

Realising Universal Labour Rights

Labour Standards for Small Enterprises in Pakistan

Pakistan Institute of Labour Education and Research (PILER)*

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Labour protection has largely failed as enterprise contribution to social protection. Much labour legislation does not apply to micro and small enterprises (MSE) ; those laws that do apply are complied with and enforced poorly. In consequence, most workers are denied, by state and market, even the core labour rights enunciated in the ILO Declaration of Principles and hence the minimum labour standards implied in the broader concepts of decent work. Reacting to this situation, two main responses are being widely discussed in the making of social and economic policy. An essential ingredient of this social dialogue will be a better understanding of the issues involved, and hence the space, necessity, implications (and the politics) of tradeoffs between employment and working conditions. This study attempts a modest contribution to this process of promoting social justice. The paper examines linkages between labour legislation and MSE growth in Pakistan, looks at official policies and proposals and reviews ILO analysis and advice. The concluding section has an extended discussion on a framework for universal labour standards, to then propose specific initiatives. These also bear upon the current official exercise of 'consolidating and rationalising' labour legislation for better compliance and enforcement.

*At the Pakistan Institute of Labour Education and Research, Karamat Ali assumes responsibility for this study, shared with A Ercelan and Umar Abbas. Zeenat Hisam contributed editorial support. Support of junior colleagues is also acknowledged. Suggestions by an ILO expert have improved presentation. The study reflects the lessons learnt at PILER from extensive involvement with the labour movement, and specially with informal economy workers.
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I

Introduction

As part of the informal sector in Pakistan, micro and small enterprises [MSEs] now account for the major share of employment in Pakistan, even upon excluding agriculture. At the same time, the rate of unemployment remains high, significantly high levels of underemployment continue to prevail, and a substantial proportion of the population suffers from absolute poverty amidst increasing inequality.¹

Labour protection has largely failed as enterprise contribution to social protection. Much labour legislation does not apply to MSEs; those laws that do apply are complied with and enforced poorly. In consequence, most workers are denied, by state and market, even the core labour rights enunciated in the ILO Declaration of Principles [Declaration]², and hence the minimum labour standards implied in the broader concepts of decent work, also promoted by the ILO.³

In consequence, the very large absolute numbers of deprived and excluded citizens are a potential for much social unrest, and to therefore become a pressing political problem for the state. Reacting to this situation, two main responses are being widely discussed in the making of social and economic policy. As expected, the alternatives echo the broader tension between development and growth (or between human and state security).

One, older, position stresses public action for decent work, which demands at least an equal importance to expanding decent work for development, along with employment creation and economic growth. The alternative, neo-liberal, position is a market approach, which places the

priority on employment and growth. If any rights are acknowledged, it is first for employment, secondarily for conditions of work. This position may accommodate concerns for decent work by suggesting that higher growth would allow higher taxes which can be used to fund special measures for labour as part of wider social protection. In contrast, the first approach emphasises the primary responsibility of enterprises, with the judgement that more equitable sharing of enterprise income between capital and labour is possible without jeopardising employment growth.

A third, pragmatic, position attempts to build a consensus around key concerns of both positions – holding the Declaration non-negotiable; but with collective bargaining over additional universal minimum labour standards, as aspects in decent work that are complementary (such as minimum wage) to the core labour rights; and seeking innovative private and public provision towards cost-effectiveness of implementing standards.

All in the labour movement, and even some employers such as those in Worker and Employers Bilateral Council of Pakistan (WEBCOP) support ILO's commitment to a world made secure by decent work. The ILO can therefore facilitate and strengthen a tripartite consensus for seriously and urgently moving forward on realising core labour rights.

An essential ingredient of this social dialogue will be a better understanding of the issues involved, and hence the space, necessity, implications (and the politics) of tradeoffs between employment and working conditions. This study attempts a modest contribution to this process of promoting social justice.

The paper is organised as follows. The next section examines linkages between labour legislation and MSE growth in Pakistan. A following section looks at official policies and proposals. The fourth section reviews ILO analysis and advice. To stop at this point would be a narrow, technocratic exercise that emphasises the link between market and labour entitlements, rather than the more substantive discourse on enterprises and labour rights. Hence the concluding section has an extended discussion on a framework for universal labour standards, to then propose specific initiatives. These also bear upon the current official exercise of “consolidating and rationalising” labour legislation for better compliance and enforcement.

II

Labour Regulation and MSE Growth

For decades, and specially since the mid-70s, the state has largely relied upon the analysis and advice of its major donors, specially the IMF, World Bank [WB] and the Asian Development Bank [ADB]. The Banks hold that the imposition of typical labour standards can hamper poverty reduction in Pakistan.⁴

At its simplest, the argument is that rapid employment growth has occurred in an environment of lax labour regulation; stiffer regulation will raise labour costs, which is an incentive to employ fewer workers; hence enforcing labour standards will seriously dampen employment growth. Furthermore, intrusive and extensive legislation mostly benefits officials that extort by harassment. What is needed is “benign neglect” in regulation, even while giving special access to finance and other services.⁵

Based on a labour market framework, the argument is typically elaborated as follows.⁶ Even though many of today's poor are employed, they are underemployed; others remain poor because of unemployment. Hence growth in employment is critical to accommodate high unemployment

and large underemployment, as well as a growing labour force. This is the best form of unemployment insurance possible; furthermore, reduced unemployment can raise wages because of a higher reservation wage due to a higher expected wage.⁷

Continued low levels of domestic savings and investment in the Pakistan economy, plus a drastic contraction of the public sector, imply that employment growth has to come mainly from the additions and expansion of micro, small and medium enterprises, which are also more labour-intensive than larger enterprises. But growth of such enterprises may be significantly reduced by the higher labour costs imposed upon business by enforcing (or even requiring) a stiffer labour regulatory framework for MSEs. Private investment may be reduced altogether, or shifted to more profitable ventures which diminish employment creation within Pakistan.⁸

Hence the prospects of rapid employment growth should not be traded off against the expansion of decent work.⁹ The need, therefore, is to facilitate growth by diluting existing labour legislation in scope, application, and enforcement. Distortionary policies of government include even minimum wages. Better working conditions, including employment security and unemployment benefits, will be delivered by the market when enterprises need them and can afford to do so; a broader social protection system should be used to achieve the objectives of decent work.

The paper reviews this (generic position) in the following manner. It begins with reaffirming the obvious significance of MSEs for labour and economy. This is followed by examining the proposition of a growth-trap for MSEs: higher labour costs would reduce employment and productivity growth by constraining the scale of new enterprises and expansion of existing enterprises. The discussion is confined to non-agriculture, since agriculture involves broader issues of agrarian reforms that lie beyond the scope of this study.¹⁰

MSE Employment and Output

The main source of published data on employment is the Federal Bureau of Statistics, which conducts the annual Labour Force Surveys. For output data, the main source is the Ministry of Finance, which publishes data on national accounts through the annual Pakistan Economic Survey.¹¹ An additional source is the Pakistan Statistical Yearbook published by the Federal Bureau of Statistics.¹²

Table 1 provides the most recent published economy-wide data on employment. An approximation to MSE employment is informal sector employment.¹³ MSEs account for just under one-half of total country employment (42 million); excluding agriculture, for nearly three-fourths of the remaining employment (24 million). Almost half of all employees hold jobs in MSEs.

A compelling reference is also to (open) unemployment -- which would have swelled to half the labour force if MSEs had not provided (some kind of) work for these 17 million, mostly men but also women, children and youth, as employees, self-employed and unpaid family labour (and the latter include quasi-employees as dependent upon regular outsourced work by other small enterprises).

Disaggregating employment by economic sectors confirms the pervasiveness of MSEs. Trade, Restaurants & Hotels account for nearly a third of total informal employment. Manufacturing, and Services & Utilities provide an additional third of MSE jobs.

Table 1: Structure of Employment in Pakistan, 2003-2004

	Total (millions)	Formal (million)	Informal (million)	Share of Informal (%)
Labour Force	45			
Unemployed	3.3			
Employed	42	7	35	83
Employer	Less than 0.5	n.a.	n.a.	
Self-Employed	16	n.a.	n.a.	
Unpaid Family Helper	10	n.a.	n.a.	
Employee	16	n.a.	n.a.	
Employed in Agriculture	18	0	18	100
Employed in Non-Agriculture	24	7	17	70
Children (10-14)	2.5	n.a.	n.a.	
Youth (15-19)	6	n.a.	n.a.	
Employed working less than 25 hours in week	2.5	n.a.	n.a.	
Employed working more than 48 hours in week	18	n.a.	n.a.	
Employees working more than 48 hours in week	2.4	n.a.	n.a.	
Wages < Rs 2500	7	n.a.	n.a.	
Wages < Rs 4000	11	n.a.	n.a.	
Employed in Non-Agriculture	24	7	17	70
Rural	11	3.1	8	73
Urban	12	4.0	8	67
Male	22	6	15	70
Female	2.3	0.8	1.5	66
Employer	n.a.	n.a.	0.2	
Self Employed	n.a.	n.a.	7	
Unpaid Family Helper	n.a.	n.a.	1.9	
Employee	n.a.	n.a.	7	
Trade, Restaurants & Hotels	6	0.4	6	93
Manufacturing	6	2.3	3.4	60
Services & Utilities	7	3.6	3.4	48
Construction	2.4	0.2	2.2	91
Transport, Storage & Communication	2.4	0.5	1.8	77

Source: Labour Force Survey. It defines informal for non-agricultural employment as including all self-employed; unpaid family labour; employers and employees in household enterprises with less than 10 workers; hence informal employment in larger enterprises is excluded. Younger children are wholly excluded from the survey, regardless of their participation in work. Rural and urban refers to residence of household rather than location of enterprise.

As has often been remarked, the Construction sector is an important source of employment by MSEs; and consequently ranks almost the same as Trade etc, with over 90% as the share of such employment in total employment within the sector. Though Transport & Storage provides an equally smaller (absolute) number of jobs, the nature of the sector is such that it lends itself to informal employment, and therefore the sector ranks third in MSE share of employment.

Deserving of special notice is female employment. The absolute number remains very small in comparison to male employment, reflecting not only much lower labour force participation but also larger unemployment (and underemployment) rate among females. Such data illustrates large deficits in rights to work, serious even with reference to South Asia, or to Islamic Iran and Indonesia.

Contributions of MSEs to non-agricultural production cannot be disaggregated in as much detail as employment. A crude approximation is through sectoral composition of national income accounts. Since (measured) productivity of workers is likely to be lower in MSEs as compared to the average, national income data can overstate the direct contribution of MSEs (though not necessarily that of workers). Since virtually all enterprises consume products and services from MSEs, the indirect contribution of MSEs may, however, be substantial.

To begin with, current contributions can be gauged by focusing on agriculture and the small-scale and household manufacturing sector. Currently (in 2004-2005), these account for over a fourth of GDP -- obviously much less than shares in employment since the arithmetic of market prices does not necessarily capture an alternate social accounting of contributions.¹⁴ Nevertheless, this share reasserts a substantial contribution of MSEs to the economy.

Additional contributions of MSEs are reflected in the GDP generated in other sectors where informality of employment is widespread. Trade now accounts for nearly 20 percent of GDP. Construction and Transport together produce another 20 percent; and Services account for a similar share of GDP. If we recognise the fact that even large-scale manufacturing relies upon inputs from MSEs as well as production through informal employment, then its sectoral contribution is illuminating at over 10 percent of GDP.

Table 2. Sector Shares in Pakistan Gross Domestic Product (per cent)

	1973-74	2003-04
Agriculture	34	22
Non-Agriculture	66	78
Trade	16	18
Manufacturing	17	18
Small-Scale Manufacturing	3.9	6
Services & Utilities	18	21
Construction & Dwellings	7	5
Transport, Storage & Communication	7	14

Source: *Pakistan Economic Survey*. GDP is at current factor cost.

National accounts of government allow us to examine one type of objection to a minimum wage in Pakistan. There is an assertion that, unlike in developed countries, minimum wage does or will exceed average income, and therefore privileges some over most. Official data do not appear to support this assertion.

Annual income is estimated by government at Rs 44,000 per capita. After the revision in mid-2005, the current monthly minimum wage (though not received by most workers) is Rs 3,000, which translates to Rs 36,000 annually. Even for a single person household the wage is less than national average income. Most workers support dependents, and hence current minimum wage per capita becomes substantially less than average income per capita.

Table 3: Employment Trends in Pakistan

	1974-75 (millions)	2003-2004 (millions)	Change (millions)	Ratio of Change	Share of Change (%)
					In Labour Force
Labour Force	20.4	45	24.6	2.2	100
Unemployed	0.4	3.3	2.9	8.3	12
Employed	20	42	22	2.1	89
					In Employed
Self-Employed	10	16	6	1.6	27
Unpaid Family Helper	6	10	4	1.7	18
Employee	4	16	12	4.0	54
Employed in Agriculture	11	18	7	1.6	32
Employed in Non- Agriculture	9	24	15	2.7	68
Children (10-14)	0.7	2.5	1.8	3.6	8
Youth (15-19)	0.9	6	5.1	6.7	23
Employed working less than 25 hours in week	2.1	2.5	0.4	1.2	1.8
Employed working more than 48 hours in week	10	18	8	1.8	36
Employed in Non- Agriculture	9	24	15	2.7	68
Trade, Restaurants & Hotels	2.2	6	3.8	2.7	17
Manufacturing	2.8	6	3.2	2.1	14
Services & Utilities	2.2	7	4.8	3.2	22
Construction	0.9	2.4	1.5	2.7	7
Transport, Storage & Communication	1.0	2.4	1.4	2.4	6

Source: Labour Force Survey.

Output Growth

Sectoral GDP trends are discussed next. Imputing significance to MSEs requires an examination of growth in those sectors where MSEs provide much employment.¹⁵ Recent growth rates in agriculture, and in small-scale and household manufacturing have exceeded 5 percent per year. In industry too, growth is officially estimated to have been very good; other sectors are said to have done even better.¹⁶

Across the three decades, two sectors stand out as better than average growth -- reflected in expanded shares of GDP are Small Scale Manufacturing where the sectoral share has gone up by 50 percent; Transport & Storage, where the share has doubled to become 14 percent of GDP. These are sectors with much employment through MSEs.

An equity perspective is for such rapid growth in production to be recognised as contributions of both labour and capital. Hence it shows much room for redistribution just of the economic growth itself. Minimum labour standards are one way of achieving this redistribution.¹⁷

Employment Growth

Data suggest that employment expansion has been rapid in MSEs -- official surveys show a steady increase in employment, both absolute and relative, in the informal sector over the last three decades. This has happened despite (at least some) labour legislation, but which has been complied with and enforced more as an exception rather than the rule.

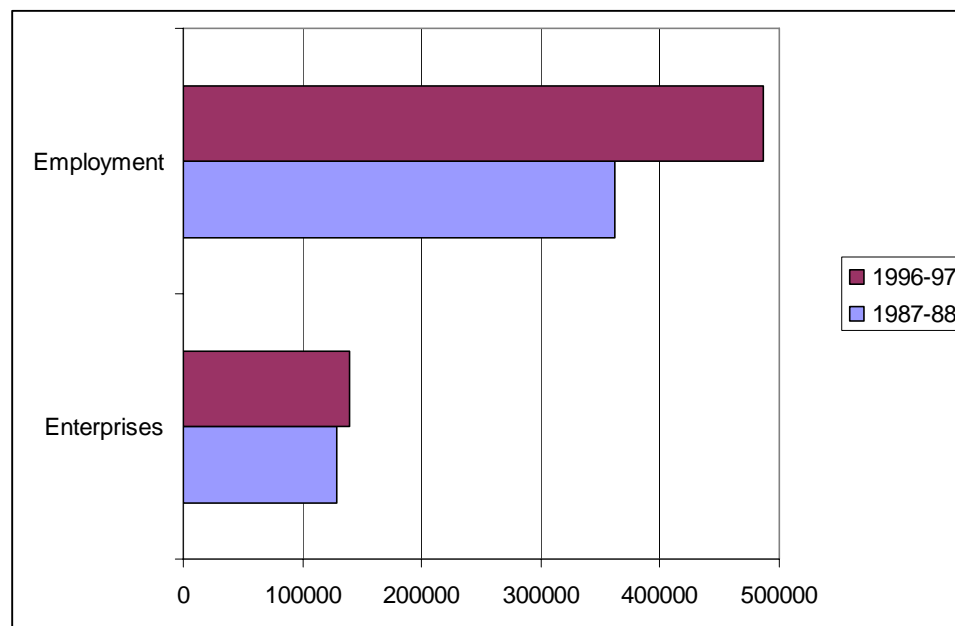
MSEs are pervasive in non-agricultural sectors. These sectors have accounted for more than two-thirds of all additional employment in the economy. More than half of the new jobs came from Trade & Restaurants; Services; plus Manufacturing.

Trend data on the informal sector labour force is available since the mid-90s. It indicates that the role of MSEs has grown in non-agricultural employment -- from a share of 65% in 1996-97 to 70% in 2003-2004. MSE employment now stands at nearly 40% of all employment.

Since this data excludes informality of employment within the formal sector, the issue of exclusion in labour protection is even more urgent.¹⁸ An idea of this aspect of informalisation of employment may be gauged from the fact of massive decline in employment under the Factory Act -- across the 90s, such employment nearly halved even as the number of registered and working factories increased, and employment in manufacturing rose by more than 30%.

Surveys of household (exempt from laws) and small manufacturing enterprises (where some laws apply) provide additional insights.¹⁹ Over the decade of 1987-88 to 1996-97, there was a steady growth in the number of units -- from about 260,000 to nearly 430,000 enterprises across (rural and urban) Pakistan. Employment expanded at a higher rate, from just above 625,000 to over 1.2 million persons; and paid employees doubled from around 210,000 to nearly 490,000 workers. There is no reason to doubt that, when published, the most recent census of 2002 will establish continuation in these trends.²⁰

When the focus is on expanding employment, a central concern is whether labour legislation imposes, or could impose, labour costs that would be a serious constraint upon the growth of employment in MSEs. This can be further decomposed into constraints for setting up new enterprises; and for expanding enterprises. In either case, economies of scale could suggest larger enterprises, which may also have higher productivity that may translate into higher labour compensation for most if not all workers. This expansion may, however, be deterred by the costs of meeting those higher standards of labour protection that are tied to scale of enterprise.²¹

Figure 1: Growth in Urban Small Manufacturing in Pakistan

Source: Survey of Small and Household Manufacturing Industries. Employment includes owners, unpaid family labour and paid employees. In 1996-97, the survey includes 10 and more persons in unregistered enterprises.

The household and small manufacturing surveys point to scalar growth of such enterprises. Average employment increased (from 2.8 to 3.5 persons) in urban small manufacturing units. Units with 8 or more workers more than doubled, and their employment increased nearly four-fold. In contrast, urban units with 3 or less workers declined in absolute numbers (though slightly).²²

Compliance in MSEs

If MSEs seriously worry about labour costs in considering initiation or expansion, then there should be some evidence of compliance with labour laws that do apply to all enterprises. One example is minimum wages. Recent data from labour force surveys show that over 40% of all employees (across both informal and formal sectors) received less income than the minimum monthly wage (of Rs 2500). Female employees fared worse, with nearly 75% under the minimum wage (in part a reflection of more part-time labour). Urban females fared much worse, but urban males did better. Case studies suggest that informal sector workers would have shown up as doing worse if disaggregated labour force surveys were published.²³

Data on income is not tied to working hours; hence income larger than minimum wage conceals the violation of minimum wage for maximum working hours and weekly paid leave. Independently of minimum wage, laws on hours and leaves apply to all enterprises (such as the West Pakistan Shops & Establishments Ordinance 1969). However, both across Pakistan and in urban areas, almost 40% of employees worked more than 48 hours in a week. It is doubtful that most received extra payments let alone being paid at legal overtime rates. The situation has been exacerbated by legal extensions in working hours.

A third example is child labour. Official estimates, considered by many to err on the low side (e.g. by underestimating domestic labour, and home-based labour), show growing numbers of children in employment – now of 2.5 million children under the age of 14. MSEs, specially at the lower end of the scale, have been noted in more than one study (including those by the ILO), to employ child labour ignoring laws on special working conditions. Hazardous labour by children

is also reported in various studies. Most observers would agree that child labour is an effort to reduce labour costs, in violation of minimum wage law, and of laws against discrimination. Brick kilns are an illustration of larger enterprises where child labour is routine.

Brick kilns also provide a fourth example, that of debt bondage.²⁴ Laws prohibit forced labour across the board. Yet kilns have grown in number and size, where debt bondage is the rule. Brick kilns are also a specific example of non-compliance with minimum wages leading to bondage. There is evidence that debt bondage is more pervasive than just in kilns, and that it is growing in non-agriculture (even as it declines in agriculture because of the decline in share cropping and field labour).²⁵

A fifth example is gender discrimination, supposedly against the law for all enterprises. A specific example is again brick kilns, where piece rates fail to account for the regular labour of women (and of children) when minimum wage is the reference.²⁶ Aggregate data on wages and on occupations is also an indicator. In 2003-2004, mean income of even urban female employees was around 70% that of males. The comparative distribution of employees further highlights inequality. Even in urban Pakistan, one-third of female employees earned less than Rs 1500 a month, as compared to around one-tenth of males. More than 40% of male employees earned in excess of Rs 4000, while only 25% of females could do as well.

The distribution of female employment across sectors is one reason, suggesting entry barriers for females: among the employed in non-agriculture (which includes self), nearly 40% of females were in the informal sector, as compared to a third of males. Among urban female workers, more than a fourth held unskilled jobs, as compared to less than 20% of males.

In addition to differential access to work, compensation too was highly discriminatory across sectors and occupations. A recent income survey finds urban females employed in “elementary occupations” to earn, on average, less than one-half of males; females as craft workers and service workers fare worse.²⁷ Among sectors, the difference in income is more than three-fold to the advantage of males for persons employed in manufacturing; and over two-fold for employment in trade.

These examples can be used to infer the low probability of facing higher labour costs due to labour standards, at least at current levels of compliance and enforcement. Of course, one may also infer that MSEs may yet hesitate at expansion because larger scale increases “visibility,” and hence a higher probability of application of higher labour standards, with higher costs of compliance or of evasion.

It is simplistic to conclude that these must remain necessary social costs of rapid growth in employment; and reasonable to insist that MSEs should and can do better in the future.

Some light may also be thrown by the surveys of manufacturing on whether labour costs have impeded scalar growth of MSEs. Among urban small manufacturing, enterprises with 3 workers or less were stagnant in the numbers employed, over the period 1987-88 to 1996-97. For this scale of enterprises, labour costs were less than 10% of production value in the recent year. In contrast, employment in relatively larger enterprises with 8 or more workers grew almost five-fold (some of which may be conversion from household units to small enterprises), where labour costs were twice as high at around 20% of production costs. At least for these scales of enterprises, labour costs did not deter growth. Of course, one inference could be that if growth is to be maintained labour costs should not increase. But labour costs as a share of production costs were much lower (at 15%) in the earlier year, at least for the larger units with 8 or more workers.

Compliance in Larger Enterprises

A counter-factual could be asserted – that employment growth in MSEs would have been even more explosive than it actually was, because of costs imposed by labour legislation (as deterrence, or as reduction in investible surplus). So relatively larger enterprises were not established as often, or they were less labour-intensive than they should have been. It seems to us that a complex set of issues are involved.

One way of examining this proposition is to look at compliance data of larger enterprises. Smaller enterprises may be expected to seriously worry about legislated labour costs if they observe a high level of compliance among relatively larger enterprises; infer that similar labour costs will in fact apply to them, and these labour costs are considered to be “excessive.”

Most labour legislation has applied to enterprises with 10 or more (paid) workers.²⁸ This is usually interpreted by enterprises, and complicit labour officials, to mean full-time employees with formal written appointments. Hence the first thing to note is that micro enterprises may grow substantially in scale, and a vast range of scales may be available for a new micro enterprise, without worrying about most labour legislation.

Using the latest data available, for 1996-97 the average employment (including the working owner and unpaid family members) in household and small manufacturing units was less than 4 persons; around 90% had 4 or less workers.²⁹ Less than half of all workers were paid employees. Hence most micro enterprises in manufacturing could have more than doubled employment without concern for the costs of most legislated labour benefits, and even of the infamous Factory Act per se. The latter has little teeth, anyway -- in 2001, less than 10,000 units were registered across all of Pakistan; of these less than 2000 were considered as “reporting factories.”

The option of expanding wage employment within the enterprise has been independent of the possibility of employing workers in other arrangements such as piece rate and contract, which is usually excluded in the minimum number of workers for legislative obligations. For example, in 2001-2002 the average daily number of factory workers paid under the Payment of Wages Act was around 160,000 persons, as compared to well over 2 million persons reported to be employed outside of the informal manufacturing sector.

Compliance data for larger enterprises does not support the contention that small enterprises be concerned with labour costs when crossing the boundary of 10 workers. In 1998-99, around 700,000 non-agricultural workers were ‘secured’ by provincial social security institutions; coverage remained well under a million workers by 2002-2003.³⁰ In the latter year, formal sector employment in non-agriculture was around well over 7 million persons; even conservatively restricting the reference to the urban formal sector (4 million), most of the employees (over 2.5 million) were excluded. Extension of social security obligations to all enterprises with 5 or more workers has shown no corresponding expansion in the number of contributing enterprises. One reason for this will of course be the virtual disappearance of inspections as policy.

Coverage for other labour welfare levies remains inadequate. The Employees Old-Age Benefits Institution had registered only around 55,000 employers by 2002-2003, covering less than 2 million employees.³¹ Consider the Workers Welfare Fund, applicable to industrial establishments. One cess is (at 2% of) income of all establishments with “assessed” income of Rs 100,000 or more. Another applies to the profits of those with 50 or more workers, clearly irrelevant to small enterprises. Data is unavailable for enterprises contributing and workers covered.

Other aspects of labour welfare may well worry MSEs. Formation of trade unions and consequent collective bargaining for better labour protection is one. But data on union membership suggest otherwise, with less than 1000 reporting unions and less than 300,000 members in recent years.

Termination costs in particular, and generally checks upon arbitrary hire and fire, could well constrain MSEs from expanding to a size where such laws constrain “labour flexibility.” These costs may be thought unaffordable for small enterprises. It isn’t quite obvious where the level lies, but balance is to be struck in the sharing of unemployment and retraining costs, risk, uncertainty and income, between workers, enterprises and the state.³²

Field Assessments

Discussions were held with selected workers, enterprise owners, their associations, and government officials in Karachi, Hyderabad, Faisalabad, Lahore and Islamabad. Since a systematic survey of enterprises was not called for by the study, selections were on the basis of credible contacts. By design, agriculture and fisheries were excluded. Both home-based workers and domestic workers also require separate studies by themselves.

The selection ended up being more at the lower end of MSEs. Enterprises and workers included the following: garments; bangles; power-looms; brick kilns; light engineering; automotive parts; rickshaw, taxi and bus; cartons; tea; school. Interviews with government included those with the federal Workers Welfare Fund; Punjab Social Security and Punjab Minimum Wage Board; and District Labour Officer.³³ SMEDA was not included in the interviews because much written material is available.

These discussions were supplemented by discussions at, and proceedings of, three recent country conventions of (mostly) informal economy worker associations in Karachi (textiles and transport, which included self-employed) and Multan (construction, mostly brick kilns).

Hence assessments should be treated as impressions rather than ‘hard’ data. On the basis of extensive work done previously by PILER, these impressions are more robust than indicated by the special sample itself.³⁴

Assessments include these findings:

- Enterprise owners do not consider labour costs as a significant constraint in setting up or growth of enterprises; other input costs are a source of worry.³⁵
- One reason for this is that most MSEs do not comply with most labour laws, including minimum wage and social security provisions; many are not even aware of legal requirements; inspection is seen only as benefiting inspectors rather than workers.
- Workers are keen on adequate wages and regular payment; this is a major reason for wanting written terms of appointment generally denied by owners in MSEs.
- Social security is keenly desired by workers, but if conveniently accessible and independent of employer certification for enrolment and benefits; health care is specially desired by workers susceptible to serious injury at work.
- Employers are averse to collective bargaining whereas workers are keen on broad sectoral unions which could balance employer power at the establishment level.³⁶
- Government does little to enforce laws in general; and labour laws, even minimum wages, are no exception.
- The recent change from inspection to self-assessment has yet to show positive results.

- A federal institution for oversight of labour welfare would improve effectiveness – both as more inclusive, as well as more cost-effective.

Required Reforms

With present legislation, micro enterprises can expand quite a bit, exempted as they are from formal compliance requirements. For small enterprises that expand or establish to enter the formal sector, enforcement is so lax that they need worry little about compliance costs; avoidance through outsourcing and contracting is a feasible cheaper alternative. Both will allow them to maintain or increase profits.

Hence, often asserted is the reverse. Instead of legislation being a brake on MSEs, informalisation of employment, including MSEs, has grown more rapidly than otherwise so as to avoid and evade labour legislation applicable to the formal sector. There is no disputing this global phenomenon. One response could be to dump most labour legislation, so that enterprises can expand or larger enterprises can be established without worrying about additional obligations of labour legislation.

For those committed to a society with decent work, the more appropriate response is to acknowledge that MSEs are where most workers are now located. Hence to modify legislation towards (facilitation and enforcement) of universal application of minimum labour standards. There are just too many observed market failures to establish, and maintain, minimum standards to suggest that the state can withdraw from effective regulation.

Often expressed is the view that MSEs offer an escape valve (directly or indirectly) for enterprises wishing to avoid compliance costs of labour legislation. When standards are universally applied and enforced, labour costs should become less of an issue in choosing an appropriate scale for competitiveness.

What these universal standards should be are an issue for tripartite agreements (or social dialogue) -- except for the core labour rights in the Declaration. Even in the non-agricultural sector, the “labour market” falls short on one or more of these standards – child labour, debt bondage (forced labour and more), discrimination (gender and beyond), collective bargaining (enterprise and more). Furthermore, realising these rights entails recognition of complementary standards, such as adequate wages for all adults, men and women. The concluding section deals with these issues in more detail.

Naturally this will entail costs to MSEs that owners (and customers) have been shifting so far upon workers and citizens. What these costs will be is a matter of prior, tripartite consensus upon specific minima as universal labour standards, and upon cost-effective compliance and enforcement mechanisms. This must include adequate inspection arrangements as long as worker organisations remain weak in comparison to even individual employers. But the latest IRO 2002 is an example of additional constraints imposed upon collective organisation and action by workers, and hence the increasing obligation upon the state to seek compliance with laws for labour welfare.

Present legislation, including the drafts being considered as consolidated legislation, remain irrelevant to a costing exercise since this legislation is not aimed at universal application.³⁷ As they stand, most will not, or cannot, be enforced universally. The experience with the law against bonded labour is also not encouraging – where the government took several years to even make rules for implementation. There are other issues, dealt with in subsequent sections.

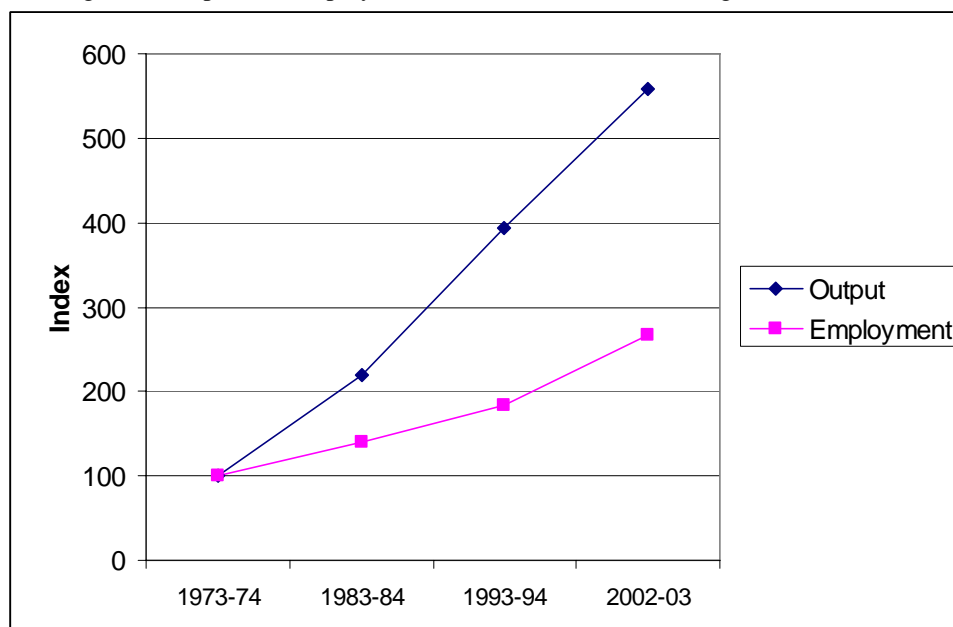
Are there any labour standards that impose virtually no cost upon enterprises, at least not as directly as a minimum wage, or social security levy, or the replacement of child workers with adults? Clearly, recognition of trade unions and collective bargaining is one. Of course, successful bargaining will lead to higher future costs of meeting other labour standards.

Some idea of prevailing labour costs may help in reducing resistance to reforms. Delay in publication of the Economic Census necessitates the use of much older and narrower data, for small manufacturing units in 1996-97.³⁸

As the scope for bearing higher labour costs, consider the average share of labour costs in urban production and in total costs, which was 15%, and 25%, respectively.³⁹ At the upper end of the employment scale, in enterprises with 8-9 workers, these shares rose to around 20% and 30%; declining to about 25% of production in enterprises with 10 or more workers. The large, perhaps considerable, profit margin (inclusive of compensation for working owners, and taxes) is indicated by the relative gap between production and costs.⁴⁰ On average, this was nearly 50%; declining to around 30% among the largest units.

Another way of looking at the scope for increasing compensation is productivity of workers. The large gap between growth of national output and of employment is an indicator, though crude. Unfortunately, trend data on real wages remains scanty. When official estimates of unskilled construction wage are adjusted by the consumer price index, the real wage in Lahore fell between 1993-94 and 2002-2003 – a period over which national output in construction rose by 15 per cent.

Figure 2. Output and Employment Growth in Pakistan Non-Agricultural Sectors



Source: Labour Force Survey; Pakistan Economic Survey. Output is GDP at constant prices of 1980-81

Whatever the reforms to encompass MSEs within labour legislation, labour costs are likely to rise, and profit levels may even decline though less so when scalar expansion is also involved. Some enterprises may even shut down, as they should if survival depends upon exploitation, or

even upon forcing labour to work for inadequate compensation just because owners choose to be (independent) employers rather than (disciplined) wage workers.

When profits are seriously affected, policy makers need to decide whether profit rates or profit levels are the object of concern. One approach to persuasion could be the argument that if the scale of profits increases with scale of enterprise, it is reasonable of workers and society to hold the larger enterprise accountable for larger contributions to labour standards, even while workers remain grateful for the additional employment.

With reductions in underpaid, overworked, and insecure workers, an enterprise could well gain through higher labour productivity a large part of what it pays in higher labour costs (as surveys show, and more than one ILO study argues). Some part of additional labour costs will get shifted through higher prices upon consumers (including those now subsidised in affluent importing countries).

Another part may be subsidised by government in the same manner as it does, or will, subsidise capital and other input costs for MSEs.⁴¹ Even owners of expanding MSEs may well have to trim their profits if their product markets do not expand sufficiently. What government can then do is to help with the adjustment, which includes reducing overheads of compliance that include dealing with enforcement organisations. Furthermore, labour welfare costs should and can be more equitably shared by workers, and among enterprises. Some suggestions in this regard are given in later sections. What government should discontinue doing is to shift costs entirely upon some workers by exemptions e.g. in special industrial zones.

Some would also suggest that the burden of labour protection be shifted away from enterprises to mainly upon government through comprehensive measures for social protection. Indeed, some aspects could be handled more cost-effectively, at least in principle, by a more capable government. However, some are inescapably the responsibility of the enterprise e.g. minimum wages without discrimination, safe and healthy work environment including working hours, collective bargaining. As for social protection, collective efforts of workers and enterprises, and other alternatives, could prove more cost-effective than excessive reliance upon government.

In the event that expansion of employment does seem to be still strongly threatened by higher labour costs for MSEs, then better macro management of the economy is required -- which would follow from a vision of development much unlike that currently followed by the state (or advised by donors).⁴² Hence it is important to stress that government can do much more when the state expresses a greater commitment to citizen rights.⁴³

It is our judgement that neither official survey data nor field assessments support the fear that realising minimum labour standards for decent work will become a serious constraint to employment growth in MSEs.

III Government Policy

Two federal ministries will continue to be significant in shaping policy for MSEs. One is Finance, which is naturally responsive to policy directions of major donors, the World Bank and the Asian Development Bank. Its relevant contribution is the Poverty Reduction Strategy Paper. The other Ministry is Industries, where an Industrial Strategy has been prepared with the assistance of the World Bank. Reflecting its responsibility for preparing SME policy, the Small and Medium

Enterprise Development Authority [SMEDA] has prepared an issues paper (discussed below). The Planning Commission, and more so the Ministry of Labour, remain largely at the sidelines.⁴⁴

SMEDA

Functioning under the Ministry of Industries, SMEDA published an issues paper, which is likely to inform official policy towards the sector.⁴⁵ Equating social progress with private investment, it's position on labour is straightforward. "The existing plethora of labour laws has made compliance impossible due to their inherent inconsistencies. Numerous labour inspections under these laws are yet another impediment that retards the growth of SMEs."

It is not made clear whether the labour cost constraint is to setting up or expansion of an enterprise, or that it is in fact a binding constraint. There is no specific evidence provided to support either claim.⁴⁶

SMEDA does recognise the need for "labour market security, including protection against arbitrary loss of unemployment, reductions in income and unhealthy work practices." It reminds the need to "comply with international labour standards under the global economic system." Since these standards are not specified, one hopes that they include the Declaration.

SMEDA supports the ongoing process of consolidation and simplification of labour laws. It also supports a new Labour Inspection Policy; the new "hands-off" inspection system in Punjab presumably reflects recommendations of SMEDA.

Ignoring the widespread lack of compliance with labour laws, recommendations of the SMEDA Working Committees were quite simple and specific about their objections to labour legislation.⁴⁷ Blanket exemption was demanded for the Factories Act, and the Employees' Social Security Ordinance. "Rationalisation" was asked for amending inspection powers and procedures under various legislation (including, curiously, the very legislation for which exemption was asked for). Other matters of affirmative discrimination in their favour included reduction in compensation awards by labour judiciary.

The SME issues paper by SMEDA draws upon an earlier Country Study by SMEDA, published by the ILO.⁴⁸ The study cites market demand as the most important factor for enterprise creation and growth – "for increasing or decreasing workers, on improving the quality of employment and on enterprise investment... government policies, labour regulations and special incentive programmes have only a limited influence on their decision-making. ...conditions of work were highly dependent on enterprise performance, linked strongly to market demand... Market demand for product or services also plays a dominant role in respondents' decisions to invest in expanding or upgrading existing facilities ...The micro enterprises display indifference or perceive themselves as uninfluenced by the policy environment and regulatory framework, while small and medium-sized enterprises can be negatively affected, creating impediments to employment growth."

Are labour regulations likely to be significant impediments? The country study recognizes widespread non-compliance, because of exemptions, evasion or indifference.

To its credit, the country study is troubled by the consequent failure to provide fundamental rights for workers. Progress in this regard will have to recognise that "one of the most pressing issues ... is the cost of compliance — in terms of both time (spent dealing with various compliances issues with various departments) and money. The general consensus is that there are far too many labour

laws in Pakistan. Especially for the micro and small sized firms, obligatory compliance would be a considerable problem.”

The study frankly acknowledges that the “contributing factors to better job quality in large-scale firms are compliance with government regulations, the right to collective bargaining and, to some extent, stringent monitoring and implementation of laws due to the size and location of the enterprise.”

It observes that “many employers consider trade unions as a weakening factor for their enterprise... and many industrial units are broken into smaller ones so as to avoid the ‘critical mass’ of workers required for trade unionism.” Since a fundamental right is involved, it calls for raising awareness levels among workers and employers in micro and small enterprises, and points out that current fines for violations are not a deterrent. Amendments in law need to cover contract workers

It recognizes that the “payment of minimum wages contributes to poverty alleviation [but] many workers in Pakistan earn less than the minimum wage ... Many enterprises, especially in the MSME sector, avoid paying social security contributions by remaining in the informal sector.. The low coverage ultimately results in inadequate job quality in the form of underutilized welfare benefits, which should be provided by these [government] institutions... Steps are desperately required to encompass the formal micro sector, as this sector is the main source of employment.”

For the study, “the foremost problem is the entrepreneurs’ lack of awareness of existing labour regulations ... Most enterprises on the threshold between 9 and 10 workers do not find it convenient to obtain basic information on compliance requirements. No consolidated effort has been made by government to inculcate a basic understanding of the labour laws, the steps required for compliance, the rights of owners/managers, or the correlation of enforcement with enhanced productivity and improved job quality.”

Most interesting is its comment on costs of compliance. “The general consensus is that the costs of compliance with labour levies are too high. Yet they are not excessive: for the average SME entrepreneur the total contributions based on various labour levies for an average size SME are not more than 1.5 to 2 per cent of annual turnover.”

Quite rightly, it also observes that “even if these contributions were made, workers would not benefit greatly, due to dilapidated medical facilities and the limited coverage of pension schemes based on labour levies. Moreover, by entering the formal sector, compliance with labour laws will not be the only issue to deal with. Being part of the documented economy, an enterprise can be traced by various other departments such as the tax department. Thus, many enterprises avoid registering and remain in the informal sector.”

The study calls for “third-party private-sector compliance auditing ... at least for the regulations on hiring and the standards of engagement. One law could be tried as a pilot case.”

Industrial Strategy

The Ministry of Industries has recently made public a draft industrial strategy.⁴⁹ Since private investment is its goal, it begins with stating “a consensus” upon the reasons for stagnant private investment – one of which is the “high costs of doing business.” Among these latter are those imposed by labour regulations; and the “special problems” of SMEs.

Rapid growth of SMEs would lead to “improved export focus, technology adoption, and efficient clustering.” Strategy calls for a new law focused on incentives, to include the removal of regulatory obstacles.

Obstacles to industrial growth generally are held to include complex labour regulations which “raise the cost of workers, thereby slowing firm growth.” Pushed into using contract labour, firms do not have incentives to upgrade skills. Regulations lead to fragmentation, which reduces scale economies, that then “retards firm growth.” But the negative linkage between labour legislation and SME growth is qualified by a subsequent acknowledgement of “large-scale evasion and poor coverage.”

On strategy, the study mentions the on-going process of consolidation of labour laws, and of self-assessment to replace external inspections. It additionally calls for increased responsiveness of labour welfare institutions through majority membership of employers and employees on governing boards. However, there is no indication that such increased representation would reflect the labour and capital economy of SMEs.

More interesting is the call for private provision of labour welfare – such as health insurance for workers, and quality education vouchers to children of workers, presumably as a substitute for current public provision. One is left to imagine how this can be financed on any significant scale, given the (acknowledged) large-scale evasion of labour levies.

Development Strategy

The Planning Commission has prepared a Medium-Term Development Strategy 2005-2010. With its ambitious targets for SMEs -- to double the share of small and medium industries (SMEs) in the manufacturing sector, the Development Strategy devotes an entire chapter to SME growth for employment generation.

Its point of view is that “low investments in technical and managerial skills, coupled with an unfavourable legal, regulatory, and taxation environment, prevents the SMEs from achieving their actual growth potential for employment, income generation, and poverty reduction.”

Ignoring its own observation that “the key ingredient needed to make SMEs competitive is enhanced technical skills and organisational capacity,” labour legislation is accorded the usual criticism – as among “complex and unfriendly legislation and implementation procedures, which can encourage official abuse, push up the cost of starting or running an enterprise, and discourage the SMEs from joining the formal economy.”

The Commission echoes SMEDA in proposing “less intrusive labour laws, and involvement of trade bodies in the inspection process to minimise harassment.” However, it does recognise that issues of social equity are involved, and therefore suggests incentives – such as reduced cost of credit and other inputs -- for increased voluntary compliance with social security (including old age) legislation.

Also of relevance is the chapter on legal & regulatory framework – though more for the lack of serious discussion of labour standards and rights. It is interesting that conflicts between consumers and investors are mentioned but none between labour and capital. This perhaps also indicates the prevailing disinterest in labour rights among the top managers of government as a consequence of embracing the ideology of markets. Hence the chapter merely reproduces its proposals for reforms of labour laws to accelerate SME growth.

Interestingly, a section on economic empowerment of women conveys a serious commitment, or at least proposed, to labour standards. The Strategy includes steps to enforce a minimum wage,

conditions of informal work, home-based contracts, and quite radically, for agricultural workers to have “rights to have social security, medical and old age benefits.”

Poverty Reduction Strategy

Guided by the WB and other donors, the Ministry of Finance published a Poverty Reduction Strategy Paper (PRSP) to guide economic management for social policy.⁵⁰ In general it is stronger on ends than on links between funding, new implementation arrangements and credible monitoring arrangements (and hence less accountable to citizens than what is required).⁵¹

A special household survey is to track impacts of the strategy.⁵² Curiously, its publication has no information on labour issues, not even on unemployment and real wages; (perhaps to avoid the risk of contradicting assertions of significant poverty reduction).

Support to SME growth is part of the PRSP since SMEs are “expected to significantly impact poverty through: (i) income generating activities in the rural and urban economy; (ii) creating employment opportunities; and (iii) providing forward linkages to the micro-enterprises benefiting from the availability of micro-credit.” With donor assistance, government and the private sector will move towards “(a) formulating and implementing SME Policy and Regulatory Policy development; (b) providing SMEs with direct access to services for enhancing competitiveness and employment generation; (iii) improving SMEs’ access to finance through SME Business Support Fund; (d) SME Bank restructuring; and (e) disengaging the Government from activities that could be better provided by the private sector.”

In view of other official positions, it is curious to find the PRSP wanting to strengthen existing labour welfare arrangements, such as the “Workers Welfare Fund (WWF), Employees Social Security Institutions (ESSI), Employees Old Age Benefit (EOBI)...The Government is also considering the introduction of a defined contribution voluntary pension scheme, to be regulated by the SECP, to provide individuals access to old age security.” PRSP repeats the call for rationalization and consolidation of the large number of labour laws, but without coming to grips with its own acknowledgment that SMEs provide “99% of non-agricultural jobs.”

In its chapter on Poverty (third in line), PRSP acknowledges that “since the minimum wage is not regulated (?) effectively, access to employment opportunity does not guarantee an end to poverty. A more salient problem is that a vast majority of the poor are employed in the informal economy. A combination of low wages and risks that are inherent in informal employment worsens the prospect of moving out of poverty. Sustained economic growth may induce more investment and hence employment in the formal sector. This will have the effect of reducing the reliance on informal sector on the one hand, and will also likely result in higher wages in the formal and informal sector alike.” No indications are given for specific ways of helping the informal economy workers, not even through attempts to implement the minimum wage.

Recognising declines in real wages, PRSP has the standard market-reliance response of increasing labour demand through various schemes for public spending including training, and via emphasis upon labour-intensive sectors for facilitating private investment. Accelerating labour export is seen as another strategy to reduce unemployment.

In the meanwhile, government has gone ahead with a new “Labour Inspection Policy (LIP) to adopt an innovative approach to labour inspection that is flexible, transparent, and fair; encourage enterprise compliance with labour policies and laws; and increased harmony and dispute prevention in enterprises between workers and managers.” Again, reports of initial results are not encouraging even if not publicly admitted by government.

On eliminating child and bonded labour, PRSP simply defers to existing National Plans, whose poor implementation has little correspondence towards well-stated goals. A repeat survey of child labour is awaited.⁵³

Labour Protection Policy

The PRSP promised a “Labour Protection Policy (LPP) by 2004 to ensure protection to workers’ rights in all sectors, fair working conditions, enhancing labour productivity, encourage enterprise efficiency and competitiveness.”

Funded by the ADB, the Ministry of Finance has asked the Ministry of Labour to propose two policy documents – one on labour protection; and another on labour inspection as implementation. A separate document on “labour market flexibility” is also under preparation; this will balance job security with hire and fire.

Government has begun the usual round of consultative workshops. Reflecting its clout and its goals, SMEDA is organising the workshops rather than the Ministry of Labour which is supposed to prepare the policy. A draft of the Labour Protection Policy was prepared by consultants in February, and now made available selectively; it has not been circulated at the consultations. Our comments may therefore be premature.

The draft Policy considers it to be an elaboration of the Labour Policy 2002, as well as supplementary. Explicit attention to revision of legislation is excluded, except selectively to promote labour flexibility.

The Policy continues in the tradition of a conservative state that privileges capital over labour, and enterprises over workers: hence growth over development.

Five main areas are proposed to be dealt with:

- “Basic rights” that correspond to the Constitution and the Declaration
- “Working rights” which include minimum wages; work hours and leave; job security
- “Work environment” as health and safety issues
- “Social security” to cover only work related health; unemployment and retirement
- “Living environment” that includes health in “non-working life

Coverage is to be “progressive” and “selective” for workers and enterprises in different sectors and varying work arrangements. Presumably even minimum wage will be not be the right of all workers. Apparently, government and enterprises will continue to define workers rather than workers themselves.

Workers “outside formal work arrangements” will be provided “extension services in safety and health and some aspects of social protection,” rather than be covered by labour laws since provincial labour departments “could never hope to secure compliance.”⁵⁴ These extension services are a reflection of a very innovation expression of diluting obligations -- “to protect workers in the informal economy in an informal way.”

Initiatives against forced labour and child labour remain confined to the National Plans of Action. Even in that context there is no attempt to respond to systemic failures in implementation, since there may be incomplete understanding of structural issues. For child labour, a concrete target is given of removing children from tanneries and mines by end 2005. These choices may well reflect a fear of trade sanctions.

Equality and non-discrimination remain confined to gender issues. These are important, but this vision suggests the need for a careful re-reading of the conventions underlying the Declaration or even the Constitution in the Ministry of Labour and its consultants.

“Compliance and enforcement is the responsibility of the labour inspection system.” There is considerable stress on self-inspection and use of technical experts.⁵⁵ It could have been complementary to government efforts in compliance, but collective bargaining is to remain weak by government encouraging “bilateral interactions” at the enterprise level. There is nothing serious ventured about using workers and employers organisations to promote compliance and broaden coverage.

The National Minimum Wage Council is found to be not working, so it should be replaced by a Wage Commission of “eminent” persons. Periodic adjustments would reflect inflation, as well as enterprise and labour productivity, and social security benefits.

Social security in micro enterprises is to be on a voluntary basis. This basis will also be available to self-employed workers, but not to agricultural workers. No government contributions are recommended even though it is recognised that the “vast majority” will remain excluded. Curiously, the only two types of agricultural workers mentioned are those in corporate farming and farmers. The MOU between the Ministry of Agriculture and the Ministry of Labour is mentioned, but without any attempt to remedy its shortcomings, including denial of the national minimum wage even to workers in corporate farming, despite the Declaration.

Unemployment benefits “cannot be seriously considered at this stage” by Bank consultants because it is considered by government to be “beyond the nation’s capacity.” It would appear that the ADB will not fund any scheme for unemployment benefits, preferring to strengthen market provision of secure jobs (which is a contradiction of its advocacy of flexible labour markets).

The Labour Protection Policy is sketchy on social security, supposedly while government awaits directions from the study on Social Protection, also funded by the ADB.

The Labour Protection Policy is yet another illustration of enterprise lobbies striving to weaken implementation of legislation. The Commission for Consolidation, Simplification and Rationalisation of Labour Laws (2000) was rendered ineffective because the Chair kept waiting for a new labour policy -- ignoring the obvious fact that the Federal Constitution and ILO Conventions already provide comprehensive policy directions. Then, instead of focusing on serious implementation of its own much-delayed (and weak) Labour Policy 2002, government now seeks further postponement through the process of preparing the Labour Protection Policy and Labour Inspection Policy.

Consolidated Legislation

For some years now, the government has been pursuing the “rationalisation and consolidation” of vast labour legislation into a considerably smaller set of laws. The ADB and WB are actively supporting this venture into a friendlier environment for business, with an apparent expectation that it will result in wider compliance through effective regulation.

Only the Industrial Relations Ordinance 2002 has been promulgated as new legislation, (receiving much criticism for being regressive on labour rights). Other proposed laws still remain in draft shape, in part because it’s better for business to continue in violation of existing legislation without fear of penalties from a business-friendly regime.

Additional new laws that are proposed (as partial or entire replacements of):

- Conditions of Employment (Employment Act 1952; West Pakistan Industrial & Commercial Employment Ordinance 1968; West Pakistan Shops & Establishments Ordinance 1969; Disabled Persons Ordinance 1981; Employment of Children Act 1981)
- Payment of Wages (Payment of Wages Act 1936; Minimum Wages Ordinance 1961; Employment Cost of Living Act 1973)
- Occupational Safety & Health (Factories Act 1934; Mines Act 1923; Dock Labour Act 1934)
- Human Resources Development (Apprenticeship Ordinance 1962; Control of Employment Ordinance 1965)
- Labour Welfare & Social Security (Provincial Employees Social Security Ordinance 1965; Excise Duty on Minerals Labour Welfare Act 1967; Workers Welfare Ordinance 1971; Workers Children Education Ordinance 1972; Employees Old Age Benefit Act 1976).

We examine legislation according to the central theme of universalising labour standards. A detailed review of specific legislation is not attempted until there is agreement on additional aspects of the proposed framework (in the concluding section).⁵⁶

Hence legislation is reviewed against the following criteria: discrimination in coverage between workers or between enterprises; autonomy in recognition of workers and enterprises (as opposed to certification by employers and government); local government in implementation.

All laws, separately and together, suffer from discrimination in coverage of workers and enterprises (and hence of the Declaration and the Constitution). Unsurprisingly, agriculture (including, apparently, fisheries and forestry) remains excluded; as does domestic services. Home-based workers, however regular their work for enterprises, remain beyond legal protection. Some laws define coverage by number of employees, and hence invite avoidance, evasion and corruption of officials and labour organisations.⁵⁷ There is no move to delete additional exclusions, (but rather to create special laws such as for) Export Processing Zones, and Special Industrial Zones.

Workers will remain dependent upon employers (and government) for acknowledgement of their existence, and enterprises will depend upon government for certification of their operations; female workers and child workers fare worse. Neither worker nor employer organisations are assigned significant roles in implementation except through the IRO. Local government is not considered the obvious starting point for implementation of legislation.

Hence the consolidation of innumerable laws into a small set of laws may do some for creating a level field between MSEs and larger enterprises in some sectors. Less obvious are either reduction of discrimination across sectors, or gains to labour, within and across the economy.

Table 4: Review of Draft Legislation

Legislation	Scope	Exclusions, explicit and implicit	Discrimination
Payment of Wages	Wages, Minimum Wages and Cost of Living Allowance Of persons employed in establishments	Agriculture; Domestic services Government employees, including public sector enterprises	Home-based
Conditions of Employment	Employment & Working Conditions Of employees in shops, industrial and commercial establishments	Agriculture; Domestic services Government employees, including public sector enterprises Non-profit organisations	Nature of serv Establishmen with less or m Temporary, b Home-based
Labour Welfare & Social Security	Health, Education, Housing, Disability & Death, Old Age Of certain classes of employees	Agriculture; Domestic services Government employees, including public sector enterprises	Industrial or c Establishmen Wages less or Secured and u Home-based
Occupational Safety & Health	Working Conditions, Compensation Of employees in certain classes of establishments	Agriculture; Domestic Services All non-agriculture except factories, mines and docks	Home-based
Human Resources Development & Control of Employment	Employment, Training, Apprenticeship In certain establishments	Agriculture; Domestic Services All non-agriculture except industry	Home-based
Industrial Relations (promulgated)	Collective Bargaining All persons in any establishment or industry	Agriculture; Domestic Services Government employees Public Utility Services Non-profit enterprises	Home-based

The Banks

Government policies rely much upon advice from the ADB and WB, through technical assistance and subsequent lending programmes. References to Bank advice has been made above; additional policy directions can be found in other country documents, such as the concept paper for the Labour Policy study under preparation for the WB. Broader policy frameworks are available in other documents, such as the Social Protection Strategy of the ADB, and A Better Investment Climate for Everyone at the WB. A review of Bank thinking would help to promote an alternative approach to recast labour protection legislation and administration. However, the resulting trenchant critique was considered inappropriate for an ILO paper.⁵⁸

IV The ILO

Many in the labour movement obviously agree with government on the need for changes in labour legislation and administration, but only partially on the proposed directions of change.⁵⁹ Hence there is a need to propose an agenda for tripartite discussions -- whose core is that the Declaration is to be implemented universally and no less rapidly than that advocated by economy managers for employment and economic growth.

This section begins with drawing upon ILO work in two directions. One, for its analysis of the realisation of labour rights. Two, as setting out the framework of labour rights within which reforms of labour regulations should take place.

Analysis and Advice

A section of the ILO is dedicated to small enterprises.⁶⁰ Through collaboration on country studies, it has influenced the preparation of the SMEDA policy papers. An initial review paper set the tone for the country studies. “Overall economic policies [favour] large enterprises over smaller ones. Small enterprises often have to incur unnecessarily high costs to comply with laws and regulations. To create a level playing field for enterprises of different size classes, regulations should be clear and the process of implementation transparent and fair. The evidence on the impact of laws and regulations on employment in small enterprises is still very incomplete.” The review does not support a blanket exemption of SMEs from labour regulations, including minimum wages. It warns against a simplification that SME growth necessarily reflects the net generation of decent work, i.e. SME growth can reflect evasion strategies of larger enterprises.

ILO efforts to link decent work with SME growth are illustrated by a recent study.⁶¹ “The challenge is to find ways to link productivity improvements with decent work in a virtuous cycle. In this cycle, enhanced productivity would lead to better wages, benefits and working conditions, while better working conditions, achieved through effective labour-management cooperation, social institutions and a broader process of social dialogue, would support higher productivity.

The study calls for a broad approach to poverty for its reduction through small enterprises. “Along with the availability of remunerated, productive work, decent work includes rights at work, social dialogue and social protection.” Hence, the focus on adequate income would expand to include “collective bargaining on the conditions of work...For workers, security derives in large part from access to social protection against illness, disability, unemployment, old age and the death of a main income earner.”

A set of case studies analyse the productivity challenge by focusing on improvements in work practices – job quality. It concludes that there are a “variety of ways in which a more cooperative, empowered and contented workforce can help to increase productivity. It is also clear that market demand is an important aspect of productivity and critical for the smallest firms.”

Reflecting international commitment to eradicate child labour, an ILO study emphasises the positive impact of higher adult wages and social security benefits upon reducing child labour in MSEs.⁶² Better worker remuneration can be made possible by higher enterprise productivity, through steps that include higher job quality, i.e. better working conditions. Decent work – i.e. rights at work -- can therefore be seen as a productive factor. Hence the study calls for “technical assistance, including micro-finance, and other programmes [to] link assistance to a ban on the use of child labourers in family-run and other small enterprises.”

It is appropriate to stress that Pakistan has ratified many conventions that define labour standards, of which the Declaration has prioritised some as core standards. Their significance is that all countries must acknowledge in law and ensure their compliance in administration by all employers – public or private, small or large -- as the rights of all workers – adults and children, male and female, citizen or migrant. Asserted as human rights, the core labour rights deserve reiteration:

- Freedom of association and the right to collective bargaining

- The elimination of forced and compulsory labour
- The abolition of child labour
- The elimination of discrimination

In addition to the abolition of forced labour, the text of other standards makes it clear that both rights at work as well as rights to work are covered. One implication needs emphasis: these are rights that cannot be revoked, rather than being entitlements that depend upon recognition of being a worker by state or employer. Hence no exclusions can be defended on any basis, including efficient discrimination between workers under different work arrangements.

Since the Declaration flows from the Universal Declaration of Rights, no state may deny these labour rights even if its government is unable (or unwilling) to fulfil these rights. Many in Pakistan, including the Shariat Court, believe that enforcement of these rights is also a part of the constitutional obligations of the state.⁶³

Furthermore, the core labour rights are to be seen as a whole: when one of them is ignored or weakly applied then it imperils the realisation of other rights. Hence, specific conventions of the ILO refer to additional standards as defining decent work -- articulations of the core rights themselves, and as instrumental to realising core rights.

The UN Covenant on Economic, Social and Cultural Rights is of special relevance in this regard because rights at work cannot be independent of rights to work.⁶⁴ The Covenant also asserts the right to choose work freely, including opportunities to access these choices. It is quite clear in asserting universal rights at work. As just and favourable for all, these include, fair wages for a decent life; safe and healthy working conditions; reasonable working hours; paid holidays; social security and social insurance, working mothers; protection against child labour; and collective bargaining to improve upon minimum legal standards. These are part of the right to “adequate food, clothing and housing, and to the continuous improvement of living conditions,” which are necessary (though insufficient) conditions for realising the right to a decent life that includes dignity.⁶⁵

Concrete content for follow-up to the Declaration is given by country projects and country studies. As they must, all publications reaffirm the Declaration in its entirety, especially through annual Global Reports for each core right.⁶⁶ The constant refrain is illustrated by the Message of the Director General at the launch of the 2005 report. Violations of rights are “a challenge to virtually every country in the world.” Realisation of rights is feasible through “a global alliance, mobilization of political will, the enforcement of existing or strong laws and policies, and the linkage of such efforts” with other development strategies. Broad articulations of realising labour standards and rights in development are also to be found in other ILO publications.⁶⁷

Social Security

Enterprise responsibility for social security can be a specially contentious issue between workers on the one hand, and enterprises and government (and the Banks) on the other hand. A recent ILO study, *Economic Security for a Better World*, particularly deserves a review. The study distinguishes seven forms of (related and complementary) economic security: labour market, employment, job, work, skill, income, and representation. Distributive justice requires priority to “basic security, with negotiable entitlements to other forms.” Basic economic security depends upon basic income security as a fundamental objective of social, economic, and political policy, and upon voice representation security towards social and individual bargaining, collective and individual representation.

The study constructs indices for country performance. As would be expected, Pakistan comes out poorly. In the income security index, it occupies a place along with India as “much-to-be-done countries” with low scores on outcome, input and process. This assessment does not alter on indices for other forms of (in)security, and the same ranking for the combined economic security index. One conclusion from inter-country comparisons is that “strong employment protection may enhance, and is certainly no impediment to, economic growth.” Inequality e.g. between wage and salaried workers, combines with average low levels of security to intensify adverse conditions of compensation and coping for most workers.

It calls for recognition of “systemic risks” that are not easily covered by traditional social security, social insurance or other selective measures that focus on the older types of “contingency risks.”⁶⁸ The proposed criteria for reforms are also a practical way to promote social justice: policies must improve the lot of the worst-off, and they must not deny freedoms available to others.

As a bridge, across the above discussion, to proposing reforms for Pakistan it is appropriate to recall the Director General of the ILO.

Decent work expresses the basic aspiration of people everywhere for work that allows them and their families to live in dignity. The decent work agenda is a universal agenda. This is the spirit of our campaign on social security and coverage for all. Given the deficit in decent employment, it is hardly surprising that little progress has been made to reduce poverty. Nationally, regionally and globally, opting for solidarity and supporting the extension of social protection to all is to open the door to a dignified exit from poverty, to real choice, to freedom and ultimately, development.

Juan Somavia 2003

V

Realising Labour Rights

“Fundamental rights, still a fundamental fight,” as an ILO study puts it. Hence this part of the paper presents specific proposals for a effective policy on realising labour rights in Pakistan.⁶⁹

These begin with a binding framework, with details to be filled in through subsequent negotiations between workers, enterprise owners and government.⁷⁰ These proposals do implicitly point towards strengthening specific aspects of current legislation, most notably towards eliminating discrimination between enterprises and workers.

Reclaiming Development

Our judgement on a presumed “growth trap” is as follows. First, there is little evidence to support the supposed negative link between labour legislation and MSE growth. Second, core labour rights in the Declaration are to be realised universally (rather than selectively). Having the major share of employment, MSEs cannot be exempted from application or enforcement of minimum labour standards (corresponding to core rights but also including complementary standards such as minimum wages). Third, there is much room (unless profits are sacrosanct) to raise labour costs, but also ways can be found to minimise the burden upon MSEs.

Since MSE data excludes informality of employment within the formal sector, the issue of exclusion in labour protection is even more urgent. An idea of this aspect of informalisation of employment may be gauged from the fact of massive decline in employment under the Factory

Act – across the 90s, such (formal) employment nearly halved even as the number of registered and working factories increased, and employment in manufacturing rose by more than 30%.

Hence, small enterprise growth is a natural focus, but it must also be acknowledged that any enterprise per se, and specially its growth, is a contribution of both capital and labour as real people and not abstract factors of production.⁷¹ Competitiveness of enterprises must be real rather than illusory by shifting costs upon workers – capital too must contribute by reducing profits and increasing investments.⁷² When enterprise revenues are too meagre to support decent jobs, then such enterprises should not survive by exploitation of workers.⁷³

Politics of the economy therefore needs to get back on the labour and economic policy agenda (displacing the narrow, technocratic discourse of labour markets that privileges capital).⁷⁴ The central issue then is social arrangements for equitable shares between labour and capital.⁷⁵

Some of these arrangements are reflected in the existing, broad fiscal system of taxes and expenditures. These are quite inadequate – of which mass poverty is one outcome. It is appropriate to seek improvements through enterprises, with shared contributions and benefits of both labour and capital.⁷⁶ These arrangements have to be systemic rather than be ad-hoc reliance upon the philanthropy of capital, local or international (which includes donors).⁷⁷

The Declaration and the national Constitution are compelling and complementary foundations of social as well as economic policy. Hence these provide the framework for public and private action that rests upon rights to work and rights at work. Amendments to legislation and implementation should then adhere to the following principles of policy:

- Universality of core labour rights
- Comprehensiveness of minimum labour standards in design and application
- Simultaneity in design and application of standards
- Tri-partite participation in innovative design and implementation of standards

These principles need some discussion, including the need for reformed and new institutions for an effective labour policy.

Universality of Core Labour Rights

It has been pointed out often that neither the ILO Declaration nor the Constitution allows for any exclusions or for any sequencing to suit enterprises and government.⁷⁸ Each right is essential to the realisation of other rights, and if some workers are excluded then rights for included workers are placed at risk.⁷⁹ This can be seen most obviously for the linkages between freedom against child labour, debt bondage and discrimination. Given the limitations of government and indifference of enterprise owners, (the right to) collective action by workers remains an essential component of public action.

Comprehensiveness of Minimum Labour Standards

Rights need translation into operational standards for compliance by enterprises and supportive public action. When rights are acknowledged as universal, then so should be standards. Furthermore, even as some standards directly correspond to rights, additional standards become necessary if rights are to be realised (as elaborated below).

Most current legislation contains formal exclusions of one kind or another in coverage of workers. That is in itself a violation by the state of the Declaration in general and of the right

against discrimination in particular. However high the level of non-compliance, and however low the implementation, there is no justification for abetting indifference, evasion and avoidance by enterprises through law.

Hence all legislation must remove exclusions of workers on one basis or another. This is the only way in which the multiplicity of work arrangements and shifting locations in the contemporary economy can be provided the protection that is given to other citizens who contribute capital to enterprises.⁸⁰

Universal application of standards therefore does require “consolidation and rationalisation” as recognition of a worker as worker (and owner as owner). This therefore calls for the removal of all distinctions in legislation among types of workers and their work arrangement with enterprises – formal, informal, temporary, permanent, contract, waged, salaried, piece rate, home-based, share and so on – and in occupation or sector of work.⁸¹ Sex or age would come in only for special, additional protection to females and children, based upon special needs for equality in outcomes.⁸² The latter includes domestic work in particular.

Administrative convenience is an unreasonable defence for some exclusionary standards because the result is likely to exclusion from others that are supposed to apply.

The other dimension of comprehensiveness of standards is that additional standards are necessary complements to the core standards directly based on core rights. Furthermore, these complementary standards remain essential, so long as workers remain weak in comparison to the power of enterprise owners and government does not overcome serious, current limitations.

Minimum wage is one such national standard that is essential to the realisation of core labour standards. It is also of central importance in a market economy, and declining equitable public provision of basic goods and services. Furthermore, the wage is critical to choices in life and hence dignity. As an illustration consider child labour, only when hazardous if you will, and debt bondage. No real progress is possible without adequate incomes of all working men and women.⁸³

In addition to abolishing exclusions and distinctions, it is essential to raise the wage now to an adequate level and to provide for periodic adjustments for a minimum real wage.⁸⁴ Also required is a set of minimum wages on an hourly, daily and monthly basis.

Even after the recent revision in mid-2005, the minimum monthly wage of Rs 3,000 remains well below the income required, and earned, by an average working family to rise above the official poverty threshold. A mechanism is needed to set the initial wage correctly and to make periodic adjustments for inflation.

There should also be a correct linkage between minimum wage, maximum working hours, and minimum rest and paid leave. At present, enterprise owners claim and workers feel that they get the minimum wage even when that level of income is reached upon working excessive hours daily and weekly. This is unacceptable, and its special relevance can be seen for piece-rate workers. Perhaps all three minima need to become law – hourly, daily and monthly wages – and regardless of the basis of payment so that piece rate workers and share-based workers are not excluded.

The linkage between minimum wage and annual income also needs attention. Whenever employment is very erratic, the poverty threshold may not be crossed even upon receiving the minimum wage for some months. Reducing underemployment and provision for unemployment

benefits are one strategy. But where seasonality is inherent to the enterprise, some way must be found to reflect this in adjustments to the minimum wage for such workers.⁸⁵ This may sometimes, but not always, be covered by provisions for higher “overtime” wages. Perhaps it is time to reflect upon recent actions and debate in India on the issue of guaranteed employment and income.⁸⁶

The thrust of a minimum wage is its capacity to strengthen core labour rights. Hence it seems appropriate to have the same level for income under an old-age scheme. Expectations for support by children are irrelevant to the concept of minimum standards, and can also jeopardise the attainment of core rights by children.

Working hours have been mentioned above but deserve emphasis in their own right as minimum standards for rest. These have a number of dimensions – work breaks in a day; daily working hours; paid weekly leave and annual leave. Underemployment is a social failure and cannot be used to argue against a decent minimum for these standards (as it cannot be for old-age benefits).

Health & Safety at work cannot obviously be left to the self-interest or generosity of an enterprise owner. In conditions of double-digit levels of unemployment there is a constant danger of people being treated as disposable commodities. When applied as minimum standards, health and safety not only sustains higher quality and productivity at the enterprise level but also protects workers against avoidable risk to health and life itself. They also specially protect rights to work for women because they can reduce implicit discrimination against female employment.⁸⁷

There would be little point to, say, a minimum wage if the capacity to work is significantly harmed even temporarily. Furthermore, a small cost to the enterprise in prevention cannot be allowed to become by default a larger burden on society as a whole, including other enterprises. The more complex challenge is to ensure standards for health and safety in home-based labour. As for other minimum standards, the starting point of negotiations with enterprises should be the benchmarks that employers want for their own families. Obviously this can be done only as collective bargaining rather than by individual workers.

Social Security should be considered as providing minimum levels of support in three ways: as insurance, against disruptions to work due to injury, sickness, loss of job; and as provision for old-age when the capacity for paid work is much reduced and the risk of sickness much higher.⁸⁸ The need for security and the level of security are obviously related to minimum wages, inversely since they determine capacity to cope with risk and uncertainty. If capital demands a premium for risk and entrepreneurship, why is a premium denied to labour for risk and discipline?

Minimum wage workers cannot be expected to provide much help to other workers, and workers should not be expected to lose their dignity in begging for help from the better off or from enterprise owners. Since workers have families, these must also be covered directly as in injury and sickness, and indirectly as in unemployment benefits and pensions.

As is the link with minimum wages, so is the link for social security with child labour and debt bondage. A single disruption should not be allowed to start off a cycle that lasts for generations. There is no reason why enterprise should not have a special obligation, as compared to society at large, to prevent such disasters. For those who point out, correctly, that even young workers “choose” debt bondage, the question is simple: is not adequate social security essential to make such a choice unnecessary?⁸⁹

Simultaneity of Minimum Labour Standards

There are many, including those at the highest level of government, who would argue the usual: moderation requires government and employers to focus on one standard at a time. A simplistic question can only be answered with a simple query: are they willing to apply this to themselves? Are they willing and capable to enforce and comply with, in their public and private capacity, a minimum wage (and asset transfers) that takes care of all protection? We pose this query because, theoretically, there will exist some level of wage which will allow the worker almost complete reliance upon the market to meet minimum standards. Are enterprise owners, specially those in SMEs, willing and able to pay this substantially higher minimum wage?

Neither government nor enterprise owners are likely to rise to this challenge. Hence the earlier discussion should provide enough grounds to establishing the need for simultaneous, rather than staggered, design and implementation of minimum standards.⁹⁰ Furthermore, whenever sequenced, those standards that are delayed inevitably involve discrimination between workers, and hence a violation of the very purpose of minimum standards and become an invitation to evasion by enterprises.

Collective bargaining remains essential for advancing labour rights, in the absence of a socialist state, and in the face of ruthless global capitalism, Minimum standards in this respect are the right of all workers (and enterprise owners) to form associations for collective bargaining – there is simply no defence against excluding enterprises in special industrial zones, EPZs, ‘Textile Cities’, or even in so-called essential services when the government has a declared policy of privatising them.⁹¹ If security forces continue to make special arrangements, they can self-exclude themselves.

The latest IRO fails to acknowledge freedom of association as the right of all workers, constrains them to establishments, and generally discourages rather than facilitates collective bargaining, specially by (the majority of) labour outside of the formal sector. Such violations of the core labour standards must be rectified if government and employers are serious about upholding core labour rights.

A second reason, and of much importance, is pragmatism. Minimum standards are by definition minimal. Even when they apply to a minority, those workers and owners who have gone much beyond the minima should have state protection for existing agreements between workers and enterprises. The only caveat is for agreements that privilege some and hence exclude other workers.⁹²

When universal compliance with minimum standards is the goal, then government must encourage broad collective bargaining at the sector and industry level (which requires reversal of the current bias towards establishment level bargaining). This obviously protects workers and owners from local coercion. More importantly, it is a way to account for macro dynamics – prospering sectors should rise above the minimum because they have additional capacity to do so; it will be seen as legitimate for other sectors to remain at the minimum.

Tripartite Participation in Design and Implementation

Any progress in realising labour rights cannot but involve both workers and enterprise owners. It seems trite to say that government has to be involved, but the importance of government should be emphasised. Some issues can be highlighted, framed in terms of both policy formulation -- including amendments and new legislation -- and of implementation -- including delivery.

The central issue is of recognising all workers as citizens who have a right to minimum standards at work, whatever those agreed standards might be. The second issue is of their participation in the setting of standards. A third issue is implementation of standards. All are obviously related and must therefore be integrated for effective standards.

The first step requires that work and workers be acknowledged through the most simple mechanisms of registration. These have to be self-declarations i.e. cannot depend upon prior certification by the current employer, enterprise or verification by government.⁹³ It cannot depend upon a national identity card since government has failed to provide it to all citizens; and core labour rights belong to all workers, including migrant workers. Domestic labour, in particular, would specially benefit from registration as visibility for voice, since it is among the most vulnerable of workers.

One fails to understand the relevance of excluding self-employed persons or unpaid family labour (many of whom are females) from the ambit of labour protection if such labour has the right to receive protection which it cannot be denied. One illustration should suffice. The vast majority of brick kiln workers are not declared by enterprise owners as workers. Hence owners find nothing wrong in denying even a weekly paid holiday, encouraging children to work as family labour, and both male workers and enterprises collude in denying a fair share of earnings to women workers. This situation would continue even if laws abolished the number of workers as a condition for application of the law. It is irrelevant that a labour contractor may be involved – best seen in the context of real estate transactions where a property agent acts as a go-between.

Its inherent level of decentralisation – down to the union council -- makes local government the logical site for registration as workers. Also in its favour is the subsequent ease with which labour can ask for mediation, action, and accountability in support of rights. This advantage accrues because everyone involved is located “nearby” – worker, owner, government, and public representative. Similarly, local government should be the first stage in public oversight for encouraging compliance and improving service delivery.

Worker participation in the setting of minimum standards can be made effective by reforming current mechanisms of tripartite consultations. Two directions of change are of particular importance. Worker representation must be of the majority of the labour force rather than of those workers who have formed trade unions acceptable to the state. Second, invitations to consultations must reduce the power of government to impose decisions through compliance agreements based upon fair negotiations. Both of these reforms must apply to every level of decision making.

Universal implementation of standards is impossible without worker participation on a very wide scale. Effective representation in decision-making institutions and organisations will require the kind of changes just mentioned. There are additional requirements.

As a principle, workers should contribute to the financing of specific benefits for workers. It is an issue of fairness. In addition, worker contributions will induce more effective mechanisms for accountability of implementing institutions and organisations. Since the contribution will come from wages, the level of contribution can be tied to the level of wage – say as a proportion of wage. When a minimum contribution is specified, that will increase the strength of demand for minimum wage.

As a rule, enterprises currently fail to comply with legal obligations even if owners prefer to pay bribes instead of legal levies. A simple mechanism is needed to encourage responsible enterprise owners.

Responsibility cannot be tied to the number or types of workers in an establishment because that would again defeat the purpose of protecting all workers regardless of work arrangements. Fairness between enterprises is also essential. It has to be a special tax based upon enterprise performance. It could be on sales or turnover so that enterprises can take it as a cost item before paying income tax. Just as for workers there has to be a minimum tax on employers. One cannot emphasise enough that contribution by enterprise owners have to be de-linked from any dimension of work and workers, otherwise exceptions will accumulate to the benefit of capital generally and minority sections of labour as is the case now.

Some would argue that the tax is best administered by a regular tax authority. If all workers everywhere are the responsibility of the state then the tax collection agency should be part of the federal government. This agency then returns the tax proceeds to whatever institutions and organisations are involved in implementation of minimum standards.

On the other hand, minimum standards will be achieved only with substantial decentralisation. Why not then begin with local government where contributions from both workers and enterprises can be conveniently collected, and then allocated for use by various institutions (including levels of government)? Or a mix of the two, which would facilitate those enterprises already in the tax net?

As an incentive to responsive government, it must be made responsible for making up shortfalls in collections from enterprises. To be fair this subsidy from government should also be tied (inversely) to shortfalls in contributions from workers.

All labour institutions and organisations are currently performing very poorly, even in relation to their limited mandates. Worker participation will undoubtedly bring some improvements. But structural changes are also necessary to make universal minimum standards a reality.

The role of local government must be central to implementation of minimum standards. Registration of workers must begin with local government. Self-assessment by employers must be matched by self-complaints by workers to local government. Additional responsibilities include both collection and use of funds. We envisage the future administration of special facilities – such as worker hospitals, schools and housing – to be turned over to local government. Worker complaints of violations of minimum standards are best handled initially at the local level.

It should not be necessary to stress the point that a new system of administration is to facilitate universal coverage rather than hamper it. Currently, a migrant worker and family suffer when they live in separate provinces. For those whose work location changes frequently, there is unnecessary suffering even when the family lives together. One step towards avoiding these problems – which impact an increasing number of workers – is worker registration with national status regardless of where the actual registration took place – as is done for the national identity card.⁹⁴

One basic change in the administration of welfare must be to provide choice to workers. If workers feel that they would be better off by alternate mechanisms for social protection then they should be able to have funds reallocated. An example is needed to clarify this. Special hospitals may be too distant, and remain distant, as compared to other private or public hospitals – as is the

case for most workers in rural and peri-urban workers. Or urban workers may come up with a group insurance scheme that provides greater benefits e.g. in choice of hospitals. Workers should have the right to ask that funds collected from them and on their behalf be reallocated accordingly. Similarly, enterprises (or a group) should be able to propose alternate mechanisms in agreement with workers. If, say, a market-based system of life insurance is obviously better than, while equally secure as, public provision of disability and old-age pensions there is no reason to refuse that choice to workers. Obviously, a basic safeguard is that contributions must first be made before proposing reallocations.

Much of the above discussion suggests the formation of a single federal institution. National obligations need national oversight. When standards must be implemented as a coherent group then a single institution can be more effective and effectively held accountable. There should be no confusion between central oversight and decentralised administration.

Just as collective bargaining between workers and enterprise owners can improve upon minimum standards, so can provincial and local governments acting on behalf of workers to improve upon minimum standards.⁹⁵ But there must be minimum standards that protect all workers. A federal institution is needed for this purpose.⁹⁶

Both the setting of standards and the implementation of standards would be its mandate. In meeting its obligations, it has to deal with not just agencies of administration but also facilitate enterprises and workers in meeting minimum standards for all workers. The latter will no doubt bring pressures for tradeoffs as much for some and little for most workers now. The only way to resist such “reasonable” proposals would be to bind the institution to core labour rights. The institution will also have to frame rules for the allocation and reallocation of funds collected for implementing standards.

There are models for regulatory authority in Pakistan and elsewhere, which can be adapted and improved for purpose of minimum labour standards. The experience of National Commissions – advice without corresponding authority -- suggests that this institutional structure be avoided. There is also no special reason to locate the new institution under some existing ministry. In fact, if the government is committed to worker welfare then it is best located in the office of the Prime Minister or of the President.

One natural question occurs: why not rely upon general public facilities for citizens rather than special facilities for workers? The USA is one example of this alternative, where social security contributions of workers and employers are used to fund general public facilities in health and education, etc. Our proposals become no different once all workers and all owners are covered, and special facilities are handed over to local government. No worker, or enterprise owner, will be excluded from benefits as long as they make their contributions to the special funds for the special facilities. As the pool of contributors expands, the system will approach a system of social protection for all citizens. Then special contributions by workers and enterprises, in addition to normal taxes, remain justified on the usual grounds, including the fact that these contributions can be the legal floor for public expenditures on health and education; a cost-effective insurance mechanism; equity for the children, elderly and unemployed.

Summary Proposals

A summary of proposals could help to accelerate social dialogue for critical labour reforms.

First, tripartite discussions would begin with prior acceptance of:

- Universal entitlement to labour standards in law, enterprise compliance and government enforcement
- The ILO Declaration of Principles, as the basis of universal core labour standards
- Additional minimum labour standards, essential to make core standards effective.

Second, discussions to aim at consensus on the specifics for the following complementary (and hence simultaneous) minimum labour standards for all work arrangements; facilitated compliance and effective implementation:

- National minimum wages
- Maximum working hours, minimum rest and paid leave
- Old-age benefits in relation to minimum wage
- Health and safety arrangements, specially for female workers
- Social Security to cover injury, sickness, loss of job, in relation to minimum wage
- Registration of workers with local government, independently of enterprises and current employment
- Sharing of risks between workers and enterprises through termination and unemployment benefits linked inversely to wages
- Equitable sharing of social security costs between workers and owners through links between benefits, wage levels, and costs
- Equitable sharing of social security costs among enterprises and with government through turnover-based tax
- Innovations in the mix of institutions for provision of social security – enterprises, associations, other private systems, and public agencies
- Expanded choices of workers and enterprises for provision of social security
- Substantial role of local government, and of associations of enterprises and of workers in promoting compliance with labour standards
- Single labour welfare authority for national oversight and decentralised implementation
- Strong inspection arrangements until collective bargaining can be a substitute.
- Proportional representation of MSMEs, workers and enterprises, in tripartite agreements.

Interim Actions

Recasting legislation along the lines spelt out above, and committed follow up, requires time and effort. In the interim, several opportunities exist for interventions that support the expansion of decent jobs as intrinsic to growth of MSEs. These simple steps should focus on inclusion and effectiveness.

This would require facilitation (including formal recognition) of sectoral/industrial unions for collective bargaining that can then become the benchmark at the enterprise level. Social Security institutions across the country need to open up facilities to workers and families regardless of location of worker. EOBI needs to be less obsessed with asset accumulation, increase pensions substantially, and spend heavily upon a campaign of self registration. WWF should move away from real estate management and other limited impact programs to focus on innovative skill development such as funding apprenticeships in industry.⁹⁷

One potentially powerful intervention is the financial leverage available to government and its donors. Much could be accomplished by tying support to enterprises with credible advances in core labour standards.⁹⁸

[At the Pakistan Institute of Labour Education & Research, Karamat Ali assumes responsibility for this study, shared with A Ercelan and Umar Abbas. Zeenat Hisam contributed editorial support. Support of junior colleagues is also acknowledged. Suggestions by an ILO expert have improved presentation. The study reflects the lessons learnt at PILER from extensive involvement with the labour movement, and specially with informal economy workers. Prepared at the invitation of the ILO in Pakistan, the study also reflects contributions of programmes at PILER, which include those supported by the European Union, NOVIB, FNV, Freres des Hommes and Stichting De Zaaire.]

Notes

¹ See e.g. Medium Term Development Framework; it estimates poverty around 40% of the population, and a Gini coefficient that rose from 0.40 to 0.44 (as estimates prepared at the Social Policy & Development Centre).

² Measured by the Declaration, Pakistan remains a country where performance does not match promise – see Normalised and Disaggregated Gaps in Workers Rights. Curiously, both adherence and implementation are considered good in non-discrimination despite the pervasive discrimination in legislation itself, most notably against agricultural workers. Clearly the author also ignores rights to work for females, whose absence from paid employment is so vivid in labour force data.

³ For those unfamiliar, the concept of decent work encompasses both (current and future) rights to work as well as rights at work, of employees as well as the self-employed; it is also expanding to cover all forms of work, including “care” work. Some would consider these as “luxuries” for developing countries, but curiously include themselves among the minority deserving of First World lives and livelihoods.

⁴ The Country Assistance Strategy documents of the Banks provide an introduction to the advice given to Pakistan. Detailed advice is given in the Technical Assistance papers that precede loan documents, and in the loan documents themselves.

⁵ E.g. the UNDP in Small and Medium Enterprise Development. The arguments for relaxing environmental standards for MSEs are often the same -- as the “price” of growth, even if the price is mostly borne by the poor rather than shared equitably.

⁶ An illustration is the World Development Report: A Better Investment Climate for Everyone. Additional references are provided at the end of the paper.

⁷ Expected wage equals probability of employment times the prevailing wage.

⁸ Lowering the attractiveness of these alternative ventures is not apparently considered, at least seriously.

⁹ The ADB has formally endorsed the Declaration but the WB has not. Effectively it has made little difference in operations of the two Banks within Pakistan.

¹⁰ There can be no disagreement that effective enforcement of essential labour standards in the non-agricultural economy depends much upon agrarian reforms. Minimum wages is the obvious example; so is debt bondage. One can only take the familiar plea of constraints given by the study TOR and corresponding resources. Some issues have been discussed in PILER studies on debt bondage, and in its comments on an ADB loan for reducing rural poverty in Sindh.

¹¹ The Social Policy & Development Centre (SPDC) maintains critical views of output growth data. The State Bank attempts “independent” estimates; but its autonomy remains constrained structurally domestically, and internationally by affiliation of leadership with the IMF, WB, and now likely with the IFC or ADB.

¹² All data used in the paper are from one or more of these sources unless an alternative citation is given.

¹³ “Informal sector” is defined by the Federal Bureau of Statistics by nature and scale of employment (Table 1). It is not completely informal since some labour (and tax) laws apply to all enterprises, but compliance is the exception. Of course, distinction between informal and formal is becoming ambiguous with the formal sector itself increasing numbers of such employment as is excluded de jure or de facto from application of labour legislation.

¹⁴ As an easily understood example, the puzzled reader may think of differences between low domestic and high international prices for commodities and services, including labour.

¹⁵ This is particularly important in implementing labour standards, since enterprise owners in stagnant sectors are unlikely to be keen on rights of workers other than themselves.

¹⁶ Some scepticism is even expressed by the ADB in the recent country Economic Update.

¹⁷ Even among neoliberal economists, only the very naive would assert that production and distribution can be managed independently as models in introductory textbooks in mainstream economics. For a powerful critique, see Employment, social justice and societal well-being 2002.

¹⁸ ILO’s Economic Security for a Better World, suggests the following “status” dimensions for defining empirically a continuum of informal labour: regularity; contract; workplace; employment protection; social protection.

¹⁹ Survey of Small and Household Manufacturing Industries 1988 and Survey 1996-97.

²⁰ Publication has been delayed, but a request for data was refused by the Federal Bureau of Statistics.

²¹ As incentive to expansion, standards may then be reduced. Or they may be made universal, doing away with reverse incentives to remain small. There may also be other options for (explicitly) sharing costs of labour protection with the enterprise, in order to maintain minimum labour standards.

²² Note also that employment in small units (487,000) remained many times larger than in household units (85,000); despite de facto; if not de jure, exemptions of household units from labour legislation.

²³ Subcontracted Women Workers in the World Economy: The Case of Pakistan; Women’s Work & Empowerment Issues in an Era of Economic Liberalisation: A Case Study of Pakistan’s Urban Manufacturing Sector.

²⁴ Unfree labour in South Asia: Debt bondage in brick kilns; Bonded Labour in Pakistan: An Overview.

²⁵ Rapid Assessment Studies of Bonded Labour in Different Sectors in Pakistan.

²⁶ Op.cit.

²⁷ Household Integrated Economic Survey 2001-2002. Unfortunately, published data provides information only for all employed, which includes self-employed and unpaid family labour.

²⁸ Labour Market Policies and Institutions: A Framework for Social Dialogue. See the discussion on draft legislation for a (partial) list of laws currently applicable to medium and large enterprises.

²⁹ Survey of Small and Household Manufacturing Industries 1996-97.

³⁰ Report of the Task Force on Labour Welfare Levies; Combating Poverty: Is Growth Sufficient? Beyond Safety Nets: Provision of Comprehensive Social Security in Pakistan.

³¹ Combating Poverty, op.cit.

³² See Economic Security for a Better World; Employment, social justice and societal well-being.

³³ Interviews at the federal Ministry of Labour with the Central Labour Advisor and at the federal Planning Commission with the Secretary Planning Commission or its Chief Economist could not take place due to unavailability of respondents; so was the case for the Chairman Punjab Planning & Development.

³⁴ And are certainly not anecdotes as feared by a reviewer.

³⁵ Similar findings are reported in Encouraging New Growth Areas and Employment, a study for the ILO at the Mohammed Ali Jinnah University, Islamabad. As would be expected, “business leaders” gave more importance to “labour problems” than the enterprise owners themselves. This is not unlike elsewhere in South Asia; see Labour processes & productivity in micro and small enterprises.

³⁶ An interesting initiative has been taken by power loom workers in Swat. Their union has inducted workers from other sectors, even wholly unrelated such as workers in cosmetics manufacturing. Negotiations are now carried out with a broad range of employers directly without any reference to labour officials who are seen as irrelevant or an obstruction to negotiations.

³⁷ The next section discusses draft legislation. Only the Industrial Relations Ordinance has been promulgated. After severe criticism by workers, government and opposition parties have made some noises about amendments. The review and consolidation of labour legislation began when Omar Asghar Khan was the federal Minister for Labour; no progress has been apparent after his death.

³⁸ Survey of Small and Household Manufacturing Industries.

³⁹ The Survey defines production value to include indirect taxes, but cost does not include them.

⁴⁰ A rough idea of owner-worker compensation can be had from the single-person enterprise in the official survey: around Rs 3500 per month, as the difference between production and costs. Average monthly employment cost was around Rs 1000 per worker; at the upper end of the enterprise scale it was almost twice the average.

⁴¹ Subsidies to capital in property and in person come in various forms. Quite concealed but enormous are state security expenditures as one example. Many examples of infrastructure can be given, but two should suffice. Airports and Motorways where user charges are a fraction of costs; and the exemptions of property taxes to elite private schools and hospitals. The scope of public outlays for labour welfare is enormous, of which just one example is the enormous military budget.

⁴² For a general discussion, see Employment, social justice and societal well-being; Circumventing macroeconomic conservatism: A policy framework for growth, employment and poverty reduction. In Pakistan, there are various critiques of the PRSP by civil society, e.g. Combating Poverty: Is Growth Sufficient?

⁴³ For example, government has some room for budget reallocations; but serious reformulation of budgets requires cuts in military expenditures, deletion of tax exemption for agricultural incomes, and reduction in external debt. Last year, just the revision in budgeted defence spending was an additional Rs 22 billion, which is many multiples of the total (enterprise and government) funding for Social Security, EOBI, and Workers Welfare Fund in recent years. Human security versus state security remains a central issue in governance in Pakistan.

⁴⁴ In recent functioning, the Ministry of Labour is forced to consider the needs of investors but the Ministries of Industry and of Commerce give little thought to workers, except as a factor of production. The Ministry of Labour is financed by the ADB to develop a Labour Protection Policy but it is SMEDA which is organising consultations and the Ministry of Finance remains the executing agency for the ADB project.

Seriousness is evidenced by e.g. the absence of an Urdu draft at consultative workshops and nominal presence of informal economy workers.

⁴⁵ Developing SME Policy in Pakistan: SME Issues Paper. The draft paper was presumably vetted by the Task Force for SME Policy, discussed in its Working Committees, and apparently presented at consultative workshops. There is no resulting report for public discussion. The Task Force is headed by the Secretary Ministry of Industries, and “is composed of diverse sectors and levels of Government and includes major stakeholders of the private sector, and SME in particular.” Labour is represented only through the federal Ministry of Labour.

⁴⁶ If compliance is largely absent (as market or government failure or both), then labour legislation is unlikely to be an effective constraint upon growth. Unless evasion is costlier than compliance for some laws but compliance will acknowledge other obligations which threaten the existing imbalance of power between privileges of capital and rights of workers, such as collective bargaining. The idea of transaction costs may also help explain the inertia of moving from evasion to compliance.

⁴⁷ Recommendations made by the Working Committees of the SME Task Force.

⁴⁸ Creating a Conducive Policy Environment for Micro, Small and Medium-Sized Enterprises in Pakistan 2002. Based on more rigorous analysis, the country study is more circumspect than the SME issues paper. This country study was influenced by another SME issues paper of the ILO, which is discussed below.

⁴⁹ Towards a Prosperous Pakistan: A Strategy for Rapid Industrial Growth. Led by (loaned) staff from the World Bank, the study team had an advisory group that notably excludes any labour representatives, private or public. Long association with senior members of the group suggests that mature pragmatism won over youthful idealism. The report is said to have been reviewed by “senior government officials and leading private sector representatives.”

⁵⁰ Accelerating Economic Growth and Reducing Poverty: The Road Ahead. Quite telling is the absence of any federal or provincial ministries, departments or agencies for labour from the PRSP Implementation Committee. The ILO assisted the government in improving the Interim PRSP towards an “employment policy to generate decent work.” Its contribution was received so grudgingly, or conservative to suit Islamabad, that the final document does not have a single mention of the Declaration or of core labour standards or even of decent work.

⁵¹ As Professor Muhammad Yunus of Grameen Bank wrote about the Bangladesh I-PRSP, no strategy is meaningful unless one can hold administrators at all levels responsible for what they should do and what should not do, since business as usual cannot accomplish the admirable targets of a PRSP.

⁵² Pakistan Social and Living Standard Measurement Survey.

⁵³ The wait may be long. Among other reasons, high-level policy makers are reputed to remain annoyed with the Federal Bureau of Statistics which dared publish data that contradict government claims to reduction in poverty in recent years. It would also be embarrassing if the front-line ally in the global alliance against terror were to be a back-bencher in the global alliance for eradication of child labour.

⁵⁴ This logic would suggest abolishing most laws, and even the constitution, and hence discarding much of government. Furthermore, laws are seen more as a nuisance of being called to account, rather than acknowledging rights around which discourse and hence social struggles can take place. The more perceptive elites, of course, recognise this force of law. Interesting discussions are to be found in Globalisation and decent work policy: Reflections upon a new legal approach; and in Making Law Matter, and Developing Rights.

⁵⁵ Self-regulation and third-party monitoring by private firms can be a naïve suggestion unless Enron is kept in mind – a useful reminder by the ILO in Economic Security for a Better World.

⁵⁶ Many previous reviews are available, including those done during the tenure of Omar Asghar Khan as Minister for Labour. Experience with the draft IRO was disheartening for not just PILER but also WEBCOP when the whole process was hijacked by the Ministries of Finance, Commerce & Industry in the interests of crony capitalists. Reviews of existing legislation are instructive for examining new legislation; see e.g. Labour Market Policies and Institutions: A Framework for Social Dialogue; Labour Legislation & Trade Unions in Pakistan.

⁵⁷ Some laws contain absurd penalties, such as Rs 4000 for the death of a worker due to inadequate safety provisions at work.

⁵⁸ Documents consulted are listed in the References. Prepared for the draft paper, an extended review of Bank thinking is available from PILER. They suggest an enormous input of the Banks into government policy.

⁵⁹ See, for example, reports of the Task Forces set up due to the efforts of Omar Asghar Khan as Minister for Labour; another example is the drafts of IRO and Labour Policy, proposed through WEBCOP.

⁶⁰ The Infocus Programme on Boosting Employment through SEED -- Small Enterprise Development -- is located in the Job Creation & Enterprise Department; it specially reflects ILO work for Convention 189. Small Enterprises, Big Challenges: A Literature Review on the Impact of the Policy Environment was published in 2002. Unfortunately, its analytical rigour is only partially captured in the subsequent country study for Pakistan, no doubt because of lack of data.

⁶¹ Productivity, decent employment and poverty: Conceptual and practical issues related to small enterprises.

⁶² Using Small Enterprise Development to Reduce Child Labour.

⁶³ For the Shariat Court judgement in 1983, see Debt Bondage in Pakistan: Making Law Matter.

⁶⁴ Keeping company with Saudi Arabia and Indonesia, Pakistan has yet to ratify the Covenant. But this is immaterial for the international obligation to comply with the Convention.

⁶⁵ "To be treated with dignity" was the first demand made of employers in recent protests of Faisalabad workers in power looms.

⁶⁶ The most recent report is A Global Alliance against Forced Labour. Earlier themes were Organising for Social Justice; Time for Equality at Work; A Future without Child Labour; Stopping Forced Labour; beginning with Your Voice at Work.

⁶⁷ For example, Social Protection: A Life Cycle Continuum Investment For Social Justice, Poverty Reduction and Sustainable Development, ILO; Equality at work; Work and rights.

⁶⁸ Worsening the plight of both currently employed and unemployed are recurring and long duration spells of unemployment, dimensions not recorded in survey data. Such "churning" of unemployment is pointed out as a special concern of contemporary globalisation in A Fair Globalisation: Creating Opportunities for All. A study on unemployment in Pakistan -- Labour Market Dynamics in Pakistan -- records transitory and short-term unemployment at 85% of the unemployed, with the remaining as chronically unemployed. This excludes those who left the labour force upon being discouraged by unemployment that lasted beyond a year.

⁶⁹ This section is specially informed by discussions with many in the labour movement, and specially with the late Omar Asghar Khan. It also draws upon much previous work, including Final Report on Task Force on Labour Welfare; Industrial Relations and Labour Rights in Pakistan; Mitigation and Abolition of

Bonded Labour: Policy, Law & Economy in Pakistan; Labour Market Policies and Institutions: A Framework for Social Dialogue; Of special influence is Social Protection, Decent Work and Development 2004.

⁷⁰ It recognises the virtual absence of compliance with existing laws, and of efforts by employers, their lobbies in ministries (such as finance and industries) and in government agencies (such as SMEDA) to dilute if not deny international commitments But this is seen as a challenge, to strengthen the rights of those who suffer from exploitation by state and society.

⁷¹ If owners or senior management wish to exclude themselves from the benefits of labour protection arrangements -- that is their business. But they should not opt out of sharing the burdens. The main issue in which workers and owners will be legally differentiated is in collective bargaining. Even here, if collective bargaining is to be successful then it will be on a macro basis, obviating the need for distinctions between workers and owners at the enterprise level.

⁷² It is a distortion of institutional economics to claim that what is, must therefore be the best possible of all worlds. Just as the economic outcomes of general equilibrium are given by the initial distribution of wealth, so are the social outcomes determined by the distribution of power. Mass poverty in Pakistan indicates that both distributions are ethically indefensible, leading to sub-optimal economic and social outcomes for a democratic society.

⁷³ Sharing difficult times is always difficult, but possible as partners in a cooperative.

⁷⁴ Such politics includes the strengthening of sectoral trade unions of informal economy workers. This is difficult mobilization and organization, whose implications for the ILO are evident, specially for the manner in which it facilitates social dialogue in Pakistan.

⁷⁵ As was pointed out by Karl Polanyi (and then by Mark Granovetter) some decades ago, markets are embedded in society – specially so, labour markets, we may add. To put it bluntly, there is not much that is ‘objective’ about costs except to those unwilling to acknowledge the distribution of wealth and power that determines these costs and their consequences for social welfare.

⁷⁶ Even the single owner-worker enterprise cannot function without the contribution of workers elsewhere in the economy. Even more obvious is the case of family labour enterprises where females are routinely placed in a subordinate position.

⁷⁷ “Conscience is a frail instrument of social policy,” and other valuable insights are lucidly presented in Learning from Experience: A Gendered Approach to Social Protection for Workers In the Informal Economy.

⁷⁸ See e.g. Labour Market Policies and Institutions: A Framework for Social Dialogue; Industrial Relations and Labour Rights in Pakistan.

⁷⁹ Equality at Work provides good elaboration and illustration.

⁸⁰ For an interesting discussion see Labour law and new forms of corporate organization.

⁸¹ For those who require a defence of application to agriculture, we suggest that this example be used not only for farm labour but also for small sharecroppers. In the latter case the share of the tenant would have a lower limit given by the minimum wage and family labour. Hired crews in commercial marine fisheries provide another example where shares and catch often fail to provide minimum wages to all of the crew. Low earnings or even loss of the boat owner cannot be a defence for suspending core labour rights.

⁸² Amartya Sen's work is the classic reference for affirmative discrimination to achieve equality of outcome. A recent paper of the ILO is a useful recent exposition in labour issues: Discrimination and equality at work: A review of concepts.

⁸³ For illustrative studies see Rapid Assessment Studies of Bonded Labour in Different Sectors in Pakistan.

⁸⁴ For those who consider it necessary to introduce price adjustments for locational differences, the simplest thing is to set wage at the highest nominal level and let those who live in "cheaper" areas enjoy the additional income. An implication is that when pegged to the poverty line for critical expenditures, it should be the urban line that is used for a national minimum. Higher urban prices reflect as much "real" production costs as the higher standard of living of enterprise owners who provide the essential goods and services.

⁸⁵ Some may object that workers do not "deserve" to be paid in the off season. This can be rebutted on two grounds. One, this attitude is what leads to or exacerbates debt bondage. Two, the point of a minimum wage is to prevent poverty. Third, if owners ensure adequate consumption all year for themselves by higher returns in the working season why is this to be denied to workers who have generally no or less favourable opportunity to use their labour in the off season?

⁸⁶ The Economic and Political Weekly is a good source for sharing in the discussion.

⁸⁷ It is a tragedy that one illustration is the absence of toilets in most enterprises, which "cost-saving" is used to deter female employment or make them suffer in comparison to men who can use unprotected public spaces including the nearest ditch. It is debatable if patriarchy is the issue or greed of capital. It would be interesting to research the conditions of enterprises funded by, say, the Women's Bank.

⁸⁸ For a concrete exercise in universal old-age benefits see Recommendations of the Task Force on Pension Funds. Had these proposals been implemented when published in 1996, virtually all labour would have been covered a decade later.

⁸⁹ Some would then rightly refer to the search for job security. One agrees that failures in economy management are then a central issue, and collective bargaining at the macro level is the appropriate direction for providing security of employment rather than focusing on security in a job, which can only be temporary in the current economy where rootless capital dominates. Our first task should be to reduce the ruthlessness of this rootless capital in dealing with increasingly footloose labour.

⁹⁰ When capital, or their representatives in government, point to historical sequencing of rights, they need a gentle but firm reminder of their own impatience to enjoy consumption standards today that took centuries to reach elites of the colonising world.

⁹¹ The Pakistan Economic Survey has a list of sectors and enterprises to be privatised. The only obvious exclusions are (much of) the federal government itself, and all the security forces.

⁹² One example of such, unfortunate and unacceptable, exclusions is the sharing of profits as bonuses with "permanent" workers alone. Another is housing built by the Workers Welfare Fund. If workers insist that enterprise performance is due to both owners and workers, then it is only consistent that all workers be acknowledged rather than some designated by enterprises and trade unions as workers. This approach raises issues that go beyond national boundaries, but that is best left to a separate discussion, of what is "aid" and what is not, even within the international labour movement. The ILO itself seems susceptible to the disease of formalization but the cure is not obvious.

⁹³ It's really not odd that one not ask workers for even simultaneous registration of even an enterprise. Think of other contexts as an illustration – a driver's license does not require reference to a specific vehicle, and a permit to use a car does not require the production of a driver's license. Identity card is an example of

a bad system where acknowledgement of citizenship specially imposes indignity upon the poor, women and children, and forces South Asian migrants to engage in corruption of government.

⁹⁴ When change of residence calls for it, the worker simply informs the old and the new location of registration.

⁹⁵ As is currently the case for provincial minimum wage boards – Punjab remains ahead of all other provinces, though only in notification but not in enforcement.

⁹⁶ A federal authority, also facilitating a one-window operation for enterprises, has been a long-standing proposal of tripartite Task Forces; the most recent being the Final Report of Task Force on Labour Welfare. This paper extends their recommendation for national oversight of social security and old-age benefits to all labour standards.

⁹⁷ Final Report of Task Force on Labour Welfare. To promote dialogue, one refrains from suggesting that the extinction of some unreformed government institutions and organisations – where overheads per worker served are tens of times more than benefits per worker -- may actually serve the public interest. In any case such a proposal could be considered as an unfair focus on the civil bureaucracy in a militarised state of predatory elites.

⁹⁸ Also suggested by the Planning Commission in its Medium Term Development Framework. Much spending is planned for physical infrastructure; tying expenditures to labour standards could eliminate e.g. much debt bondage.

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