



**Ministry of Human Rights
Government of Pakistan**

BUSINESS AND HUMAN RIGHTS IN PAKISTAN

**Sialkot Consultation Report
18th – 19th December, 2019**

LIST OF ACRONYMS

ACRONYMS

AEO	Authorised Economic Operator Program
BHR	Business and Human Rights
DFID	Department for International Development
EOBI	Employees' Old-Age Benefits Institution
EU	European Union
GSP+	General Scheme of Preferences
ILO	International Labour Organization
LU	Labour Union
MoHR	Ministry of Human Rights
MoST	Ministry of Science and Technology
NAP	National Action Plan
NBA	Needs Based Assessment
SCCI	Sialkot Chamber of Commerce and Industry
TDAP	Trade Development Authority of Pakistan
UNGP	United Nations Guiding Principles

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BACKGROUND

The Ministry of Human Rights, Government of Pakistan is expected to hold over 100 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 and Islamabad.

As a part of the nationwide consultations under the BHR program, MoHR planned for introductory dialogue based consultations with members of the Sialkot Chamber of Commerce and Industry (SCCI) and members of the members of the labour unions (LU) on the 18th and 19th 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 city of Sialkot and its export and local industries which consist of surgical instruments, musical instruments, sports goods, leather goods and textile goods.

The team on behalf of MoHR consisted of the Joint Secretary, Mr. Malik Kamran Azam Khan Rajar, Director for Special Initiatives, Mr. Waheedullah Wazir, Junior Legal Expert, Ms. Mariam M. Rajper and Digital Media Officer, Ms. Saleha Zahid.



18TH DECEMBER, 2019 - CONSULTATION AT SIALKOT CHAMBER OF COMMERCE AND INDUSTRY

The introductory dialogue based consultation was attended by members of the SCCI including the Senior Vice President, Mr. Khurram Azim Khan, Senior Vice Chairman of Air Sial Mr.



Qaisar Baryar, Former Vice President, Mr. Waqas Akram Awan, Mr. Khurram Aslam and other SCCI members.

MoHR introduced the BHR program to the members of the SCCI from its initial commencement in 2017 to its present day evolution in the form of a Needs Based Assessment (NBA). Reference was made to the purpose of the consultations for the future first draft of the National Action Plan (NAP) on

Business and Human Rights in Pakistan based on the United Nations Guiding Principles (UNGP) on Business and Human Rights.

The dialogue focused on the core component of the methodology leading towards the NAP to involve the relevant business stakeholders in order to discuss not only possibilities for collaboration in the BHR program but also to provide input which would lead towards the formation of the final draft of the NAP.

In terms of possibilities for further trade and export, the discussion entailed the effects of General Scheme of Preferences (GSP+). The more recent exit of United Kingdom from the European Union was further discussed whereby the possibilities of further trade concessions hope to be offered to Pakistan's export industry through the new the Department for International Development (DFID).

The SCCI members shared that they are aware of human rights compliance in the industrial sector which was referred to as "social compliance". Examples were referred to in the form of the SA8000; an internationally accepted social certification standard for factories and organizations in addition to the ISO 14000, which is a series of international environmental management standards, guides, and technical reports for organizations. Members of the SCCI reassured MoHR that without the adoption of such internationally accepted best practices, the industry sector in Sialkot cannot export a single item; hence, they are well aware of the concept of human rights in the business sector in terms of internationally recognized standards of compliance.

In a more historical context, SCCI members shared that the reasons for their vigilance in the concept of "social compliance" is a result of a previous threat to the football industry whereby it was alleged on international media that the football industry in Sialkot was involved in the

manufacture of footballs through child labour which had affected the export industry in the area. As a result, there is strict adherence to “social compliance” in the export sector of Sialkot to prevent such controversies such as Independent Monitoring Agency for Child Labour (IMAC) and an independent officer through which it is ensured that children are provided with financial aid to attend school.

It was noted that SCCI insisted that (International Labour Organization) ILO safety guidelines and standards are present in the larger industries who are heavily involved in export to the international market. The concept of “social compliance” was noted to be more difficult to follow by the local industries in Sialkot due to the high cost associated with the effective implementation of such safety standards.

Members of the SCCI expressed their issues in the refund mechanism of payments to the industrial sector focused on imports. To cite an example, it was further shared that the governments of India and Bangladesh have offered subsidies for their exporters to increase their exports to the European Union (EU) with a more simplified procedure for payments which has largely benefitted them. Problems which have arisen in Pakistan pertain to when the industry sector is not being allowed refunds by the state. As an example, a significant barrier to such refunds pertained to the amendment in S.R.O 1125 whereby the industry sector has suffered problems in cash flow and liquidity which was requested be considered by the relevant government stakeholders.

As SCCI is the first provincial organizations approached by MoHR, an agenda for consultation meetings in the next three (3) months was proposed with the possible collaboration of the ILO and Ministry of Overseas Pakistanis and Human Resource Development (OPHRD) along with provincial authorities on labour. SCCI expressed their appreciation to be included in the



consultations for the drafting of the NAP on BHR. However, concern was expressed on the implementation of the NAP keeping in mind that as a developing country, the perceptions of Pakistani society on concepts shunned internationally such as child labour may be more difficult to change due to the lack of awareness of people and their respective rights.

The SCCI was requested to give its input on the possible concept of certifications for business enterprises to be provided free of cost by government agencies such as Trade Development Authority of Pakistan (TDAP). The SCCI expressed their interest in such

possibilities but went on to elaborate that the Ministry of Science and Technology (MoST) does provide similar incentives for certifications for business enterprises. However, the procedure to apply for such certification and its refund remains complex due to which many business enterprises are not driven to apply for such certifications. To cite further examples, it was previously proposed that benefits for employees in the industrial sector should be the responsibility of the state; EOBI, the provision of health insurance for at least five (5) years, with no cost on employer or employee such in the form of social security. At present, the employer provides registration fees and employees do not want to utilise their salaries to contribute to such social security initiatives. Thus, it was recommended that the NAP should be inclusive of this approach and valid for a minimum of 5 to 10 years.

A significant segment of the dialogue was referred to what is known as the “golden triangle”, i.e. the industrial sectors of Sialkot, Gujranwala and Gujrat. It was determined that territorial jurisdiction of Sialkot is distinct but has linkages within the “golden triangle”. Possibilities of forming liaisons with different chambers within the golden triangle were discussed for future consultations. SCCI was further requested to share its existing SOPs pertaining to social compliance for incorporation into the NBA. Moreover, SCCI requested to review the main takeaway points from the NBA.

Recommendations:

- As observed, the Sialkot export market is focused on small medium enterprises where social compliance is followed and implemented. Therefore, the focus of MoHR should be focus on improving compliance of all companies regardless of their current status of social compliance for the effective awareness of the BHR program.
- It was advised that MoHR should focus on smaller companies because implementation mechanisms will be easier to incorporate as compared to the larger companies.
- It was advised that MoHR should incorporate a wide ranging list of companies in the consultation process of the NAP on BHR.
- Following a holistic approach, a thorough consultation on how to involve the business stakeholders in the formation of the NAP should be considered.
- SCCI to be on board in an advisory capacity with MoHR.
- A government, entrepreneurs and workforce tripartite dialogue should be initiated as part of the NAP evolution.
- Pragmatic solutions should be considered when implementing recommendations by international community which is devoid of ground realities in Pakistan.

FIELD VISIT - TEMPO SPORTS

In order to obtain an accurate depiction of the adherence to international safety standards and regulations in the export sector of Sialkot, MoHR arranged for a field visit to Tempo Sports¹, a sports ball and garment manufacturing factory which exports to Europe and the United States.



Mr. Mansoor Ahmed, the Chief Executive of Tempo Sports arranged for MoHR to observe the workings of the factory and answer queries relating to the export industry in Sialkot.

The MoHR team observed the fire safety regulations, working conditions prevalent in the factory, incentives for gender inclusion and the overall process of due diligence required for export of the various kinds of balls to the European market.



Mr. Ahmed shared the welfare policy of the factory with MoHR and invited them to observe the day to day functioning of the factory. It was observed that Tempo Sports had closely implemented SOPs regarding safety, including the utilisation of appropriate protective gear, clean working conditions, procedure for washroom breaks, the presence of a fire escape/emergency exit, and a gender policy for the inclusion of

women.

¹ <http://www.temposports.com/home>

19TH DECEMBER, 2019 – CONSULTATION WITH LABOUR UNION REPRESENTATIVES

The consultation was attended by members of the LUs such as the Pakistan Worker’s Federation, Baidarie, Forward Gear Worker’s Union, district labour inspectors and the All Mehnat Kash Labour Federation.

The effort of the introduction of the BHR program was lauded by the members of the LUs, however, it was highlighted that the LUs are of the opinion that “Pakistan is an over legislative country” and continuously laws are passed for which the state does not have the capacity to implement appropriate mechanisms. Members of the LUs further explained that industry sector is divided into two types in Sialkot; formal and informal sector.

It was elaborated that it is increasingly difficult to regulate the informal sector as benefits which apply to those employed in the formal sector do not apply to the informal sector. In the informal sector, the main problem is *thekedari* system through which they get no benefits such as social security as it is not recognized as proper employment. For example, it was noted that an employment contract, or more locally known as an “appointment letter”, is not provided to an employee in the informal sector. The absence of such a document often results in unregulated working hours, absence of over time payment, lack of social security benefits and others



prescribed under the law such as the absence of a monitoring mechanism for the effective to redressal of complaints.

It was observed that with respect to the formal sector, a letter of appointment or an employment contract is provided to the prospective employee, which is the primary document for the safeguarding of rights of an employee. Nonetheless, members of the LUs expressed concern on how many employment contracts are legally valid in instances of breach of contracts by the employer such as wrongful termination. A recurring problem pertaining to legal minimum wage was highlighted even in the presence of an employment contract with the exception of a few internationally exporting businesses.

Members of the LUs further stressed on the standardized procedures to be regulated for effectiveness in cases of marriage grants or death of an employee in which it was highlighted that a claim may take several years to successfully be implemented.

It was observed that the members of LUs believed that as Sialkot is a city heavily focused on exports, competitiveness seems to be at an all-time high which results in the lowest rates being offered to those importing from such industries. The burden of these decisions continues to fall on the employees which results in fewer benefits being offered to them.

The absence of effective grievance mechanisms was cited as an added challenge. It was highlighted that even if such a mechanism exists cosmetically, or “on paper”, due to lack of qualified staff and procedural mechanisms, the grievances of workers are not addressed in an appropriate manner.

Lack of awareness continued to be a recognised barrier to legal avenues and channels. It was highlighted that often a grievance redressal mechanism in units is referred to as an “open door policy” by employers which is not a satisfactory solution in practice. It was further highlighted that the management is not well versed in dealing with problems of employees in the absence of a proper grievance mechanism. Without a designated individual, employees are often oblivious on whom to approach regarding their issues at the workplace.

Harassment of women at the workplace was highlighted as another recommendation for the government to ratify Convention C190 pertaining to Violence and Harassment which has been introduced earlier this year. In instances of harassment, it was noted that women often do not have the recourse in absence of such grievance mechanism and do not speak up in fear of being stigmatized or retaliation by the perpetrators of harassment. Other problems include severance payment, overtime and issues of minimum wage.

The components of an effective human rights policy was discussed whereby the LUs shared that only exporting industries comply with such policies such as non-discrimination, working overtime, minimum wage, forced and child labour and harassment which are turned into SOPs.

Forward Gear and Forward Sports² were cited as two industrial enterprises adhering to international best practices in terms of the employees’ welfare. Both enterprises work directly with Adidas, a well-known German multinational corporation working on the manufacture of shoes and clothing. It was further noted that an employment contract in the form of an “appointment letter” is provided to employees in addition to effective implementation of laws and minimum wage.

Members of the LUs shared that currently the women’s labour force is underutilised and if certain incentives are provided by the government, more women may be enabled to enter the workforce.

² <https://www.fgear.pk/>

The persistence of nepotism in labour unions was noted to be an added challenge. Members of the LU were of the opinion that employers only allow employees to join those labour unions which are affiliated with the employers, which further results in the biased and unfair practices.

The judicial redressal mechanism was criticised for its inefficiency to counter employee workers grievances. The non-implementation of decrees awarded by the labour courts was proposed as an added challenge to the judicial redressal mechanism under labour laws due to the power of final implementation resting with the Deputy Commissioner's Office.

It was noted that employees move towards joining a labour union, they are immediately discharged from employment. Thus, employees refrained from joining trade unions altogether to avoid 10-15 years of litigation in order for cases to resolve in courts. Inefficient systems within the judicial mechanism were further highlighted such as the present Gujranwala labour court which has been empty for the past two months.

Added concerns entailed the lack of qualified doctors provided to employees and protests for payment of wages for working overtime often resulted in immediate discharge by backdating termination letters to avoid liability in the event the employee approaches the court.

Recommendations:

- Strengthening of the relevant labour institutions and a thorough analysis on the current existing legal framework and its implementation pertaining to labour
- The NBA and its content to be shared and reviewed with provincial labour unions
- A case study on an effective labour union in Sialkot to be carried out to observe and review its possible replication.
- At present, labour inspections are banned since last for the past three (3) months. This is a requirement under GSP+ monitoring mechanism. Therefore, a thorough analysis on the reasons for lack of labour inspections and how to increase them is needed.
- A thorough investigation on the role of the Deputy Commissioner in implementation of decrees by the labour court in favour of employees.
- Amendment in the Industrial Relations Act, 2010 by providing protection to employees who join labour unions and are at risk of being ousted by their respective employers.
- Awareness on labour rights as a devolved subject after the 18th amendment in the provinces.
- Monitoring of business enterprises and their compliance of domestic and international labour rights standards such as social security benefits and proper employment contracts which are legally enforceable in the labour courts.
- Ratification of Convention C190 - Violence and Harassment Convention
- Monitoring of companies which offer minimum wage of Rs. 17,500 to employees.

MEETING WITH SIALKOT OFFICE OF MODEL CUSTOMS COLLECTORATE, SIALKOT

MoHR had a brief meeting with Mr. Ali Zeb Khan, Assistant Collector and Babar Ali Syed, Deputy Collector of Customs. The meeting entailed preliminary discussion on the Authorised Economic Operator Program (AEO) and how it can be embedded with exporters in Pakistan. The discussion entailed the voluntary basis of the AEO program and its certification in order to facilitate the export industries to become trusted members of international supply chains.

MEETING WITH DRY PORT LABOUR UNION

MoHR met with Mr. Babar Saeed, President of the Employees Union CBA and Mr. Muhammad Furqan Malik member of Employees Union

The President Employees Union CBA consists of at least 190 people. Both members informed MoHR of the various benefits provided to members of the union such as Rs. 100 allowance in addition to salaries, increasing salaries annually after 1 July, and flexible loan facilities up to Rs. 500,000 without interest. Existence of a welfare fund in cases of accidents, education funds, and distribution of 25 motorcycles every year to employees were also appreciated by the President Employees Union.

It was observed that the present members did not seem to have any grievances against their respective employers which were in contrast to the meeting with members of other LUs previously. Future consultations were planned for an in depth discussion on the President Employees Union.

FOLLOW UP

Based on the consultations held in Sialkot, it is advised that the following observations are expected to be carried out by MoHR on a priority basis:

- Follow up workshop with SCCI in February.
- Follow up workshop with LUs in February.
- Arrangements for separate consultations in Gujranwala and Gujrat.
- Detailed discussion meeting with Model Customs Collectorate, Sialkot on incorporation of AEO program with exporting industries in February
- Inclusion of separate chapter specific to labour laws in the NBA