, when considering the agenda items for the issues that have been addressed it was found that focus of these committees over the last three years have been discussing the same issues which means there is little progress on addressing matters. This alludes to the fact that progress has been slow, and further emphasis is needed to develop a proper inspection framework.

### 6.1.2 Awareness and Dissemination of Information

There is no informational mechanism in place to highlight the importance of labour inspection and extending guidance and advisory services to the employers and other stakeholders. Educating the industry on the relevant laws and administrative processes is key to secure compliance, however this is not pursued actively.

### 6.1.3 Strength of Inspecting Staff

The current strength of labour inspection staff appears limited considering the spread of industrial and commercial activities in the Province. In 1970 the Labour Department was established as a separate department and during the past forty years, the strength of the labour inspection staff has remained roughly the same. Furthermore, with the introduction of Punjab Restriction on the Employment of Children Act 2016, the power of conducting inspections was limited to only a few officers leading to a loss in the strength of the inspecting staff. Along with that, the positions of technical inspectors have been vacant for years, contributing towards the lack of strength.

### 6.1.4 Perks and Benefits for Inspectors

Inspectors are not provided with transport for inspection visits. They do not get travelling and exigency costs reimbursed. Lack of resource allocation for the labour inspection and resultant quality sufferance is a major reason of poor service delivery by the labour inspectors. There are also issues of support staff and office accommodation.

### 6.1.5 Capacity Building and Trainings of Inspection Staff

The existing inspection machinery is not properly equipped with expertise of OSH and inspection skills. They need capacity building at the time their entry into employment and capacity development during service. The existing capacity of SAA-CIWC&E and IRI is also not enough to meet the training needs of the inspecting staff.

### 6.1.6 Difficulties to Transmit Legal Provisions at the Workplace

There are some ambiguities in labour laws due to some vague and absurd terminology. For instance, issue of number of workers regarding applicability of certain provisions of Factories Act, like Canteen Rules, Welfare Officer, etc. and provisions of bonus and gratuity as provided under Section 10 of the Standing Orders Ordinance, 1968 are often manipulated. Different forms and registers under various labour laws are required to be maintained by the management in this computer age. The employers always complain about difficulties in maintenance of record on these formats and are also irritants of the discretionary role of the Inspector in these areas.

### 6.1.7 Quality of Inspection

The quality of inspection is another, albeit an important issue. The existing system depends upon conviction detection rather than system inspection. The role of education and guidance in inspection and follow-up of labour inspection are missing in the existing system.

### 6.1.8 High Pendency

There is no mechanism in place to follow the prosecution pending in the courts and assess how much fine was imposed by the court against different



nature of violations. There is no liaison between the court and the inspection machinery.

### **6.1.9 Limited Role of Social Partners**

Employers and workers organization have no prominent role under the existing labour inspection regime. They are neither involved at the grass root level nor at the administrative level. Their suggestions and comments however, are sought through tripartite consultations and in written form (from PWF) at policy level. The present system of inspection does not promote consultation and information sharing with the social partners. Workers and employers are represented in Board of Trustees of Employees' old-age Institution and Governing Body of Employees Social Security Institutions. There are also tripartite Committees at the federal and provincial level. The policy matters of labour inspection are discussed and consulted in these forums. For instance, the introduction of private organizations in labour inspection was discussed in the last meeting of the tripartite committee at the federal level in its last meeting.

### **6.1.10 Lack of Cooperation with Similar Inspections**

Labour inspection in the Province is conducted in isolation of the other factory inspections, like, inspection by Boiler Engineers, inspection by Environmental Specialist, inspection of Civil Defense Officials, Inspection of Tehsil Administration and inspection of Electric Inspectors. There is no coordination among all the inspections, irrespective of the fact that all these inspections one way or the other affect the safety of the workers at the workplace. Social Security Ordinance and Employees Old-Age Institution laws are closely related to the labour department. These institutions are part and parcel of Labour Department, their Boards are tripartite in nature and duly represented by workers and employers but there is no link of inspection of these two institutions with the inspection being conducted under various labour laws.

### **6.1.11 Absence of Super Inspections**

In the past, super inspection of industrial and commercial establishment was an important feature of labour inspection which along with monitoring labour inspectors used to be considered as deterrent for the management. Due to heavy work load supervisory officers could not spare time for super inspection which has affected overall implementation of labour laws. Super Inspections are carried out by supervisory staff on sample basis and their own discretion.

### **6.1.12 Technical Support**

The inspecting staff is not supported by experts in the areas of chemistry, industrial, health and safety, mechanical engineering, medicine and occupational safety. Inspection of factories under section 33 of the Factories Act, 1934 by Technical Inspectors, Medical Inspectors, Industrial Hygienists and Chemists under Chapter III of the Factories Act was important feature of labour inspection in the Province of Punjab. Through their regular visits, these technical experts used to guide, update and advise the factory managements about necessary precautions to avoid industrial accidents and make hazard free workplace environment. They were also empowered to prosecute the managements in case of violation. The institution of Medical Inspectorate was abolished in 2001. Similarly, technical inspection was also stopped. Visits of factories by the Hygienists and Chemists from the (SAA-CIWC&E) were also withheld. As a result, the factory managements have been deprived of guidance and advice necessary under ILO's Convention 81.

### **6.1.13 Reporting of Inspection**

Reporting of inspection is very important as it gives the regional and central authorities the real picture of the industrial and commercial establishments in the area of a labour inspector. Consolidation of inspection reports in the office of the central authority is another important area. Without reporting, the

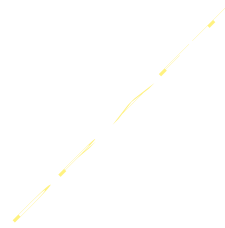
provisions of Convention 81 in respect of reporting, consolidation and then publication of reports on annual basis cannot be observed.

### **6.1.14 Gender Issues**

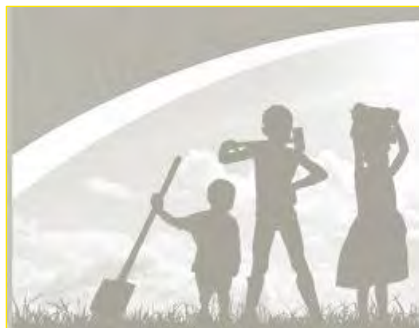
A number of steps have been initiated for empowerment of women workers in the factories through enhancing their participation in different plant level committees, trade unions and through promulgation of Sexual Harassment at Workplace Act, 2010. No solid steps have so far been initiated to ensure its implementation on ground. The number of lady inspectors has not been raised to a reasonable level.

### **6.1.15 Research and Development**

Research and development is missing in labour inspections. Through research and development experts of OSH can identify the causes of different hazards and can propose minimum bearable level for safety of the workers. Research is also very important to document innovations in inspection techniques and work for further development.



## 6.2 Gaps in Legal Framework



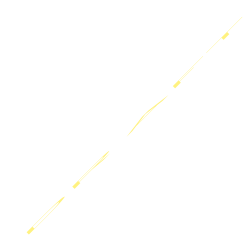
### Child Labour

C138 - Minimum Age Convention, 1973

C182 - Worst Forms of Child Labour Convention, 1999

Article	Relevant Law	Gap
<p><b>Article 1 (C 138)</b></p> <ul style="list-style-type: none"> <li>Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.</li> </ul> <p><b>Article 5 (C182)</b></p> <ul style="list-style-type: none"> <li>Each Member shall, after consultation with employers' and workers' organizations, establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to this</li> </ul>	<ul style="list-style-type: none"> <li>Punjab Labour Policy, 2015</li> <li>The Factories Act, 1934</li> <li>The Punjab Shops &amp; Establishments Ordinance, 1969</li> <li>The Road Transport Workers Ordinance, 1961</li> <li>The Punjab Restriction on Employment of Children Act, 2016</li> <li>The Punjab Prohibition of Child Labour at Brick Kilns Act, 2016</li> <li>The Mines Act, 1923</li> </ul>	<ul style="list-style-type: none"> <li>Though, the Punjab Labour Policy, 2015 resolves elimination and rehabilitation of child labour, yet neither the Policy nor the relevant labour laws defines any way forward for the rehabilitation of children detached from the workplaces.</li> <li>The Policy recommends establishment of Provincial Committee on Elimination of Child Labour for effective supervision and monitoring. However, terms of reference of the Committee are not defined to achieve the spirit of this Convention, coherently with practical involvement of all the concerned government</li> </ul>

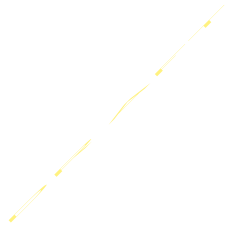
## Legal and Administrative Gaps

Article	Relevant Law	Gap
<p>Convention.</p> <p><b>Article 7 (C 182)</b></p> <ul style="list-style-type: none"> <li>▶ Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to: <ul style="list-style-type: none"> <li>▪ 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;</li> </ul> </li> </ul>		<p>agencies / departments.</p> <ul style="list-style-type: none"> <li>▶ <b>It is recommended that the committee has statutory force to get its recommendations implemented by all the relevant stakeholders.</b></li> <li>▶ The labour laws relating to the prohibition of child labour are not in consonance with each other, especially on the minimum age to employment / definition of child labour, which requires to be made uniform.</li> <li>▶ There is no concept in the labour laws relevant to the prohibition of child labour to review and raise the minimum age to enter in employment progressively with the consultation of employers and workers organizations.</li> <li>▶ Similarly, the Punjab Labour Policy, 2015 is also silent to raise progressively the minimum age for admission to employment or work consistent with the physical and mental development of the children or young persons as required by the Convention.</li> </ul>
<p><b>Article 2 (C 138)</b></p> <ul style="list-style-type: none"> <li>▶ The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less</li> </ul>	<ul style="list-style-type: none"> <li>▶ The Factories Act, 1934</li> <li>▶ The Punjab Shops &amp; Establishments Ordinance, 1969</li> <li>▶ The Punjab Restriction on</li> </ul>	<ul style="list-style-type: none"> <li>▶ The Article 2 of C 138 requires minimum age for admission to employment not to be less than the age of completion of compulsory schooling. At present, Section 3 of the</li> </ul>

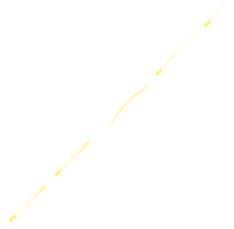
## Legal and Administrative Gaps

Article	Relevant Law	Gap
<p>than 15 years.</p>	<p>Employment of Children Act, 2016</p> <ul style="list-style-type: none"> <li>▶ The Punjab Prohibition of Child Labour at Brick Kilns Act, 2016</li> </ul>	<p>law relating to compulsory education namely “Punjab Free and Compulsory Education Act, 2014” ensures education of a child from class one to class ten.</p> <ul style="list-style-type: none"> <li>▶ Whereas, the definition of a child under the relevant labour laws is a person, who has not completed his fourteen years of age (except under the Punjab Restriction on Employment of Children Act, 2016).</li> <li>▶ <b>Therefore, it is recommended that the definition of a child be reviewed in the other relevant laws i.e. the Factories Act, 1934 and the Punjab Shops &amp; Establishments Ordinance, 1969 to allow a child to complete his compulsory schooling i.e. at least to the level of 10th class as per spirit of the Punjab Free and Compulsory Education Act, 2014.</b></li> </ul>
<p><b>Article 3 (C 138)</b></p> <ul style="list-style-type: none"> <li>▶ The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years.</li> <li>▶ The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or</li> </ul>	<ul style="list-style-type: none"> <li>▶ The Factories Act, 1934</li> <li>▶ The Punjab Shops &amp; Establishments Ordinance, 1969</li> <li>▶ The Road Transport Workers Ordinance, 1961</li> </ul>	<ul style="list-style-type: none"> <li>▶ Under Section 2 of the Shops &amp; Establishments Ordinance, 1969, the definitions of “adult”, “child” and “young person” are inconsistent to the relevant definitions in the other labour laws in their nomenclature and age bracket.</li> <li>▶ “Adult” has been defined a person, who has completed his seventeenth year age, whereas in the Factories</li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
<p>by the competent authority, after consultation with the organizations of employers and workers concerned, where such exist.</p> <ul style="list-style-type: none"> <li>▶ Notwithstanding the provisions of paragraph 1 of this Article, national laws or regulations or the competent authority may, after consultation with the organizations of employers and workers concerned, where such exist, authorize employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.</li> </ul> <p><b>Article 7 (C 138)</b></p> <ul style="list-style-type: none"> <li>▶ National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is-- <ul style="list-style-type: none"> <li>▪ not likely to be harmful to their health or development; and</li> <li>▪ not such as to prejudice their attendance at school, their participation in vocational orientation or training programs approved by the competent authority or their capacity to benefit from the instruction received.</li> </ul> </li> <li>▶ National laws or regulations may also permit</li> </ul>		<p>Act, 1934, it is eighteenth year of age.</p> <ul style="list-style-type: none"> <li>▶ Similarly, “child” means a person, who has not attained the age of fourteenth year whereas in the Punjab Restriction on Employment of Children Act, 2016, it is fifteen year.</li> <li>▶ <b>It is recommended that the term “young person” be substituted by “adolescent” by nomenclature and by definition in the following manner: “a person who has completed his fifteen year and has not completed his eighteenth year of age.”</b></li> <li>▶ Under Section 3 of the Road Transport Workers Ordinance, 1961, age limit for employment of a person in road transport service other than driver has been addressed.</li> <li>▶ It is necessary to make the engagement of a worker other than employment in any road transport service cognizable in line to the definition of worker given in this law.</li> <li>▶ <b>Similarly, in case of any dispute with regard to age of a worker, mechanism for its resolution is recommended to be inserted in the Road Transport Workers Ordinance, 1961.</b></li> <li>▶ Under Section 2 of the Factories Act,</li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
<p>the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements set forth in sub-paragraphs (a) and (b) of paragraph 1 of this Article.</p> <ul style="list-style-type: none"> <li>▶ The competent authority shall determine the activities in which employment or work may be permitted under paragraphs 1 and 2 of this Article and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.</li> <li>▶ Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which has availed itself of the provisions of paragraph 4 of Article 2 may, for as long as it continues to do so, substitute the ages 12 and 14 for the ages 13 and 15 in paragraph 1 and the age 14 for the age 15 in paragraph 2 of this Article.</li> </ul>		<p>1934, the upper age limit of “adolescent” and “adult” does not correspond with the other laws relevant to the prohibition of employment of children in industrial and commercial establishments.</p> <ul style="list-style-type: none"> <li>▶ Employment of children below the age of fourteen years is prohibited under Section 50 of the Factories Act, 1934 and the children between the age of fourteen and fifteen are allowed to work. <b>Therefore, it is recommended to make this law uniform with the other labour laws relating to definition of “child”, “adolescent” and “adult” to excrete the confusion.</b></li> <li>▶ Under the Factories Act, 1934, the “adolescent” should be a person who has completed his fifteenth but has not completed his eighteenth year and an “adult” means a person who has completed his eighteenth year.</li> <li>▶ Under Section 50 of the Factories Act, 1934, employment of young children, who has not attained the age of fourteen years has been prohibited. This provision is not in consonance with the relevant provisions of other laws relating to the prohibition of employment of children.</li> <li>▶ Therefore, this section should be re-arranged to prohibit the employment</li> </ul>

Legal and Administrative Gaps

Article	Relevant Law	Gap
		<p>of “children” rather than young children.</p> <ul style="list-style-type: none"> <li>▶ Under Section 51 of the Factories Act, 1934, employment of non-adult workers not carrying token giving reference to certificate of fitness has been prohibited. Whereas, non-adult worker is a relative term, which also includes children, whose employment is prohibited and <b>as such words “non-adult” from the title of this Section is recommended to be substituted by “adolescent” and similarly adolescent shall be made responsible for carrying a certificate of age rather than certificate of fitness.</b></li> <li>▶ At the time of promulgation of Factories Act, 1934, there was no unified system for registration of the individuals under any law and as such certificate of fitness was issued by the Certifying Surgeon. <b>Therefore, holding of certificates of registration with NADRA and Birth Registration with the Local Government Authority is recommended to be made mandatory for determination of age of the workers prior to their engagement on work.</b></li> <li>▶ Under Section 52 of the Factories Act, 1934, a child may also get a certificate of fitness from the</li> </ul>



Article	Relevant Law	Gap
		<p>Certifying Surgeon, which is against the spirit of prohibition of employment of children. <b>Therefore, it is recommended that the certificate of fitness under this clause be issued to an “adolescent” only and not to a child, whose employment is prohibited. This provision of law may be re-arranged accordingly to avoid confusion and to make it uniform to the other laws.</b></p> <p>▶ Section 53 of the Factories Act, 1934, defining the effect of certificate of fitness granted to an adolescent is recommended to be re-arranged in the following manner to make it in consonance with the other provisions regarding regulation of employment of adolescents in this law: -</p> <ul style="list-style-type: none"> <li>▪ “An adolescent who has not been granted a certificate of fitness to work in a factory under sub-section (2) of section 52, shall be deemed to be a child for the purposes of this Act.”</li> <li>▪ Similarly, Sub-Section (1) of Section 53 of the Factories Act, 1934 has no relevance and is proposed to be deleted.</li> </ul>

Legal and Administrative Gaps

Article	Relevant Law	Gap
		<p>▶ At present, there is no provision in the Punjab Shops &amp; Establishments Ordinance, 1969 regarding determination of age of a person, when a controversy arises between the employer and the Inspector on the age of a young person / adolescent found at the work place during the course of inspection. <b>It is proposed that new provisions may be added in the following manner: -</b></p> <ul style="list-style-type: none"> <li>▪ <b>No adolescent should be allowed to work in any establishment unless a certificate of his registration with the National Database and Registration Authority (NADRA) or a certificate of his birth registration with the respective Local Government Authority are in the custody of the employer of the establishment, and he carries while he is at work a token giving a reference to such certificates.</b></li> <li>▪ <b>No adolescent should be allowed to work in an establishment for more than five hours in any day. The hours of work of an adolescent should be so arranged that</b></li> </ul>

Legal and Administrative Gaps

Article	Relevant Law	Gap
		<p>spread over may not more than seven-and-a-half hours in any day.</p> <ul style="list-style-type: none"> <li>▪ No adolescent should be allowed to work in an establishment except between 6am and 7pm.</li> <li>▪ No adolescent should be allowed to work in any establishment on any day on which he has already been working in another establishment.</li> </ul> <p>▶ Under Section 8 of the Punjab Shops &amp; Establishments Ordinance, 1969, overtime work from adolescents is permitted against the spirit of Convention. <b>Therefore, the daily and weekly working hours for young person / adolescents are recommended to be prescribed and arranged in such a manner to restrict overtime work from the adolescents to make the law progressive and more conforming to the spirit of the relevant ILO Conventions.</b></p> <p>▶ In the Factories Act, 1934, Punjab Shops &amp; Establishments Ordinance, 1969, and Punjab Restriction of Employment of Children Act, 2016, for the adolescents deployed on work,</p>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
		<p>the employer has neither been made responsible nor any arrangement has been made for vocational and appropriate training and awareness of the work required to be done by the adolescents for their safety at the workplace.</p>
<p><b>Article 5 (C 138)</b></p> <ul style="list-style-type: none"> <li>▶ The provisions of the Convention shall be applicable as a minimum to the following: mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.</li> </ul>	<ul style="list-style-type: none"> <li>▶ The Punjab Shops &amp; Establishments Ordinance, 1969</li> </ul>	<ul style="list-style-type: none"> <li>▶ Under Section 2(j) and 2(o) of the Punjab Shops &amp; Establishments Ordinance, 1969, terms “establishment” and “industrial establishment” have been defined. Scope of these definitions is limited and does not include: - <ul style="list-style-type: none"> <li>▪ Domestic work, home based work, persons employed in agriculture, private hospitals, private educational institutions, sanitary services etc. so far as the definition of establishment is concerned.</li> <li>▪ Mending, assembling, fabricating, blending, construction of building and erection of machinery, so far definition of industrial establishment is concerned.</li> </ul> </li> <li>▶ Due to this reason, most of the sectors are excluded from the purviews of this law in its application to impose restrictions on the employment of</li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
<p><b>Article 8 (C 138)</b></p> <ul style="list-style-type: none"> <li>▶ After consultation with the organizations of employers and workers concerned, where such exist, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment or work provided for in Article 2 of this Convention, for such purposes as participation in artistic performances.</li> <li>▶ Permits so granted shall limit the number of hours during which and prescribe the conditions in which employment or work is allowed.</li> </ul>	<ul style="list-style-type: none"> <li>▶ The Factories Act, 1934</li> </ul>	<p>children.</p> <ul style="list-style-type: none"> <li>▶ Sections 54, 55, 56, 57 and 58 of the Factories Act, 1934 are relating to restrictions of working hours of a child, notice of period for work of a child, maintenance of registers of child workers and medical examination of a child, whereas employment of children is completely prohibited in the factories. <b>It is, therefore, proposed that the word "child" may be substituted by the word "adolescent" to make these provisions of law in consonance with the relevant provisions regarding regulation of employment of adolescent, because employment of children is prohibited and employment of adolescent is being regulated.</b></li> </ul>
<p><b>Article 9 (C 138)</b></p> <ul style="list-style-type: none"> <li>▶ National laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom he employs or who work for him and who are less than 18 years of age.</li> </ul>	<ul style="list-style-type: none"> <li>▶ The Punjab Shops and Establishments Ordinance, 1969</li> </ul>	<ul style="list-style-type: none"> <li>▶ In the Punjab Shops and Establishments Ordinance, 1969, there is no provision regarding maintenance of separate record and registers in case of employment of adolescents in an establishment. <b>Therefore, the employer of every establishment in which adolescents are employed may be made responsible to maintain a Register of the said workers showing the name and age of each adolescent on work in the establishment, the nature of</b></li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
		<p>his work, the number of his certificate of age, and such other particulars as may be prescribed; and the hours of work.</p>
<p><b>Article 3 (C 182)</b></p> <ul style="list-style-type: none"> <li>▶ For the purposes of this Convention, the term the worst forms of child labour comprises:           <ul style="list-style-type: none"> <li>▪ all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;</li> <li>▪ the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;</li> <li>▪ the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;</li> <li>▪ work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▶ Punjab Restriction on Employment of Children Act, 2016</li> </ul>	<ul style="list-style-type: none"> <li>▶ Under Section 2(i) of the Punjab Restriction on Employment of Children Act, 2016, the term “hazardous work” has been defined, which does not include all the eventualities mentioned in Article 3 of Convention No. 182.</li> <li>▶ The term “worst form of child labour” is not defined in this law according to the spirit of Article 3 of Convention No. 182. However, penalty in this regard is provided under Section 11(3) of the Punjab Restriction on Employment of Children Act, 2016.</li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
<p><b>Article 4 (C 182)</b></p> <ul style="list-style-type: none"> <li>▶ The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Punjab Restriction on Employment of Children Act, 2016</li> </ul>	<ul style="list-style-type: none"> <li>▶ Though, under Section 4 of the Punjab Restriction on Employment of Children Act, 2016, a Provincial Committee on Child Labour has been formed, however, for periodical review of the list of hazardous occupations appended with the law, neither the Committee is authorized nor a mechanism has been formulated, which should be based on consultation with the organizations of employers and workers as per spirit of Article 4(3) of the C 182.</li> </ul>



## Forced Labour / Worker's Safety

C029 - Forced Labour Convention, 1930

C105 - Abolition of Forced Labour Convention, 1957

Article	Relevant Law	Gap
<p><b>Article 2 (C 029)</b></p> <ul style="list-style-type: none"> <li>▶ For the purposes of this Convention the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.</li> <li>▶ Nevertheless, for the purposes of this Convention, the term forced or compulsory labour shall not include--                             <ul style="list-style-type: none"> <li>▪ any work or service exacted in virtue of compulsory military service laws for work of a purely military character;</li> <li>▪ any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▶ Bonded Labour System (Abolition) Act, 1992 (III of 1992)</li> <li>▶ Bonded Labour System (Abolition) Rules, 1995</li> </ul>	<ul style="list-style-type: none"> <li>▶ Article 11(2) of the constitution of Islamic Republic of Pakistan prohibits all forms of forced labour and trafficking in human beings. This is in line with Conventions C29 and C105 ratified by the Government of Pakistan. These prohibit forced labour and member states are responsible to suppress the use of forced or compulsory labour in all its forms. Whereas, in the relevant legislation i.e. Bonded Labour System (Abolition) Act, 1992, neither the term "forced labour" is defined nor has been inculcated in the subsequent provisions for its suppression.</li> <li>▶ Under Section 2(c) of the Bonded Labour System (Abolition) Act, 1992, forced and compulsory labour is not included in the definition of</li> </ul>

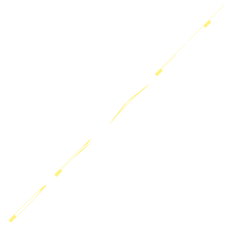


## Legal and Administrative Gaps

Article	Relevant Law	Gap
<ul style="list-style-type: none"> <li>▪ any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;</li> <li>▪ any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;</li> <li>▪ minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.</li> </ul>		<p><b>“bonded labour”, which is recommended be changed accordingly.</b></p> <ul style="list-style-type: none"> <li>▶ The term “forced or compulsory labour” is not defined at any place in Section 2 of the Bonded Labour System (Abolition) Act, 1992 as it excludes key elements which are part of the ILO Conventions: <ul style="list-style-type: none"> <li>▪ Penalties imposed by a court,</li> <li>▪ Compulsory military service,</li> <li>▪ Action taken in an emergency,</li> <li>▪ Normal civil obligations, and</li> <li>▪ Minor communal services.</li> </ul> </li> <li>▶ The preamble of the Bonded Labour System (Abolition) Act, 1992 does not include prohibition of all forms of forced and compulsory labour which is not in line with the spirit of the ILO Conventions.</li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
<p><b>Article 4 (C 029)</b></p> <ul style="list-style-type: none"> <li>▶ The competent authority shall not impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies or associations.</li> </ul>		
<p><b>Article 1 (C 105)</b></p> <ul style="list-style-type: none"> <li>▶ Each Member of the ILO which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labour-- <ul style="list-style-type: none"> <li>▪ as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;</li> <li>▪ as a method of mobilizing and using labour for purposes of economic development;</li> <li>▪ as a means of labour discipline;</li> <li>▪ as a punishment for having participated in strikes;</li> <li>▪ as a means of racial, social, national or religious discrimination.</li> </ul> </li> </ul> <p><b>Article 2 (C 105)</b></p> <ul style="list-style-type: none"> <li>▶ Each Member of the ILO which ratifies this Convention undertakes to take effective</li> </ul>	<ul style="list-style-type: none"> <li>▶ Bonded Labour System (Abolition) Act, 1992 (III of 1992)</li> <li>▶ Bonded Labour System (Abolition) Rules, 1995</li> </ul>	<ul style="list-style-type: none"> <li>▶ Since the promulgation of Bonded Labour System (Abolition) Act, 1992, the issue of its enforcement in letter and spirit always remained critical and has received criticism that the situation has not been changed as per objects of the law. The “bonded debt” has been defined as, an advance “peshgi” obtained by bonded labourer under or in pursuance of, the bonded labour system, which means that advances cannot be obtained outside of a bonded labour system.</li> <li>▶ On the other hand, certain existing laws concerned to the subject and related to the industrial units regulate the payment of advances to the labourer and subsequent recovery of the said amounts, for example, Section 7(2)(f) of the Payment of Wages Act, 1936 allows deductions from the wages of a workers for recovery of advances subject to the conditions defined under Section 12 of the act ibid. Rule 17 of the Payment of Wages Rules, 1960 which prescribes the procedure for recovery</li> </ul>

Article	Relevant Law	Gap
<p>measures to secure the immediate and complete abolition of forced or compulsory labour as specified in Article 1 of this Convention.</p> <p><b>Article 23 (C 029)</b></p> <ul style="list-style-type: none"> <li>▶ To give effect to the provisions of this Convention the competent authority shall issue complete and precise regulations governing the use of forced or compulsory labour.</li> <li>▶ These regulations shall contain, inter alia, rules permitting any person from whom forced or compulsory labour is exacted to forward all complaints relative to the conditions of labour to the authorities and ensuring that such complaints will be examined and taken into consideration.</li> </ul> <p><b>Article 24 (C 029)</b></p> <ul style="list-style-type: none"> <li>▶ Adequate measures shall in all cases be taken to ensure that the regulations governing the employment of forced or compulsory labour are strictly applied, either by extending the duties of any existing labour inspectorate which has been established for the inspection of voluntary labour to cover the inspection of forced or compulsory labour or in some other appropriate manner. Measures shall also be taken to ensure that the regulations are brought to the knowledge of persons from</li> </ul>		<p>of advances in installments.</p> <ul style="list-style-type: none"> <li>▶ In these circumstances, the definition of Bonded Debt, which at the outset denies the advance “peshgi” but which is allowed under the other labour laws, when applied in formal industrial and commercial sector including brick kilns, this inconsistency creates confusion around whether any advance is “bonded debt” or a legal advance.</li> <li>▶ In the Bonded Labour System (Abolition) Act, 1992, there is no provision to protect the extent of recoverable advances, which is standing in the way for enforcement of this law in its letter &amp; spirit and most of the advances are imagined illegal advances / debt bondage.</li> <li>▶ Under this law, the employer has not been made responsible to maintain a record in respect of advances made and their recovery.</li> <li>▶ The issue of ownership of Bonded Labour System (Abolition) Act, 1992 is also standing in the way of the enforcement of this law. All offences under this law are cognizable and the police take cognizance of this matter on a complaint by the aggrieved person. Usually, the victims do not bother to lodge complaints before the</li> </ul>

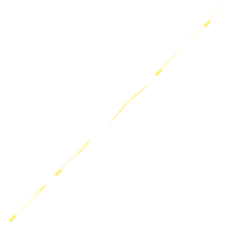
## Legal and Administrative Gaps

Article	Relevant Law	Gap
whom such labour is exacted.		<p>police due to the social set up of society. The Inspector need to rescue the bonded labourers. As the inspectors are stretched, the victims of forced labour are at the mercy of their employers.</p> <ul style="list-style-type: none"> <li>▶ There is no formal inspection mechanism in the Bonded Labour System (Abolition) Act, 1992 to detect bonded labour, reporting procedure and further course of action in respect thereof as per requirements of Articles 2(1), 12, 22, 23 and 24 of the ILO C 081 (Labour Inspection Convention).</li> <li>▶ The Bonded Labour System (Abolition) Act, 1992 is a criminal law and no department at the Provincial level owns it for its meticulous enforcement.</li> <li>▶ <b>There is a need to divide the Bonded Labour System (Abolition) Act, 1992 into two parts to carry on its provisions in the formal industrial &amp; commercial sector by way of inspection. Definitions of "establishment", "employer" and "inspector" are recommended to be incorporated. It is also recommended that the matter of bonded or forced labour be inquired while inspecting an establishment.</b></li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
		<ul style="list-style-type: none"> <li>▶ There is no procedure given in the Bonded Labour System (Abolition) Act, 1992 to be adopted by government agency ex-proprio motu as a savior of the victims, when a bonded labourer is detected or an employer rendered bonded labour from any person. In the absence of a reporting mechanism, the enforcement of core provisions of this law have lost their efficacy.</li> <li>▶ The labourers reportedly rendering bonded labour usually reside at the workplaces particularly in brick kiln sector and domestic work. Besides, recovery of outstanding advances, there is an issue of eviction from accommodation to be faced by the labourers, when their work relationship is terminated. In the existing law, there is no provision to address such eventualities and to save the workers from exploitation at the hands of the employers.</li> </ul>
<p><b>Article 3 (C 029)</b></p> <ul style="list-style-type: none"> <li>▶ For the purposes of this Convention the term competent authority shall mean either an authority of the metropolitan country or the highest central authority in the territory concerned</li> </ul> <p><b>Article 4 (C 081)</b></p>	<ul style="list-style-type: none"> <li>▶ Bonded Labour System (Abolition) Act, 1992 (III of 1992)</li> <li>▶ Bonded Labour System (Abolition) Rules, 1995</li> </ul>	<ul style="list-style-type: none"> <li>▶ There is no mechanism in the Bonded Labour System (Abolition) Act, 1992 to inspect the workplaces for detection of forced or compulsory labour in the formal industrial and commercial sector, in case of rendering forced labour in the informal sector under the supervision</li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
<ul style="list-style-type: none"> <li>▶ So far as is compatible with the administrative practice of the Member, labour inspection shall be placed under the supervision and control of a central authority.</li> <li>▶ In the case of a federal State, the term central authority may mean either a federal authority or a central authority of a federated unit.</li> </ul>		<p>of a competent central authority at the Provincial Level.</p> <ul style="list-style-type: none"> <li>▶ Under the Bonded Labour System (Abolition) Act, 1992 and Rules made thereunder, composition of vigilance committees at the district level lacks representation of the relevant government departments, employers and workers organizations.</li> <li>▶ Scope of the vigilance committees is narrow, which requires to be extended to resolve the disputes and to create awareness amongst the stakeholders.</li> <li>▶ <b>It is recommended that the vigilance committees also be authorized to constitute sub-committees amongst the members for specific purpose to achieve its objectives and to make the institution of vigilance committees broad spectrum. The following institutions are recommended to be added in the composition of the committee: -</b> <ul style="list-style-type: none"> <li>▪ Social Service Organizations</li> <li>▪ Representatives of recognized workers organizations</li> <li>▪ Representatives of recognized employers organizations</li> </ul> </li> </ul>

Legal and Administrative Gaps

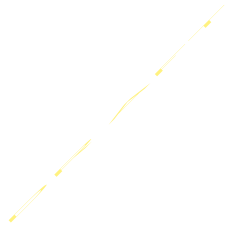
Article	Relevant Law	Gap
		<ul style="list-style-type: none"> <li>▪ Prosecution department</li> <li>▶ The following functions may be added in the scope of the DVCs: -               <ul style="list-style-type: none"> <li>▪ To create awareness amongst the labourers and the employers on their rights and liabilities guaranteed under this Act.</li> <li>▪ To resolve the disputes amongst the labourers and the employers referred to it by the Competent Authority at District Level.</li> <li>▪ For effective monitoring and vigilance, a Provincial Vigilance Committee should be formed with the following mandate: -                   <ul style="list-style-type: none"> <li>▪ To review the implementation of the law and action plan relating to abolition of bonded labour and rehabilitation of freed bonded labourers.</li> <li>▪ To monitor the working of the District Vigilance Committees constituted under this Act and Rules made there-under.</li> </ul> </li> <li>▪ To address the concerns of</li> </ul> </li> </ul>

## Legal and Administrative Gaps

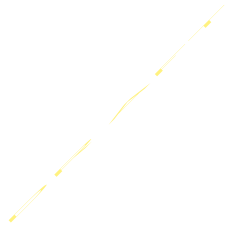
Article	Relevant Law	Gap
		<p>national and international bodies on bonded / forced labour related matters.</p> <ul style="list-style-type: none"> <li>▶ To strengthen the role of District Vigilance Committees for dispute resolution, an “Alternative Dispute Resolution Mechanism (ADR)” is recommended to be added in the law to make the offences under this law compoundable, however, only with the permission of the court.</li> </ul>
<p><b>Article 12 (C 029)</b></p> <ul style="list-style-type: none"> <li>▶ The maximum period for which any person may be taken for forced or compulsory labour of all kinds in any one period of twelve months shall not exceed sixty days, including the time spent in going to and from the place of work.</li> </ul> <p><b>Article 13 (C 029)</b></p> <ul style="list-style-type: none"> <li>▶ The normal working hours of any person from whom forced or compulsory labour is exacted shall be the same as those prevailing in the case of voluntary labour, and the hours worked in excess of the normal working hours shall be remunerated at the rates prevailing in the case of overtime for voluntary labour.</li> <li>▶ A weekly day of rest shall be granted to all persons from whom forced or compulsory labour of any kind is exacted and this day</li> </ul>	<ul style="list-style-type: none"> <li>▶ Bonded Labour System (Abolition) Act, 1992 (III of 1992)</li> <li>▶ Bonded Labour System (Abolition) Rules, 1995</li> </ul>	<ul style="list-style-type: none"> <li>▶ The following areas concerned to the rights of workers as well as liabilities of the employer are covered under different labour legislations as mentioned below. These rights of workers are usually not extended to the workers who are forced into labour and are exploited at the hands of their employers: <ul style="list-style-type: none"> <li>▪ Timely Payment of Wages</li> <li>▪ Deductions from Wages</li> <li>▪ Payment of Compensation in case of injury and death</li> <li>▪ Workers Welfare measures for grant of educational stipend, marriage grant and free education.</li> </ul> </li> </ul>



## Legal and Administrative Gaps

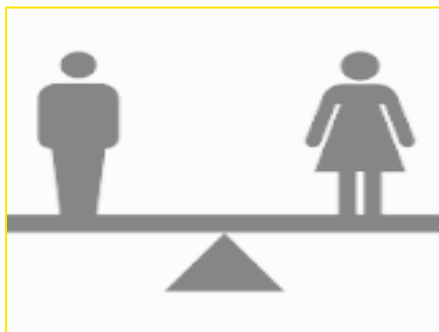
Article	Relevant Law	Gap
<p>shall coincide as far as possible with the day fixed by tradition or custom in the territories or regions concerned.</p> <p><b>Article 14 (C 029)</b></p> <ul style="list-style-type: none"> <li>▶ With the exception of the forced or compulsory labour provided for in Article 10 of this Convention, forced or compulsory labour of all kinds shall be remunerated in cash at rates not less than those prevailing for similar kinds of work either in the district in which the labour is employed or in the district from which the labour is recruited, whichever may be the higher.</li> <li>▶ In the case of labour to which recourse is had by chiefs in the exercise of their administrative functions, payment of wages in accordance with the provisions of the preceding paragraph shall be introduced as soon as possible.</li> <li>▶ The wages shall be paid to each worker individually and not to his tribal chief or to any other authority.</li> <li>▶ For the purpose of payment of wages the days spent in travelling to and from the place of work shall be counted as working days.</li> <li>▶ Nothing in this Article shall prevent ordinary rations being given as a part of wages, such rations to be at least equivalent in value to the money payment they are taken to represent, but deductions from wages shall not be made either for the payment of taxes</li> </ul>		<ul style="list-style-type: none"> <li>▪ Terms and conditions of employment</li> <li>▪ Occupational health and safety at workplaces and favorable working conditions</li> <li>▪ Daily and weekly working hours</li> <li>▪ Leaves and rest intervals</li> <li>▪ Sickness benefits</li> <li>▪ Old-age benefits</li> <li>▪ Compulsory incentive</li> <li>▪ Service benefits like gratuity and provident fund</li> <li>▪ Remunerations and extra pay in case of overtime</li> <li>▪ Minimum Wages to protect financial exploitation</li> </ul> <p>▶ The Bonded Labour System (Abolition) Act, 1992 does not make arrangements to protect the workers in respect of the above mentioned core labour rights.</p>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
<p>or for special food, clothing or accommodation supplied to a worker for the purpose of maintaining him in a fit condition to carry on his work under the special conditions of any employment, or for the supply of tools.</p> <p><b>Article 15 (C 029)</b></p> <ul style="list-style-type: none"> <li>▶ Any laws or regulations relating to workmen's compensation for accidents or sickness arising out of the employment of the worker and any laws or regulations providing compensation for the dependents of deceased or incapacitated workers which are or shall be in force in the territory concerned shall be equally applicable to persons from whom forced or compulsory labour is exacted and to voluntary workers.</li> <li>▶ In any case it shall be an obligation on any authority employing any worker on forced or compulsory labour to ensure the subsistence of any such worker who, by accident or sickness arising out of his employment, is rendered wholly or partially incapable of providing for himself, and to take measures to ensure the maintenance of any persons actually dependent upon such a worker in the event of his incapacity or decease arising out of his employment.</li> </ul>		
<p><b>Article 25 (C 029)</b></p> <ul style="list-style-type: none"> <li>▶ The illegal exaction of forced or compulsory labour shall be punishable as a penal offence,</li> </ul>	<ul style="list-style-type: none"> <li>▶ Bonded Labour System (Abolition) Act, 1992 (III of 1992)</li> <li>▶ Bonded Labour System (Abolition)</li> </ul>	<ul style="list-style-type: none"> <li>▶ Quantum and state of penalties / punishments are important especially, when violation of legal provisions is</li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.	Rules, 1995	an offence and criminal liabilities are imposed to create deterrence. <ul style="list-style-type: none"><li>▶ <b>Therefore, it is recommended that penalties under the Bonded Labour System (Abolition) Act, 1992 be enhanced in both ways by imposing fine and awarding imprisonment.</b></li></ul>

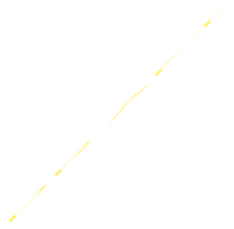


## Women Employment / Discrimination

C100 - Equal Remuneration Convention, 1951

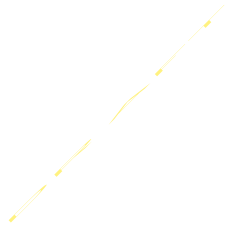
C111 - Discrimination (Employment and Occupation) Convention, 1958

Article	Relevant Law	Gap
<p><b>Article 2 (C 100)</b></p> <ul style="list-style-type: none"> <li>▶ Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.</li> <li>▶ This principle may be applied by means of--                             <ul style="list-style-type: none"> <li>▪ national laws or regulations;</li> <li>▪ legally established or recognized machinery for wage determination;</li> <li>▪ collective agreements between employers and workers; or</li> <li>▪ a combination of these various means.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▶ Factories Act, 1934</li> <li>▶ Punjab Shops &amp; Establishments Ordinance, 1969</li> <li>▶ Punjab Industrial &amp; Commercial Employment (Standing Orders) Ordinance, 1968</li> <li>▶ Apprenticeship Ordinance, 1962</li> <li>▶ Payment of Wages Act, 1936</li> <li>▶ Workmen's Compensation Act, 1923</li> <li>▶ Employees' Old-Age Benefit Act, 1976</li> <li>▶ Provincial Employees' Social Security Ordinance, 1965</li> <li>▶ Minimum Wages Ordinance, 1961</li> <li>▶ Minimum Wages for Unskilled Workers Ordinance, 1969</li> </ul>	<ul style="list-style-type: none"> <li>▶ Under these labour laws, the following remunerations, emoluments and financial benefits for the workers are secured:                             <ul style="list-style-type: none"> <li>▪ Minimum wage,</li> <li>▪ Additional wage on overtime,</li> <li>▪ Compensation for death and disablement,</li> <li>▪ Sickness and disability benefits,</li> <li>▪ Free of cost medical treatment,</li> <li>▪ Old-age pension and lump sum grant,</li> <li>▪ Bonus on profit,</li> </ul> </li> </ul>

Article	Relevant Law	Gap
<p><b>Article 3 (C 100)</b></p> <ul style="list-style-type: none"> <li>▶ Where such action will assist in giving effect to the provisions of this Convention measures shall be taken to promote objective appraisal of jobs on the basis of the work to be performed.</li> <li>▶ The methods to be followed in this appraisal may be decided upon by the authorities responsible for the determination of rates of remuneration, or, where such rates are determined by collective agreements, by the parties thereto.</li> <li>▶ Differential rates between workers which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value.</li> </ul> <p><b>Article 4 (C 100)</b></p> <ul style="list-style-type: none"> <li>▶ Each Member shall co-operate as appropriate with the employers' and workers' organizations concerned for the purpose of giving effect to the provisions of this Convention.</li> </ul>		<ul style="list-style-type: none"> <li>▪ Gratuity,</li> <li>▪ Group Incentive,</li> <li>▪ Compulsory Group Insurance against death,</li> <li>▪ Stipend for apprenticeship trainees,</li> <li>▪ Leave encashment, and</li> <li>▪ Wage in lieu of notice on termination.</li> </ul> <ul style="list-style-type: none"> <li>▶ The Minimum Wages Ordinance, 1961 empowers the Government to declare minimum rates of wages for unskilled workers and different categories of skilled and semi-skilled workers in particular industries. The law formulates mechanism for determination of minimum rates of wages based on cost of living and economic conditions on the recommendations of a Board constituted for the said purpose.</li> <li>▶ However, the law is silent on job appraisal mechanism to evaluate the work of different categories to be done by the workers for setting of minimum wages for the work of equal values.</li> <li>▶ Under Rule 15 of the Minimum Wages Rules, 1962, the principle of equal</li> </ul>

Article	Relevant Law	Gap
		<p>remuneration for men and women workers for work of equal value is protected. The application of this law might be missing in practice.</p> <ul style="list-style-type: none"> <li>▶ These labour laws impliedly negates discrimination in wage or other remunerations / emoluments to be paid to the workers by the employers or by the state agencies (EOBI, PWWB &amp; PESSI) based on sex; yet this concept is not addressed expressly to make the act of discrimination on account of gender classification by any employer cognizable under the said laws.</li> <li>▶ <b>The following additions are proposed to be made in the said laws: -</b> <ul style="list-style-type: none"> <li>▪ <b>The employer shall pay equal remunerations including basic or minimum wage, salary or any additional emoluments, whatsoever payable directly or indirectly as per law and practice, whether in cash or in kind to the workmen for equal value of work without discrimination based on gender.</b></li> <li>▪ <b>All claims of wage differential of a workman / workwoman, where there is a discrimination in payment of remuneration for</b></li> </ul> </li> </ul>

Legal and Administrative Gaps

Article	Relevant Law	Gap
		<p>work of equal value shall be settled and recovered in the same manner as provided for illegal deduction in the Payment of Wages Act, 1936 and compensation under the Workmen’s Compensation Act, 1923.</p> <ul style="list-style-type: none"> <li>▪ The Minimum Wages Board constituted under the Minimum Wages Ordinance, 1961 shall prior to recommending minimum rates of wages for different categories of skilled, semi-skilled and highly skilled workers should take steps for appraisal of jobs of the said categories on basis of work to be performed in the prescribed manner.</li> <li>▪ The employers shall be responsible to take steps to promote objective appraisal of jobs through collective agreements and active participation of workers’ representatives prior to deciding financial benefits or other incentive schemes for the workers.</li> <li>▪ In case of violation, express</li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
<p><b>Article 1 (C 111)</b></p> <ul style="list-style-type: none"> <li>▶ For the purpose of this Convention the term discrimination includes--           <ul style="list-style-type: none"> <li>▪ 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;</li> <li>▪ such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organizations, where such exist, and with other appropriate bodies.</li> </ul> </li> <li>▶ Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.</li> <li>▶ For the purpose of this Convention the terms employment and occupation include access</li> </ul>	<ul style="list-style-type: none"> <li>▶ The Factories Act, 1934</li> <li>▶ The Punjab Shops &amp; Establishments Ordinance, 1969</li> <li>▶ The Road Transport Workers Ordinance, 1961</li> <li>▶ Punjab Industrial &amp; Commercial Employment (Standing Orders) Ordinance, 1968</li> <li>▶ Apprenticeship Ordinance, 1962</li> </ul>	<p>penal clauses may also be added in the said laws at the appropriate places.</p> <ul style="list-style-type: none"> <li>▶ The terms “discrimination”, “employment” and “occupation” are not defined.</li> <li>▶ “Collective Agreement” is not defined in these laws for effective consultation with the representatives of employers and workers organizations, for determination of factors nullifying or impairing the equality of opportunity or treatment in employment or occupation.</li> <li>▶ <b>Before adding specific provisions in these laws to address the issue of discrimination in employment and occupation to ensure protection against thereof, these terms are recommended to be defined specifically to carry on the spirit of this Convention with clarity.</b></li> </ul>



## Legal and Administrative Gaps

Article	Relevant Law	Gap
<p>to vocational training, access to employment and to particular occupations, and terms and conditions of employment.</p>		
<p><b>Article 2 (C 111)</b></p> <ul style="list-style-type: none"> <li>▶ Each Member for which this Convention is in force undertakes 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 respect thereof.</li> </ul> <p><b>Article 3 (C 111)</b></p> <ul style="list-style-type: none"> <li>▶ Each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice-- <ul style="list-style-type: none"> <li>▪ to seek the co-operation of employers' and workers' organizations and other appropriate bodies in promoting the acceptance and observance of this policy;</li> <li>▪ to enact such legislation and to promote such educational programs as may be calculated to secure the acceptance and observance of the policy;</li> <li>▪ to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▶ The Factories Act, 1934</li> <li>▶ The Punjab Shops &amp; Establishments Ordinance, 1969</li> <li>▶ The Road Transport Workers Ordinance, 1961</li> <li>▶ Punjab Industrial &amp; Commercial Employment (Standing Orders) Ordinance, 1968</li> <li>▶ Apprenticeship Ordinance, 1962</li> </ul>	<ul style="list-style-type: none"> <li>▶ There is no provision in the relevant labour laws to make the discrimination in employment and occupation on the basis of race, colour, sex, religion, political opinion or social origin cognizable and an offence punishable in terms of fine or imprisonment, which is inconsistent with the spirit of this Convention.</li> <li>▶ <b>The following provision is recommended to be made in the laws:</b> <b>Protection against discriminatory treatment.</b> <ul style="list-style-type: none"> <li>▪ No workman shall be treated by an employer in respect of his / her employment or occupation with;</li> <li>▪ Any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin.</li> <li>▪ Such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of</li> </ul> </li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
<p>with the policy;</p> <ul style="list-style-type: none"> <li>▪ to pursue the policy in respect of employment under the direct control of a national authority;</li> <li>▪ to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;</li> <li>▪ to indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.</li> </ul> <p><b>Article 4 (C 111)</b></p> <ul style="list-style-type: none"> <li>▶ Any measures affecting an individual who is justifiably suspected of, or engaged in, activities prejudicial to the security of the State shall not be deemed to be discrimination, provided that the individual concerned shall have the right to appeal to a competent body established in accordance with national practice.</li> </ul> <p><b>Article 5 (C 111)</b></p> <ul style="list-style-type: none"> <li>▶ Special measures of protection or assistance provided for in other Conventions or Recommendations adopted by the International Labour Conference shall not be deemed to be discrimination.</li> <li>▶ Any Member may, after consultation with</li> </ul>		<p>opportunity or treatment in employment or occupation as may be determined by the employers' and workers' representatives through collective agreement.</p> <ul style="list-style-type: none"> <li>▪ Provided that any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.</li> <li>▪ The employer shall establish an effective job appraisal scheme through collective agreement.</li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
representative employers' and workers' organizations, where such exist, determine that other special measures designed to meet the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status, are generally recognized to require special protection or assistance, shall not be deemed to be discrimination.		



## Trade Unions / Freedom of Association

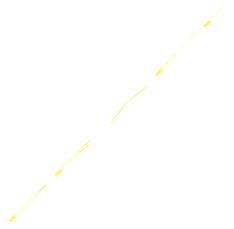
C087 - Freedom of Association and Protection of the Right Convention, 1948

C 098 - Right to Organize and Collective Bargaining Convention, 1949

Article	Relevant Law	Gap
<p><b>Article 2 (C 087)</b></p> <ul style="list-style-type: none"> <li>Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization.</li> </ul>	<ul style="list-style-type: none"> <li>Punjab Industrial Relations Act, 2010</li> </ul>	<ul style="list-style-type: none"> <li>Under Section 1(3) of the Punjab Industrial Relations Act 2010, extent of its application is confined to the persons employed in any establishment or industry. Whereas, the ILO Convention and Article 17 of the Constitution of Islamic Republic of Pakistan unequivocally recognize this right for all the workers without any discrimination.</li> <li><b>Therefore, scope of the law is recommended to be extended, so the workers engaged or employed in informal sector other than in an establishment or industry may not be deprived from the right of freedom of association and right of collective bargaining.</b></li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
<p><b>Article 2 (C 087)</b></p> <ul style="list-style-type: none"> <li>▶ Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization.</li> </ul> <p><b>Article 4 (C 087)</b></p> <ul style="list-style-type: none"> <li>▶ Workers' and employers' organizations shall not be liable to be dissolved or suspended by administrative authority.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Export Processing Zones Authority Ordinance, 1980</li> <li>▶ Punjab Industrial Relations Act, 2010</li> </ul>	<ul style="list-style-type: none"> <li>▶ Section 25 of the Export Processing Zones Authority Ordinance, 1980 gives unrestricted powers to the Government to exempt any Zone established under the said law from the operation of all or any of the provisions of any law for the time being in force.</li> <li>▶ Therefore, Fundamental right of the workers as enshrined in Article 17 of the Constitution of Islamic Republic of Pakistan and protected under the Article 2 of the ILO Convention 87 and Sections 1 and 3 of the Punjab Industrial Relations Act, 2010 may be compromised by issuing a Notification under Section 25 of the Export Processing Zones Authority Ordinance, 1980.</li> <li>▶ <b>It is recommended that this right of workers employed within the export promotion zones not be overlooked by making such Notifications.</b></li> </ul>
<p><b>Article 8 (C 087)</b></p> <ul style="list-style-type: none"> <li>▶ In exercising the rights provided for in this Convention workers and employers and their respective organizations, like other persons or organized collectivities, shall respect the law of the land.</li> <li>▶ The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this</li> </ul>	<ul style="list-style-type: none"> <li>▶ Punjab Industrial Relations Act, 2010</li> </ul>	<ul style="list-style-type: none"> <li>▶ Industrial disputes and day to day differences arisen between the workers and the employers are settled through bilateral negotiations and conciliation or arbitration before the Government machinery by way of settlement or award respectively as the case may be under the provisions of Punjab Industrial Relations Act, 2010. Under</li> </ul>

Article	Relevant Law	Gap
<p>Convention.</p> <p><b>Article 4 (C 098)</b></p> <ul style="list-style-type: none"> <li>▶ Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements.</li> </ul>		<p>Section 2(xxvii) of the PIRA 2010, the definition of “settlement” is not clear especially when an agreement is signed between an employer and his workmen, where there is no Collective Bargaining Agent Union.</p> <ul style="list-style-type: none"> <li>▶ <b>To secure the voluntary negotiations for bargaining through collective agreement, the definition of “settlement” is recommended to be reviewed.</b></li> <li>▶ Interpretation of any clause of “settlement” arrived between the management and the Collective Bargaining Agent often creates dispute and there is no procedure in the law in this regard.</li> <li>▶ <b>Therefore, authority to interpret a settlement may be vested with the Labour Court under Section 44(4) of the PIRA, 2010 as and when it is referred to it by the Government for avoidance of conflicts.</b></li> <li>▶ Grammatically, the text of Section 24(17) of the PIRA, 2010 is not correct, which may be due to some clerical mistake and is necessary to be rectified to make the provision of law meaningful in the following manner:             <ul style="list-style-type: none"> <li>▪ 24(17) No trade union shall be certified to be the collective</li> </ul> </li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
		<p>bargaining agent for an establishment, or group of establishments or industry under sub-section (16) unless it has as its members not less than one-third of the total number of the workmen employed in the establishment or group of establishments or industry.</p>
<p><b>Article 10 (C 087)</b></p> <ul style="list-style-type: none"> <li>In this Convention the term organization means any organization of workers or of employers for furthering and defending the interests of workers or of employers.</li> </ul>	<ul style="list-style-type: none"> <li>Punjab Industrial Relations Act, 2010</li> </ul>	<ul style="list-style-type: none"> <li>The Article 10 (C 087) defines the term “organization”, which means any organization of workers or of employers for furthering and defending the interests of workers or of employers. Though, Section 3(i) of the Punjab Industrial Relations Act, 2010 carries the spirit of this Article, yet anomaly exists with regard to word “organization” in its application.</li> <li><b>Therefore, it is recommended that the term organization be defined.</b></li> </ul>
<p><b>Article 11 (C 087)</b></p> <ul style="list-style-type: none"> <li>Each Member of the ILO for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organize.</li> </ul>	<ul style="list-style-type: none"> <li>Punjab Industrial Relations Act, 2010</li> </ul>	<ul style="list-style-type: none"> <li>Article 11 of the Convention No. 87 undertakes from the member states to take all necessary and appropriate measures to ensure that workers and employers may exercise freely their right to organize. Under Section 3 of the PIRA, 2010, the workers and employers have a right to form or join associations of their own choice in an “establishment” or “industry” as</li> </ul>

## Legal and Administrative Gaps

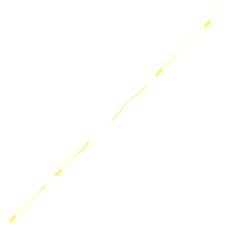
Article	Relevant Law	Gap
		<p>defined under Section 2(ix) and 2(xvi). The following gaps exist in the definitions of “establishment” and “industry” depriving majority of the workers from the right of association and bargaining: -</p> <ul style="list-style-type: none"> <li>▪ Educational institutions, hospitals, agricultural concerns, domestic field of work and home based sector are not included in the definition of “establishment”.</li> <li>▪ Mining, agriculture, domestic and home based sectors are not included in the definition of “industry”.</li> <li>▪ <b>Therefore, it is recommended that these definitions be updated.</b></li> </ul>
<p><b>Article 4 (C 098)</b></p> <ul style="list-style-type: none"> <li>▶ Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Punjab Industrial Relations Act, 2010</li> </ul>	<ul style="list-style-type: none"> <li>▶ Definition of “lock out” as given under Section 2(xix) of the PIRA 2010 does not address the eventuality, when an establishment where there is no trade union or no industrial dispute is pending is wholly or partially closed or en bloc termination of workers is made. This situation usually creates confusion, whether it is lock-out or not and it becomes very difficult to prove this action of the employer as an illegal lock-out in any court of law for the</li> </ul>



Legal and Administrative Gaps

Article	Relevant Law	Gap
		<p>benefit of the workers.</p> <ul style="list-style-type: none"> <li>▶ <b>Therefore, it is recommended that the closure or termination in violation of the provisions of any other law i.e. Industrial &amp; Commercial (Standing Orders) Ordinance, 1968 is required to be made cognizable as lock-out to address this anomaly.</b></li> <li>▶ Under Section 29(5) of the PIRA 2010, functions of the Workers Management Council have been defined, which do not include review of terms and conditions of employment. Usually, differences arise between the workers and the employers or their organizations on the issue of terms and conditions of employment, which are arbitrarily formulated by the employers without consulting the workers' representatives.</li> <li>▶ <b>It is recommended to include formulation and review of terms and conditions of employment of the workers in the functions of the Workers Management Council, which is a body having bilateral composition to run the industrial relations with mutual consultation and agreement.</b></li> <li>▶ Similarly, under Section 29(6) of the PIRA 2010, the management of an establishment is restricted to make any decision on certain issues without</li> </ul>

Legal and Administrative Gaps

Article	Relevant Law	Gap
		<p>consulting and advice in writing of the workers' representatives in the Workers Management Council. Change in the terms and conditions of employment by the employer without consent or agreement of the workers' representatives or their trade union usually creates industrial disputes. The reason behind the formation of Workers Management Council, a body having representation of the both stakeholders is to settle all the controversial matters with mutual agreement and the present arrangement is to some extent in negation of the right of collective bargaining.</p> <p>► <b>Therefore, it is recommended that the change in the terms and conditions of employment not be made without consent of the representatives of workers in the Workers Management Council.</b></p>



## Labour Inspection

### C081 - Labour Inspection Convention

Article	Relevant Law	Gap
<p><b>Article 2 (C 081)</b></p> <ul style="list-style-type: none"> <li>▶ The system of labour inspection in industrial workplaces shall apply *to all workplaces in respect of which legal provisions relating to conditions of work and the protection of workers while engaged in their work are enforceable by labour inspectors.</li> <li>▶ National laws or regulations may exempt mining and transport undertakings or parts of such undertakings from the application of this Convention.</li> </ul> <p><b>Article 22 (C 081)</b></p> <ul style="list-style-type: none"> <li>▶ Each Member of the ILO for which this Part of this Convention is in force shall maintain a system of labour inspection in commercial workplaces.</li> </ul> <p><b>Article 23 (C 081)</b></p>	<ul style="list-style-type: none"> <li>▶ Workmen's Compensation Act, 1923</li> <li>▶ Factories Act, 1934</li> <li>▶ Payment of Wages Act, 1936</li> <li>▶ Punjab Maternity Benefit Ordinance, 1958</li> <li>▶ Minimum Wages Ordinance, 1961</li> <li>▶ Road Transport Workers Ordinance, 1961</li> <li>▶ Industrial and Commercial Employment (Standing Orders) Ordinance, 1968</li> <li>▶ Punjab Shops and Establishments Ordinance, 1969</li> <li>▶ Punjab Fair Price Shops (Factories) Ordinance, 1971</li> <li>▶ Workers Children (Education)</li> </ul>	<ul style="list-style-type: none"> <li>▶ The labour laws mentioned in the respective column determine rights of the workers and responsibilities of the employers viz a viz procedure to be followed for their enforcement through Inspectors and remedy in case of non-acquisition of rights. This two fold arrangement for the enforcement of these laws results in imposition of penalties by the courts of law and directions to provide the guaranteed rights to the aggrieved persons. These laws apparently seem to protect the labour rights in the industrial and commercial workplaces, where the workers are employed. The intent of relevant articles of this Convention is to maintain a system of Labour Inspection at all workplaces in respect of which legal provisions</li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
<p>▶ The system of labour inspection in commercial workplaces shall apply to workplaces in respect of which legal provisions relating to conditions of work and the protection of workers while engaged in their work are enforceable by labour inspectors.</p> <p><b>Article 24 (C 081)</b></p> <p>▶ The system of labour inspection in commercial workplaces shall comply with the requirements of Articles 3 to 21 of this Convention in so far as they are applicable.</p>	<p>Ordinance, 1972</p> <ul style="list-style-type: none"> <li>▶ Bonded Labour System (Abolition) Act, 1992</li> <li>▶ Punjab Industrial Relations Act, 2010</li> <li>▶ Punjab Prohibition of Child Labour at Brick Kilns Act, 2016</li> <li>▶ Punjab Restriction on Employment of Children Act, 2016</li> </ul>	<p>relating to conditions of work are enforceable. Therefore, the Authority of the Inspectors to take cognizance under these laws is confined and depends upon the definition of establishment, commercial establishment, industrial establishment and factory, as the case may be in the respective labour statute. When we go through the definitions of these terms, it appears that the following sectors of industrial and commercial economy do not fall within the purview of these laws: -</p> <ul style="list-style-type: none"> <li>▪ Construction</li> <li>▪ Erection of machinery</li> <li>▪ Mending, blending and fabrication</li> <li>▪ Domestic Work</li> <li>▪ Home Based Work</li> <li>▪ Agriculture</li> <li>▪ Private hospitals</li> <li>▪ Private educational institutions</li> <li>▪ Provision of services / service sector</li> </ul> <p>▶ Therefore, the workers engaged at</p>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
		<p>the workplaces in respect of above sectors are deprived of labour rights guaranteed under the labour statutes inter alia lacks enforcement authority of these rights by the Labour Inspectorate under the present scheme of labour inspection.</p> <ul style="list-style-type: none"> <li>▶ Under the Bonded Labour System (Abolition) Act 1992, no system of inspection is provided to deal with the eventualities with regard to rendering of forced labour at the industrial and commercial workplaces.</li> </ul>
<p><b>Article 3 (C 081)</b></p> <ul style="list-style-type: none"> <li>▶ The functions of the system of labour inspection shall be: <ul style="list-style-type: none"> <li>▪ to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours, wages, safety, health and welfare, the employment of children and young persons, and other connected matters, in so far as such provisions are enforceable by labour inspectors;</li> <li>▪ to supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions;</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▶ Workmen's Compensation Act, 1923</li> <li>▶ Factories Act, 1934</li> <li>▶ Payment of Wages Act, 1936</li> <li>▶ Punjab Maternity Benefit Ordinance, 1958</li> <li>▶ Minimum Wages Ordinance, 1961</li> <li>▶ Road Transport Workers Ordinance, 1961</li> <li>▶ Industrial and Commercial Employment (Standing Orders) Ordinance, 1968</li> <li>▶ Punjab Shops and Establishments Ordinance, 1969</li> <li>▶ Punjab Fair Price Shops (Factories) Ordinance, 1971</li> <li>▶ Bonded Labour System (Abolition) Act,</li> </ul>	<ul style="list-style-type: none"> <li>▶ Under the present system of Labour Inspection, there is no mechanism to empower the Inspectors and any procedure to be adopted by them in this regard to supply of technical information and advice to the employers and workers concerning the most effective methods and means of compliances with the legal provisions.</li> <li>▶ Similarly, during the course of inspection, the Inspectors are not obliged to bring the nature of defects and instances of abuses of International Labour Standards not specifically covered under the labour enactments into the notice of the Competent Authority for legislative reforms to make the labour statutes</li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
<ul style="list-style-type: none"> <li> <ul style="list-style-type: none"> <li>▪ to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions.</li> </ul> </li> <li>▶ Any further duties which may be entrusted to labour inspectors shall not be such as to interfere with the effective discharge of their primary duties or to prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers.</li> </ul>	<p>1992</p> <ul style="list-style-type: none"> <li>▶ Punjab Industrial Relations Act, 2010</li> <li>▶ Punjab Prohibition of Child Labour at Brick Kilns Act, 2016</li> <li>▶ Punjab Restriction on Employment of Children Act, 2016</li> </ul>	<p>more compliant to the ILO Conventions. In the absence of feeding mechanism for improvement of labour inspection and labour legislation, the spirit of ILO Conventions to protect the rights of workers at the workplaces cannot be achieved in the right way.</p> <ul style="list-style-type: none"> <li>▶ There is no system of research and development to improve the labour inspection and to make it result oriented and beneficial for the workers engaged at all the workplaces irrespective of their class or category.</li> </ul>
<p><b>Article 5 (C 081)</b></p> <ul style="list-style-type: none"> <li>▶ The competent authority shall make appropriate arrangements to promote:           <ul style="list-style-type: none"> <li>▪ effective co-operation between the inspection services and other government services and public or private institutions engaged in similar activities; and</li> <li>▪ collaboration between officials of the labour inspectorate and employers and workers or their organizations.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▶ Workmen's Compensation Act, 1923</li> <li>▶ Factories Act, 1934</li> <li>▶ Punjab Maternity Benefit Ordinance, 1958</li> <li>▶ Minimum Wages Ordinance, 1961</li> <li>▶ Road Transport Workers Ordinance, 1961</li> <li>▶ Industrial and Commercial Employment (Standing Orders) Ordinance, 1968</li> <li>▶ Punjab Shops and Establishments Ordinance, 1969</li> <li>▶ Workers Children (Education) Ordinance, 1972</li> <li>▶ Bonded Labour System (Abolition) Act,</li> </ul>	<ul style="list-style-type: none"> <li>▶ At present, protection of labour rights including workplace safety directly or indirectly guaranteed under different labour statutes is being regulated and enforced by different government agencies. For example Home Department, Industries Department, Punjab Employees' Social Security Institution, Directorate General of Labour Welfare, Inspectorate of Mines, Civil Defense, Electric Inspector and Local Government etc. All the departments are working in their solitary compartments and there is no cohesion between the government agencies for better enforcement of laws and compliances with the standards.</li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
	<p>1992</p> <ul style="list-style-type: none"> <li>▶ Punjab Prohibition of Child Labour at Brick Kilns Act, 2016</li> <li>▶ Punjab Restriction on Employment of Children Act, 2016</li> </ul>	<ul style="list-style-type: none"> <li>▶ It is recommended that a system for cooperation between the officials of the inspection machinery of all the government organizations.</li> <li>▶ At the same time, it is recommended that the government agencies collaborate through their Inspectorate with the employers and workers during the course of their inspection, which will help to make the inspection system transparent and result oriented.</li> </ul>
<p><b>Article 7 (C 081)</b></p> <ul style="list-style-type: none"> <li>▶ Subject to any conditions for recruitment to the public service which may be prescribed by national laws or regulations, labour inspectors shall be recruited with sole regard to their qualifications for the performance of their duties.</li> <li>▶ The means of ascertaining such qualifications shall be determined by the competent authority.</li> <li>▶ Labour inspectors shall be adequately trained for the performance of their duties.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Workmen's Compensation Act, 1923</li> <li>▶ Factories Act, 1934</li> <li>▶ Payment of Wages Act, 1936</li> <li>▶ Minimum Wages Ordinance, 1961</li> <li>▶ Road Transport Workers Ordinance, 1961</li> <li>▶ Industrial and Commercial Employment (Standing Orders) Ordinance, 1968</li> <li>▶ Punjab Shops and Establishments Ordinance, 1969</li> <li>▶ Workers Children (Education) Ordinance, 1972</li> <li>▶ Bonded Labour System (Abolition) Act, 1992</li> <li>▶ Punjab Prohibition of Child Labour at</li> </ul>	<ul style="list-style-type: none"> <li>▶ At present qualification of the Inspecting staff is not compatible to the assignments given to them under different labour laws particularly with regard to the technical aspect of labour inspection.</li> <li>▶ Qualification of the Authorities to conduct quasi-judicial labour matters is either not defined or is not as per requirements of the jobs assigned to them.</li> <li>▶ <b>Qualifications of the existing inspecting staff or for recruitment in future can be enhanced through specific refreshing courses and short term diplomas.</b></li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
	<p>Brick Kilns Act, 2016</p> <ul style="list-style-type: none"> <li>▶ Punjab Restriction on Employment of Children Act, 2016</li> </ul>	
<p><b>Article 9 (C 081)</b></p> <ul style="list-style-type: none"> <li>▶ Each Member shall take the necessary measures to ensure that duly qualified technical experts and specialists, including specialists in medicine, engineering, electricity and chemistry, are associated in the work of inspection, in such manner as may be deemed most appropriate under national conditions, for the purpose of securing the enforcement of the legal provisions relating to the protection of the health and safety of workers while engaged in their work and of investigating the effects of processes, materials and methods of work on the health and safety of workers.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Factories Act, 1934</li> <li>▶ Punjab Shops and Establishments Ordinance, 1969</li> </ul>	<ul style="list-style-type: none"> <li>▶ At present, the Labour Inspection machinery of the Provincial Labour Department is not equipped with qualified technical experts and specialists in the field of medicine, engineering, electricity, physics and chemistry.</li> <li>▶ There are no provisions in the relevant labour laws i.e. Punjab Shops and Establishments Ordinance 1969, Factories Act 1934 and Workmen's Compensation Act, 1923 regarding investigating and evaluating the effects of processes, materials and methods of work having significance in the issues of occupational safety and health.</li> </ul>
<p><b>Article 10 (C 081)</b></p> <ul style="list-style-type: none"> <li>▶ The number of labour inspectors shall be sufficient to secure the effective discharge of the duties of the inspectorate and shall be determined with due regard for: <ul style="list-style-type: none"> <li>▪ the importance of the duties which inspectors have to perform, in particular--</li> <li>▪ the number, nature, size and situation</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▶ Factories Act, 1934</li> <li>▶ Punjab Shops and Establishments Ordinance, 1969</li> <li>▶ Bonded Labour System (Abolition) Act, 1992</li> </ul>	<ul style="list-style-type: none"> <li>▶ The number of inspecting staff is the same as it was at the time of inception of the Labour Department. Whereas, industrial and commercial activity has been increased manifold, which requires increase in the number of inspecting staff proportionately to the business activity.</li> <li>▶ The material means placed at the disposal of the inspecting staff to</li> </ul>



## Legal and Administrative Gaps

Article	Relevant Law	Gap
<p>of the workplaces liable to inspection;</p> <ul style="list-style-type: none"> <li>▪ the number and classes of workers employed in such workplaces; and</li> <li>▪ the number and complexity of the legal provisions to be enforced;</li> <li>▪ the material means placed at the disposal of the inspectors; and</li> <li>▪ the practical conditions under which visits of inspection must be carried out in order to be effective.</li> </ul>		<p>carry out meticulous inspections is almost negligible.</p> <ul style="list-style-type: none"> <li>▶ Practical standard operative procedure is not sufficient to make the labour inspection exercise effective and objective.</li> </ul>
<p><b>Article 11 (C 081)</b></p> <ul style="list-style-type: none"> <li>▶ The competent authority shall make the necessary arrangements to furnish labour inspectors with-- <ul style="list-style-type: none"> <li>▪ local offices, suitably equipped in accordance with the requirements of the service, and accessible to all persons concerned;</li> <li>▪ the transport facilities necessary for the performance of their duties in cases where suitable public facilities do not exist.</li> </ul> </li> <li>▶ The competent authority shall make the necessary arrangements to reimburse to labour inspectors any travelling and incidental expenses which may be necessary for the performance of their duties.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Workmen's Compensation Act, 1923</li> <li>▶ Factories Act, 1934</li> <li>▶ Payment of Wages Act, 1936</li> <li>▶ Punjab Maternity Benefit Ordinance, 1958</li> <li>▶ Minimum Wages Ordinance, 1961</li> <li>▶ Road Transport Workers Ordinance, 1961</li> <li>▶ Industrial and Commercial Employment (Standing Orders) Ordinance, 1968</li> <li>▶ Punjab Shops and Establishments Ordinance, 1969</li> <li>▶ Punjab Fair Price Shops (Factories) Ordinance, 1971</li> <li>▶ Workers Children (Education)</li> </ul>	<ul style="list-style-type: none"> <li>▶ The local offices are not sufficiently equipped in accordance with the requirements of the services, which are being provided by them to make them accessible to all the workers, employers and other stakeholders.</li> <li>▶ The inspecting staff are not facilitated with necessary transport for the performance of their duties, whereas in certain areas of their jurisdiction, suitable public transport facilities are not available.</li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
	<p>Ordinance, 1972</p> <ul style="list-style-type: none"> <li>▶ Bonded Labour System (Abolition) Act, 1992</li> <li>▶ Punjab Industrial Relations Act, 2010</li> <li>▶ Punjab Prohibition of Child Labour at Brick Kilns Act, 2016</li> <li>▶ Punjab Restriction on Employment of Children Act, 2016</li> </ul>	
<p><b>Article 13 (C 081)</b></p> <ul style="list-style-type: none"> <li>▶ Labour inspectors shall be empowered to take steps with a view to remedying defects observed in plant, layout or working methods which they may have reasonable cause to believe constitute a threat to the health or safety of the workers.</li> <li>▶ In order to enable inspectors to take such steps they shall be empowered, subject to any right of appeal to a judicial or administrative authority which may be provided by law, to make or to have made orders requiring-- <ul style="list-style-type: none"> <li>▪ such alterations to the installation or plant, to be carried out within a specified time limit, as may be necessary to secure compliance with the legal provisions relating to the health or safety of the workers; or</li> <li>▪ measures with immediate executory</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▶ Factories Act, 1934</li> <li>▶ Industrial and Commercial Employment (Standing Orders) Ordinance, 1968</li> <li>▶ Punjab Shops and Establishments Ordinance, 1969</li> </ul>	<ul style="list-style-type: none"> <li>▶ In certain cases, right of appeal against the observations of the inspecting staff is not provided, which makes the matters a chaos for the concerned to proceed further for taking remedial measures or to challenge the veracity of findings of the inspecting staff at the higher supervisory level.</li> <li>▶ Inspecting staff in commercial sector is not empowered to take steps with a view to remedying defects observed in the lay out or working methods, which they may cause a threat to health and safety of the workers.</li> <li>▶ Relevant provisions in the Factories Act, 1934 and Rules made thereunder are deficient to identify the remedying effects in the plant, lay out or manufacturing process of any industrial unit by the inspecting staff.</li> </ul>

## Legal and Administrative Gaps

Article	Relevant Law	Gap
<p>force in the event of imminent danger to the health or safety of the workers.</p>		
<p><b>Article 26 (C 081)</b></p> <ul style="list-style-type: none"> <li>▶ In any case in which it is doubtful whether any undertaking, part or service of an undertaking or workplace is an undertaking, part, service or workplace to which this Convention applies, the question shall be settled by the competent authority.</li> </ul>	<ul style="list-style-type: none"> <li>▶ Workmen's Compensation Act, 1923</li> <li>▶ Factories Act, 1934</li> <li>▶ Payment of Wages Act, 1936</li> <li>▶ Punjab Maternity Benefit Ordinance, 1958</li> <li>▶ Minimum Wages Ordinance, 1961</li> <li>▶ Road Transport Workers Ordinance, 1961</li> <li>▶ Industrial and Commercial Employment (Standing Orders) Ordinance, 1968</li> <li>▶ Punjab Shops and Establishments Ordinance, 1969</li> <li>▶ Punjab Fair Price Shops (Factories) Ordinance, 1971</li> <li>▶ Workers Children (Education) Ordinance, 1972</li> <li>▶ Bonded Labour System (Abolition) Act, 1992</li> <li>▶ Punjab Industrial Relations Act, 2010</li> <li>▶ Punjab Prohibition of Child Labour at Brick Kilns Act, 2016</li> <li>▶ Punjab Restriction on Employment of Children Act, 2016</li> </ul>	<ul style="list-style-type: none"> <li>▶ The labour laws are silent to settle a controversy between the inspecting staff and the employers or the workers on his opinion, whether any undertaking, workplace or service is an establishment falling within the ambit of respective labour law for taking cognizance or extension of benefits to the employers and the workers respectively.</li> </ul>



## 7. Recommendations and Entry Points

## 7. Recommendations and Entry Points

### 7.1 Recommendations for Labour Law:

Section 6 provides a detailed gap analysis between the requirements of the 8 Core ILO Conventions and the current legal environment in the Province of Punjab. The legal recommendations can be broadly categorized into three areas:

#### 7.1.1 Updating Definitions

Several changes in definitions are recommended to make all legal acts consistent with each other and to align with the requirements of the 8 Core ILO Conventions. It is recommended that:

- ▶ Definitions of "adult", "child" and "young person" be included in all relevant laws.
- ▶ Definitions of "young person" and "non-adult" be substituted with "adolescent" in all relevant laws.
- ▶ Definition of "young children" be substituted with "child" in all relevant laws.
- ▶ Definition of "bonded labour" should cover forced and compulsory labour.
- ▶ Definitions of "establishment", "employer" and "inspector" should be incorporated in Bonded Labour System (Abolition) Act, 1992.
- ▶ Definitions of "discrimination", "employment" and "occupation" should be incorporated in relevant laws.
- ▶ Definitions of "organization", "establishment", "settlement" and "industry" in PIRA 2010 needs to be updated.

#### 7.1.2 Extension in Scope

In order to conform fully to the 8 Core ILO Conventions, it is recommended that:

- ▶ The Provincial Committee on Elimination of Child Labour is recommended to have statutory force to get its recommendations implemented by all the relevant stakeholders.
- ▶ It is recommended that the scope of work of vigilance committees on bonded labour be enhanced for its objectives.
- ▶ Scope of PIRA 2010 is recommended to be extended so that workers in the informal sector are also empowered to make trade unions.

#### 7.1.3 Proposals to change Policy / Law

With regards to the requirements of the 8 core ILO Conventions there are some gaps in the current legal framework that need to be enhanced therefore it is recommended that:

- ▶ Form-B and Birth Registration be made mandatory for determination of age of workers.
- ▶ Under Factories Act 1934, certificate of fitness be issued to adolescents and not to children.

- ▶ Working hours for adolescents be prescribed and arranged so as to restrict overtime.
- ▶ Every establishment employing adolescents be made responsible to maintain record regarding adolescents.
- ▶ Penalties under the Bonded Labour System (Abolition) Act, 1992 be enhanced.
- ▶ Provisions regarding protection against discriminatory treatment be incorporated in the law to ensure protection.
- ▶ Right of workers employed in export zones not to be overlooked by notification of exemption from the Government.
- ▶ The terms and conditions of employment not be amended without consent of the representatives of workers in the Workers Management Council.
- ▶ The labour laws impliedly negates discrimination in wage or other remunerations / emoluments yet this concept is not addressed expressly to make it cognizable under the laws.
- ▶ Labour laws should cover the domestic and home based workers.

## 7.2 Recommendation for Labour Administration

In summary there are several laws, rules and regulations which are in place to protect the rights of employees, specifically women and children. However on the ground implementation is a big challenge. One of the reasons for this is the recent introduction of several laws, which will take time to mature and get implemented on ground. The right elements are addressed in conferences and at policy level followed by hugely funded programs / initiatives to close the gaps that exist, however there is no centralized system of measuring progress. A lot of the work is done in silos and lacks coordination. Each theme of the 8 Core ILO Conventions presents different challenges that need to be addressed.

### 7.2.1 Child Labour

- ▶ Children spotted working in shops should be reported by the general public. The Government should provide an easy to use mechanism for the public to lodge complaints whenever they see children at work.
- ▶ The definitions for different age brackets across the laws applicable in the Province of Punjab need to be harmonized. Consistency in definitions is key to align with the requirements of the 8 Core ILO Conventions.
- ▶ A mechanism needs to be developed for the rehabilitation of children. Once a child who has been working is identified and subsequently rescued from working, there has to be a process to rehabilitate the child back into society.
- ▶ Legally, all children need to be registered in a school to receive education, however the Government needs to establish quality schools with enough capacity structurally and faculty wise to ensure quality education to the students.
- ▶ Parents of working children also need to be educated by the state to explain the long term benefits that the families will reap as a result of quality education, so that children are encouraged by parents to attend school rather than work.
- ▶ The Government should commission a transparent exercise to identify the number of working children, as the figures are disputed.

### 7.2.2 Forced Labour / Worker's Safety

- ▶ Sectors other than the brick kiln sector also require focus from the Government which has been the highlight in the recent past. A balanced mechanism to identify forced labour in other sectors, such as textile is required.
- ▶ The Government needs to ensure payment of minimum wages to all employees across the formal and informal sectors. This can be done through increased monitoring to ensure enforcement for which capacity is required.
- ▶ A large network of home based workers remains outside of the registered grid and is working on varied wages under the minimum wage floor. The Government needs to make home based workers part of the formal process through updating legal framework followed by implementation through monitoring
- ▶ One of the ways to fight forced labour is through the creation of jobs. Although this is the focus of the Government, all job creation efforts need to be unified to ensure fair distribution to sectors which face the issues of forced labour.

### 7.2.3 Women Employment / Discrimination

- ▶ Day care centers need to be established in all office buildings. This should be set out as a requirement by the local bodies that approve construction of commercial buildings.
- ▶ There is no discrimination of wages by implication; however the law needs to explicitly define the need for paying women the same amount of remuneration as men. This needs to be implemented through increased monitoring and spot checks of payroll across the private and public sector.
- ▶ Although maternity laws have been introduced, in practice women are forced to resign rather than take stipulated time off. The Government needs to educate the women on their rights to take maternity leave so that they themselves can obtain the leave that they have a legal right to.
- ▶ Female inspectors need to be introduced in the labour inspectorate to facilitate the working women. It will be easier for women to share their issues with inspectors of the same gender, creating a more comfortable atmosphere to lodge complaints and identify issues.
- ▶ The Government needs to introduce incentives for women to step forward for work. This can be in the form of packages for entire families so that the decision is taken by the men and women of a particular household.

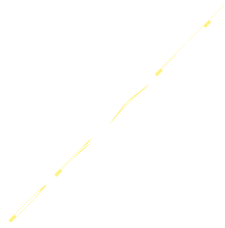
### 7.2.4 Trade Unions / Freedom of Association

- ▶ The Government should ensure that the right to have a trade union / freedom of association should not be excludable through exemption. The fundamental right to raise voice for worker's rights should be provided to all as per law rather than being excluded through exemption.
- ▶ The Government of Punjab needs to establish which law takes precedence i.e. provincial vs. federal when it comes to trade unions / freedom of association. The federal and provincial laws need to be harmonized.
- ▶ The Government needs to educate the public on how to register an employee union, making the process easy in order to encourage maximum registrations take place.

## Recommendations and Entry Points

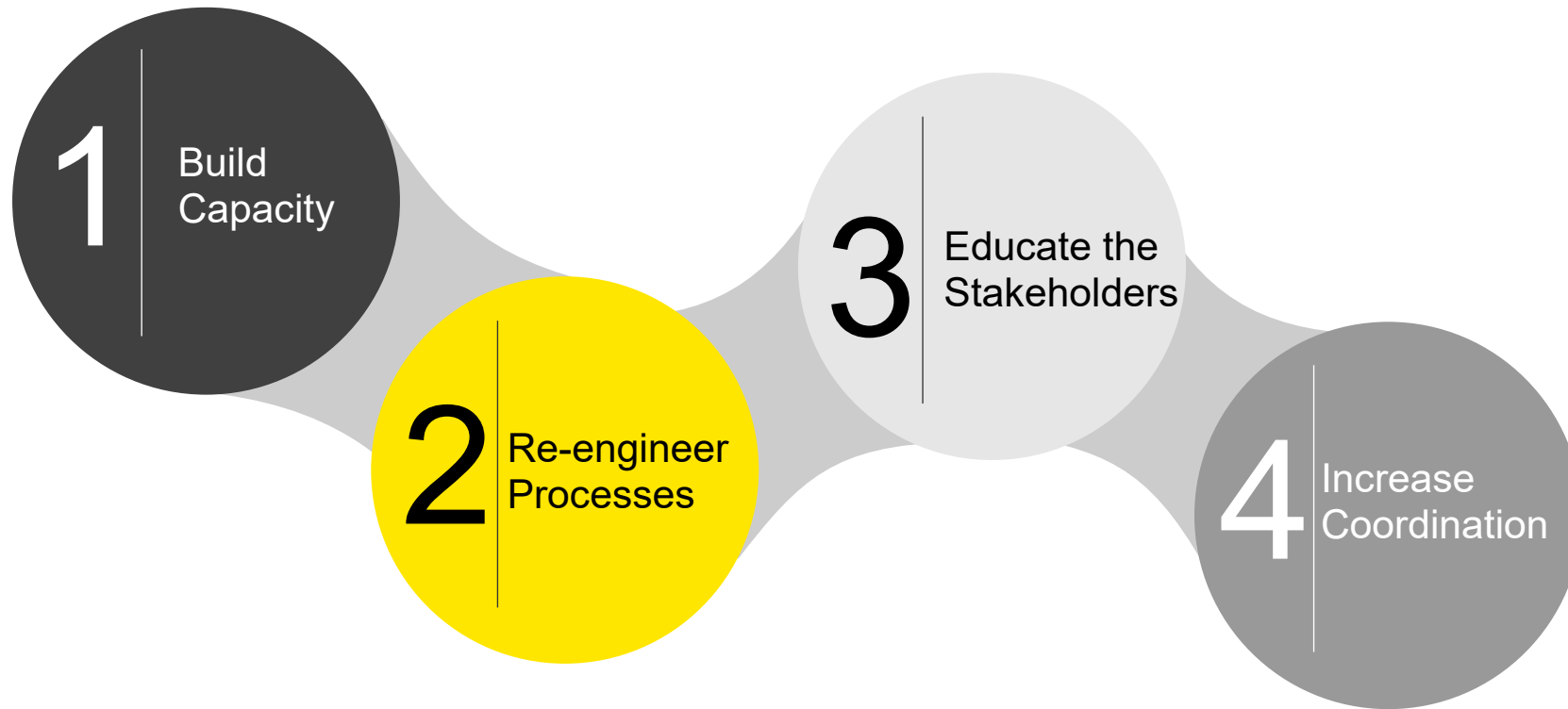
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- ▶ The Government should hold regular platforms with representation from both employers and employees to voice their concerns and act as an arbitrator before formal complaints are launched.

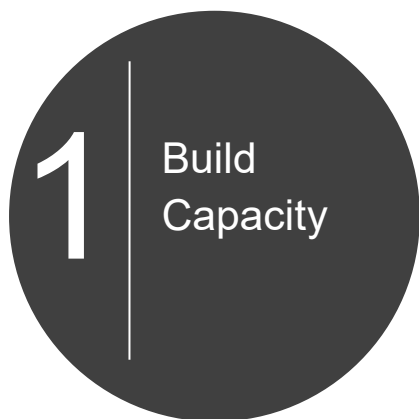




### 7.3 How to Take Recommendations Forward



### 7.3.1 Build Capacity



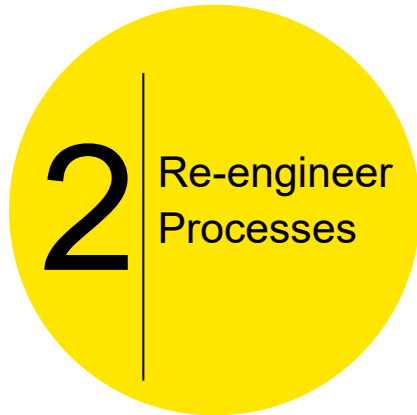
There is a dire need for the L&HRD to build capacity in order to increase monitoring to ensure adherence to the labour laws in the Province of Punjab. The following elements need to be addressed when looking at the capacity issues

- ▶ The **skill set** currently present in the department needs to be evaluated (including inspectors) to understand if they have the right behavioral and technical competencies to perform their jobs.
- ▶ In addition to the skillset, the department also needs to evaluate its **current capacity** (specifically inspectors) to understand if there is enough workforces to enforce monitoring through inspection. Rationalization of inspecting staff is a key area and the department needs to ensure that the inspectors are aligned to the right industrial and commercial establishments which they have appropriate knowledge of. This is in line with article 10 of Convention 81 which requires that the number of labour inspectors has to be sufficient enough to ensure the effective discharge of their duties. The Government needs to start an exercise to match the demand with the supply to balance the requirements.

It is also key to equip the staff at the department with the right **equipment and facilities** for them to perform their duties. As such a review is required of the transportation, resources and tools that the staff (especially inspectors) receive which need to benchmark against other similar organizations to see if the right level of support is available.

- ▶ **Training** needs to be provided to the staff at the department for them to perform their duties appropriately. The technical qualifications of the inspectors have to be updated on a regular basis for them to keep up with industry standards and add real value to the inspections. This can be done through introduction of a training regime that ensures every employee is given a chance to increase their skillset and learn to perform their duties in a more professional and informed manner.
- ▶ It is also important to introduce a robust system of **performance evaluation** whereby the performance of the staff can be monitored based on KPIs that are well defined and subsequently well governed.
- ▶ There should be a focus on gender, whereby the Government should introduce a drive to **recruit female inspectors**. This will create awareness of labour rights with women workers and focus on encouraging establishments to employ more women.

### 7.3.2 Re-engineer the Processes



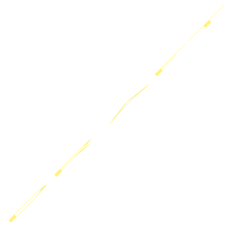
The current processes are obsolete as they have not been updated since the very beginning of their introduction into the system. As a result complete overhaul of the current processes is required for the department to meet the requirements of the 8 Core ILO Conventions.

- ▶ **A review of the inspection and other forms** is required to ensure that the requirements of the 8 Core ILO Conventions and others are duly represented on the checklists. This has to be followed by development of guidelines and manuals to facilitate the staff on how to use these updated forms / checklists etc. Initial training to use the updated documents will also be required when such an exercise is undertaken.
- ▶ The institution of super inspection, technical inspection, medical inspection and inspection on health and safety may be revived with a system of checks and balances. **Super inspections** were regular in the past and are now infrequent. The posts for technical inspectors have remained empty for quite a few years now. As part of the process re-think these inspections need to be well defined where a sample of inspectors should be re-inspected by superior staff to ensure compliance.
- ▶ Once the capacity is built, a mechanism needs to be introduced which holds **medical examinations** of workers at employers premises to ensure that they health and safety standards are being met. This can be done by the introduction of mobile medical inspection units for the welfare of the employees. The factories employing more than 200 workers should be legally bound to appoint at least one **Health and Safety Officer** who should be responsible for education and awareness of health and safety provisions at the workplace. This officer should be registered with the department to ensure compliance is consistent across industries.
- ▶ Special efforts in the long run should be made to ensure **adequate protection mechanism** is in place at the workplaces through involving employers and trade unions. This mechanism should be implemented by promoting the use of Personal Protective Instruments (PPIs), preparation of factories' OSH profile and categorization of factories on the basis of potential health hazards. This should be followed by OSH Inspections focusing on the most hazardous factories.
- ▶ Currently industrial accidents are not reported. Even when they are reported a manual record is maintained. **IT solutions for reporting incidents** should be introduced whereby the employers and employees can report hazardous threats or actual incidents online followed by recording of these incidents in a database. This will help ensure maintenance of a thorough record and make the reporting of such incidents easier for the public.
- ▶ Building on the theme of technology, the department should invest in introducing a **more automated process for labour inspections**, where by the Inspectors have the tools to record inspections remotely and the central teams can monitor these on a real time basis at a centralized location. This will improve reporting and governance.
- ▶ The labour administration process needs **inclusion of the informal sector (home based workers, the transport sector and the agriculture sector)** which it currently does not address. As a start, the current labour laws can be applied to these sectors followed by developing specific standards for the particulars of the sectors.
- ▶ When a process is being re-engineered, there should be a focus on gender based checklist in order to boost compliance with ILO Conventions.

## Recommendations and Entry Points

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- ▶ Inspection and monitoring may be outsourced to a 3<sup>rd</sup> party if there is a shortage of capacity. This will add independence and efficiency.



### 7.3.3 Educate Stakeholders



It is important for the masses to know what their rights are and also what their responsibilities are. Once they have a better understanding of these, it will be easier for them to claim their rights and rightfully perform their duties as well.

- ▶ There is a need to **educate the stakeholders on the relevant laws and regulations**. Dissemination of such knowledge can be done via holding seminars and sessions across the 36 districts, by laying out easy to understand information on websites, by engaging on a one to one basis with factories, shops and establishments. Such knowledge can also be spread through the use of media (both electronic and print) based on the relevant district. Attendance at certain workshops can be made mandatory for both employers and employees to attend. An Omni-channel strategy for dissemination of information can help educate the masses and have lasting effects on improvement of labour standards.

- ▶ There is also a need to **develop industry specific expertise**. Each industry will have a different health and safety requirement as the operations are vastly different. The same inspections standards for example will not apply to leather tanneries and power plants. It is therefore important to update the processes for each industry and then focus

on educating the inspectors, the labour department staff and the employers / employees on what the requirements are and how these can be beneficial for them in particular and for the country overall.

- ▶ **Education also need to be given to senior staff** such as C-suite in private sector, high ups in bureaucracy and also parliamentarians as they can develop a top down culture for adherence to labour laws.

### 7.3.4 Increase Coordination



A lot of good work is being done across the labour themes; child labour, forced labour / worker's safety, women's employment / discrimination and trade unions / freedom of association. However there is a need to bring all initiatives together to develop synergies.

- ▶ **The role of social partners should be enhanced.** It is key to get their input on how to improve the capacity and processes currently employed at the labour department. They should be actively involved in monitoring of labour inspections and enforcement of health and safety standards in several industrial and commercial establishments. NGOs have a role to play when it comes to promoting standards of working and their involvement at a planning level is key to ensure their input is incorporated in the yearly plans.
- ▶ Currently the bigger cities are prioritized however a balance needs to be created to ensure that the rural areas are hit with the level of labour enforcements as well. As such the Government should **increase regional representation** for the smaller cities / districts to raise their concerns and develop a policy framework that works for all rather than one which favours one in particular.
- ▶ **Incentives to register their businesses** should be introduced. Part of this issue is already being addressed through the work on investment climate reform that the Government of Punjab is doing. It is important for the labour department to make use of the online business registration portals that will be introduced to capture a larger racket of businesses for labour inspections.
- ▶ **Inspections need to be centralized.** Currently inspections by several sub-departments within labour are done in silos which is a nuisance for the employers and the employees. A centralised process for inspections whereby minimum number of visits can tick the maximum number of checkboxes needs to be introduced to facilitate the masses. A number of regulatory agencies are working at the district and local levels to conduct inspection of industrial and commercial establishments under various enactments. Efforts should be made to start joint inspections of factories for improvement in system on pilot basis wherein, inspector labour should coordinate with authorities in civil defense, environment inspector, boiler inspector, social security officer, electric inspector etc.
- ▶ **Different development projects should be linked with the formal functions** of the department in such a way that they not only supplement the formal functions but also add value in the light of ground realities. For instance, "the Integrated Project to Eliminate Child Labour" has to be linked with law enforcement, functioning of DVCs, working of PESSI and the role the social partners. This could play a better role to strengthen the Government's efforts for workplace improvement, promoting social dialogue and ensuring protection and welfare of workers at the workplace and beyond.
- ▶ There is a need to **review the mandate of several committees** and the roles they play to ensure labour regulation. The membership of DVCs needs to be rationalized and functions have to be realigned in a manner to ensure effective working in the light of the actual spirit of the law. The working of Provincial Tripartite Committees should also be rationalised through establishing linkages with tripartite bodies and forums at the local, district and divisional levels.

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