



**Ministry of Human Rights
Government of Pakistan**

BUSINESS AND HUMAN RIGHTS IN PAKISTAN

**Faisalabad Consultation Report
30th – 31st December, 2019**

LIST OF ACRONYMS

ACRONYMS

BHR	Business and Human Rights
EOBI	Employees' Old-Age Benefits Institution
FCCI	Faisalabad Chamber of Commerce and Industry
GSP+	General Scheme of Preferences
ILO	International Labour Organization
LU	Labour Union
MoHR	Ministry of Human Rights
MoPHRD	Ministry of Overseas Pakistanis and Human Resource Development
NAP	National Action Plan
NBA	Needs Based Assessment
OHS	Occupational Health and Safety
NGO	Non-Governmental Organization
PESSI	Punjab Employees' Social Security Institution
SECP	Securities and Exchange Commission of Pakistan
TDAP	Trade Development Authority of Pakistan
UNGP	United Nations Guiding Principles
WWF	Workers Welfare Fund
WWFO	Workers Welfare Fund Ordinance, 1971

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BACKGROUND

The Ministry of Human Rights, Government of Pakistan is expected to hold nationwide consultations in Pakistan under the Business and Human Rights (BHR) program in order for the inauguration of a successful first draft of the National Action Plan (NAP) on Business and Human Rights (BHR) in Pakistan. Previous such consultations have been carried out in Lahore, Islamabad and Sialkot.

As a part of the nationwide consultations under the BHR program, MoHR planned for introductory dialogue based consultations with members of the Faisalabad Chamber of Commerce and Industry (FCCI) and members of the labour unions (LU) on the 30th and 31st of December, 2019.

The purpose of the meetings was to introduce the BHR program to business enterprises and labour union stakeholders and obtain an initial situation analysis of the industrial hub of Faisalabad and its export and local industries such as cotton and silk textiles, hosiery, dyes, industrial chemicals and agricultural equipment.



30TH DECEMBER, 2019 - CONSULTATION AT FAISALABAD CHAMBER OF COMMERCE AND INDUSTRY (FCCI)¹

The FCCI shared a brief history of the industrial sector of Faisalabad with the MoHR team including its establishment in 1974. With a range of business activities to cater to the multiple industry sectors in the region such as the textile industry, Faisalabad's export industry constitutes an estimated 45% of exports to the international market companies, such as Nike². Other industries in the region include rice export and state of the art sugar cane mills. Also referred to as Pakistan's "Manchester", FCCI shared that Faisalabad also consists of the power looming sector. It is expected that FCCI will be a leader in business community of the country in forthcoming years to come.

FCCI shared that without the implementation of the 27 International Labour Organization conventions, exports to the western market are not possible and a significant portion of such compliance pertains to the importance of labour unions. FCCI shared their concern that they believe that the non-governmental organizations (NGOs) play



a counterproductive role in Pakistan when it comes to business enterprises and requested MoHR to have a check in balance system when it is claimed by NGOs that human rights violations are taking place in the business sector and working with the business enterprises to eradicate such misconceptions. FCCI further observed that Pakistan is currently on 150 out of 189 countries in global Human Development Index which needs improvement. The FCCI members were keen to listen to the views of MoHR on how to further improve Pakistan's image in the international forum.

The Joint Secretary shared that Faisalabad was one of the first industrial hubs approached by MoHR due to the presence of innovative and progressive business men, their large industrial base and experienced history of doing business since 1974. The Joint Secretary then went on to give a presentation on the mandate of MoHR and the BHR program evolution in Pakistan from

¹ <http://fcci.com.pk/>

² <https://www.nike.com/>

2017 to present present, with specifics on the three main pillars of the United Nations Guiding Principles (UNGP) on BHR; protect, respect and remedy, the NBA and the successful first functional draft of the NAP. It was stressed that the efforts taken by MoHR are designed to make it a result oriented program. FCCI was then requested to provide their input on the NBA's findings and share their experience in the industrial sector of Faisalabad as the regions business community is one of the key stakeholders in the business arena of Punjab province.

Opportunities for collaboration were explored whereby it was discussed how the business community of Pakistan can be inducted as main stakeholders at the United Nations Geneva Forum on BHR and possibly make selected businesses a part of 2000 candidates there to explore business avenues and opportunities. It was further stressed that business and human rights continues to be used as a political tool on such forums. GSP+ was discussed with its importance to meet expected standards when it is reviewed in the future.

On the possible exploration of collaborations with the business community, MoHR explained that it well aware that the cost for "social audits" is very high and export focused industries do comply with them but the local industry is not obligated to follow such extensive initiatives and the high cost associated with such endeavors. Therefore, MoHR hopes to make the cost of social audit lower for export based and local industries. It was further noted that Pakistan is charitable country and it is possible to view BHR through the narrative of human rights compliance and incorporate its different reflections by giving credit to business enterprises.

The members of the FCCI appreciated the efforts of MoHR but observed that what is concerning is that there is no concrete change with similar initiatives previously taken by the government. However, based on the presentation, FCCI focused on the need to have a program aimed at awareness as the most crucial aspect due to the challenge that perceptions of society are difficult to change.

The Joint Secretary opened the floor for discussion in what capacity FCCI can collaborate with MoHR. The discussion entailed grievances expressed by the FCCI. It was noted that the FCCI is of the view that the Workers Welfare Fund³ (WWF) established under the Workers Welfare Fund Ordinance, 1971⁴ (WWFO) are retaining billions of rupees which are used for the purposes of "investments" instead of providing benefits to employees, as prescribed under the 1971 Ordinance.

It was further noted by the FCCI that 60% of funds allocated in the finance bill accommodate debt servicing; 25-26% is allocated for defence purposes, with the leftover amount being utilized for salaries which leaves the state with no fund allocation capacity for other innovative purposes which can have long lasting impacts for the country's business growth.

³ <http://www.wwf.gov.pk/>

⁴ <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/5285/123350/F-293103074/PAK5285.pdf>

An example of the inefficiencies in the Punjab Employees' Social Security Institution (PESSI) was highlighted by a member of the FCCI whereby he stated that there was no cardiac/heart related treatment for two of his employees when he approached the relevant hospital covered under PESSI for their treatment. This resulted in him acting on an individual basis despite the employees being registered workers under PESSI. It was highlighted that with such lacunas



present in the implementation of the relevant laws for the employees, it is frustrating to employers to approach healthcare avenues on their own despite contributing to social security schemes under the relevant laws.

Moreover, it was shared that such lacunas has resulted in the FCCI and its members forming alternatives for themselves such as medical colleges, banks, contribution fund for any yearly calamities.

It was noted that under the Companies Act, 2017, the Securities and Exchange Commission of Pakistan (SECP) has barred non for association from acquiring or providing donations⁵ which has resulted in FCCI (a non for profit association) restricting its activities.

It was further highlighted by the FCCI with the absence of proper mechanisms in WWF and PESSI, it is cumbersome to expect the employer to fulfill all the requirements of the basic rights of employees. As an example, FCCI highlighted that they pay several different taxes for their businesses which includes receiving notices from EOBI, PESSI, child labour criticism and municipal corporations. One member claimed to pay 28 different taxes prescribed under the applicable laws.

From a more gender centric perspective, Ms. Samiya Bukhari, a member of FCCI and the Edex Group of schools, colleges and vocational training institutes shared that through the World Bank program called WomenX, she has been able to conduct several trainings for women entrepreneurs in the region. She further shared that if the World Bank and the Asian Development Bank can take such initiatives for women empowerment, the government should

⁵ Section 42 of the Companies Act, 2017 pertains to the licensing of associations with charitable and not for profit objects.

also provide women with such initiatives for their empowerment and induction into the workforce.

It was further shared by Ms. Bukhari that she runs a vocational training institute for women which provides facilities such as small mini units for cooking, small fashion boutiques, beverages, etc. without any assistance from the government. An added area of concern was the government's lack of assistance in the Child Rights Movement⁶ which does not provide the requisite facilities for children and individual efforts by the local communities contribute to free education of 60% of the work labour force.

Further discussion entailed on how TDAP can contribute to FCCI's and other chambers. FCCI was of the opinion that previously the Export Promotion Bureau was more empowered to make concrete grass root level changes as compared to TDAP which is limited to academic purposes. It was further advised by FCCI to extend the mandate of TDAP to facilitate the growth of businesses in the region.

FCCI further expressed concern over the dissolution of the Ministry of Textile Industry and its subsequent merger with the Ministry of Commerce. As the textile export industry consists of 45% of the business activity in Faisalabad, it was advised that the Textile Vision 2025 introduced by the previous governments cannot be realized in practice.

Similar to the grievance proposed by the Sialkot Chamber of Commerce and Industry, it was further shared that unfavorable decisions which affect that industry are taken without consulting business such as the abolishment of S.R.O. 1125 has affected the textile weaving industry severely. Such actions without consultations with the business stakeholders have resulted in the reduction of exports and no proper check and balance systems in the e-commerce sector.

Recommendations:

- Request an amendment in the Companies Act, 2017 pertaining to non for profit associations as it affects 9000 members of the FCCI
- Analysis on the different taxes and procedure applicable to employers under the applicable laws in the NBA and incorporate them into the NAP
- Government to bring business entities on board for image building in international forums
- Government to initiate women entrepreneurship programs and vocational training programs

⁶ <http://crm.com.pk/>

- Gender perspective analysis from a business and human rights chapter to be added to the NBA

31ST DECEMBER, 2019 – CONSULTATION WITH LABOUR UNION REPRESENTATIVES

The Joint Secretary introduced the BHR program to the members of the LUs such as the three pillars, the duty of the state to protect human rights in the business forum, the evolution of NAP in Pakistan, employer employee relationship and the duties which arise in such relationships.

The members of the LUs appreciated the efforts of MoHR but stated that The members of the LUs stated there where tripartite meetings are not incorporated, problems will arise in effective dialogue and it would be more fruitful if the members of the FCCI were also present along with the government to resolve such issues directly. The members of the LUs stated that the National Industrial Relations Commission⁷ (NIRC) in Islamabad has all the requisite information for provincial LUs for effective outreach by MoHR.

A significant portion of the discussion referred to the duty of employer of provide employee with occupational health and safety (OHS). It was highlighted that the social security system provides for such contribution to OHS, however, the LUs were concerned that the social security institutions are expected to be privatized which would drastically affect registered employees in social security institutions. Reference was made to the existence of current OHS laws present in the Factories Act, 1934. In Punjab, the Punjab Occupational Safety and Health Act 2019⁸ was recently passed by the Punjab Provincial Assembly and at present, rules are being drafted to operationalize it. The LUs stressed on the need of implementation of labour laws. It was noted that due to high living expenditure in the country, the salary of the worker should be increased accordingly as well. Another aspect was the high cost of fees in schools and colleges which continue to increase and children should be given more scholarships under the funding schemes available to the workers/employees.



⁷ <http://www.nirc.gov.pk/>

⁸ <http://punjablaws.gov.pk/laws/2726.html>

The members of the LU claimed that the WWF is an institution which is specifically designed to accommodate workers but the government often interferes in its functioning. For example, in cases of death grant, the system is plagued by inefficient procedures which delay the process of fulfilling the request of a death grant. Additionally, the LUs cited examples of routine practices where workers have worked their entire lives in a factory and upon retirement and their social security cards are taken away by their employers.

The members of the LU guided the MoHR team through the social security benefits, legislations and mechanisms available to employees. Further discussion on the subject entailed on how the employer contributes to the different social security funds available and the decision making body on how to utilize those funds.

It was noted that a challenge for the efficient utilisation of the WWF was a result of Section 6 of the WWFO⁹. The misuse of section 6 was noted to be problematic because it cites investments as a valid reason to utilize the fund established under the 1971 Ordinance. It was further shared that other social security legislations makes allowances for the same which results in the misappropriation of funds.

As per the functioning of the EOBI, the LUs shared that around 1% of the employee's salary is deducted during the course of their employment and added to the EOBI fund. However, when an employee applies for pension upon retirement the application to obtain the pension and other benefits under EOBI is delayed for months on end and the employee has no choice but to make trips back and forth waiting for the application to be approved. An added grievance was noted to be the small percentage of the amount available to each employee under these welfare schemes.

Similar to the Sialkot labour unions, the consistent problem of an employment or, "appointment" letter was observed in the region whereby employees inducted into the workforce were not recognised in the formal sector due to the absence of an appointment letter. It was explained that such an omission resulted in the employee becoming part of the informal sector and not recognised/protected under the law. The LUs shared that this is further concerning to employees because they risk unfair dismissal at any given moment by their respective employers. MoHR inquired whether the requirement of an employment letter was prescribed under the law to which the LUs made reference to the definition of "collective agreement" under the Industrial and

⁹ Section 6. Purposes to which moneys in the Fund may be applied.— Moneys in the Fund shall be applied to—
(a) the financing of projects connected with the establishment of housing estates or construction of houses for the workers;
(b) the financing of other welfare measures including education training, re-skilling and apprenticeship for the welfare of the workers;
(c) the meeting of expenditure in respect of the cost of management and administration of the Fund;
(d) the repayment of loans raised by the Governing Body; and
(e) investment in government, government guarantees, non-government securities and Real Estate

Commercial Employment (Standing Orders) Ordinance, 1968¹⁰ whereby it is mandatory under the law to have, in writing, the conditions for employment of an employee inducted in the workforce.

The role of judiciary was cited to be the most important institution for implementation by the LUs. However, it was observed that the LUs held the opinion that there is no proper labour magistrate to effectively adjudicate on such cases. It was further observed that many LU members were of the opinion that approaching the courts was a challenge for many employees. It was noted that even in cases of unfair dismissal of an employee, very few actually approach the court because of lack of funds/means to appear at case hearings. It was shared that one case in particular was filed in 2006 and resolved in 2018 due to procedural inefficiencies in the judicial system. Lastly, the importance of the Labour Commissioner was cited. It was noted that the Labour Commissioner cannot implement the decrees obtained as a result of court hearings. In Sindh, the procedure was noted to be different; in Punjab it is the responsibility of the relevant *tehsildar*.

Recommendations:

- Amendment in/review of section 6 of the WWFO
- Detailed analysis of WWF and its functioning to be included in the NBA
- Detailed analysis on EOBI and its functioning in the NBA
- Study of procedures and potential irregularities in Pakistan's social security institutional system
- Increasing the number of labour inspectors in the Punjab region
- For the purposes of transparency, the introduction of an online program was recommended by the LUs where the entire data of a worker would be online, including registration and working hours
- Instead of having multiple social security schemes cards and initiatives, the government should allocate one card for all workers covering marriage grants, death grants and scholarships
- Federal consultation meeting with all relevant stakeholders including MoHR EOBI, MOPHRD, LUs, ILO and the law department

¹⁰ Section 2A - "collective agreement" means an agreement in writing intended to specify the conditions of employment and entered into between one or more employers on the one hand, and one or more trade unions or, where there is no trade union, the duly authorized representatives of workmen, on the other.

- Formation of implementation committee for all labour laws
- The administrative cost of all social security funds to be allocated by the government instead of utilizing the funds available for the employees
- Visit to the brick kiln industry to view the on ground realities and challenges

FOLLOW UP

Based on the consultations held in Faisalabad, it is advised that the following observations to be carried out on a priority basis:

- Follow up workshop with FCCI in February/March
- Follow up workshop with LUs in Faisalabad in February/March
- Inclusion of separate chapter specific to labour laws to the NBA
- Inclusion of separate chapter specific to women to the NBA