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Strengthening Democracy and Democratic Institutions in Pakistan

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UNDERSTANDING LABOUR ISSUES IN PAKISTAN

PILdAT
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FOREWORD

General labour conditions in Pakistan leave much to be desired. The country's existing labour code is beset with discrepancies. Furthermore, since Pakistan's economy is mainly dominated by the informal sector, a vast majority of workers remain outside the ambit of labour laws and social protection. Only 2.4 per cent of the labour force is unionized and has access to collective bargaining for their wages and working conditions.

The objective of this briefing paper is to contribute to the prevalent debate on labour reforms in Pakistan. It is important to understand the diverse viewpoints on the subject and strive for a consensus based solution. PILDAT hopes that this paper will provide an impetus for public representatives to play a more proactive role in the debate on labour reforms as well as in policy formulation.

This briefing paper was originally produced in June 2005, first updated in November 2006 and is further updated now after incorporating the changes that have taken place.

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Disclaimer

The author, PILDAT and its team of researchers have made every effort to ensure the accuracy of the contents of this paper and do not accept responsibility for any omission and error, as it is not deliberate. The views expressed in the paper are not necessarily those of PILDAT or of the Solidarity Center, Pakistan

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PROFILE OF THE AUTHOR

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Overview

Pakistan's population in year 2008-9 is estimated at 163.67ⁱ million. On the basis of this population, the total labour force is estimated to be 51.78ⁱⁱ million. The female labour force has increased; they are 10.96 million that is 0.1 million more female workers than the previous year. According to the Labour Force Survey 2007-8, the total number of people employed are 49.09; 1.44 million more than the previous year. Of this, 69.7 per cent is rural. The employed labour force is defined as all persons of ten years and above who worked at least one hour during the reference period and were either paid employees or self-employed. Based on this definition, the total number of employed labour force is estimated 49.09ⁱⁱⁱ million for year 2007-8. Under the Constitution labour is regarded as a '**concurrent subject**', which means that it is the responsibility of both the Federal and Provincial Governments. However, for the sake of uniformity, laws are enacted by the Federal Government, stipulating that Provincial Governments may make rules and regulations of their own according to the conditions prevailing in or for the specific requirements of the Provinces. Only a small percentage of the total workers are registered as a 'concurrent subject'. According to the latest available figures for the year 2007 only 1.3 million^{iv} workers were registered with 7530 trade unions which reflect 2.4% of the work force. The number of Collective Bargaining Agents (CBA) was 2,688 and their membership was 801,303. Despite this low percentage of organised labour, the right of association is still partly allowed in the latest Industrial Relations Act-IRA 2008.

In addition to the ILO (International Labour Organisation) convention no 87, a judgment of the Federal *Shariat* Court made in reference to the Industrial Relations Ordinance (Judgment title: *PLJ 1984 FSC 164*)^v in 1983 also supports the right of association. The judgment asserts a very positive Islamic view on laws for the welfare of labour and asks the State to step in when the employer fails to fulfil Sharia duty of treating the employee as a "**brother**". It is held that Islam confers wide powers on the State to regulate ownership and enterprise, including the relationship (and terms and conditions) between employer and employee and between landowner and tenant. Taken, literally, the implications for a minimum wage and other benefits are staggering. Active labour force participation rate constitutes that 45.2^{vi} per cent of the estimated total population in the year 2006-7. According to the official estimates, rural unemployment has increased from 4.98 per cent in 1998 to 6.74 percent in 2005 and in 2007-8 it became 4.31^{vii} per cent; urban unemployment increased from 7.95 in 1998 to 9.70 in 2005 and in year 2007-8 it became 8.52^{viii} percent. Land-less peasants and small farmers driven out of agriculture due to skewed land distribution, water crisis and increasing commercialisation of agriculture constitute a significant bulk of unemployed labour force. Pakistan's economy is mainly dominated by the informal sector. Agriculture is not included in the sectors covered under labour legislation. Officially, employment in the informal sector is recorded as 76.49 per cent. Hence the vast majority of workers remain outside the scope of labour laws and social protection. In addition, the seasonal workers are excluded in the latest labour policy that forms a major chunk of agro-sector labour force recorded as 76.49 per cent. Hence the vast majority of workers remain outside the scope of labour laws and social protection.

TABLE-1: INDICATORS LABOUR FORCE (IN MILLIONS)

	2006-07	2007-08
Total	50.33	51.78
Male	39.92	40.82
Female	10.41	10.96

Source: Labour Force Survey 2007-08

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TABLE-2: TRADE UNIONS IN PAKISTAN

Number of Unions	Membership	Year
209	393,137	1951
708	350,604	1960
2522	735,620	1970
6551	869,128	1980
7080	952,488	1990
7220	1,009,897	2000
7530	1.3 million approximately	2007

Labour in the Informal Economy

The '*informal economy*' refers to modes of production and enterprises that range from small-scale production units, home-based work in production chains, and self-run micro-enterprises to bare-minimum economic survival activities such as street vending, rag-picking and domestic work. These activities remain 'informal' because workers/operators cannot comply with the established rules and regulations of the formal sector that they find prohibitive and costly. By virtue of being part of the "*informal*" economy, a vast majority of workers are excluded from legal and social protection and from the scope of labour laws. Of the 49.09 million labour force in

Pakistan in 2007-8, 44.7 percent were employed in agriculture sector, whereas 55.3 percent are employed in non-agriculture sector, 40.3 percent employed in the informal sector compared to 15.00 percent in the formal sector. Of these, total 17.66^x million are employees; 16.77million are self-employed^x while 14.20^{xi} million are unpaid family helpers in the informal sector. As far as unemployment is concerned, 4.31 %^{xii} in rural and 8.52%^{xiii} in urban sector is unemployed.

The majority of the employees in the informal sector are piece-rate, home-based women workers who get extremely low wages and work under restrictive physical and social environs of their poor habitat, or at small

TABLE-3: CBA TRADE UNIONS IN PAKISTAN

Provinces	Number of Unions	Total Membership
Sindh	1,528	233,786
Punjab	456	106,681
N.W.F.P	300	384,657
Balochistan	124	21,117
Islamabad	280	55,062
Total in Pakistan	2,688	801,303

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hazardous work units. Most of the workers are not aware of constitutional and international human and labour laws and covenants. The informalization of economy presents perhaps the biggest challenge to sustainable development. On one hand, it is vibrant sector of the economy, labour-intensive and responsive to new needs and opportunities. On the other hand, it is largely not documented, which distorts both official statistics and existing analyses of the economy's performance. More importantly, it escapes the government's regulation network. Labour in the informal sector is not governed by the various labour laws or regulations on working conditions. This means that workers have no paid holidays, no job security, no medical cover, no pension or provident fund, no limit on the hours worked and no overtime pay.

Wages and Workers

There are different earning structures for workers. In agriculture, peasants are paid under sharecropping formula, which varies from $\frac{1}{4}$ to $\frac{1}{2}$ of the total production, depending on terms and conditions imposed by the landowner. Although there are some protections for peasants in Tenancy laws, these laws are also widely violated, and poor peasants are not paid fair share of production, resulting in a state of affairs where a large

Box-1: LABOUR RIGHTS IN THE CONSTITUTION

- **Article 11** of the Constitution prohibits all forms of slavery, forced labour and child labour;
- **Article 17** provides for a fundamental right to exercise the freedom of association and the right to form unions;
- **Article 18** proscribes the right of its citizens to enter upon any lawful profession or occupation and to conduct any lawful trade or business;
- **Article 25** lays down the right to equality before the law and prohibition of discrimination on the grounds of sex alone;
- **Article 37(e)** makes provision for securing just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment

Box-2: ILO CORE LABOUR CONVENTIONS ON LABOUR RIGHTS

- Convention 87 Freedom of Association
- Convention 98 Right of Collective Bargaining
- Convention 29 & 105 Elimination of all forms of forced or compulsory labour
- Convention 182 Abolition of exploitative child labour
- Convention 100 & 111 elimination of discrimination in respect of employment and occupation.

number of peasants are in debt. For labourers other than agricultural workers the government fixes minimum wages for unskilled workers. Though the minimum wage has been raised to Rs. 6,000^{xv} in annual budget 2009-2010, it remained mere Rs. 2,500 per month from year 2001 to early 2005. Survey reports reveal that even this inadequate minimum wage was not implemented

With the official poverty line at Rs. 878.64 per person, an average family size of 6 to .8 members (2.06 earning members), needed Rs. 5,975^{xv} per month to meet food expenditure, i-e stay above the poverty line. Even if two earning members are bringing in a combined minimum wages of Rs. 12,000, it would leave very little to spend on housing, clothing, utility bills, education and health of 7 persons. With food inflation over 35 per cent, and house rent inflation at 18.60 per cent recorded in 2008-9, even the recently enhanced minimum wage of Rs. 6,000 is not enough to keep the household at the threshold of poverty.

Finance Bill 2006 and Anti- Labour Legislation

The Federal Government had made fundamental changes in labour laws through the Finance Bill 2006. These changes allowed increase in working hours both in daily work and over time; allowed employers to get female workers to work in factories till 10 pm in two shifts, and legalized the so-called contract work.

Trade Unions and workers' bodies had termed the changes against National and International norms, in violation of International Labour Laws, and the ILO Conventions and against the will and spirit of the Constitution of Pakistan. In their view the changes made under prescription of World

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TABLE-4: CIVILIAN LABOUR FORCE, EMPLOYED AND UNEMPLOYED FOR PAKISTAN (IN MILLIONS)

	01-02	03-04	05-06	06-07	07-08
Labour Force	41.83	45.50	50.05	50.33	51.78
Employed	38.37	42.00	46.95	47.65	49.09
Unemployed	3.46	3.50	3.10	2.68	2.69

Source: Labour Force Surveys 2001-02, 2003-04, 2005-06 & 2006-07, Federal Bureau of Statistics

Bank, Asian Development Bank (ADB) and other International Financial Institutions (IFIs) intensified labour exploitation especially that of the already marginalized, the poorest of the poor.

By amending the Shops and Establishment Ordinance 1969, the government increased daily working hours from 8 to 12 hours. Similarly the compulsory closed weekly holiday had also been abolished, and through an amendment in Section 38 and 45 of the Factories Act 1934 allowed the employers to make female workers work till 10 pm in two shifts. Earlier, female workers were barred from working in factories before sun rise and after sun set. A new category of “**contract worker**” was added in the West Pakistan Standing Orders Ordinance 1968. Such workers were not entitled to the legal compensation for overtime work. In addition the duration of the overtime work was increased from 150 hours to 624 hours a year for adult and

from 100 hours to 468 hours for young persons.

According to the Federal Labour Ministry of the time, these changes were made to benefit the workers and to encourage the Small and Medium Enterprises (SMEs). However, in reality these were termed to have serious adverse implications for the society in general and working people in particular.

Since the Provincial Governments by excessive use of their powers banned Inspections provided in the Factories Act 1934, which was again a major violation of the Constitution and ILO Conventions, therefore no inspection is conducted these days. Hence, these changes lead to further violation of labour rights, and adversely impacted upon condition of work, working conditions and health and safety of workers. Besides, these changes also severely curtailed workers' capacity to resist exploitative

TABLE-5: EMPLOYMENTS BY FORMAL AND INFORMAL SECTOR (%)

Sectors	2006-07			2007-08	
	Total	Urban	Rural	Total	Urban
Agriculture	43.6%	6.5%	59.9%	44.7%	6.2%
Non-Agriculture	56.4%	93.5%	40.1%	55.3%	93.8%
Formal	15.8%	27.4%	10.8%	15.0%	27.6%
Informal	40.5%	66.1%	29.3%	40.3%	66.2%
	100	100	100	100	100

Source: Labour Force Survey, 1999-2000& 2007-08, Federal Bureau of Statistics

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conditions.

Finance Bill 2008 and Labour Legislation

Finance Act, 2008 (Act 1 of 2008) issued on June 27, 2008 contained amendments in some Labour Laws. According to these amendments, an employee appointed on wages exceeding Rs 10, 000 will not be covered under Provincial Employees' Social Security Ordinance, 1965 (W.P Ord No. X of 1965) and there would be no contribution on the part of employer. Further rate of contribution which was previously 7% (as provided in the Schedule to the Provincial Employees Social Security (Contribution) Rules 1966) has been decreased to 6%.

BOX-3: INFORMAL SECTOR

The term Informal sector, coined by an ILO mission to Africa in the early 1970s, is invoked to refer to street vendors in Bogota.; Shoeshine boys and rickshaw pullers in Calcutta; garbage collectors in Cairo; home based garments workers in Manita, Montreal, Madeira, or Mexico City; and home –based electronic workers in the Leeds, Istanbul and Kuala Lumpur

Following are part of the informal sector and are exempted from the labour laws.

Employer:

- Owners of informal enterprises
- Owner operators of informal enterprises

Self Employed:

- Own-account workers
- Heads of family business
- Unpaid family workers

Wage Worker:

- Employees of informal enterprises
- Casual workers without a fixed employer
- Home workers (also called industrial outworkers)
- Domestic workers
- Temporary workers
- Temporary and part-time workers
- Unregistered workers

Employees' Old –age Benefits Act, 1976 (XIV of 1976) that was previously amended in finance Bill 2006 is again amended in 2008. According to the Finance Bill 2006, Government had made changes in Workers Welfare Fund and EOBI - Employees Old Age Benefit Institution regarding the registration with the EOBI was compulsory only for establishments employing 20 or more workers that drastically curtailed its applicability and also deprived million of workers from of a fundamental right. This has been repealed in Finance Bill 2008. Applicability ceiling on establishments is reduced from 20 to 5 to enlarge the scope of the Scheme. Now the Scheme shall be applicable on establishments employing five or more employees but it reduced the contribution by employer from 6% to 5%.

Some of the key clauses of Labour Laws amended through Finance Bill 2006 also continued through the 2008 Labour Legislation. These mainly included increase in daily working hours from 8-12 hours, abolishing of compulsory closed weekly holidays, and allowing factory workers to make female workers work in two shift till 10 pm, etc.

Industrial Relations Act 2008

The Industrial Relations Act 2008, consisting of 53 sections and spread over 89 pages came into force in December 2008, repealing the Industrial Relations Ordinance 2002.

The Industrial Relations Act 2008 was passed by the Senate of Pakistan on September 04, 2008 and by the National Assembly on the November 19, 2008. The President of Pakistan gave his assent to the Act on December 14, 2008. It is an interim law and will stand repealed in April 2010.

Strengths

The Act delineates norms and procedures for information and registration of trade unions in great detail and provides protection against trade union monopoly.

The definition of a Worker under IRA 2008 includes Supervisors, who had been excluded from the corresponding clause in the IRO 2002. Significantly, the new Act has re-established Labour Appellate Tribunals^{xvi}. That could potentially allow for speedy hearing of appeals

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BOX-4: AMENDMENTS IN LABOUR LAWS IN FINANCE BILL 2008

Provincial Employees' Social Security Ordinance, 1965 (W. P. Ord No. X of 1965)

- The wage limit for coverage and payment of contribution has been increased. Now an employee appointed on wages exceeding Rs. 10,000/- shall not be covered, but appointed at less than Rs. 10,000/- will be covered and shall continue to remain covered even if his wages exceed Rs. 10,000/- No Contribution would be payable on wages exceeding Rs. 10,000 instead of Rs. 5,000.
- With the increase in minimum wages from Rs. 4,600/- to Rs. 6,000/- the rate for self assessment is also enhanced from Rs. 210 to Rs. 360.
- The rate of contribution which was previously 7% (as provided in the Schedule to the Provincial Employees Social Security (Contribution) Rules 1966) has been decreased to 6%.

West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (W.P. Ord No. VI of 1968)

- Suspension pending enquiry under the Service laws (applicable on civil servants) is with full pay. In order to maintain uniformity and following the dictum laid down by the Shariat Bench of the Supreme Court (reported as NLR 1994 SD 197 and another un-reported Shariat Appeal No. 4 of 1991 titled Govt. of NWFP vs. I.A Sherwani) it has been provided that pending enquiry, the workman will be entitled to full salary instead of 50% salary as Subsistence Allowance which was previously required to be given.

Merical and Service Sector Establishment

- The Chairmen of the Worker Welfare Boards may have to obtain previous approval of the Governing Body with regard to the appointment of staff.

Employees' Old-age Benefits Act, 1976 (XIV of 1976)

- Applicability ceiling on establishments is reduced from 20 to 5 to enlarge the scope of the Scheme. Now the Scheme shall be applicable on establishments employing five or more employees.
- Reduction in contribution payable by employers from 6% to 5%. This has been done to partly offset the impact on the contribution due to the enhancement in the minimum wages. However since the minimum wage has been increased from Rs. 4600/- to Rs. 6000/- per month the employers share of contribution would be Rs. 300/- while the insured persons would pay Rs. 60/-. Thus the total contribution would rise from Rs. 322/- to Rs. 360/- per month.
- Reduction of insurable employment provided in sub-section (2) of section 22 shall not be allowed to the insured persons registered on or after July 1, 2008.
- Exemption to banks and banking companies is withdrawn. Hence forth employee of a bank and banking company shall also be covered and contribution shall be payable.
- Computation of rate of pension, monthly wages will be calculated on the basis of wages on which contributions were paid during the last twelve months.
- Minimum pension has been raised from Rs. 1, 500 to Rs. 2, 000.
- All Existing pension is enhanced by 15%.

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BOX-5: AMENDMENTS IN LABOUR LAWS IN FINANCE BILL 2006.

Amendments have been made in the following laws:

- Factories Laws 1934
- Shops and Establishments Ordinance 1969
- West Pakistan Industrial & Commercial Employment (Standing Orders) Ordinance 1968
- Workers Welfare Ordinance, 1971
- Employees Old Benefits (EOBI) Act 1976

against the judgments handed down by the Labour Court. Under the previous law, such appeals had to be brought before a High Court which resulted in delays and higher costs to the appellants.

Positively, the IRA 2008 takes away the provision in the IRO 2002 to the effect that the Labour Court may order an award of compensation in case of wrongful termination in lieu of reinstatement of the worker^{vii}. That provision, according to critics, enabled employers to sack “troublesome” workers, such as trade union representatives with impunity. The new Act also empowers the National Industrial Relations Commission (NIRC) to grant interim relief as it may deem fit including interim injunction. The Act has also restored certain powers of the Works Council and the Joint Management Board which had been taken away by the previous law. Moreover, the new act allows for union formulation in the Employees' Old Age Benefits Institution (EOBI), however, this amendment only effects not more than a few workers.

Weaknesses

As was the case with IRO 2002, the Act excludes from its ambit employees of the Police, Armed Forces and services exclusively connected with Armed Force; security staff of the PIA and those drawing wages above pay group V; staff of the Pakistan Security Printing Corporation, government hospitals and education institutions; the self-employed and agricultural workers. While the exclusion of the Police and Armed Forces as well as senior managerial staff is widely considered as legitimate for security and economic efficiency reasons respectively, the law's restrictive application otherwise is a cause for concern given the Constitutional guarantee of the Right to Freedom of

Association and its normative value as a core labour right. Freedom of Association may not be an absolute right; however, any restrictions imposed have to be limited in scope and demonstrably tied up with a public interest.

Section 2 of the Act has omitted the definition of “contractor” which may affect unionization and labour rights in the construction and other sectors where employers rely heavily on contractors. The same section under clause 2, sub-clause xxvi, makes an “agreement between an employer and his workmen part of a settlement”. That would defeat the very purpose of collective bargaining, which is to overcome the unequal bargaining power of the worker vis-à-vis the employer. The act does not specify the level of qualification of those nominated as presiding officers in the labour courts and grants the provincial governments authority to appoint them without consultation with the Chief Justice of the respective High Court. Similarly, the qualification and appointment of the Chairman of the National Industrial Relations Commission has also been left to the choice of the Federal Government. While the act imposes penalties for unfair labour practices, they are to take the form of fines and not imprisonment, which most trade union leaders consider an inadequate deterrent against violation of labour rights. The otherwise comprehensive provisions for registration and transport running of trade unions on the basis of gender, race, ethnicity and national origins. In some countries, legislative provisions protecting workers against discrimination in employment and access to employment extend to trade union rights^{xviii}.

BOX-6: IMPLICATIONS OF AMENDMENTS IN FINANCE BILL 2006.

- Changes in basic structure of work-life for workers
- Removal of legal protections
- Extensions in working time
- Reduction in overtime compensation
- Vulnerability of women workers
- Increase in Poverty
- Further deterioration in physical health conditions of working communities

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BOX-7: IRO 1969, 2002 AND 2008: EXCLUSIONS

Industrial Relations Ordinance 1969, Section 3

“It shall not apply to any person employed in the Police or any of the Defence Service of Pakistan and any service or installations connected with or incidental to the Armed Forces of Pakistan including on Ordinance factory maintained by the central government; or to any person employed in the administration of the state other than those employed as workmen by the Railways, Posts, Telegraph and Telephone Departments.”

Industrial Relations Ordinance 2002, Section 4

It shall apply to all persons employed in any establishment or group of establishments or industry except those employed (a) in the Police or any of the Defence Services of Pakistan; (b) in any installations or services exclusively connected with the Armed Forces of Pakistan including Ministry of Defence lines of the Railways; (c) by the Pakistan Security Printing Corporation or the Security Papers Limited or Pakistan Mint; (d) in the administration of the State other than those employed as workmen by the Railways, Post, Telegraph and Telephone Departments; (e) by an establishment or institution maintained for the treatment or care of sick, infirm, destitute and mentally unfit persons, excluding those run on commercial basis; (f) by an institution established for payment of employees' old age pensions or for workers' welfare; (g) as a member of the Watch and Ward, Security or Fire Service Staff of an oil refinery or of an establishment engaged in the production, transmission or distribution of natural gas or liquefied petroleum gas or petroleum products or of a seaport or an airport

Industrial Relations Ordinance 2008, Section 3

It shall apply to all persons employed in any establishment or industry, but shall not apply to any person employed-(a) in the Police or any of the Defence Services of Pakistan or any services or installations exclusively connected with or incidental to the Armed Forces of Pakistan including an Ordnance Factory maintained by the Federal Government; (b) in the administration of the State other than those employed as workmen by the Railway and Pakistan Post; (c) as a member of the Security Staff of the Pakistan International Airlines Corporation, or drawing wages in pay group, not lower than group V, in the establishment of that Corporation as the Federal Government may, in the public interest or in the interest of security of the Airlines, by notification in the official Gazette, specify in this behalf; (d) by the Pakistan Security Printing Corporation or the Security Papers Limited;² (e) by an establishment or institution for the treatment or care of sick, infirm, destitute or mentally unfit persons excluding those run on commercial basis; (f) as a member of the Watch and Ward, Security or Fire Service Staff of an oil refinery, an airport or seaport; and (g) as a member of the Security or Fire Service Staff of an establishment engaged in the production, transmission or distribution of natural gas or liquefied petroleum gas.

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State of Trade Unionism in Pakistan

The view prevailing in some quarters that trade unions are formed to undertake strikes is based on ignorance of law as well as facts. The positive role of trade unions in industrial relations has not been realized and reflected. Unions are democratic institutions, which are involved directly for the betterment of workers and indirectly for society as a whole. Trade unions are legal entities. The Constitution of Pakistan, ILO Conventions and UN Declarations all allow workers the right to form their associations and unions

It is clear that a number of important issues confront the trade union movement; foremost among these is the structure of economic activity in the country. The fact that the informal sector extends well beyond family affects the structure of the formal sector. There is a trend among employers to redirect as much work as possible to subcontractors and daily wage earners. This both limits the application of existing legal welfare provisions and makes it difficult to register unions, as non-permanent workers can simply be disowned by the employer. This leads to a dichotomy in the labour force.

Within the existing formal sector, unions have a certain degree of collective bargaining power and have been able to protect the wages and conditions of workers. Permanent workers also have a large degree of job security. Many traditional labour problems abound outside the formal sector. The use of child labour is common, working conditions are virtually non-regulated and terms of employment are oppressive. Formal-sector and particularly government employment comes to be regarded almost as a sinecure and the efforts of unions are largely limited to trying to contain the shrinkage of the traditionally unionized areas. Union activity on the whole is remote from the realities facing the overwhelming majority of the labour force. If unions are to serve their purpose of defending the interests of the working class as a whole, they need to find ways of addressing the needs of workers in the informal sector.

A critical challenge confronted by the labour movement concerns its limited area of impact which is further shrinking with the expansion of informal sector and the

emergence of new forms of employment at scattered and isolated workplaces. Though the number of women workers in the formal sector has increased significantly over the years in many cities in the country, they remain largely outside the ambit of unionization. Home-based women workers constitute the bulk of informal sector workforce. The challenge is to expand unionization in the formal sector and explore innovative mechanisms and arrangements to organize workers, particularly women workers, in the informal sector.

Impact of Globalization and Economic Growth on Labour in Pakistan

Global trade and investment patterns are having a dramatic impact on employment relations and work arrangements around the world. The current state of privatisation, foreign investment and the development of Free Trade Zones unrestrained by labour laws do not add up to an environment conducive for workers. Workers retrenched by privatisation move into the informal economy when public enterprises are closed or the public sector is downsized. More and more people are also joining informal economy to supplement formal sector incomes with informal earnings in response to inflation or cutbacks in public services. Another repercussion of the globalization is that capital-intensive growth or what some observers call "*jobless growth*" is being pursued by both public and private sector. Furthermore, "*high tech*" growth tends to create more high-skill service sector jobs than lower-skill manufacturing jobs. In such contexts, those without the skills to compete for high-tech formal jobs find work or continue to work in the informal economy. Though according to official statistics, the population living below poverty line shrank from 25.4 in 2004-05 to 24% in 2008, other economic indicators did not support the claim and the ground realities for workers remained as harsh as ever. Driven by food and fuel price hikes, the inflation rose approximately to 22.3% percent during 2008-9 adversely impacting the low and middle-income groups.

Economic growth was recorded at 6.6 percent in 2005 (termed, '*impressive*' by government officials). The growth sustained at around 6 percent for consecutive four years (2001-05), however, did not reflect on socio-

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economic status of the majority of the labour force as the deficits in basic human capabilities (access to education, health, skill formation, civil and legal rights) remained significant. In year 2008-9, approximately 2% economic growth was achieved that shows the massive contraction in industrial sector. The domestic environment was also not supportive to the growth momentum furthermore multilayered structural inequalities, pro-capital/pro-rich economic policies and anti-labour legislation also some of the reasons noted for depressed socio-economic status and rising insecurity among the labour force.

Pakistan, the most populous country in the world with 163.67 million people, is ranked by the World Bank as a low-income economy. Literacy rate in 2008-9 stood at 56.2% per cent while infant mortality rate, under 5 and maternal mortality rate were noted to be the highest among Asian countries.

Despite of government claims, economic growth has had very little impact on poverty. With an inflation rate soaring at 22.3 per cent, an unemployment rate approximately at 8% during recent years, and the distress visible on the ground, poverty reduction rate was refuted by independent analysts. Rising income inequality between rich and the poor was evident in the four fold difference in growth rates between the consumption of the richest 20 percent and the poorest 20 per cent of the population.

State Institutions

At the federal level, the Ministry of Labour and Manpower is responsible for labour and employment policy formulation, administration and implementation. Labour and employment are listed under the concurrent legislative list.

State Tripartite Institutional Arrangements

The State recognises, at theoretical level, that tripartism consultation among workers, employers and State machinery plays a crucial role in promoting harmonious industrial relations. According to the ILO “...*tripartism is about embedding the right to organise and bargain within broader labour market institutions and hence making the space for a culture of collective bargaining*”^{xix}.

The institutional arrangements for tripartism in place in Pakistan include:

Pakistan Tripartite Labour Conference

This is the official government tripartite forum where representatives of all trade unions, employers association and government get together to discuss labour issues.

Provincial Minimum Wage Board

Minimum Wages Board has been set up to systematically determine the minimum wages for different business activities, industries and occupations in different provinces, taking into account the realities and State of economic growth of the respective province.

National Committee on the Rights of the Child

National Committee on the Rights of the Child was established in pursuance of Article 43 of the Child Right Convention. This committee prepared the National Plan of Action and is responsible for its periodic review.

National Steering Committee on Bonded Labour

This committee comprises stakeholders and civil society organisations along with the government to control and abolish bonded labour in Pakistan.

The state does include the relevant stakeholders in tripartite consultations facilitated by it. However, the frequency of consultation is irregular and sporadic. Besides, these institutional arrangements are not legally empowered to play any role in the enforcement of recommendations that come out of consultations. The recommendations are generally over ruled by different ministries. For instance, Pakistan Tripartite Labour Conference 2001 recommended deleting section 27-B in the Banking Companies Ordinance as it is in conflict with the ILO Convention 87. Section 27-B restricts a section of employees from joining trade unions. The recommendation was rejected by the Ministry of Finance. The recommendation to include agriculture sector under the ambit of labour laws was rejected by the Government of Punjab, Agriculture Department.^{xx}

Parliamentary Committees

There are standing committees on Labour in the National

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Assembly, Senate as well as the four provincial assemblies. The objective of these committees is to oversee labour related legislation and performance of the executive regarding labour policy and implementation.

State Labour Welfare Institutions

In the 1960s, reacting to growing labour discontent, the State began to take measures relating to welfare of workers. Since then a number of schemes and institutions have been put in place but their scope, extent and effectiveness remain limited. Some of the important labour welfare institutions are listed below:

Provincial Employees Social Security Institution

Provincial Social Security Institution was established under the Provincial Employees Social Security Ordinance, 1965, initially to provide medical and related facilities to workers in textile industry. In 1970 social security institutions were organised separately in the provinces and coverage gradually extended to several other sectors. It is financed through a levy of 7% of the wages of the workers up to Rs.3, 000 (enhanced to Rs. 5,000) payable by the employer. According to the report of the Task Force on Labour Welfare, in 2001 the scheme was covering only around 900,000 workers, or less than 3 per cent of the total labour force in the organized sector.

The Workers' Welfare Fund

The Workers Welfare Fund was established in 1971 through an Ordinance, mainly to provide housing for workers. All the money is collected by the Central Board of Revenue and remains static with the Finance Ministry, which does not even administer the Fund according to the proclaimed mandate.

The coverage of the Fund remains extremely low and among those who are covered, many are not aware of the current benefits and procedural mechanisms to gain access. Many of the informal sector units avoid registration of their workers to evade contribution.

The Employees Old-age Benefits Institution (EOBI)

EOBI was established in 1976 (under Employees' Old-age Benefits Act, 1976) as a federal institution with an aim to provide for old age pension and related benefits to registered worker. The EOBI is financed through a levy of 6% of the wages of the workers. The total number of registered employers with EOBI is 2,265^{xi} while total number employees registered with EOBI are 223,925^{xii} in year 2007.

There have been frequent allegations of corruption and leakages in disbursements of money on this institution.

TABLE-6: UNEMPLOYED LABOUR FORCE BY AREA

Years	Unemployed Labour Force (In millions)			Unemployment Rate (%)		
	Total	Urban	Rural	Total	Urban	Rural
1996-97	2.26	1.33	0.94	5.93	5.02	7.98
1999-00	3.08	1.92	1.15	7.82	6.94	9.92
2001-02	3.46	2.15	1.31	8.27	7.55	9.80
2003-04	3.50	2.08	1.41	7.69	6.74	9.70
2003-04	3.10	1.84	1.26	6.20	5.35	8.04
2006-07	2.68	1.64	1.04	5.32	4.72	6.66
2007-08	2.69	1.70	0.99	5.20	4.31	8.52

Source: Labour Force Surveys 2001-02, 2003-04, 2005-06 & 2006-07, Federal Bureau of Statistics

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Workers Welfare Boards

Workers Welfare Board was established under Section 11(A) of the Workers Welfare Funds Ordinance, 1971 in order to provide residential and educational facilities as well as other welfare measures including Jehez Fund for the marriage of the daughters of workers, merit scholarships to deserving children of industrial labour, distribution of sewing machines and bicycles.

National Technical Board

National technical boards are established to provide vocational and technical training and education to labour.

Women in Labour Force and Gender Discrimination

Another vital issue is the limited contribution of women to the economy. Exclusion on the basis of gender manifests itself in diverse forms and at various levels. Women are generally excluded from the mainstream economic, social and political activities.

Pakistan's ranking in the UNDP's Gender-related Development Index (GDI), which covers such factors as life expectancy, education and income, is 107th out of 140 countries. In terms of the Gender Empowerment Measurement, which measures gender inequality in economic and political participation and decision-making, Pakistan's ranking is at the bottom 71st out of 88 countries measured because women often work as unpaid family members and their participation in economic activity is not recognised. This can be gauged from the fact that in 2005, female labour force participation in Pakistan is at 14.1 per cent in comparison with 46.7 per cent in Malaysia and 57.6 percent in Bangladesh in 2000. The labour force participation rate is a measure of the proportion of any economy's working gage population that is economically

Box-9: GENDER EQUALITY IN THE CONSTITUTION

Article 38 of the Constitution imparts the State's obligations aimed at achieving equality in the form of securing the well-being of the people, irrespective of sex, caste, creed or race.

Box-8: WORKERS EMPLOYERS BILATERAL COUNCIL OF PAKISTAN (WEBCOP)

This understanding of the need for social dialogue led to the formation of a bilateral institution of employers and workers for the first time in Pakistan in 2000. The WEBCOP representing the Employers' Federation of Pakistan, all major trade union federations and confederations, aims to “...to meet the challenges of change to ensure industrial growth, employment, prosperity, joy and happiness with equal opportunity to all, respecting each other's needs...^{xxiii}”. The initiative has been acknowledged by the Government, ILO and other stakeholders as an effective move.

active Women workers are concentrated in the informal sector, both in rural and urban economy. In the rural economy, 69.9 percent of women are employed in the informal sector while in the urban informal sector, 61.6 percent of women work in diverse sectors, mostly as home-based, piece-rate or casual workers on exploitative wages, or are employed as domestic workers on extremely low remuneration. In the formal sector, women are mostly found in low-paid, low-skill, lower-level jobs, with little or no job security and fewer benefits. Women are paid less than men for work of equal value and generally hired on contract basis. Sexual harassment at the workplace is prevalent.

The trade unions in the formal sector are male dominated in terms of both membership and leadership. An earlier survey of 15^{xxiv} trade union federations revealed only one had a woman as president^{xxv}. Women were found excluded from plant level unions as well. In the latest official data, out of 247,539 members of 1,201 registered trade unions in 2002, the number of female members was only 2,134^{xxvi}. In the informal sector women workers are not organised, unlike men who form informal labour organizations or trade bodies in various sectors in urban areas. It is officially acknowledged that women....are culturally discouraged from forming organizations that might take on active rights based approach.^{xxvii}

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TABLE-7: PAKISTAN: LABOUR FORCE PARTICIPATION RATE

	2006-07	2007-08
Total	50.33	51.78
Male	39.92	40.82
Female	10.41	10.96

Source: Labour Force Survey 2007-08

Bondage

The International Labour Organisation (ILO) defines forced labour as **“work or service extracted from a person under threat or penalty, which includes penal sanctions and the loss of rights and privileges, where the person has not offered him/her voluntarily.”**

Legal experts defined bonded labour **“as any work exacted from any person under the menace of a penalty for which this person has not voluntarily offered him or herself.”** In other words it means **“an advance obtained, or presumed to have been obtained, by a bonded labourer under, or in pursuance of, the bonded labour system.”**

The worst kind of bonded labour, which continues in various forms in interior parts of the country, needs to be eliminated under the existing laws called Bonded Labour System (Abolition) Act, which was promulgated in 1992.

The recent incidents of bonded labour cases reported from Sindh province make it a pre-requisite for all the stakeholders to evolve a joint mechanism as mere legislation will not tackle the issue. The Supreme Court of Pakistan in its decision in 1989 had already declared bonded labour unconstitutional and directed for tangent steps to abolish it. After the Supreme Court's orders, the National Assembly passed a law formally abolishing bonded labour and prohibiting the practice. Due to legislation and punitive actions by the State organs, thousands of bonded labourers especially working at brick kilns were released from debt bondage. Bonded labour is also condemned by the United Nations as **“similar to slavery”** and consequently a violation of Article 4 of the

Universal Declaration of Human Rights.

International Labour Organisation (ILO) global report has placed a figure of about 40 to 50 per cent children working under bonded labour. In Pakistan, these bonded labourers are mainly found working in brick kilns, agriculture, domestic labour, construction, and others under worst human conditions. However, the exact figures of total number of bonded labourers cannot be ascertained. Due to social and economic compulsions, entire families have been entangled in this imminent curse spanning over generations slavery. While their siblings are bonded in return for loans of their parents or guardians, and they are often rescued with the intervention of Courts, as evident from the recent events which took place in Sindh High Court, Lahore High Court and even by the defunct Islamabad High Court.^{xxviii} In twin cities, various prominent cases were also taken up by the Lahore High Court, Rawalpindi Bench, defunct Islamabad High Court and lower courts. These cases are brought to courts as the concerned officials or local government officials refused to take action or failed to do so when cases were brought to their attention. The majority of labourers who earned freedom due to courts' interferences worked at brick kilns at nominal wages. Interestingly, the courts always came to their rescue while the onus, which should be shared by the rest of the society including rights organisations failed to function prominently.

Forced labour will most likely continue to expand, even if less visibly, in other sectors, as long as the State and its donors focus on state security rather than human security, and on fiscal deficits instead of the much larger deficits of decent work.

The military regime of General Musharraf formulated a

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Box-10: ILO CONVENTION NO 105

Each member of the ILO, which ratifies this convention, undertakes to suppress the use of any form of forced or compulsory Labour in five cases.

1. As means of political coercion or education Or as punishment for holding or expressing political views ideologically opposed to the established political, social or economic system.
2. As method of mobilizing and using labour for purpose of economic development.
3. As means of labour discipline.
4. As a punishment for having participated in strikes.
5. As a means of racial, social, national or religious discrimination.

National Policy and Plan of Action (NPPA) towards relief, rehabilitation and abolition of bonded labour in 2001. A fund of Rs. 100 million was allocated to begin implementation. Yet, no substantive implementation is evident after NPPA was announced. Intensity of the issue can be gauged from NGOs claims that about 40,000 bonded labourers have been released during last one decade. Majority of these labourers are released under *habeas corpus* petitions despite the fact that there is a special law-Bonded Labour (Abolition) System Act-92 which considers exacting forced labour as cognizable offence. But only 23 cases were detected under Bonded Labour System (Abolition) Act and the fine collected during this period was merely Rs 6,100 during last 14 years.

This state of affairs reflects the poor implementation of the law. Reports claim that Bonded Labour Fund, established in 2001 as a part of NPPA remained unutilized (till March 2005) despite the fact that more than Rs 100 million were laying with the government at a time when released *Haris* were living in sub human conditions in and around Hyderabad

Bonded labour is outlawed in the Constitution of the country. Pakistan is also committed to end all forms of debt

bondage, child servitude and forced labour under international conventions it has ratified. It has ratified ILO's bonded labour related conventions No 29 and 105 in 1951 and 1960 respectively.

Obviously, the issue of bonded labour cannot be seen in isolation. It is closely linked with the state of human rights, labour rights, especially of rural and agricultural workers

Agrarian reforms, specially a more equitable distribution of land, are essential for two reasons: first, agriculture is the main location of bonded/ forced labour; second, conditions in agriculture provide the benchmark as employment in the last resort for rural and peri-urban labour.

Box-11: ILO CONVENTION NO 29

Each member of the ILO, which ratifies this convention, undertakes to suppress the use of forced or compulsory Labour in all its forms within the shortest possible period.

The illegal exaction of forced or compulsory Labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

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Potential Areas of Legislation to Address the Issues of Labour in Pakistan

The complete set of labour legislation of Pakistan includes around 70 Acts and Ordinances with 89 Rules and Regulations made under these enactments. Among these, the most recent legislation pertains to the much criticized interim Industrial Relations Act 2008 which relates to formation of trade unions and improvement of relations between employers and workers. Other segments of labour law cover a variety of subjects in relation to employment conditions; apprenticeship; control of employment; rehabilitation of disabled persons; essential services; social security and social protection; wages; compensation; and workers welfare etc. Most of these laws are complex and overlapping in scope and contents while a rhetoric like attempt has remained throughout the current decade to rationalize and consolidate these into five statutes;

- (i) Industrial Relations,
- (ii) Employment and Service Conditions,
- (iii) Occupational Safety and Health,
- (iv) Human Resource Development and Labour Welfare and Social Safety Net.

The present government is currently concentrating on the first three and has come out with concept papers on

- 1) Law on Industrial Relations,
- 2) Law on Employment and Service Conditions and,
- 3) Law on Occupational Safety and Health.

It is a common perception that while the texts of the country's laws give the federal government broad control over the landscape of labor, the reality is quite different. Many of the government-run implementing institutions, both at the national and provincial levels are ineffective in enforcing or policing the mandatory laws, rules and regulations. Moreover, political influence, political maneuvering, corruption and other hindrances pose large questions as to how to move Pakistan forward on areas such as workers and trade union rights.

Examples pertain to the hurriedly convened and badly

managed "half-day" Pakistan Tripartite Labour Conference in February 2009 as well as the recent change of members representing workers and employers, undertaken without consultation with the stakeholders and ignoring the most representative and recognized bodies of workers and employers.

Priority areas needing focused attention and reinforced lobby and strengthened advocacy through all available means to effect the desired changes. The priority areas are:

- 1) Industrial Relations Act 2008 revisions / improvements,
- 2) New Labour Policy,
- 3) Developing an alternate dispute settlement mechanism,
- 4) Effective implementation of Labour Inspection Policy 2006,
- 5) Implementation of Labour Protection Policy 2006,
- 6) Proposed Occupational Safety and Health Bill that would first time in Pakistan exclusively deal with the related matters
- 7) Proposed Employment and Service Conditions Bill merging more than
- 8) Affirmative actions on implementation of Pakistan Decent Work Country Program (DWCP),
- 9) Special zones, such as: Export Processing Zones/Special Industrial Zones (EPZs/SIZs) and any new zones such as Reconstruction Opportunity Zones (ROZs) are duly respecting ILO Core Labour Standards (CLSs), and
- 10) Institutionalized tripartitism
- 11) Legislations dealing with conditions of work

New Labour Policy: Efforts must be made to ensure that the new Labour Policy currently under preparation duly incorporates various ILO and UN Conventions and a time-bound work plan. Its development must be done in accordance with ILO Convention 144 and Recommendation 152 which have been ratified by Pakistan.

Resolution of labour-related industrial disputes is a painful, time-consuming litigious process that also entails substantial financial cost, in many cases beyond the

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capacity of the workers/unions that are embroiled in the dispute. Prolongation in the settlement of industrial disputes also entails a social cost along with ensuring justice delayed – justice denied. Labour judiciary is known for its indifference towards labour; it is also corrupt and inefficient. The situation has to be reversed with developing an alternate dispute settlement mechanism.

The Way Ahead

Though basic institutional and legal frameworks for securing human and labour rights exist, structural flaws in the social, political and economic systems of the country exclude the vast majority of workers from attaining fundamental rights through various barriers. Little or no access to land, declining availability of water and a shrinking natural resource base deprive agricultural workers from a decent living and at times trap them in debt bondage. The urban informal sector workers face decreasing wages and deteriorating work conditions. Women workers are victims of double-edged discrimination in exploitative labour markets.

Pakistan is a signatory to the ILO Declaration on Fundamental Principles and Rights at Work, and has ratified seven out of eight Conventions that form core labour standards, thus pledging itself to '**respect, promote and realize in good faith the principles and rights relating to it**', Pakistan has not ratified the convention on equal remuneration. However, by virtue of being a member of the ILO, Pakistan is obligated to follow the conventions that form the core labour standards. Yet, the National Labour Laws, including IRO 2002 and 2008 and amendments through Finance Bill 2006 are in conflict with the international core labour standards. There exist wide discrepancies between the National Legislation with the provisions of ILO Conventions on freedom of association and collective bargaining. The labour legislation must be harmonized with international laws in consultation with all relevant stakeholders. Existing inadequacies in colonial legislative text, pointed out by legal and labour relations experts, should be removed; terms should be defined uniformly; out-dated rates, benefits, levies, scope, and coverage should be synchronized with present day economic and social realities.

Revision of labour laws must follow putting into place procedural rules and regulations to facilitate implementation. Implementation of laws needs to be ensured through monitoring of mechanisms through capable and well-equipped labour administration, and violation of laws settled through labour judiciary. The need is to remove anomalies in existing legislative and administrative systems and devise policies that are inclusive of all workers without any discrimination either on the basis of gender, sector or specially created categories.

Universal application of laws should be ensured by making the language of the laws simpler and all inclusive and no section of the workforce should be neglected by the legislations. Advocates of labour rights contend that all the laws that restrict formation of union in factories employing less than ten workers should be repealed and replaced with laws that do not leave out any section of the workforce. Embargoes on the sectoral unions need to be lifted to improve the process of collective bargaining.

Contrary to this perspective, representatives of the business community are of the view that such reforms would be detrimental to the business sector, and consequently to the workers. In order to resolve such issues, the government needs to facilitate tripartite dialogues involving all relevant stakeholders.

The industrial relations system of Pakistan needs a paradigm shift. This requires adopting a fresh framework as well as redefining perspectives, roles and responsibilities of the State, the employers and workers. However, the change must first occur at the level of the State which must reconsider its present role as an arbiter and restrict itself to establishing minimum standards for every sector of economic activity.

The employers will have to recognise, without reservation, the basic rights of workers as defined by the universally acknowledged minimum labour standards, embodied in core ILO conventions. These include Convention 29 on forced labour; Convention 87 on freedom of association and the right to organise; Convention 98 on the right to organise and bargain collectively; Convention 100 on equal pay; Convention 105 on abolition of forced labour;

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Convention 111 on discrimination in employment and occupations; and Convention 138 on the minimum age of employment.

Pakistan is a signatory to all these conventions and, therefore, under obligation to honour them. The workers in turn will have to commit themselves to peaceful and democratic means of conflict resolution then it should be possible for employers' and workers' organisations to develop a voluntary code of conduct and to draw up a plan of action for phased implementation of basic rights and obligations.

Such a cooperative model of industrial relations and institutions will open up tremendous possibilities of joint bilateral and tripartite efforts in other areas.

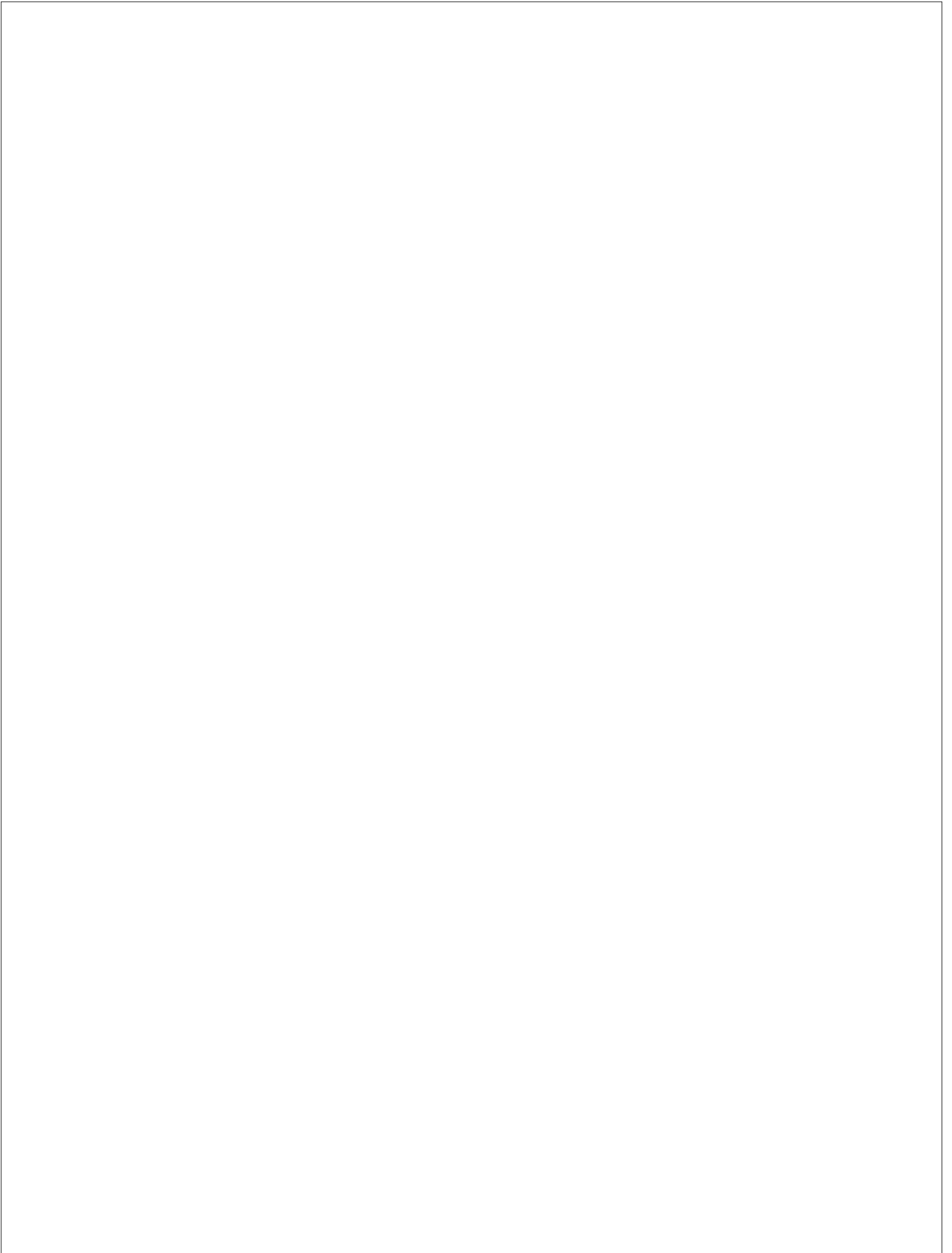
It must be realised that the State cannot sustain itself without a strong economy, while the employers must note that their "**comparative advantage**" in today's world does not lie in exploiting cheap (and therefore weak) labour, but in a skilled, competitive, contented and strong labour force.

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