

# RATIFYING THE ILO HOME WORK CONVENTION C-177

- NATIONAL POLICY
- NATIONAL STATISTICS
- THE RIGHT TO ORGANIZE & TO BARGAIN COLLECTIVELY
- REMUNERATION
- OCCUPATIONAL HEALTH & SAFETY
- SOCIAL SECURITY & MATERNITY PROTECTION

**PAKISTAN**



# Ratification of ILO Convention 177 for Pakistan

Research on the  
Current Status of Ratification and Strategies  
for Working with the  
Government of Pakistan

Study commissioned by



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# Abbreviations

CEDAW	Convention for the Elimination of all Forms of Discrimination Against Women
CNIC	Computerized National Identity Card
EOBI	Employee Old-age Benefit Institution
ESCAP	Economic and Social Commission for Asia and Pacific
FMCG	Fast Moving Consumer Goods
GDP	Gross Domestic Product
GNP	Gross National Product
GoP	Government of Pakistan
GRAP	Gender Reform Action Plan
HBW	Homebased Worker
HBWW	Homebased Women Worker
HBWWG	Working Group on Home Based Women Workers
HNSA	HomeNet South Asia
ILO	International Labour Organization
IMF	International Monetary Fund
LPAD	Law and Parliamentary Affairs Department
MNC	Multinational Company
MoHR	Ministry of Human Rights
MoLM	Ministry of Labor and Manpower
MoWD	Ministry of Women's Development
NADRA	National Database & Registration Authority
NGO	Non-Governmental Organisation
NTUF	National Trade Union Federation
PIDE	Pakistan Institute of Development Economics
PSSS	Provincial Employees Social Security Scheme
SAARC	South Asian Association For Regional Co-operation
UNDP	United Nations Development Fund

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# Introduction

Based on available statistics, there are around 8.25 million Homebased Workers (HBWs) in Pakistan, representing approximately 50% of the country's total workforce. As per HomeNet South Asia (HNSA), around 80% of Pakistanis are employed in the informal sector of which roughly 50% are women. Accordingly, it is a challenge to imagine the pervasive impact of homebased workers on Pakistan's economy in terms of offering gainful employment to marginalized members of society and the contribution of homebased workers to the Gross Domestic Product (GDP). Similarly, the societal impact of this informal sector in terms of gender relations, mercantilism, family dynamics and demographic trends, etc., calls out for the attention of social scientists and the state.

In general, the Pakistani homebased worker does not just produce handicrafts and novelty items, rather we find homebased workers employed along the value chain of the more prominent industrial sectors in Pakistan contributing to the manufacture and export of goods that are the country's calling card in international markets. Even Multinational Companies (MNCs) and producers of Fast-Moving Consumer Goods (FMCGs) in Pakistan call upon homebased workers to contribute their undervalued and unacknowledged labours. Often, the Pakistani homebased worker knows neither who their ultimate employer is, nor the value of the goods and services they help produce. They do not have the access to tools, equipment or workspace nor the bargaining power of their cousins in the formal sector.

Until recently, the existence of this vibrant and exploited sector was not even acknowledged in public discourse and policy-making. Most laws and regulations pertaining to labour and industry in Pakistan contained no reference to, or safeguards for homebased workers. Exercises in poverty alleviation took little cognizance of, and consequently had negligible impact on the sector's uplift. The much heralded microfinance industry has also been a categorical failure in providing financial services free of exploitation.

In 2010, the Government of Pakistan (GoP) along with prominent civil society organizations and networks formulated the country's first national policy on homebased workers. However, the devolution of ministries (including labour) to the

provinces broke the precious momentum and stakeholders have had to refocus their efforts on provincial levels with varying degrees of ownership, willingness and progress.

Alongside the national policy on homebased workers being sidelined post devolution, the other facet of increasing state vigilance towards recognizing and addressing the issues of homebased workers was, the ratification of the International Labour Organization's (ILO) Convention 177 (C-177) was also thrown on the back-burner. While it is widely accepted within Pakistan's civil society and individuals in Government that ratification of C-177 holds immense importance in terms of binding the Government to its obligations towards homebased workers, the present tide is in favor of supporting the Policy on homebased workers till such time that devolution repercussion and autonomy of provinces to legislate becomes clearer. It also awaits a more auspicious time to start dialogue with the Government on C-177, without risking jeopardizing the results achieved thus far.

The purpose of this study is many-fold:

1. To historically track legislative and policy development with regard to homebased workers in Pakistan;
2. To enumerate existing perceptions amongst all major stakeholders of homebased workers and Homebased Women Workers (HBWW);
3. To identify national and local successes and failures that throw the current situation into perspective;
4. To reflect on possible hurdles to C-177's ratification for Pakistan, and
5. To recommend strategies to work with the Government of Pakistan towards C-177's ratifications.

While there is a paucity of credible data sets regarding this informal sector, there is a consensus among most stakeholders that given Pakistan's precarious economic situation and headwinds of global economic moderation, the size and impact of this sector is poised to grow larger in the near future.

# Chapter I

## The Context - Social, Cultural, Economic and Political Milieu in which Homebased Workers Operate in Pakistan

Homebased work has a long history in the South Asian region. It has evolved out of the homebased crafts production that has been sustaining families and supplementing family incomes for generations. Promoted extensively through royal patronage, homebased work constituted highly skilled craftsmen and artisans producing goods and services commissioned by and as gifts to royal families. In many ways, the product of modern day homebased workers (HBW) embodies cultural heritage reflected through the art and craft of homebased workers in the South Asian region.

To offer a comprehensive definition, homebased workers are labour working from their homes, squatter settlements, or nearby areas of their choice (such as neighborhood workstations or workshops), other than the workplace of their employers, and for remuneration in exchange for produced goods and services. The employer in most cases is invisible and usually works through an intermediary, such as contractors, sub-contractors, traders, individual entrepreneurs, or Palladars, in pursuance of his or her business activity (Home Work Convention 1996)<sup>1</sup>. Many large-scale companies, including multinational corporations, have a vendor system of subcontracting their production, work which is usually taken up by small cottage industries or the informal labour force.

The use of the expression “Informal employment” is relatively recent, dating back to the 1970s. A clear definition of “Homebased work” is even more recent. Homebased work is not a sector of production; it cuts across the analytical categories of “industry,” “occupation” and “activity status” by which workers are classified (Sinha January 2011)<sup>2</sup>.

In the 19th century industrialization and more recent informalisation of production means and methods demanded by globalization and neoliberal economic agenda seeking cost-efficiency, homebased work has tempted industries to out-source or sub-let part production of their goods and services to cheap

labour. In the South Asian context, this labour force has predominantly comprised women and children sustained by patriarchal values that restrict women's access to public spaces. Culturally, informal work has thus thrived in the sense that there is wider acceptance for women to work from their homes whilst not stepping ‘in the market place’. They often are deprived of access the markets to purchase raw materials or sell their products and services, information, exposure to market trends, credit or a chance to interact with other homebased workers in an effort to organize or otherwise. It should be noted that homebased workers may be own-account workers, who in contrast to traditional homebased workers have access to markets and purchase their own raw materials (Sinha January 2011)<sup>3</sup>.

According to the Pakistan Economic Survey of 2009, there were 8.52 million homebased workers in Pakistan, representing 70 percent of the total workforce. Although reliable data or accurate statistics regarding enumeration of homebased workers employed in Pakistan's cottage industries or informal sector is not readily available, HomeNet South Asia (HNSA) estimates that 80 percent of Pakistan's total workforce is employed informally of which 50 percent are women. However, the 2010 figures by Pakistan Institute of Development Economics (PIDE) showed that there were 8.52 million homebased workers in Pakistan, 60 percent of whom are women. In the South Asian region, the estimated number of homebased workers is 50 million, of which 80 percent are women.

Incidence studies conducted by various national non-governmental agencies (NGO) with the support of international NGOs across Pakistan indicate that homebased women workers (HBWW) in Pakistan hail from lower to lower-middle income families, are mostly illiterate, unskilled/semi-skilled and belong to varying age-groups. Children less than 10 years of age have been found assisting their mothers in homebased work. In turn, children usually acquire some level of training/know-how from their mothers by being actively involved in the production processes and which in turn helps them to create the same or similar products or services. However, a research by Roots for Equity asserts that much of the

<sup>1</sup> International Labour Organization's Home Work Convention 177; Article 1, 1996.

<sup>2</sup> “Making Homebased Work Visible: A Review of Evidence from South Asia”, WEIGO, Urban Policies Research Report, No. 10, January 2011

<sup>3</sup> Ibid

work now being carried out by women at home cannot be considered a continuum of the traditions of yesteryears, where women would carry out genteel work in the environs of their homes (Equity 2011)<sup>4</sup>. This study also revealed that homebased women workers tend to face higher poverty and have more children<sup>5</sup>.

Homebased workers face a number of issues in their day to day life. They are not recognized formally as workers and therefore do not enjoy legal protection or coverage against market exploitation. They work long hours with little compensation: for instance, an average homebased worker may make Rs 9.00 (\$ 0.1) for 1,000 incense sticks or Rs 3.00 (\$0.03) for one shalwar (women's trousers) (Ashfaq 2011). In many cases they may be involved in unpaid labour.

In most cases, the working conditions are uncomfortable, painful and/or hazardous, coupled with a lack of proper work tools, handling of toxic materials, insufficient lighting coupled with intricate work, long work hours and few breaks, if any. These workers also face problems of irregularity of employment due to lack of written contracts and lack of awareness of their rights. Despite deplorable work conditions and terms, most homebased workers embrace adverse circumstances simply out of fear of losing out on contractors. This renders them disadvantaged in negotiating better employment terms enjoyed by their formal sector counterparts as there is substantially less job security. The seasonality of some of the work which is dictated by demand represents too small a time-window for women to negotiate terms with contractors.

The study by Roots for Equity, also classifies 64<sup>6</sup> different kinds of homebased work by women in four provinces of Pakistan, including Sindh, Punjab, Khyber, Pukhtunkhwa and Baluchistan. The goods

and services these women produce is sold at much higher prices by the contracting agency of individual, often without women ever knowing the market worth of their products.

Evidence aside from statistics suggests that the informal sector in developing countries, particularly the South Asia region, has been steadily growing. Prior to the 2008 economic crash in Pakistan, the downward spiral of the national economy can be traced further back to 2005. Although, foreign investment had dwindled after 2008 due to both economic and political reasons, inflation has been registering constant increase with prices of food going up by 33% in 2008 alone (Inflation Monitor January 2008)<sup>7</sup>. Although the economy of Pakistan has stabilized since then, it has failed to recover (The World Factbook 2011)<sup>8</sup>. Food items such as wheat, rice and vegetable ghee, staple diet to the urban and rural population of Pakistan translate into reduce food security, especially since wheat, which makes chapatti or bread, serves as a major food source with per capita wheat consumption of 126 kg in 2002 (Abid A. Burki 2006)<sup>9</sup>. The State Bank of Pakistan figures for financial year July-June, 2010-11, show that food inflation for the year averaged nearly 18 percent (Inflation Monitor 2011)<sup>10</sup>. These figures however, remain unreliable due to base effect and change in the methodology used to calculate these indices.

Additionally, the consumer price index calculated by the State Bank does not factor in cost of fuel in the basket of goods for the average Pakistani citizen. Since indirectly, fuel has major cost consequences in trade, for both employers and workers, rising inflation, devaluing of the rupee in excess of 40% since 2007 (The World Factbook 2011)<sup>11</sup>, has not only resulted in unemployment by way of lay-off but also reduced the individual bargaining powers of

<sup>4</sup> "Unacknowledged Treasures: The Homebased Women Labour of Pakistan", Roots for Equity, June 2011.

<sup>5</sup> Ibid

<sup>6</sup> Homebased work done by women in Pakistan includes: Stitching, embroidery, rally work, adakakaam, beads work, azarbad making, rasi (rope) making, rug making, wool thread making, jewellery making, shoe making, cooking, shelling, handloom, running shops, cutting dried dates, packing, crochet, making envelopes/ shoppers, cropping, biri making, bangle work, making charpai base, gota work, incense making, razai making, natural fibre baskets/ fish baskets, paranda, chabri, carpet making, hand fans, parlour work, washing (comforters, clothes and extra-large cooking utensils-daegs), cycle parts, opening used clothes, ironing, toy making, home teacher, making sharbat, paper products, opening wool, picot, kabaria, making small benches, decoration, knitting, fixing screws on tractor parts, putting cotton in purses, making chains for sewing machines, candle making, kite making, making sweets/sweetmeats and cutting off tags, labels from towels/clothes.

<sup>7</sup> Inflation Monitor, State Bank of Pakistan, January 2008.

<sup>8</sup> CIA World Factbook, 2011; <https://www.cia.gov/library/publications/the-world-factbook/geos/pk.html>

<sup>9</sup> Burki, Abid A., Khan, Mushtaq A. and Hussain, S.M. Turab, "Prospects of Wheat and Sugar Trade between India and Pakistan: A Simple Welfare Analysis", Centre for Management and Economic Research Working Paper No. 06-44, LUMS, 2006.

<sup>10</sup> Inflation Monitor, State Bank of Pakistan, July 2011.

<sup>11</sup> CIA World Factbook, 2011; <https://www.cia.gov/library/publications/the-world-factbook/geos/pk.html>

workers, particularly those employed in the informal sector. While larger industries can hope for and avail bailouts or at the minimum access to credit to survive, economic factors and political factors have squashed homebased workers, particularly homebased women workers, whose access to means is limited or non-existent to begin with. Traditional cultural practices that keep women from accessing market has also lent a multiplier effect to the increase marginalization despite an increase in the number of women working in the informal sector.

The 2009 report<sup>12</sup> by Women in Informal Employment: Globalizing and Organizing (WIEGO) asserts that the informal sector is hard-hit during economic crises (Horn August 2009). Rubina Saigol in her report on the informal sector and national 2010-11 budget's implication on the same has tied neoliberal economic policies, the International Monetary Fund (IMF) conditionalities and related steps by the Government of Pakistan to directly contribute to increasing poverty in Pakistan (Saigol 2011). Alongside this, she also asserts that the macroeconomic policies in Pakistan have failed to address the social and economic needs of the working class, particularly women.

In Pakistan, where there is stark imbalance between the sexes, with its society deeply invested in patriarchy, women do not enjoy freedom to work particularly outside the home. The distance between the chador and the market, to borrow from the title of a study on office workers in Lahore, Pakistan, is immense and full of hardships even for the more enterprising.

The contributions labour makes to the Gross Domestic Product (GDP) and the Gross National Product (GNP) drive the economy towards stability and prosperity through the generation of national revenue. Time has demonstrated the impact of an underutilized labour force, either through exclusion or non-recognition, which reduces the overall all growth as unmet needs and unfulfilled rights leads to discontent, agitation and in some cases revolt by the working class against systems or institutions that do not recognize, accept and/or protect their rights.

Abira Ashfaq writes in a blog:

*"...because these workers are not issued employment letters, like homebased women workers, they cannot access the labour courts which require that you first prove an employment relationship to assert a cause of action against the employer. And, if they can prove their status, labour courts are painstakingly slow, and susceptible to bribery by employers who wield greater power. Encroaching further on workers' rights are exports processing zones that entice multinationals to do business in Pakistan by selling the pliable (and exploitable) nature work force that is disallowed from legally unionising or going on strike. This top to bottom system of semi and full informalisation of the workforce where industrialists, both local and multinational, are given an unconditional guarantee of a ready, able and willing body to do the work ensures them a higher profit margin at the peril of the entire community."* (Ashfaq 2011).

The exploitative role played by MNCs that have been shifting business production to the eastern hemisphere in the past few decades, driven by the promise of cheap labour, have found an inexhaustible supply of disenfranchised labourers in Pakistan and other South-Asian countries. Local business giants are not exceptions to this practice that sub-let work in an endeavour to reduce labour costs, reducing payoffs and retaining competitiveness, the essence of a capitalist system. MNCs in the post-industrial age are continually challenged for ignoring the labour laws of their country of operation, destroying local community living, while causing environmental degradation. In Pakistan, the fragmented labour movement's constant ebb-and-flow relationship with the government has also weakened its ability to negotiate with higher powers of multinational enterprises that are favoured by political interests, higher economies of scale and a weak justice system.

In his speech in 2011, Dr. Abdul Hafeez Shaikh, the Minister for Finance, Revenue, Economic Affairs, Statistics and Planning Development, claimed that

<sup>12</sup> Zoe Elena Horn; No Cushion to Fall Back: The Global Economic Crisis And Informal Workers Women in Informal Employment: Globalization and Organizing (WIEGO); August 2009.

only 50% of registered corporate taxpayers and withholding agents file their returns. Violations of basic labour laws continue with impunity as public interest litigation in labour cases as well as the labour courts are surreptitiously anti-poor.

Additionally, with a surge in Foreign Direct Investment (FDI) in Pakistan in the past two decades and with its subsequent withdrawal, the private and public economy of Pakistan suffered the most though massive layoffs and cancellation of contracted work. FDI has been decreased rapidly in Pakistan since 2008; from a grand total of \$ 5,409.80 million in 2007-08 to \$ 812 million in 2011-12, a plunge of 50% from the preceding year (Iqbal 2012). Without the necessary tools to benefit from technology transfer, including but not limited to education, government safety nets and marketing know-how, the middle-man or contractors have been adversely affected, thereby taking work away from homebased workers. Women homebased workers thus, have been competing in a losing race to the bottom of the economy.

The international acceptance of homebased workers as part of the labour force began with the International Labour Organization's (ILO) Home Work Convention, (No. 177), popularly known as the Convention 177 (or simply C-177), in Geneva in 1996, which came into force on 22 April 2000.

Since then, numerous events and lengthy dialogues have ensued in the South-Asian region, including Pakistan, on the inclusion of homebased workers in the formal labour force. Till now, homebased workers do not enjoy formal acceptance in Pakistan as part of the official labour force.

The present labour laws, 72 in all, cover the following six major groups:

- Employment and service conditions;
- Social safety nets/social security;
- Industrial relations;
- Wages/Remunerations;
- Occupational Safety and Health; and
- HRD and TVET Competence.

Historically, labour laws in Pakistan have tended to ignore the agricultural and informal sector by denying legislative protections, failing to implement existing laws, avoiding instituting inspection teams to check for compliance or refusing to reject the traditional gendered perception of labour to include women.

ILO's global 2011 report focuses on informal sector workers, of which homebased workers comprise the greatest share. The ratification of ILO Convention 177 (C-177 for short) has been high on the agenda and almost all agencies working with homebased workers have recommended its ratification to the Government of Pakistan. While the Government has been successful in formulating a National Policy on Homebased Workers in 2009, with the support of NGOs such as Sungi, HomeNet, Pakistan and others through a stake-holder inclusive method, the 18th Amendment has broken the momentum of this policy's adoption.

This report, while it looks in detail at the many aspects of the National Policy on Homebased Workers and analyses the desirability, feasibility and modalities of C-177's ratification for Pakistan, it emphasizes that unless the Policy translated into national legislation on homebased workers, ratification will provide the necessary toehold to for the uplift of this sector.

# Chapter II

## The Importance of ILO Convention 177 and the Implications of Ratification for Pakistan

The International Labour Organisation's (ILO) work includes formulation and adoption of international labour standards covering all aspects of working life, and covering various categories of workers. The ILO Home Work Convention, 177, 1996, (C-177) has been ratified by eight countries namely Finland (17.06.1998), Ireland (22.04.1999), Albania (24.07.2002), The Netherlands (31.10.2002), Argentina (31.07.2006), Bulgaria (17.07.2009), Bosnia and Herzegovina (18.01.2010)<sup>13</sup>, and most recently by Tajikistan (29 May 2012).

The C-177 was the result of work done by a tripartite committee which included government, employer and trade union members from around the world. The main focus of the convention was to improve the situation of homebased workers and to ensure that homebased workers are treated equally with workers in the formal sector. Significant provisions in the Convention include:

- International recognition of homebased workers;
- Definition of homebased workers;
- Emphasizes the right of homebased workers to establish or join organizations of their own choosing and participate in such organizations and its activities;
- Protection against discrimination in employment and occupation;
- Protection in the field of occupational health and safety;
- Remuneration;
- Statutory social security protection;
- Access to training;
- Minimum age for admission to employment or work;

- Maternity protection; and
- Pursuance and review of a national policy on homebased worker in consultation with organizations of workers and employers concerned with home-workers issues.

The Convention lays out a number of basic labour rights that it contends must be extended to homebased workers around the world. Ratification of the C-177, as with the ratification of any international convention, obligates a country to provide these rights to the home workers and be used as an "instrument to establish the social floor and prevent downward spiral in the application of standards"<sup>14</sup>.

While the Convention holds basic human rights at its core, it also aims to introduce some semblance of regularization to employment conditions and standards for homebased work. Its ratification can impact the labour force by making it more visible and better-protected, legally, socially, politically and economically. It also calls for including women homebased workers in the official statistics on labour by governments.

While this poses a formidable administrative and financial burden on governments, especially where homebased work settings may range from a small two-room house in an urban slum to rural seat shops, it is necessary to determine their numerical strength go get a true sense of the extent of this resource and the level of intervention needed for its uplift.

<sup>13</sup> [www.homenetsouthasia.net](http://www.homenetsouthasia.net)

<sup>14</sup> Keynote Speech by Lawrence Jeff Johnson, Director, ILO Country Office for the Philippines (CO-Manila) on the occasion of the Joint Conference-Workshop of HomeNet South-East, Asia (HomeNet SEA) and HomeNet South Asia (HNSA) on "Building Visibility and Voice through Responsive Homebased Workers' Organizations in Asia: Focus on ILO Convention 177 on Home Work", Discovery Suites, 2 August 2010.

## **ILO Monitoring Systems Post-ratification by a State**

An important aspect of ratification of C-177 is that it allows for trade unions and employers' associations to have direct recourse to the monitoring bodies anchored in international law. In terms of C-177, these are the ILO Committee of Experts on the Application of Conventions and Recommendations, which meets annually to deliberate labour issues emerging from each country and to prod respective governments into action, and the International Labour Conference's Tripartite Committee on the Application of Conventions and Recommendations. Besides these, and more interestingly, the ILO has also developed Special Procedures to review submissions through 'representations' and 'complaints'. The former 'grants an industrial association of employers or of workers the right to present to the ILO Governing Body a representation against any member state which, in its view, "has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party"'. A three-member tripartite committee of the Governing Body then examines the representation and the government's response. Quintessentially, this system allows member states to be accountable directly to its citizenry (in this case, workers), should it fail to observe procedure or neglect to take action required by it in turn for ratifying ILO conventions. The ILO effectively acts as an intermediary or an adjudicator that judges on the complaints and alleged lapses by governments.

This mechanism helps in keeping government on their toes and more susceptible to pressure by the international community, should it commit persistent or serious labour rights violations or condone them within its borders. Interestingly, not a single representation or complaint can be found in ILO's database on a representation or complaint against Pakistan by another member state, despite a plethora of labour rights violations on the country.

## **Shortcomings of the National Policy on Homebased Workers**

At a first glance, Pakistan's National Policy on Homebased Workers, 2009, (discussed in more detail later), reads more like an objectives statement than an action plan. It is in itself fraught with

idealistic claims, sans an implementation framework. This deeply underscores the government's commitment to see it through. For instance, while there are regulatory measures to ensure that industries do not employ women in hazardous working conditions and curtail their exposure to harmful chemicals, there is no explicit mention of hazardous materials handled inside homes. There are optimistic claims such as "upgrade (ing) their (HBW's) homes, which are their workplaces, in order to make them more hygienic, safe and comfortable", these actions are impractical to carry out lest the government dedicate a huge chunk of its national expenditure to reorganize and uplift shanty towns and squatter pervading urbanized areas of Pakistan, while simultaneously uplifting rural villages. It also remains unclear what the government's plan of action is to "convince large, medium and small industry owners and business owners, employers and their intermediaries to ensure the homebased workers' right to health and occupational safety." Further, the policy's intention to introduce "prior written contracts" between invisible employers and a hugely illiterate population of homebased women workers is set for failure.

In this setting, it is important to note that the Policy, which is currently being pursued by the government and civil society, may have inherent flaws that would not adequately remedy the situation for millions of women homebased workers in Pakistan while placing formidable costs and administrative tribulations on the incumbent government. This is not to say that ratification would not bring its own set of responsibilities for the government; the technical support from the ILO and the monitoring and evaluation systems contained therein, however, may make for a more focused transition.

However, on the issue of C-177, governments, including the Pakistani government, have resisted ratification. It is pertinent to note that no South-Asian country has ratified the Convention thus far.

According to an interview with HomeNet Pakistan representative<sup>15</sup>, in April 2011, the government of Pakistan did indicate its intention to move towards ratification. The Central Labour Advisor, Ministry of Human Resource Development, Mr. Javed Gill, was

<sup>15</sup> Interview with Umme Laila, Executive Director, HomeNet Pakistan, 01-02-2012

asked by the government to provide feedback on the matter, which was interrupted by provincial devolution and breaking up of the federal government's autonomy over labour matters. This is discussed in more details in Chapter 2.

### **Fractured Trade Unionism**

In the context of Pakistan, homebased women workers have the minimal contact with (or support of) mainstream workers, movements or trade unions. Trade Unionists like Karamat Ali (Executive Director, Pakistan Institute of Labour Education and Research -PILER) lay the responsibility of mobilizing and organizing women homebased workers on the women themselves; he holds that women homebased workers must organize themselves before they can fight for their collective rights. Farhat Parween of NOW Communities, agrees that national policies and international conventions can help only in a situation where workers are organized. Nasir Mansoor of the Labour Education Foundation (LEF; Deputy General Secretary, National Trade Union Federation), who describes trade unions in Pakistan as “fragile” at best, asserts that there the issue of homebased workers is spearheaded by only a handful of NGOs and few others working to raise a voice for their rights. The National Trade Union Federation (NTUF) is one such organization that treats the issues of homebased workers, including women, as issues of the informal sector, generally. Some trade unionists interviewed considered the issues of homebased workers in light of their gender without any meaningful connection to mainstream labour problems.

Since historically, the makeup of Trade Unions in Pakistan has been predominantly male-engineered and dominated, the issues of women workers, particularly those working from home, have remain largely neglected. Male trade unionists interviewed admitted to having a strained relationship with the government throughout the history of the labour movement in Pakistan, with a marked deterioration over the last few decades, particularly since the 60's. The interruption of the democratic process by prolonged dictatorships, known to be anti-labour, has weakened the collective power of trade unions in the country.

Mr. Karamat Ali suggested that the Labour Ministry is “full of people insensitive generally to the needs of labour, let alone women”. Even if women were to organize themselves and have better recourse to international monitoring systems through ratification of C-177, their strength in numbers and resolve would largely determine the results of this acquired status.

Another important aspect which is connected to their strength of numbers is that with the increasing number of workers moving into the informal sector, the membership of trade unions has been dwindling. The future of trade unions and the labour movement therefore depends on the inclusion of the informal sector, which has been largely ignored till this point. In turn, the rights of women homebased workers would be better protected by virtue of being part of a larger and stronger movement. However, Abdul Ghafoor Baluch, Member of the Pakistan Worker's Federation Steering Committee, asserts that homebased workers cannot be part of trade unions as their relationship with their employers is not the same as their colleagues in the industrial setting<sup>16</sup>. Their access to membership would require the government to legislate.

It is also important to note that the labour movement in Pakistan is self-admittedly disabled due to disorganization, politics and gender-biases (Zia 2011). While there are collectives (NGOs and CBOs) working to mobilize, organize and advocate on behalf of women homebased workers, their nascent state would not perhaps be well-served by amalgamating into a disorganized trade unions or the larger labour movement in the country. And while trade unions across Pakistan refused to accept the Labour Policy 2010 of the government, dubbing it anti-labour as it raised the number of workers to get unions registered, ironically, the inclusion of homebased workers have not been advocated on a critical level. Reserving space for them may increase the collective bargaining powers of women homebased workers and strengthen unions. The unionization system is, however, more invested in an industrial-style operation. But it needs to be highlighted that people like Jan-e-Nisar of the Pakistan Kisaan Itte had and a trade unionist, confesses to be “a bit scared of

<sup>16</sup> Interview with Abdul Ghafoor Baluch, Member Steering Committee, Pakistan Worker's Federation.

responsibility of including women in trade unions because of the sexist mentality of male members”. Cases of sexual harassment have emerged in Pakistan within trade unions that have been suppressed or underreported so as not to undermine the movement itself.

Farhat Parveen, however, holds that women homebased workers should not be pushed to join trade unions. She suggests that what would perhaps be more beneficial is the creation of Co-operatives, which can provide women avenues for organizing themselves within their communities.

### **Reluctance to Ratify ILO Convention 177**

There are several reasons for Pakistani government’s reluctance to ratify C-177 (based on cross-sectoral interviews conducted for this study):

Ratification of the convention would have immediate impact on the economy of the country. By including informal workers within formal structures and providing them access to social security schemes would mean concerted and prolonged investment (financial, political and social) on the part of the government. With millions of workers suddenly accessing support schemes like the Employee Old-age Benefit Institution (EOBI), Provincial Employees Social Security Scheme (PSSS), and other generic support schemes, the government will no doubt be in a financial crisis, adding to the crises it is already facing on different fronts. It would also require the government to develop and implement a mechanism to not just identify and register the informal sector, but also to monitor their needs while checking for effective policy implementation. This in turn would necessitate setting up of any reporting infrastructure while ensuring the sustainability of any such a mechanism.

The second major concern of the government is the obligation to report on this convention every two years. Many governments officials feel that not only is this an extra burden on the country, which already fulfils a number of other reporting responsibilities, but it may also lay bare the reality of the deplorable conditions of homebased workers and the lack of priority given to the issue by a government in the

eyes of the international community. The adage of the first Bhutto regime that instituted some pro-poor policies and that called for “Roti, Kapra aur Makaan” as a basic right, particularly the absolute and chronically poor, would thus be compromised.

Till April, 2010<sup>17</sup>, the Pakistani civil society and the government were both romanticizing the idea of C-177’s ratification. As mentioned earlier, the Central Labour Advisor, Ministry of Human Resource Development, Mr. M. Javed Gill had been put to the task of providing feedback on modalities of ratifying ILO’s convention. The process, however, stalled with the sudden devolution of powers to the provinces on April 8, 2010. Thereafter, both the government and the civil society shifted their focus on working on a national policy. Interviews with civil society suggest that this move was deliberate given the covert hesitation of the government towards ratification, its keenness to nevertheless move on the issue in some measure. Devolution acted as an effective and convenient exit for the government to avoid signing off on the convention. The lack of ownership from Labour Ministries across Pakistan (as alleged by civil society organizations working on the issues of homebased workers and interviewed in this study), made avoiding ratification a more attractive proposition in the wake of devolution.

It is however important to note that officially, the government claims to be committed to ratification. The National Policy on Homebased Workers, 2009, thus devised and supported by the civil society, reads:

*“The Government has reaffirmed its commitment to bring the laws and regulations concerning homebased workers in Pakistan into conformity with the common standards and principles developed by international human rights treaties and ILO Conventions; and ratify the ILO Convention on Home Work, C-177, along with the adoption of ILO –R-189 Recommendation on the Employment Relationship (2006), which prescribe the ‘definition of homebased worker’ and call for equal treatment with homebased workers in relation to other wage earners performing the similar work.”*

<sup>17</sup>Exact date not known.

This paragraph, which appears at the end of the 2-and-a-half-paged introduction to the policy, almost as a last thought, does not spell any real plan to ratify the Convention 177 or 189<sup>18</sup> in the short or medium term.

The civil society on the other hand, while advocating continuing for ratification of C-177, has not applied due pressure to see this through. More importantly, the critical mass needed to make this step logical has not been attained. From all the officials interviewed in this study, the civil society conveys a sense of tacit contentment with the progress at least at the policy level. Organizations lobbying around the issue claim that they have not succumbed to government resistance, rather opted to support the government's first-ever real efforts to accord homebased workers the recognition they deserve and the rights they hold. Ratification seems in this scenario a logical and more foreseeable consequence if a national policy is adopted by all the provinces. It is important to note that experts from Pakistan suggest that the government should be pushed not just to ratify C-177 but also C-189 (on Domestic Workers).

The civil society also appears impelled to take this path as government initiative around the Policy is viewed as a necessary precursor for developing capacity for legislation on a provincial level, as well as for maintaining government ownership of the issue and the process<sup>19</sup>.

It needs to be stated, however, that a policy, although a critical step, does not award homebased workers any protection practically. Unless the policy translates into national or provincial laws, it does not spell out any real relief.

The various modalities around ratification of ILO's C-177 are discussed in more detail in Chapter 6. But before that, the following chapter aims to identify the stakeholders in the process of policy-making thus far and their potential role(s) towards ratification of C-177.

<sup>18</sup> Domestic Workers Convention, 2011 (No. 189), Geneva, 100<sup>th</sup> ILC session (16 Jun 2011).

<sup>19</sup> Interview with Ume Laila Azhar, Executive Director HomeNet Pakistan, 01-02-2012

# Chapter III

## Relevant Stakeholders in Pakistan

This section identifies major stakeholders and their role in the advancement of the rights of homebased workers in Pakistan. It also aims to identify actors who need to be involved vis-a-vis advocacy, capacity-building/knowledge-sharing, consultations or administrative steps towards ratification. Not all Ministries mentioned here onward may have a direct or even indirect role to play in Ratification of ILO Convention C-177. In that situation, we have mentioned what other role they can play.

It bears mentioning that strategically, though the roles of all stakeholders mentioned below are pertinent to the processes mentioned above, they may need to be engaged in phases or tactically. Simultaneous engagement of every stakeholder, barring a few essential ones, may overwhelm the process and dilute the focus of dialogue on ratification.

### **I. THE STATE**

Historically, the State and the labour movement in Pakistan can be described as having a relationship of periodic frost and thaw. The green revolution under General Ayub Khan, led to a concentration of wealth in the hands of 22 families in Pakistan and a deep polarization between the classes. Bhutto's regime brought in many pro-labour policies, which were not supported by the necessary infrastructure to oversee intended implementation. Subsequent governments either did nothing to resolve to 'controversial' industrial relations in the country, whereas some, like General Pervaz Musharraf, attempted to strengthen labour courts, focus on labour training needs and address the multiplicity of labour laws in the country.

The State relationship with trade unions has thus been marred over decades, with one not trusting the other. Indeed some consider the progression of policies (or lack thereof) as nothing short of an anti-poor stance for the perpetuation of the status quo in a largely feudal society. Additionally, with zero representation of labour parties in the government itself in a predominantly feudal class system, the issues of labour, particularly women, have not been high on State's list of priorities.

Good industrial relations between labour and employers are essential corner-stones of economic growth. However, with the chains of supply getting more complex in the wake of rapid globalization, even for products that were not traditionally traded across borders or within national territories, the increased casualization of work needs special measures. This can start with simplifying labour laws and regulations and tweaking existing laws to make them more inclusive.

Pakistan, that has a member of the ILO since 1947, its year of independence, has ratified 36 conventions on labour (out of 189), 34 of which remain in force. Some of these conventions require affirmation and adherence to core labour rights. Similarly, Pakistan has developed various laws and policies due in turn for ratification, many of which remain in force, albeit amid frequent reports of non-implementation.

Some of the challenges to Pakistan's ratification of ILO Convention C-177 have been outlined in Chapter 2. To reiterate, the primary deterrent, according to interviews with trade unions, State representative in labour departments and employers' federations, is the formidable cost of implementation of the Convention, starting with an enumeration of the millions of homebased workers in the country. Reporting on obligations and actions taken is the second dreaded task given the sheer number of adjustments that would have to be made to monitor implementation and evaluate results.

Tri-partite meetings (including the government, employers and workers representatives), which are held far-in-between, would have to be regularized to ensure a forward momentum, inclusivity and information-sharing. Abdul Ghafoor Baluch,

Member of Steering Committee, Pakistan Worker's Federation, claims that, "in almost 13 years there was only one tri-partite meeting; it's been 5 years since the last one". Mohammed Shafiq Ghauri of the National Trade Union Federation recalls it to be less of a meeting and more of a 'Jalsa' (rally). Similarly, from her experience of these meeting, Jan-e-Nisar (Pakistan Kisaan Ittehad; trade unionist) holds that, "the tripartite system exists on paper and not in practice".

Shadowing these concerns is the inherent capacities of provincial governments to draft, promulgate and implement laws in the wake of newly acquired autonomy under the 18th Amendment of the Constitution of Pakistan, passed by the National Assembly of Pakistan on April 8, 2010, while the Federal government holds the power to ratify the convention. Serious capacity issues at provincial levels have been taken into consideration in the Amendment somewhat, with the promise of retention made to those in higher positions to ensure maintenance of expertise.

A report compiled by the Senior Management Wing at the National School of Public Policy, reads:

*“The human resource affected by the devolution process has been assured of retention; an undertaking which will defeat the purpose of devolution to a large extent as reduction in size of the Government is always one of the key aims of such actions. No alternate plans have been considered at any level. On the other side, absorption of some of these with the provincial governments will involve issues of displacement, seniority, pensions and other dues at a later stage if not immediately.”* (National School of Public Policy 2012)

The Federal Chief Labour Advisor, Mr. Javed Gill, in an interview<sup>20</sup> suggested that the 18<sup>th</sup> Amendment has caused problems for both the Federal and Provincial government. These include but are not limited to:

- A lack of communication and information-sharing between the Federal government and provinces.
- Human resources and capacities in the provincial local institutions.
- Provinces not open to guidelines from the Federal government despite need.
- Provinces not working enough towards creating links between the Federal government and themselves; especially with respect to reporting obligations vide international conventions.

- Trainings being provided at the provincial level are not being institutionalized for multiplier effects.

He holds that labour laws should have remained in the domain of the Federal government. He also maintains that policies must also be passed at a Federal level to effectively link international conventions' obligations and the performance of the provincial governments. As far as the role of the Federal government on the matter of C-177 is considered, Mr. Gill reports that when the Rules of Business were examined between the Federal Labour Ministry and the Human Resource Development Ministry (HRD) (a Ministry created post-devolution on to ascertain what responsibilities were to be devolved), the Labour Policy was not set to lie within the ambit of either the Federal or provincial governments. While technically, omission would imply that the obligation lies with the provinces, the matter remains ambiguous.

The details of the impact of the 18th Amendment on the Policy on Homebased Workers are discussed in more detail in Chapter 7.

### **Political Parties' Stance on Labour Issues**

A review of the labour policies enshrined in their party manifestoes shows that no major political party identifies HBWs as a distinct labour class or suggests measures specific to their issues. However, each party holds a nuanced view and suggests different priorities if given an opportunity to address Pakistan's labour issues.

The ANP<sup>21</sup> emphasises a more market-oriented approach as opposed to public sector expenditure programs. New financial instruments such as micro-credit schemes and entrepreneurial development programs will create the infrastructure for livelihood assistance and growth in the Khyber Pakhtunkhawa province, and the country at large. Labour policy and labour welfare programs are not addressed in the party manifesto.

The PTI<sup>22</sup> believes eschews capital-intensification of the production process. If growth occurs in sectors that provide salaried as opposed to wage employment, the poor are not likely to benefit. It

<sup>20</sup> Javed Gill, Federal Chief Labour Advisor, interviewed on 03-12-2012.

<sup>21</sup> <http://awaminationalparty.org/main/?cat=98>

<sup>22</sup> <http://www.insaf.pk/docs/PTImanifesto.pdf>

prescribes ownership of assets and generating employment as well as a thorough overhaul of the existing infrastructure for addressing labour issues welfare programs. PTI calls for Pakistan's labour laws to conform to ILO conventions.

The incumbent PPP<sup>23</sup> also calls for a labour policy in line with ILO conventions as well as lifting restrictions on trade union activity and a strengthening of existing labour welfare programs in its party manifesto. A review of their stance and efforts to address labour issues are detailed throughout this report, being the party that started the process of Policy development in 2009 on homebased workers.

The MQM<sup>24</sup> suggests that land allotments and availability of easy credit will encourage the growth of small and cottage industries and improve their economic performance. The party also advocates a more prominent role for the provinces in administering the existing labour welfare programs and the privatization process of state owned enterprises.

The PML-N<sup>25</sup> would promote upgradation of skills and a quality culture while improving banking services. It seeks to revive the poverty alleviation initiatives of its previous term while ensuring food security and access to health care. Most of these measures are focused on large industrial concerns and not the small and cottage industries.

Obviously, we cannot foretell which parties come to power in the next general elections, but a useful approximation can be made of which parties are more likely to address labour issues based on previous initiatives and declared credo. Parties on the left such as the incumbent PPP have a track record of rolling out such projects while parties on the right such as PML-N, PML-Q, and apparently the ANP prioritise industrial development and capital intensification over labour safeguards. Other nationalist/regional parties do not address labour policy or labour welfare programs and in any case have no past history of working on these issues, or joining the political mainstream.

## 1. FEDERAL GOVERNMENT

### a) Ministry of Human Resource Development

The Ministry of Human Resource Development has evolved from the labour ministry and still retains a number of the personnel who have previously worked in the Ministry of Labour. The Ministry is still in its infancy and struggling to develop in-house expertise on tactical and strategic aspects of human resource management.

After the 18th Amendment, the core responsibilities for the implementation of labour-related issues were assigned to the four provincial governments, more specifically with the Labour Departments. Other regions and Islamabad, however, remained the responsibility of the federal government's Ministry of Human Resource Development. Therefore, labour issues connected with Islamabad, the Federally Administered Tribal Areas (FATA), Azad Kashmir and Gilgit-Baltistan come under its administrative domain.

This Ministry's overall role is ambiguous at this stage given its nascence; however, **it holds the responsibility to report in international treaties' obligations with respect to labour.** It was involved in dialogue around the Policy on homebased workers and C-177's ratification till June 2011, but in too few and only the initial meetings. There is also scepticism whether the Ministry will continue to exist after the next elections. It is not clear if the Ministry wields any influence on advising the Federal government to ratify conventions related to labour, especially since it has invariably dropped out of meetings and has not been involved in recent dialogues around policy matters or C-177.

### b) Ministry of Human Rights

The mandate<sup>26</sup> of the MoHR includes:

- i. Review of human rights situation in the country including implementation of laws, policies and measures.
- ii. Co-ordination of activities of Ministries, Divisions and Provincial governments in respect of human rights.

<sup>23</sup> <http://www.ppp.org.pk/manifestos/2008.pdf>

<sup>24</sup> <http://www.mqm.org/English-News/Nov-2009/manifesto2008.htm>

<sup>25</sup> [http://pmyouth.org/party/op\\_38\\_realizing-the-founding-vision-of-pakistan.pmln](http://pmyouth.org/party/op_38_realizing-the-founding-vision-of-pakistan.pmln)

<sup>26</sup> <http://www.mohr.gov.pk/>

- iii. Initiatives for harmonization of legislation, regulations and practices with the International human rights covenants and agreements to which Pakistan is a party, and monitors their implementation.
- iv. Obtaining information, documents, and reports on complaints and allegations of human rights violations from Ministries, Division, Provincial governments and other agencies.
- v. Refer and recommend investigations and inquires in respect of any incident of violation of human rights.
- vi. Pursuing of defending issues, complaints' representations and matter for an official of Non-Governments Organization, body of forum in consultation with Foreign Affairs Division, before any international organization and foreign Government or Non-Government Organization.
- vii. Representation of Pakistan in international bodies, organizations and conferences relating to human rights in consultation and in conjunction with Foreign Affairs Division.
- viii. Developing and conducting information programmes to foster public awareness of human rights, laws and remedies available against the abuse of human rights.
- ix. Formulating programmes of teaching of human rights at educational institutions.
- x. Provision of facilities for professional and technical trainings, at home and abroad, relating to human rights issues.
- xi. Protection of human rights in collaboration with Human Rights NGOs.

With the devolution of the Ministry of Women's Development (MoWD) post 18th amendment, the MoHR also holds the responsibility on the federal level with regard to women's issues. It is also tasked with reporting on women's issues with respect to

international obligations and conventions such as CEDAW.

With respect to C-177, the third point in the Ministry's declared mandate, which is to take "initiatives for harmonization of legislation, regulations and practices with the International human rights covenants and agreements to which Pakistan is a party, and monitor their implementation", can be pin-pointed to assist in involving the Ministry to press the government on ratification.

Especially with the absence of a Ministry for Labour at the Federal level, this ministry can take the lead on pushing for ratification of C-177.

However, sources inside this relatively new Ministry claim that it is crippled by budgetary constraints and capacity serious issues. Staff retention is an issue with very high turn-over and the Ministry following a project- approach to service delivery. Additionally, it has not so far worked on labor rights violation cases.

### **c) Ministry of Interior**

The Interior Division, which works under the Ministry of Interior, has the primary responsibility<sup>27</sup> to ensure internal security in the country. Its other responsibilities also include:

- National registration of population and issuance of identity cards.
- Nationality, citizenship and naturalization.

This Ministry would play a pivotal role in any work relating to registration of persons in Pakistan. Many of the personnel in the informal sector often do not even have their Computerized National Identity Cards (CNIC). In order for them to avail support schemes, they have to be registered as citizens in Pakistan. Necessarily, those who do not hold CNICs cannot vote, cannot avail any privileges enjoyed by virtue of citizenship, cannot influence policy and are essentially invisible for all practical purposes. The National Database & Registration Authority (NADRA), a division of the Interior Ministry, is responsible for the registration of population and issuance of identity cards and thus may play a critical

<sup>27</sup> <http://www.interior.gov.pk/>

role if it comes to registering homebased workers in the country. Their involvement would be necessary through the Interior Ministry if a national or provincial drive towards registration is initiated.

#### **d) Ministry of Finance**

The mandate of the Finance Division which falls under the Ministry of Finance includes dealing with all subjects pertaining to finances of the Federal Government, financial matters concerning the country as a whole, as well as preparation of annual budget statements, supplementary/excess budget statements for the consideration of the parliament accounts, and audits of the Federal Government Organization, as assigned under the Rules of Business, 1973<sup>28</sup>.

It is important to have the Finance Ministry agree to and pass budgets necessary for any welfare schemes and projects in the country. This Ministry often rejects proposed projects and schemes due to lack of consensus related to budgets and finance, particularly if it feels that the budgets heads have not been rationalized.

Due to the huge economic resources needed for any projects relating to homebased workers, the Finance Ministry is likely to have objections to the proposed budgets. According to sources in the Women's Development Department, Sindh, this Ministry has not been able to mainstream gender issues in its policies and programs. From non-release of payments to staff of shelter homes, the education department, or personnel working in other government institutions, this Ministry has been facing recurring financial scandals. Various projects related to women have stalled or grounded to a stand-still due to non-cooperation of the same. It is essential to create awareness and understanding within the Ministry on the importance of and priority that must be given to homebased workers' issues before embarking on any projects (administrative or advocacy-related).

So far, the Ministry of Finance has not been involved in discussions over the National Policy on homebased workers initiated by civil society or undertaken by the government. This is discussed in detail under *Provincial Ministries of Finance* (page 37).

#### **e) Ministry of Economic Affairs<sup>29</sup>**

The Economic Affairs Division comes under the Ministry of Economic Affairs. It is responsible for the negotiations of external economic assistance related to the Government of Pakistan and its constituent units from foreign Governments and multilateral agencies. Its functions and responsibilities also include:

- Economic matters pertaining to Economic and Social Council of the United Nations, Governing Council of UNDP, ESCAP, (Economic and Social Commission for Asia and Pacific) Colombo Plan and OECD (DAC).
- Negotiations and co-ordination activities, etc., pertaining to economic co-operation with other countries (excluding RCD and IPECC).
- Assessment of requirements, programming and negotiation for securing technical assistance to Pakistan from foreign governments and organizations including nominations for EDI courses.

Due to the large amount of budgets needed for any schemes related to homebased work, it is a possibility that the government will be interested and willing to receive foreign assistance. This ministry would thereby play an important role as any discussion on the expected roles, mechanisms and negotiations in relation to economic assistance will have to go through the Ministry (financial assistance through the ILO, United Nations Development Fund (UNDP) or any other, for example).

It is also important to note that the Ministry has a very strong statistical division for carrying out national economic surveys. This Ministry's role could prove to be vital in gathering statistics on the financial demographics on homebased workers in Pakistan.

Accordingly, borrowing from the functions of this division, the most pertinent aspects of its work related to data on homebased workers are listed below.

- i. Preparation of an overall integrated plan for development and improvement of Statistics in Pakistan and to estimate the budgetary requirements thereof.

<sup>28</sup> <http://www.finance.gov.pk/>

<sup>29</sup> <http://www.ead.gov.pk/>

- ii. Formulation of policy regarding general statistics for Pakistan and implementation thereof by suitably adopting the statistical system of Pakistan to conform to the policy.
- iii. Co-ordination with the Provincial and Federal Governments, semi-autonomous bodies and international organizations on statistical matters bearing directly or indirectly on such subjects as trade, industry, prices, expenditure, input-output accounts, flow of funds, balance of payments, etc.
- iv. Undertaking of national censuses and surveys.
- v. Industrial Statistics Act, 1942.

Thus far, the Ministry of Economic Affairs has not been part of any consultations around the National Policy on homebased work(ers) or ratification of ILO C-177.

#### **f) Ministry of Foreign Affairs**

The Ministry of Foreign Affairs is mandated to oversee diplomatic relations between Pakistan and other countries. It plays a central role with regards to international co-operation and co-ordination, especially obligations that come with international conventions and treaties. Engaging this Ministry through dialogue would be helpful in creating international, specifically regional linkages (such as SAARC) in working towards ratification and implementation of C-177. Past experiences, such as the linkages created during the Beijing Conference where civil society and government successfully worked together, show the positive role the Ministry could play in international conventions and conferences.

#### **g) Ministry of Law and Parliamentary Affairs**

The main role of this Ministry is vetting and finalizing any proposed law, amendment or policy on any matter. The ministry is also consulted before an international convention is ratified to assess its effect(s) on national law.

The Ministry has been involved in dialogue on the National Policy on Homebased Workers, 2009. Ms. Rubina Irfan (Minister for Law and Parliamentary

Affairs), was consulted in 2008 and 2009 when the national Policy on homebased workers was being devised.

Generally, if a law is referred to Law and Parliamentary Affairs Department (LPAD), the authority submitting the bill should ensure that the draft is given appropriate shape before it is introduced in the Assembly.

It should advise the LPAD if the proposed law disregards or violates, or is not in accordance with the Fundamental Rights conferred by the Constitution and whether a reference should be made to Council of Islamic Ideology for advice.

The LPAD vets the bill:

- i. On matters pertaining to substantive legislation;
- ii. On matters concerning delegated legislation, such as rules, regulations, bye-laws, agreements and Memoranda of Understanding (MoUs);
- iii. On the interpretation of substantive or delegated legislation;
- iv. On legal questions arising out of any case

The authority submitting the law then submits the case, including the advice of LPAD, to the Cabinet.

It also prepares a brief for the Chief Minister including directions given by the Cabinet regarding the line of action to be adopted with regard to the law.

The submitting authority then forwards the draft bill as approved by the Cabinet, to LPAD again, through the Chief Minister.

If the LPAD includes the bill in the official business of the Assembly, the bill is introduced in the Assembly by a Minister or a Parliamentary Secretary.

This process differs according to the nature of amendments sought by the bill and its urgency.

## 2. PROVINCIAL GOVERNMENTS<sup>30</sup>

### a) Ministries of Labour and Manpower<sup>31</sup>

These ministries across the provinces are obligated to oversee all matters in relation to labour. They are responsible to promote industrialization and harmony for peaceful industrial relations between workers and employers; investigate & arbitrate in industrial disputes; and ensure that production in industry is un-interrupted, with minimum loss of man-days, strikes and lockouts. They must not only observe and uphold labour laws and rules/regulations, but also promote investment and employment in the irrespective provinces. They are also responsible for the welfare of working labour force and enhancement of its capacity through trainings and development.

These ministries must also provide medical aid and various cash and other benefits in case of sickness, injury, and death, to secured worker and their dependents. They also undertake other welfare measures for industrial workers and their families including housing and education. They, however, does not extend any such aid to the informal sector.

The labour departments across provinces have established Health and Safety Cells with technical support from the ILO. Trainings in this regard have also been provided to the staff running these cell regarding labour laws, issues and health and safety rights.

Farhat Parveen of NOW Communities suggests that the 1934 Secretary's Act, which also contains health and safety issue guidelines, can be applied to develop a legal framework for homebased work in Pakistan. She exerts, however, that, "the labour departments do not oversee implementation of these guidelines in factory settings, let alone homes". She claims that local government bodies, whose fate has been hanging in limbo for over two years, have a very important role in overseeing implementation, particularly with regard to registering homebased workers, since the labour departments have not been fulfilling this function.

The labour departments in this regard suggest that it is simply not feasible for them to "go into every alley and area where homebased work is being done", particularly when it comes to urbanized cities like Karachi.

Given that labour departments already have a set framework when it comes to different aspects of labour issues, such as the Social Security Act of 1965, Pakistan Maternity Benefit Ordinance, 1958, etc., (discussed in greater detail in Chapter 4), they have substantial tools in terms of guiding frameworks to develop support systems for homebased workers. The labour departments, according to Parveen, need to simply expand the classifications of work, the definition of workplace and description of an employer to bring recognition to homebased workers, while granting them the same legal protections as their industrial counterparts.

### b) Provincial Ministries of Finance

The provincial Ministries of Finance have responsibilities including administrating, supervising and controlling provincial finances, preparing provincial budgets and ensuring effective and transparent utilization of funds.

The Ministries' other responsibilities formulation of Financial Rules and Civil Services Rules relating to pay, perquisite and pension of Civil Servants; management of public debt and administration of Local Fund Audit Department & the Treasuries. Functions of the department have been specified in schedule II of the Rules of Business, 1974.

The National Policy on Homebased Workers refers to the role of the Finance Ministry towards "budgeting, earmarking, allocation and timely disbursement of funds" and "carrying out gender audits annually, to ensure that gender budgeting is being implemented in both letter and spirit".

Recently, Pakistan People's Party legislator, Ms. Shazia Tehmas criticized the labour, social welfare and finance departments in a consultation organized by the Aurat Foundation and Home Net Pakistan, for not assisting her in the removal of lacunas in her private bill on Homebased Workers, 2012, which led to its dismissal by the Punjab provincial assembly, a bill that took 3 years to draft. The Finance Ministry has a critical role to play when it comes to advising legislator and others moving a bill, particularly its financial aspects vis-a-vis feasibility and sustainability.

<sup>30</sup> All discussion on mandates and functions of the Departments of the Provincial Governments is taken from their respective websites: <http://www.sindh.gov.pk/>; <http://portal.punjab.gov.pk/>; <http://www.khyberpakhtunkhwa.gov.pk/>; <http://www.balochistan.gov.pk/>

<sup>31</sup> <http://www.sindh.gov.pk/dpt/LabourTransport/index.htm>; <http://pblabour.gov.in/>; <http://www.balochistan.gov.pk/labour-&-manpower.html>; <http://www.khyberpakhtunkhwa.gov.pk>

However, Umme Laila of HomeNet Pakistan informs that the Finance Ministries have not been involved on consultations regarding the National Policy on Homebased Workers, 2009, on discussions around C-177's ratification. "Once the government announces the Policy will the Finance Ministries have a role to play", she says.

It is important that these ministries understand and recognize the issues of homebased workers. The recognition of these needs would allow said ministries to be able to do an apt evaluation of the necessary budgets required to provide adequate care, protection and empowerment. Ownership must not only be taken by these ministries but they must ensure that budgets being allocated for any projects or schemes are truly reflective of the scope of work to be undertaken and are released in time. However, given the slow momentum around advocacy related to homebased work issues and lack of critical mass, as mentioned earlier, continual and concerted lobbying has to be undertaken.

### **c) Ministry of Law**

Post-devolution, the provincial ministries of law have been granted authority to vet and draft laws, amendments and policies. For their role in this regard, see Ministry of Law and Parliamentary Affairs under Federal Government (g).

### **d) Ministries of Agriculture; Industries; Forestry, Wild Life & Fisheries**

The Ministry of Agriculture has the mandate to look after the overall development of the agriculture sector and work towards increasing productivity. Responsibilities include formation and implementation of policies in connection with development of the agricultural sector.

The Ministry of Industries focuses broadly on 'social and economic systems as a whole'. It is responsible for planning, development and control of all industrial policies and practices, including those of cottage industries. Policies related to industrial activity thereby are required to go through them in terms of planning and overseeing implementation.

The Fisheries Department oversees all fisheries-related issues/ policies, along the national coast, as well as inland fisheries. It employs women and children in homebased work as well, including deveining of prawns and cleaning of shrimps.

The Ministry of Agriculture, along with other ministries which are related to and employ home workers must be involved in all aspects of strategy and implementation relating to homebased workers. As these departments will be in charge of implementation of any laws, policies and changes, they must be involved from the onset and have a complete understanding of the change envisioned and the capacity to implement this change.

These ministries collectively have neither been partaken discussions around homebased work, which they regularly commission, nor have they so far addressed the needs of homebased workers in their policies/ business rules. The Pakistan Fisherfolk Forum has been undertaking advocacy in the fisheries sectors in this regard and is a natural ally on C-177's ratification. But efforts to streamline homebased work in this sector needs to be stepped up by identifying and partnering with more community-based organizations.

### **e) Provincial Women's Development departments**

There are Women's Departments in all four provinces (in Khyber Pakhtunkhwa and Punjab they are combined with other Ministries: Ministry of Social Welfare and Women's Development and Ministry of Social Welfare, Women Development and Bait-ul-Maal, respectively). These departments are obligated to focus on providing protection to women and towards their uplifting and development. These are meant to mainstream women's issues, ensuring their integration into policy frameworks, ensure equal participation in decision making process of national development, address issues of violence against women, and implement the National Plan of Action and other international conventions such as the Convention to Eliminate all Forms of Discrimination Against Women (CEDAW).

These departments have been spearheading the movement within the government on Homebased women workers. While the initial focus of home based work was gender, through discussion and negotiation with other government departments, the focus is now gender neutral, i.e., consideration is given to both men and women engaged in homebased work.

Dialogue with the Sindh Women's Development Department reveals disappointment towards the Labour Ministry's ownership of the issue of homebased work. Categorically putting the responsibility of all labour-related laws and policies

on the Labour Department, the WDD of Sindh is currently not demanding a ratification of C-177 from the Federal government.

Even though the WDDs have an over-arching mandate to act as a catalyst for gender mainstreaming in all government laws, policies and systems within their respective constituencies, the departments have been rendered toothless to a great extent due to an inability to anchor themselves in the larger, male-dominated government hierarchal systems. However, post-devolution and with the abolishment of the Federal Ministry of Women's Development (MoWD), the departments and yielding greater influence and striving to take up and resolve issues with greater immediacy.

## **II. TRADE UNIONS<sup>32</sup>**

The shortcomings of trade unionism in Pakistan have already been highlighted in Chapter 2 under Fractured Trade Unionism. In terms of strategy, the following are recommended.

A great cause for anxiety is that there have not been any successful tripartite consultations in Pakistan. Therefore, one of the primary roles the trade unions are meant to play is not being fulfilled. In this regard, it is essential that the government be pressed to hold regular tripartite meetings that lead to productive outcomes.

Another issue that can be seen with relation to trade unions is the perplexity regarding varying labour statuses, i.e., regular versus non regular, contractual versus permanent, and how they influence what benefits can be demanded and availed. There is also lack of clarity whether self-employed persons in the informal sectors are workers or fall within the definition of employers. Sources in NGOs interviewed for this study also cite a lack of vision and disconnection between those advocating for the rights of homebased workers and the workers.

It is utterly necessary that trade unions become more informed regarding who comprise homebased workers and how to make a distinction the needs and rights of the people in the formal and informal sector (including workers and employees). In this regard, trainings and orientations must be held, based on thorough need assessments as dynamics may vary

between provinces, professions and socio-cultural practices, among others.

It is also necessary for cohesion to be built between trade unions in the formal sector and workers in the informal sector. Exposure must be provided cross-sectorally to raise the bar for unionism in the country. Sensitized labour unions (and unionists) would be better equipped and positioned to advocate for the rights of their colleagues in the informal sector. The vital yet weak muscles of trade unionism in Pakistan can thus be flexed and strengthened. This becomes the more important given the transient nature of relationship between the formal and informal sector.

## **III. EMPLOYERS' FEDERATIONS<sup>33</sup>**

There are a substantial number of different employer's federations in Pakistan. As with trade unions, they have been unable to perform to their full potential with lack of avenues, particularly tripartite consultations with workers and government.

Members of the employer's federation interviewed admitted to not being well-versed with the issue of homebased workers. Some federation members considered homebased workers as self-employed and therefore employers, while others did not see a relationship between homebased workers, the formal sector and the employer's association. Despite having limited knowledge of the issue members were, however, quick to suggest that homebased workers should form their own unions and increase their collective bargaining powers. They also stressed upon improving management of all relevant government institutions to ensure proper implementation of any laws or mechanisms.

Although the employer's federations have not taken up the issue of the informal sector into their mainstream activities, it is important to create awareness and sensitivity within these institutions on the issue of homebased workers and the potential role the federations could play. They stressed upon the need to mobilize national consciousness on the issues of homebased workers in order to create a discussion and adopt a national/provincial strategy with regard to the uplift of homebased workers.

<sup>32</sup> This section is based on the following interviews: Interview with Abdul Ghafoor Baluch, Member Steering Committee, Pakistan Worker's Federation; Mohd Shafiq Ghauri, National Trade Union Federation.

<sup>33</sup> Interview with Ehsanullah Khan, Workers Employer's Bilateral Council of Pakistan (WEBCOP), 17-02-2012; Interview with Saud Alam, Secretary, Employers Federation of Pakistan, 17-02-2012.

# Chapter IV

## Homebased Workers and Pakistani Laws

Before embarking on a discussion on the Policy on homebased workers and Pakistan and the strategy around the ratification of C-177, it is important to appreciate the status and position of homebased workers in Pakistani law. This section provides a brief overview of the relevant laws in Pakistan.

The Constitution of Islamic Republic of Pakistan 1973, being a basic legal document contains a range of provisions with regards to labour rights. All domestic laws have to be in conformity with the rights enshrined in the Constitutional. The rights enunciated are reproduced below:

- Article 3 of the Constitution provides a directive to the state to ensure the elimination of all forms of exploitation and the gradual fulfilment of the fundamental principle: from each according to their ability, to each according to their work;
- 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 prescribed 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; and
- 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.
- Article 38 of the Constitution provides that the state shall secure the well-being of the people, irrespective of sex, caste, creed or race, by raising their standard of living, by preventing the concentration of wealth and means of production and distribution in the hands of a few to the detriment of general interest and by ensuring equitable adjustment of rights between employers and employees, and landlords

and tenants. All citizens are bestowed, within the available resources of the country, facilities for work and adequate livelihood with reasonable rest and leisure and the basic necessities of life, such as food, clothing, housing, education and medical relief, for all such citizens, irrespective again of their sex, caste, creed or race, as are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or unemployment.

According to the Constitution of Pakistan, women are guaranteed rights to enter into any business/vocation of choice. But when we review the labour laws, we find there is not one that applies specifically to women. Homebased workers are not covered by the definition of a worker under the Payment of Wages Act, 1936, West Pakistan Shops and Establishment Act, 1969, Industrial Relations Ordinance, 1969 and the Maternity Benefits Ordinance, 1958 and Employees Old Age Benefit act.

There are over 70 laws relating to labour in Pakistan and over 100 regulations. The legislations include issues relating to the welfare of labour; condition of labour; provident funds; employers' liability and workmen's compensation; health insurance, including invalidity pensions; old age pensions; and trade unions.

Prior to the 2010 devolution of powers, Industrial and labour disputes were a part of the Concurrent Legislative subject list; hence the Federation as well as the Provinces were equally competent to legislate. However, by virtue of 18th Amendment 2010 (which amended the Constitution of Pakistan), the Concurrent Legislative List has now been abolished, and labour legislation (a provincial subject), has not been incorporated in the Federal Legislative List (Maliha Zia Lari 2010).

However, many of the laws applicable to labour are antiquated. They suffer from duplication, weak and out-dated definitions and implementation mechanisms. They are a confusing body of laws made over a number of years without any clear and precise implementation framework. The laws have also been seen to be retrogressive and sometime anti-workers and have placed more curbs on workers' rights, indicating a pro-capital and pro-international finance approach<sup>34</sup>.

<sup>34</sup> Lota Bertulfo, Fatimah Ihsan, and Lucita Lazo. Homebased Workers Scoping Exercise. Canadian International Development Agency (CIDA), July 2009.

In terms of preparedness of provinces to undertake legislation, the enabling legislation in consequence of the 18th amendment, was not initiated by Ministries/ Divisions as some of them had to revert to the Implementation Commission for a review. No transition plan was chalked out for some Ministries (such as Health) where repeated efforts by the Provincial Governments to convene a joint session for a transition plan were frustrated by the Federal Ministries in question.

Constitutional lawyer, Zain Shaikh holds that the provincial government of Sindh should enact the same laws that have been adopted by the Federal government. "For the time being, the government should make nomenclature changes and make a law which is the same as the federal law." (Imtiaz 2012). He has also expressed his concerns regarding the varying capacities of provinces to legislate, evidenced by the uneven progress of provinces to legislate and the outcomes of those laws.

*"Out of an estimated 100 legislations required for providing legal cover to the newly devolved functions, only 40 legislations were passed by 30 June, 2011 in Punjab<sup>35</sup>. The situation in Sindh, Baluchistan and KP is much less promising. The relevant officials in the provincial governments blamed the federal ministries for failing to engage with them even after proactive efforts from their side. They were however, confident that the work will be completed soon and necessary legal cover will be available to the relevant authorities. It may be pertinent to note that most of the legislative work related to the adoption of existing government laws and hardly any original legislative work was done. It is argued that mere adoption is often likely to result in some legal complications and the process may carry on for an extended period before finalization."*(National School of Public Policy 2012).

Additionally, the provinces' abilities to legislate, particularly in matters related to labour are further

restricted by lack of labour party representation in the government itself, unlike countries such as Nepal, India or Bangladesh.

Prior to 2010, the MoLM took the initiative to consolidate the large body of labour laws into 5 consolidated laws. However, due to devolution, this body of work has been rendered redundant. Also, it is not certain whether the provincial Governments intend to overhaul the entire framework of labour laws and re-consolidate them, or just make pivotal amendments within the existing laws of Pakistan. Implication is whether this could be an opportunity to remove the old archaic laws and the new laws could be drafted to include principles of C-177 and re-define 'employees' or be extended to the informal sector.

With respect to homebased workers, including own-account or sub-contracted workers, unpaid family helpers in the informal sector, there is no recognition or legal status attributed to these workers. This means that these workers have no protection in terms of job protection, social protection, low wages, long working hours, insurance or protection against occupational health and safety, no social security benefits. This makes them extremely vulnerable to all forms of exploitation.

There has been a great deal of discussion in a variety of consultations held for the purposes of the homebased workers' policy relating to the legal recognition of homebased workers. The easy solution would be to include homebased workers within the definition of 'worker' in the existing legal system and corresponding amendments made to the major laws, including occupational health and safety, social protection, contracts<sup>36</sup>.

However, another perspective challenges this view altogether. Certain members of civil society, including ILO and UN Women and Home Net Pakistan hold that it is necessary to create a whole new framework for homebased workers and other informal sector workers<sup>37</sup>. The labour law framework

<sup>35</sup> The author cites the Additional Secretary (Legislation), Law Department, Government of Punjab, in an interview.

<sup>36</sup> Interview with Tahira Abdullah, Human Rights Activist & author of first National Policy on homebased women workers, 06-02-2012.

<sup>37</sup> Interview with Tahira Abdullah, Human Rights Activist & author of first National Policy on homebased women workers, 06-02-2012; Interview with Bushra Khaliq, WISE, 31-01-2012; Interview with Abdul Ghafoor Baluch, Member Steering Committee, Pakistan Worker's Federation; Mohd Shafiq Ghauri, National Trade Union Federation; Interview with Javed Gill, Chief Labour Advisor, 03-02-2012; Interview with Saad Gillani, Senior Programme Officer, ILO Pakistan, 07-02-2012.

in Pakistan, as it exists, is made exclusively for the formal sector. It is not viable or possible to adequately address the specific requirements and needs of both formal and informal sectors in the same piece of legislation. The biggest difference being that the formal sector depends on an employer-employee relationship, while in the informal sector this relationship is not necessarily there as the worker may be self-employed, or employed by a number of different employers, creating an invisible master<sup>38</sup>.

Therefore, it is suggested that a separate, parallel legal framework be developed for the purposes of providing proper legal recognition and access to justice for homebased workers. This also requires a completely new and different form of social security schemes<sup>39</sup>.

This view is also supported by trade unions and employer's organizations that were interviewed in this study. In particular, support was given for the formation of new social security schemes, in line of the Employees Old-age Benefit Institution (EOBI) or the Benazir Income Support Program (BISP) schemes. These would require workers to register themselves, and also provide a certain amount of money for social security. The last part was especially stressed by all stakeholders interviewed in this study to ensure that government schemes ultimately reach the intended beneficiaries<sup>40</sup>.

These schemes also require a certain percentage to be paid by the government and potentially the current employer or employers a homebased worker is employed under. The term 'employer' would also include middlemen, contractors, sub-contractors, and other intermediaries<sup>41</sup>.

It was highly recommended that a great deal of awareness-raising, sensitization of and consensus-building with the provincial and federal government is required<sup>42</sup>. Potential support schemes, irrespective of which, would result in a huge financial burden on the government when a huge influx of workers of the informal sector, who have suddenly become visible, will come into the formal sector and avail the rights and benefits as extended to formal workers<sup>43</sup>.

There is as such no consensus amongst all the stakeholders including government, trade unions and civil society on the exact direction and schemes on the legislative framework to be developed for homebased workers. In order to construct this framework, it is essential that the process be consultative, taking into account perspectives of all critical stakeholders, including the Federal and Provincial Governments, civil society, trade unions, employer's organizations, academia, economists, lawyers and homebased workers. The implementation, monitoring and correction processes should be decided before any draft of the law is finalized. This is essential, especially for the implementation of any such law<sup>44</sup>. The impact of the 18th Amendment on legislation and ratification of ILO Convention 177 is discussed in more detail in the following chapter.

<sup>38</sup> Interview with Javed Gill, Chief Labour Advisor, 03-02-2012; Ehsanullah Khan, Workers Employer's Bilateral Council of Pakistan (WEBCOP), 17-02-2012; Saud Alam, Secretary, Employers Federation of Pakistan.

<sup>39</sup> Interview with Tahira Abdullah, Human Rights Activist & author of first National Policy on homebased women workers, 06-02-2012; Interview with Bushra Khaliq, WISE, 31-01-2012; Interview with Abdul Ghafoor Baluch, Member Steering Committee, Pakistan Worker's Federation; Mohd. Shafiq Ghauri, National Trade Union Federation; Interview with Javed Gill, Chief Labour Advisor, 03-02-2012; Interview with Saad Gillani, Senior Programme Officer, ILO Pakistan, 07-02-2012; Ehsanullah Khan, Workers Employer's Bilateral Council of Pakistan (WEBCOP), 17-02-2012; Saud Alam, Secretary, Employers Federation of Pakistan; Interview with Ume Laila Azhar, Executive Director, HomeNet Pakistan, 01-02-2012

<sup>40</sup> Interview with Ume Laila Azhar, Executive Director, HomeNet Pakistan, 01-02-2012; Interview with Saad Gillani, Senior Programme Officer, ILO Pakistan, 07-02-2012

<sup>41</sup> Ibid

<sup>42</sup> Interview with Javed Gill, Chief Labour Advisor, 03-02-2012

<sup>43</sup> Interview with Tahira Abdullah, Human Rights Activist & author of first National Policy on homebased women workers, 06-02-2012; Interview with Javed Gill, Chief Labour Advisor, 03-02-2012; Interview with Ume Laila Azhar, Executive Director, HomeNet Pakistan, 01-02-2012

<sup>44</sup> Ibid

# Chapter V

## The Journey So Far in Safeguarding the Rights of Homebased Workers

### The Position Pre-18<sup>th</sup> Amendment to the Constitution of the Islamic Republic of Pakistan 1973

homebased workers and their issues were initially brought into public discourse and dialogue with Government of Pakistan (GoP) by women's rights organizations who heralded it as a 'gender' issue<sup>45</sup>. This is not surprising as women comprise 65% of homebased workers as compared to the 4% of men in Pakistan<sup>46</sup>. However, it is important to reiterate that the impact of factors discussed above in terms women's vulnerabilities to exploitation, discrimination and lack of resources, the issues of homebased women worker are more complex than men's.

While these problems are prevalent across all class structures in Pakistan, poor working women are also faced with a number of other forms of oppression based on class, sex, religion and ethnicity, which makes them more susceptible to adverse economic and social conditions (Lota Bertulfo July 2009)<sup>47</sup>.

For these reasons, as well as those mentioned earlier, the invisibility of working women contribution to the national economy and cultural heritage as well as the myriad of problems they face, was identified by the women's rights movement as a major gender concern. Projects and programs on homebased women worker in Pakistani civil society have thus far focused on either rights-based advocacy or economic empowerment of women<sup>48</sup>. The right-based approach is derived from international standards on labour rights, whereas, the economic empowerment approach is a shift from the welfare approach, with emphasis on women's education, training and, access to markets and resources and creation of sustainable livelihood<sup>49</sup>.

The programs focused on rights advocacy<sup>50</sup> have included projects that have set up collectives, associations for homebased women workers. Setups such as 'co-operative centres'<sup>51</sup> in certain locations allow home workers to work from therein, participate in training activities and conduct business meetings. Other thematic projects include:

- Legal awareness;
- Advocacy on the social protection of homebased women workers;
- Research and policy formulation;
- Setting up of a trade union for adequate representation of homebased women workers;
- Re-defining homebased workers to include them in the labour laws as well as the labour force survey;
- Acknowledging homebased women workers as contributors to the GDP;
- Advocacy for drafting and promulgating a National Policy on homebased workers; and
- Working with the Government of Pakistan to ratify ILO Convention 177 and 189.

Programs dedicated to the economic empowerment of homebased women workers<sup>52</sup> focus on training on skills, upgrading skills, enterprise development, business planning, record-keeping, marketing products and links to markets. The efforts have been to empower homebased women workers to create and sustain their own entry into the marketplace, be able to negotiate the best terms for them and run their work in a professional manner. This also indirectly feeds into strengthening women to ensure they are not only aware of their rights but are empowered enough to demand these rights<sup>53</sup>.

<sup>45</sup> Interview with Bushra Khaliq, WISE, 31-01-2012

<sup>46</sup> National Policy on Homebased Workers, 2009.

<sup>47</sup> Lota Bertulfo, F. I. (July 2009). "Homebased Workers Scoping Exercise". Canadian International Development Agency (CIDA).

<sup>48</sup> Ibid

<sup>49</sup> Ibid

<sup>50</sup> Examples of such programmes include those run by a variety of NGOs and INGOs including amongst others, Action Aid, Sungi, Aurat Foundation, Labour Education Foundation, Women Worker's Helpline.

<sup>51</sup> For example, Roots for Equity has set up shops by the name Hunar-e-Zanin busy urban commercial areas as well as stalls to showcase and sell the products produced by homebased women workers. The Enterprise Development Programme (EDP) of Sungi Development Foundation has established similar cooperatives in different parts of Pakistan.

<sup>52</sup> Lota Bertulfo, F. I. (July 2009). "Homebased Workers Scoping Exercise". Canadian International Development Agency (CIDA).

<sup>53</sup> Ibid

Initiated by civil society, the issue was also taken up by the Ministry of Women's Development<sup>54</sup> (MoWD) and government projects including the Gender Reform Action Plan (GRAP). Due to the gender dynamics of the issue, MoWD took the lead on the issue on behalf of the Government. With the involvement of NGOs, INGOs, donors and the Government, a Working Group on homebased women workers was formed in order to co-ordinate work being done on homebased women workers, avoid duplication of efforts, sharing of best practices and to facilitate creation of platform from which opportunities could arise for future collaborations and joint-lobbying<sup>55</sup>.

In 2000, the Khatmandu Declaration on Home Based Workers in 2000 noted the importance of formulating a national policy in a country wide ILO Convention 177 (C-177). This was reiterated in the Delhi Charter 2007 that urged a national policy on homebased workers. On the basis of this, Sungi Development Foundation held a series of consultations with support from Action Aid Pakistan in order to draw out regional recommendations for a National Policy on homebased workers. The results and recommendations of these consultations were presented to the MoWD and the Parliamentary Standing Committee on Women's Development for inclusion in the policy and in support for the ratification of C-177. The latter meeting included representation from MoWD, Ministries of Health and Labour. The MoWD requested Sungi at this point to take the lead in developing the policy. As the request originated from MoWD, the policy focus was only on homebased women workers. Thereafter, Sungi, partnering with HomeNet Pakistan (HNP) and Aurat Foundation, and with support from UN Women, took the initiative to frame a policy for homebased women workers. Prominent human rights activist Tahira Abdullah was contracted to draft the policy<sup>56</sup>.

One of the most positive effects of the entire exercise was the increased awareness regarding the issues involved up to the highest tiers of provincial and federal governments and to bring them into the consciousness of political representative looking to expend political capital to make a difference in the

lives of homebased women workers. In turn, homebased women workers got due attention and recognition for their contributions to the economy and the art heritage of Pakistan.

This exercise also resulted in a number of legislative initiatives<sup>57</sup>:

- i. In recognition of homebased women workers' economic contributions, a Parliamentary Resolution was passed in the National Assembly on 3rd April 2007.
- ii. In 2007, a draft Bill on homebased women workers was endorsed by a Parliamentary Standing Committee on Women's Development.
- iii. The Baluchistan Provincial Assembly passed a Resolution on homebased women workers (drafted by HomeNet Pakistan) on May 2010.
- iv. In November 2010, the Sindh Assembly unanimously passed a resolution regarding the protection of rights of homebased women workers and recommended launch of campaign at the union council level to register homebased women workers in order to provide formal recognition and greater visibility;
- v. In the 13th National Assembly (current parliament), two private members bills were introduced since 2008 for the protection of the rights of the homebased workers. These include: 'Social Protection for Home Based Workers (Amendment) Act, 2008 (June 10, 2008), and 'In-House Working Women Protection Act, 2008' (Aug 26, 2008).

The process for the development of the policy started in 2007 and the final policy on homebased women workers was finally presented to the MoWD in 2009. The policy was then shared with the Ministry of Labour and Manpower<sup>58</sup> (MoLM). The MoLM expressed its reservations regarding specificity of the policy to women workers where it should extend to all homebased workers. Accordingly, the policy title was revised to cover both men and women homebased workers.

<sup>54</sup> Since devolved vide the 18th Amendment to the Constitution of the Islamic Republic of Pakistan 1973.

<sup>55</sup> Interview with Rehana Hashmi, ex-Project Director, GRAP, 03-02-2012

<sup>56</sup> "Study on Advocacy Efforts for Visibility", Pakistan Institute of Labour Education and Research

<sup>57</sup> Ibid

<sup>58</sup> Since devolved, vide the 18th Amendment to the Constitution of the Islamic Republic of Pakistan 1973

The policy, which sailed through the MoLM, recommended the ratification of C-177 by the GoP. Inversely, one of the salient features of C-177 was the formulation of such a policy. Logically, it would have been viable for the GoP to ratify the Convention and continue working on its Policy. Thereby, discussions were initiated by the civil society with the GoP to explore the possibility of ratifying C-177. The MoLM had a number of reservations<sup>59</sup>, but expressed its willingness to consider ratification<sup>60</sup>.

As these developments reached a crescendo with the Government having almost finalized the Policy and moving to announce it, the MoLM and the MoWD were devolved vide the 18th Amendment to the Constitution of the Islamic Republic of Pakistan<sup>61</sup>. As a result, all the work done at till stage was stalled as not only was the Ministry devolved, the supportive persons in MoLM that civil society had lobbied and worked with extensively to see the Policy through were transferred. Therefore the state-non-state harmony on this front was lost<sup>62</sup>.

### **Impact of the 18<sup>th</sup> Amendment**

Post-devolution, a tremendous amount of chaos ensued which may have subsided to a certain extent, but remnants of which remain to this day. The Federal, while wanting to grant provincial autonomy to the provinces, had simultaneously wanted to maintain control over some matters of national interest. With their powers devolved, this issue remains unresolved.

It is important to consider a few bottlenecks the devolution process is facing, which are expected to persevere in the future<sup>63</sup>. One is the absorptive capacity of provinces to take on matters previously overseen by the Federal Government in terms of sheer size and scope. Second, valid concerns remain vis-a-vis the capacities on terms of human capital at the provincial level to take on legislation and administration. Third is the release and utilization of funds from the Federal to the provinces. Many provinces have suffered from delayed, lack or complete absence of funds flowing from the Federal to facilitate its work and projects. Hence forth, with

the MoWD taking the lead in moving towards policy formulation on homebased workers, the Women's Development Departments (WDD) in the provinces are presently struggling to position themselves in the larger male-dominated hierarchy of the Government. The most recent consultations between the UN Women, WDDs and other civil society organizations and Government line departments has focused on the institutionalization of gender in all Government departments and their support is required to see any program of project through.

One of the major confusions the 18<sup>th</sup> amendment created was over the devolution of a number of legislative powers. Previously, the break up and sharing of powers between the Federal Government and Provincial Governments were on the basis of a Federal List, which contained subjects which only the Federal Government could legislate on, and a Concurrent List, which contained subject, which both the Federal and Provincial Government shared powers and could legislate on. Post the 18<sup>th</sup> Amendment, the subjects of the Federal List have been expanded, while the Concurrent List has been abolished. All the subjects which had been on the Concurrent List and were not on the current Federal List were accordingly devolved to the provinces and fell solely within the purview of the provinces. The Federal Government cannot, without another constitutional amendment, make law on these subjects and make it mandatory on the provinces to follow these laws. The subject of labour was on the Concurrent List which has now been devolved.

Provisions related to labour in the Concurrent List, which are now the obligations of the provinces in view of the abolishing of the above mentioned list, included:

- i. Welfare of labour; conditions of labour, provident funds; employer's liability and workmen's compensation, health insurance including invalidity pensions, old age pensions;
- ii. Trade unions, industrial and labour disputes;

<sup>59</sup> Discussed in a later section.

<sup>60</sup> Interview with Ume Laila Azhar, Executive Director HomeNet Pakistan, 01-02-2012

<sup>61</sup> Discussion on the impact of the 18th Amendment on homebased workers is discussed in the next chapter.

<sup>62</sup> Interview with Ume Laila Azhar, Executive Director HomeNet Pakistan, 01-02-2012; Interview with Javed Gill, Chief Labour Advisor, 03-02-2012

<sup>63</sup> These are compiled through interviews conducted with Ume Laila Azhar, Executive Director HomeNet Pakistan, 01-02-2012; Javed Gill, Chief Labour Advisor, 03-02-2012, Saad Gillani; Tahira Abdullah, Human Rights Activist & author of the first National Policy on homebased women workers, 06-02-2012; Uzma Qureshi, UN Women Pakistan, 06-02-2012; and Saad Gillani, Senior Programme Officer, ILO Pakistan, 07-02-12

- iii. The setting up and carrying on of labour exchanges, employment information bureaus and training establishments;
- iv. Regulation of labour and safety in mines, factories and oil- fields; and
- v. Unemployment insurance<sup>64</sup>.

The devolution of powers with respect to labour means that the Federal government can no longer legislate on the matter, including on issues related to homebased workers. This raises a series of questions. Most importantly, it affects the uniformity of law with the Federal government no longer involved in legislation or guiding the framework which the provinces can follow<sup>65</sup>. This could result in all 4 provinces making completely different laws and resulting in completely different labour set ups in the different parts of the country, resulting in the creation of law and a labour framework which violates human rights and international labour standards without being held accountable by the centre. This concern can be seen to bear fruit with examples of such actions already in existence. Examples of this would be the stopping of the labour inspections in Punjab and Sindh through provincial legislation and the four different separate structures that in the process of being devised through industrial relations acts by each of the 4 provinces. The lack of standardization of law is a great cause for concern.

The 18th amendment also gave economic autonomy to the provinces. This will also impact the direction of the provincial governments. It may result in a bias in favour of commercial interests to boost economics and result in compromising the rights of workers and in anti-worker policies. An example of this is the Punjab Industrial Relations Act, 2010<sup>66</sup>, which is extremely anti-workers and include provisions which abolishes the right to workers to make a trade union in establishments where there are less than 50 workers and the appointment of the presiding officers in the labour courts and tribunals excludes the High Court and is the sole jurisdiction of the

Provincial Government, undermining the worker's trust in the system<sup>67</sup>. Without any national framework dictating the basic standards within which to work, its current situation may result in further discrimination against workers.

This concern is especially critical as worries persist relating to the capacity and competencies of the provincial governments, especially with regard to legislation. In terms of homebased workers, their understanding and appreciation of the issue is also a concern amongst almost all respondents in this study. There is little communication and sharing between the federal and provincial governments at this point in time<sup>68</sup>. The provinces, with their new found independence are flexing their muscles without any sort of guidelines or framework. This is largely due to the fact that no process of mutual development, training and capacity building was observed at the time of devolution. There is a need to create a link between the federal and provincial governments in order to create a well-co-ordinated and cohesive working environment<sup>69</sup>.

With these factors working in tandem, there are palpable apprehensions and anxiety as to whether the policy on homebased workers will or can be properly implemented, if adopted by the provinces. There are good chances of ownership of the policy, however, given that the process that led to its formulation was in consultation with the provincial governments.

With the legislative powers devolved to the provinces, the issue arises as to the government's compliance to international conventions and obligations. The federal government will remain responsible for ratifying conventions and reporting on them, but post-devolution, it has lost the power and control to ensure compliance in the provinces or even provide a policy framework within which they must function<sup>70</sup>. In the present scenario, even if the Federal Government of Pakistan ratifies ILO Article C-177, it cannot guarantee its implementation with the federation being unable to ensure that the provinces act in accordance with the conditions that

<sup>64</sup> "Study on Advocacy Efforts for Visibility", Pakistan Institute of Labour Education and Research

<sup>65</sup> Interview with Ume Laila Azhar, Executive Director HomeNet Pakistan, 01-02-2012; Interview with Javed Gill, Chief Labour Advisor, 03-02-2012; Interview with Saad Gillani, Senior Programme Officer, ILO Pakistan, 07-02-2012

<sup>66</sup> "Study on Advocacy Efforts for Visibility", Pakistan Institute of Labour Education and Research

<sup>67</sup> "Provincial autonomy: Trade unions not happy with new labour law", Tribune, 08-01-2011

<sup>68</sup> Interview with Javed Gill, Federal Chief Labour Advisor

<sup>69</sup> Ibid

<sup>70</sup> Ibid; "Study on Advocacy Efforts for Visibility", Pakistan Institute of Labour Education and Research

come with ratification<sup>71</sup>. To address this dichotomy, the federal government is presently working towards resuming power to draft policies in accordance with international conventions and make it mandatory for the provinces to formulate laws, policies and implementation plan within this framework it provides<sup>72</sup>.

The Federal Chief Labour Advisor and the Ministry of Human Resource Development (HRD), previously the MoLM, had also attempted to clear the persisting confusion by sending a query to the Devolution Commission which was set up to clarify the same post-devolution. The query related to whether the Federal Government still retained the power to adopt policies on subjects which provided to provinces in the form of frameworks that they may either replicate or borrow from. The Commission is yet to discuss this query, and as of now has now provided an adequate response<sup>73</sup>.

Simultaneously, the Federal government is also faced with demands of re-consideration of the devolution of the MoLM. Civil society, trade unions and factions within the Government itself are pushing towards the reformation of a Federal Ministry of Labour. However, any such amendment would require an amendment to the constitution, which was done to achieve the devolution in the first place<sup>74</sup>.

The current scenario therefore is this: Power officially lies with provinces unless a constitutional amendment is made and/or the devolution committee decides the power of policy remains with the federal.

### **The Current Situation**

The devolution vide 18<sup>th</sup> Amendment took great effort and will to hand-over much needed autonomy to the provinces. However, the efforts did not bear the expected result indicated by the persisting confusion over processes and expectations. In the process of sorting matters pertaining to what lies in whose domain, the issue of homebased workers has gone into remission.

It bears mentioning that even though provinces were involved in policy formulation on homebased workers through provincial consultations, most of the lobbying and advocacy was directed at the Federal government. This focus has now had to be redirected towards to the provinces.

Taking cognizance of the new order, the Working Group on Home Based Women Workers (HBWWG), comprising civil society organizations, decided that in order to effectively pick up where the Federal lobbying efforts ended abruptly, provincial working groups to be formed to educate and build pressure on the provinces towards the adoption of the Policy. In June 2011, working groups were formed with Sungi taking the lead in Khyber Pakhtunkhwa, All Pakistan Women's Association (APWA) in Punjab, and Labour Education Foundation (LEF) in Sindh and Baluchistan<sup>75</sup>.

The civil society, led by HomeNet Pakistan has since continually worked on recreating the lost momentum on the issue with the inclusion of the Federal as well as the provincial governments.

Soon after the formation of these groups, the strategy employed demanded focus on the Policy on Homebased Workers, instead of pressing for the ratification of C-177. The reasons why this strategy was adopted is discussed in the following section.

Civil society approached individual provincial Ministries of Labour with regard to provincial policies on homebased workers. The aim was to encourage the Ministries of Labour in each province to announce the Policy and do it soon. This strategy effectively pitted one province against the other in a race to be the first to adopt the Policy<sup>76</sup>.

After several meetings between the government, civil society, UN Women and ILO, the provincial Ministries of Labour have agreed to take pursue the adoption of the Policy. The process was supported by the existing draft of the Policy on homebased workers that enunciated clear expectations from

<sup>71</sup> "Study on Advocacy Efforts for Visibility", Pakistan Institute of Labour Education and Research

<sup>72</sup> Interview with Javed Gill, Chief Labour Advisor, 03-02-2012

<sup>73</sup> Ibid

<sup>74</sup> Interview with Ume Laila Azhar, Executive Director HomeNet Pakistan, 01-02-2012; Interview with Javed Gill, Chief Labour Advisor, 03-02-2012; Interview with Abdul Ghafoor Baluch, Member Steering Committee, Pakistan Worker's Federation; Mohd Shafiq Ghauri, National Trade Union Federation

<sup>75</sup> Minutes of June 2011 HBWWG.

<sup>76</sup> Interview with Ume Laila Azhar, Executive Director HomeNet Pakistan, 01-02-2012; Interview with Saad Gillani, Senior Programme Officer, ILO Pakistan, 07-02-2012; Uzma Quresh, UN Women Pakistan, 06-02-2012

each province. The strategy employed by UN Women and ILO was to first focus on Punjab and Sindh due to their relatively higher absorptive capacities. Once the processes had been piloted and tested in these two provinces, similar processes were carried out in Baluchistan and KP<sup>77</sup>. Civil society, including HomeNet Pakistan, however, continued to lobby with and advocate in all four provinces.

There have been some trepidations regarding standardization of the labour policy across provinces, given the diversities not just of work done in the informal sector but also cultural, historic and ethnic differences. The provinces, however, are seemingly more inclined towards maintaining uniformity, aiming to work along a similar framework for their policies and driving from the existing draft<sup>78</sup>. Naturally, each provincial policy will have to be adapted to the unique needs of each province. With this in mind, Home Net Pakistan is planning to organize an inter-provincial meeting later in 2012, allowing all the provinces to meet in an attempt not just to standardize the process but also to ensure co-ordination and support to each other<sup>79</sup>.

## **PROVINCIAL COMMITMENTS AND PROGRESS TOWARDS ADOPTION OF A HOMEBASED WORKER POLICY**

The level of commitment and progress has varied in each province and is detailed below.

### **Punjab**

Punjab has made great progress in the recent past towards the formulation of a Provincial Policy on homebased workers and taken the lead amongst provinces. The Chief Minister of Punjab appointed a Task Force with whose personnel Terms of References (ToRs) included drafting and finalization of the Punjab Draft Policy on Homebased Workers. This process was carried out with the active participation and ownership of the Provincial Ministry of Labour, Punjab. In February 2012, the Punjab Ministry of Labour presented the policy to stakeholders in the province and is currently awaiting

feedback before finalization. The Punjab Minister of Labour was also rumoured to be hoping to announce the policy on 8<sup>th</sup> March 2012<sup>80</sup>, a date that has lapsed.

The Punjab Chief Minister has also formed a Provincial Council on homebased workers. The Council's duties include to oversee the Task Force and to continue to work on the issue, once the Task Force is disbanded upon fulfilling its responsibilities. The Council will thereon take the process forward by presenting to the Provincial Assembly and also work towards overseeing the Policy's implementation in Punjab.

The Punjab Ministry of Labour in the last month shared at the meeting<sup>81</sup> of the Task Force, announced that it is working on the drafting on a law on homebased workers and will present a draft law soon.

The situation in Punjab seems to suggest that the process of acceptance of the policy should come to a positive conclusion soon.

### **Sindh**

The Ministry of Labour in Sindh has also taken ownership of the issue of homebased workers. However, it has advanced on policy matters slower than Punjab. While a Task Force has been notified, no meetings have been held in months. However, the Sindh Ministry of Labour had formed a sub-committee of the Task Force, which is drafting Sindh Draft Policy on homebased workers, to be shared and finalized with the Task Force later in 2012<sup>82</sup>. The Sindh Minister and Secretary of Labour both have agreed upon the importance and necessity of holding a meeting of the Task Force soon<sup>83</sup>. The Minister had also requested the Chief Minister to appoint a Provincial Council on homebased workers as has been done in Punjab, which was recently approved, although no notifications have been sent out as yet. The Minister of Labour had also expressed a willingness to announce the policy on 8th March 2012, which has since lapsed<sup>84</sup>.

<sup>77</sup> Ibid

<sup>78</sup> Interview with Rizwan Memon, Director Labour, Sindh Ministry of Labour, 10-02-2012

<sup>79</sup> Interview with Ume Laila Azhar, Executive Director HomeNet Pakistan, 01-02-2012

<sup>80</sup> Interview with Ume Laila Azhar, Executive Director, HomeNet Pakistan, 01-02-2012; Interview with Saad Gillani, Senior Programme Officer, ILO Pakistan, 07-02-2012; Uzma Quresh, UN Women Pakistan, 06-02-2012.

<sup>81</sup> Held on 02-02-2013

<sup>82</sup> Interview with Rizwan Memon, Director Labour, Sindh Ministry of Labour, 10-02-2012

<sup>83</sup> Interviews conducted 10-02-2012

<sup>84</sup> Interview with Sindh Minister of Labour, 10-02-2012

While Sindh has not moved as fast as Punjab on this process, there do not seem to be any reservations on the part of the Sindh government in moving forward on this issue. The attitude of the Minister, Secretary and other representatives of the Ministry of Labour and the Ministry of Women's development also seem to indicate that even if the process is slower than expected, Sindh should soon finalize the policy.

### **Baluchistan**

Although Baluchistan was one of the first assemblies to pass a resolution in favour of homebased women workers it has not come as far as Sindh and Punjab in terms of acting towards policy development. Till the finishing of this report, the Baluchistan Government was on the verge of notifying a task force. They are looking towards Punjab and Sindh to take the lead and to follow from their examples<sup>85</sup>.

### **Khyber Pakhtunkhwa**

Although KP initially shown hesitation on the issue, they too are willing to follow Punjab and Sindh's lead. However, due to lack of capacity and budget restraints, they require financial and institutional support in order to work on this issue<sup>86</sup>.

### **Federal**

Whereas the provincial governments have started the process of drafting and promulgating a policy on homebased workers and in some cases, the drafting of laws for homebased workers, the federal Ministry of Human Resource Development is lobbying within the government for the resolution of the confusions arising out of the 18<sup>th</sup> Amendment<sup>87</sup>.

There has been demand for the restoration of a Federal Ministry of Labour, i.e., Labour should be re-included onto the Federal List. This would ensure that there is standardization and uniformity across the nation on such a fundamental issue<sup>88</sup>.

In the meantime, the question remains whether the Federal Government through the Chief Labour Advisor and/or the Ministry of Labour continues to have the power to pass policies which provinces would be obligated to observe. A query on this has been sent to Devolution Commissions, which have been set up as an interim measure to answer any queries on the distribution of power post-18<sup>th</sup> Amendment. The Chief Labour Advisor has reported that although the query has been sent, the Commission has not yet discussed it or reached a consensus<sup>89</sup>.

There is lack of clarity not just with regard to labour issues but with respect to all ministries as to the processes that will be followed and responsibilities shouldered when it comes to reporting on existing obligations under ratified conventions and treaties and future ratifications (potentially including C-177). Due to devolution, the Federal Government cannot force provincial governments to make laws in accordance with the international obligations ratified by it<sup>90</sup>. There has been no conclusive response to this from the Federal of the Commission. Suggestions on dealing with this include allowing Federal Government to retain the right to make policy on such issues and obligate the provinces to follow the framework laid out within this policy<sup>91</sup>. The ultimate response and any advocacy and lobbying prior to the response are extremely vital with respect to any advocacy campaign on the ratification of C-177<sup>92</sup>.

<sup>85</sup> Interview with Ume Laila Azhar, Executive Director HomeNet Pakistan, 01-02-2012

<sup>86</sup> Ibid

<sup>87</sup> Interview with Javed Gill, Chief Labour Advisor, 03-02-2012

<sup>88</sup> Interview with Tahira Abdullah, Human Rights Activist & author of first National Policy on homebased women workers, 06-02-2012; Interview with Bushra Khaliq, WISE, 31-01-2012; Interview with Abdul Ghafoor Baluch, Member Steering Committee, Pakistan Worker's Federation; Mohd Shafiq Ghauri, National Trade Union Federation.

<sup>89</sup> Interview with Javed Gill, Chief Labour Advisor, 03-02-2012; Interview with Saad Gillani, Senior Programme Officer, ILO Pakistan, 07-02-2012

<sup>90</sup> Ibid

<sup>91</sup> Interview with Javed Gill, Chief Labour Advisor, 03-02-2012; Interview with Saad Gillani, Senior Programme Officer, ILO Pakistan, 07-02-2012; Interview with Tahira Abdullah, Human Rights Activist & author of first National Policy on homebased women workers, 06-02-2012; Interview with Bushra Khaliq, WISE, 31-01-2012; Interview with Abdul Ghafoor Baluch, Member Steering Committee, Pakistan Worker's Federation; Mohd Shafiq Ghauri, National Trade Union Federation

<sup>92</sup> Interview with Kashihur Rehman, Senior Draftsman, Federal Ministry of Law, 03-02-2012

# Chapter VI

## Homebased Work: A Gender or Labour Issue?

The initiative of bringing the issues of homebased workers in mainstream national discourse was from the shared agenda and perspectives of women's rights groups and therefore, focused purely on women. In fact, it was not until the National Policy on Homebased Women Workers was finalized and shared with the MoLM in 2009 that the issue was raised as to its gender specificity and exclusivity. Subsequently, the Policy was made gender neutral and became applicable to all homebased workers.

Homebased workers form a major part of the labour force in Pakistan, albeit informal economy. Although women form the majority of the sector, it does not make the issue purely a 'gender' issue, but rather a labour issue with a gender dynamic.

One of the indirect results of civil society (predominantly women's groups) lobbying on the protection of homebased women workers has been that the issue has not been considered a 'labour' issue. Therefore, civil society's role in this matter has been in some ways detrimental to recognition of homebased women workers as labourers (as opposed to just women working from home) and the exclusion of the sector from the 'labour' framework. This perspective was further exacerbated by the federal Ministry of Women Development (MoWD) initially taking the lead on the matter as opposed to the Ministry of Labour and Manpower (MoLM). While the ministries of Labour & Manpower, Health, Industries and Finance all participated in the consultations and meetings that led to the formulation of the National Policy, they still considered the issue to fall within the domain of MoWD and therefore failed to take ownership of the matter, whenever they did choose to participate. It took a lot of awareness-raising, coaxing and negotiations with the MoLM to take ownership of the first national policy on homebased women workers and deem it as a policy related to labour issues<sup>93</sup>.

Apart from the government, this view was also prevalent in other organizations such as the Trade Unions and Employers' Organizations<sup>94</sup>. The issues of homebased workers were not on the agendas of either group, even as labour issues. They would participate in consultations, meetings and in some measure, the drafting of the National Policy, but the issues facing homebased workers were not recognized, identified or accepted as labour issues to be debated and addressed<sup>95</sup>.

After the promulgation of the 18<sup>th</sup> Amendment, civil society learning from the past, focused on the provincial Ministries of Labour to take the lead on the issue of homebased workers<sup>96</sup>. As can be evidenced from the discussion in the previous sections, the Ministries have in fact stepped in, taking the lead and have recognized the issue as a labour issue, with a significant gender component.

Trade Unions and Employer's organizations, however, have not been as forthcoming. The role of Trade Unions and Employer's Organizations is extremely important. The labour framework of Pakistan, and internationally, requires a tri-partite system to be in place, i.e., trade unions, employers and the government, which co-operate via consensus on all issues relating to labour. It is unfortunate to report that this system only exists on paper in Pakistan. Both trade unions and employer's organizations agree that the only proper tri-partite consultation was conducted by Omar Asghar Khan in the early years of General Musharraf's regime<sup>97</sup>. Although the incumbent government did hold a consultation early in its term, both the trade union and employers organizations termed it as a 'political rally', where there were more political workers present and political speeches made. However, smaller tri-partite meetings and negotiations have been held on particular issues, for example, on the Industrial Relations Ordinances/Acts, but it is still not followed as part of due process<sup>98</sup>.

<sup>93</sup> Interview with Ume Laila Azhar, Executive Director, HomeNet Pakistan, 01-02-2012; Interview with Saad Gillani, Senior Programme Officer, ILO Pakistan, 07-02-2012

<sup>94</sup> Interview with Abdul Ghafoor Baluch, Member Steering Committee, Pakistan Worker's Federation; Mohd. Shafiq Ghauri, National Trade Union Federation; Ehsanullah Khan, Workers Employer's Bilateral Council of Pakistan (WEBCOP), 17-02-2012; Saud Alam, Secretary, Employers Federation of Pakistan.

<sup>95</sup> Interview with Abdul Ghafoor Baluch, Member Steering Committee, Pakistan Worker's Federation; Mohd Shafiq Ghauri, National Trade Union Federation.

<sup>96</sup> Interview with Ume Laila Azhar, Executive Director, HomeNet Pakistan, 01-02-2012

<sup>97</sup> Interview with Abdul Ghafoor Baluch, Member Steering Committee, Pakistan Worker's Federation; Mohd Shafiq Ghauri, National Trade Union Federation; Ehsanullah Khan, Workers Employer's Bilateral Council of Pakistan (WEBCOP), 17-02-2012; Saud Alam, Secretary, Employers Federation of Pakistan

<sup>98</sup> Ibid

Keeping this in mind, whether the system is currently effective or not, it is vital for both Trade Unions and Employer's organizations to recognize and take up the issues of homebased workers, if it is to be popularly recognized as a 'labour' issue and be contextualized within that debate.

While the Trade Unions in particular, recognize the importance of and need to work on the issues of homebased workers, a number of them have divorced themselves from the issue. They hold that because homebased workers are part of the informal sector and do not fall within the laws of Pakistan, the Trade Unions can only advocate on their behalf but not really get involved in seeking solutions to their problems<sup>99</sup>. The common reaction from Unionists is that once the homebased workers organize themselves into a group or take some form of a trade union, they could be provided assistance.

Some views put forth during interviews suggested that the organization of homebased workers would be difficult due to the fact that majority were women, whose right to mobility is often circumscribed by the males in their household or lives. Therefore, the women's groups should continue to take it up as a gender issue as opposed to labour<sup>100</sup>.

It was clearly evidenced that there is no cohesion or consensus of view in the Trade Unions on this matter. It was also found that although some Trade Unions do recognize the importance of the inclusion of homebased workers within the labour framework, there is no compulsion to include this agenda into mainstream labour movement.

It must also be noted at this juncture, that although Trade Unions may acknowledge the issue of homebased workers and even homebased women workers; they themselves fall short of recognizing the need to identify gender issues within the labour movement itself, even in formal economy. This is also evidenced by the lack of women in senior

decision-making positions within the unions, and the lack of gender issues and concerns emanating within the mainstream labour movement. These issues have already been iterated in Chapter 2.

Civil society, however, has continued to work with the Trade Unions towards the recognition and acceptance of their role and obligations of protecting the interests of the informal economy, including homebased women workers. There is resistance to the idea of incorporating homebased workers into their mainstream discourse, but awareness and knowledge-base of these Trade Unions is growing<sup>101</sup>. It is hoped that continued civil society interventions aimed at the Unions will result in wide-spread acceptance or their due towards protecting the rights of these labourers.

The employers' organizations require a lot more work. Divergent views emerged from interviews conducted with these organizations. There was a certain amount of unfamiliarity about homebased workers' working conditions. In one organization<sup>102</sup>, a number of the staff spoken was not even aware of who homebased workers were. This justifies the need for orientation sessions within the employer's organization.

It bears mention there is support from employers' organizations for recognition of homebased workers within the formal sector and the extension of all labour rights to them<sup>103</sup>. In fact, in the Draft Industrial Relations Policy, a document that was presented to the federal government with the consensus of both employers and workers, defined homebased workers and suggested the need for their formal recognition as part of the labour force<sup>104</sup>. Therein, the link between employers and homebased workers has been explored, expanding the concept of employers to include own-account workers as homebased workers in their own right<sup>105</sup>.

<sup>99</sup> Interview with Abdul Ghafoor Baluch, Member Steering Committee, Pakistan Worker's Federation; Mohd Shafiq Ghauri, National Trade Union Federation

<sup>100</sup> Interview with Jan-e-Nisar, Pakistan Kisaan Ittehad

<sup>101</sup> Interview with Ume Laila Azhar, Executive Director HomeNet Pakistan, 01-02-2012; Interview with Karamat Ali, PILER

<sup>102</sup> Employer's Federation of Pakistan

<sup>103</sup> Interview with Ehsanullah Khan, Workers Employer's Bilateral Council of Pakistan (WEBCOP), 17-02-2012; Interview with Saud Alam, Secretary, Employers Federation of Pakistan, 17-02-2012.

<sup>104</sup> Interview with Ehsanullah Khan, Workers Employer's Bilateral Council of Pakistan (WEBCOP), 17-02-2012

<sup>105</sup> Ibid

However, at the same time, there is a point of view which does not see any link between homebased workers and employers' organizations. The impression amongst these organisations is that as homebased workers do not have a strict employer-employee relationship, and the issue does not fall within the purview of employer's organizations. Only if any such a link legally established in some way or form, only then would this issue fall within the domain of such organizations<sup>106</sup>.

It would appear that although the certain employer's organizations do recognize the plight of homebased workers, they do not think it is necessary to take on the agenda themselves. Instead, they look to the civil society to push this agenda forward.

Employers' organizations, however, do not oppose the creation of social security schemes for homebased workers. In fact they encourage these schemes but stress upon the need for homebased workers to make mandatory contributions in order to ensure their own stake in such schemes, i.e. monthly contributions and such.<sup>107</sup>

It must be noted that employers' organizations have not been involved by civil society or the government on the discourse on homebased workers. In fact, the organizations interviewed were not aware of any consultations or even of the existence of a draft (national or provincial) on homebased workers<sup>108</sup>.

It has been stressed by various civil society organizations interviewed and whose literature has been reviewed for this study, as well as donors, that homebased work is primarily a labour issue. It is important to keep the discourse within the context of labour. Any recommendations, development, amendment(s) and/or economic measures to be taken, must be within this larger context. It is important that this be appreciated by all stakeholders, including trade unions, collectives and employers' organizations recognize this fact and start dealing with the issue of homebased workers within this model, place it within the labour movement and prioritize it in any labour consultations and tri-partite meetings that may be held<sup>109</sup>.

The gender concerns of homebased women workers, however, should not be ignored. This includes appreciation and understanding of the fact that certain issues homebased workers face, are gender-specific. HomeNet Pakistan and WISE hold that all stakeholders must also recognize that although the issue is one of labour, there are a great many gender concerns which must be included in any future advocacy and development in this area<sup>110</sup>.

<sup>106</sup> Interview with Saud Alam, Secretary, Employers Federation of Pakistan, 17-02-2012

<sup>107</sup> Interview with Ehsanullah Khan, Workers Employer's Bilateral Council of Pakistan (WEBCOP), 17-02-2012; Interview with Saud Alam, Secretary, Employers Federation of Pakistan, 17-02-2012

<sup>108</sup> Ibid

<sup>109</sup> Interview with Ume Laila Azhar, Executive Director HomeNet Pakistan, 01-02-2012; Interview with Bushra Khaliq, WISE, 31-01-2012; Interview with Karamat Ali, PILER

<sup>110</sup> Interview with Ume Laila Azhar, Executive Director HomeNet Pakistan, 01-02-2012; Interview with Bushra Khaliq, WISE, 31-01-2012

# Chapter VII

## Policy on Homebased Worker Versus Ratification of ILO Convention 177

As referenced in earlier chapters, the initial work around homebased workers included advocacy and lobbying with the government for the ratification of ILO Convention 177. However, post-devolution, the issue of ratification of C-177 has been relegated to the backburner. Instead, the policy on homebased workers is seen to be the primary agenda of the government, as well as civil society, NGOs and donors on the issue of homebased work.

Keeping in mind the paramount importance of C-177 as an international convention that sets ideal rights standards for homebased work, and that its ratification necessitates a national legislation on the issue, it is important to have a multi-pronged strategy focusing not just on the Policy, as has been done, but also on the ratification of C-177.

Civil society has attempted to push the government towards the ratification of C-177. However, there were certain breaks in these attempts. For example, there was never concrete work plan developed for advocacy around C-177's ratification developed via consensus within the civil society. Further, previous strategies focused on both the policy and C-177 but no independent emphasis was placed on the ratification of C-177. Problems also arose when homebased work was initially being regarded predominantly as a 'gender' issue. The exclusion of trade unions, employers and delinking it with other labour issues resulted in homebased workers not being part of the mainstream labour movement. There was and still is no concurrence or attempts to achieve unanimity among stakeholders on lobbying with the federal government for C-177's ratification strategy<sup>111</sup>.

As mentioned earlier, prior to devolution, the sensitivity and awareness within the MoLM resulted in the MoLM agreeing to lobby with the government to ratify C-177. However, with devolution, this agreement was rendered void.

Since then, questions relating to modalities of C-177's ratification have not been concertedly raised or debated. While trade unions and certain members of civil society do press it as one of their primary

demands, serious advocacy on the issue was not identified during this research.

The remaining of this section examines this strategy and identify whether and how to re-launch advocacy around C-177's ratification.

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The Government of Pakistan has had several reservations<sup>112</sup> on ratification of C-177, as already mentioned in Chapter II. This chapter takes the discussion further and reiterates some of the findings mentioned in earlier chapters.

Government apprehensions to ratify C-177 include financial repercussions which the Government may not wish to or be in a position to bear, particularly when it comes to registering homebased workers on a national scale. The costs seem even more formidable given high levels of debt-servicing each year, a faltering economy, rising inflation and political unrest.

Further, the dimensions of the issue of homebased workers are incredibly wide. The stakeholders that include employers, employees, trade unions; have not reached complete understanding or agreement on all aspects of homebased work or problems specific to the persons engaged in this kind of work.

The reporting requirement would also place further obligations on the government that can barely handle the existing reporting obligations.

Additionally, there has been little international pressure on ratification of C-177. The convention does not seem to garner the same support as other conventions have in the past. In fact, only 8 countries have ratified the convention thus far, and no South Asia is in that list. Without international pressure, including ILO pressure as noted above, and very few examples of ratification by other states or even neighbouring countries, the GoP does not feel compelled to ratify the Convention.

There are also a number of internal issues Pakistan is struggling with. The devolution of 2010 has brought in more discord on some counts than harmony. One of the issues raised has been related to the compliance

<sup>111</sup> Interview with Ume Laila Azhar, Executive Director, HomeNet Pakistan, 01-02-2012

<sup>112</sup> These reservations have been consolidated from interviews conducted with Javed Gill, Chief Labour Advisor, 03-02-2012; Tahira Abdullah, Human Rights Activist & author of the first National Policy on homebased women workers, 06-02-2012 and Ume Laila Azhar, Executive Director, HomeNet Pakistan, 01-02-2012

and implementation of existing international obligations and any potential future international obligations, such as C-177. With the federal government not being able to obligate provinces to implement these laws, implementation is difficult if not impossible. One of suggestions raised at this point has been that the federal government retains the power to create a policy framework on any international obligation, which must be followed by the provinces. However, without any such powers being notified, the situation remains unclear. In such an ambiguous scenario, the Government of Pakistan would be reluctant to take on any further international obligations<sup>113</sup>.

In view of these reservations and reluctance on part of the Government, the ILO, UN Women, HomeNet Pakistan and other members of civil society have therefore adopted the strategy to focus on the Policy as opposed to ratification<sup>114</sup>.

Ninety percent of the Policy on homebased women workers is based on C-177. Therefore, by promulgating the policy, the Government is on its own account obligating itself to the majority of the provisions identified in C-177. Hence, support of the policy would in essence result in the same obligations being laid upon the Pakistani government as enshrined in C-177<sup>115</sup>. However, a Policy does not in itself provide a system of social and economic justice.

The ILO in Pakistan states that the ILO places pressure on governments to ratify the core International Labour Standards (ILS). However, with regard to conventions that do not fall within the ILS, the ILO encourages, but does not pressurize governments to ratify these. Such is the case with C-177. The ILO, along with several members of the civil society, introduced the question of ratification of C-177 into the discussions with the GoP. However, the government resistance to ratification led ILO to focus on the national Policy instead of pushing for C-177 ratification. The ILO also feels that if a country is allowed to develop its own mechanism and laws on the issues, the country would not only be more open to ratification, but it would also be better placed

to report on the issue and follow any comments, guidance and instructions<sup>116</sup>.

This strategy was partially adopted as there was fear that pushing for ratification at this point would not only affect the relationship between ILO and the government. It could affect latter's willingness to ratify and ownership of the Ministry of Labour over the issue. Given that it took substantial time and effort to lobby with the federal and provincial ministries of labour to even recognize the issue of homebased workers, to push for C-177's ratification would jeopardize the progress achieved thus far<sup>117</sup>. As per UN Women, Pakistan, it is as important to focus on achieving significant milestones in the form of a National Policy as opposed to lamenting the issue of C-177's ratification<sup>118</sup>. Also, once the policy is adopted, the Government may also be more amenable to ratification of C-177<sup>119</sup>.

The federal Ministry of Human Rights (MoHR), while focusing on the policy, is lobbying with the federal government for C-177's ratification. The MoHR worked towards the announcement of the Policy by the Prime Minister on 8th March 2012 which never transpired. It is important to note that it also promised to 'convince the government to announce eventual ratification of C-177'.

It is also important to recognize that even if the Policy is being prioritized over ratification, it is vital to steer the government towards eventual ratification. The adoption of policy cannot be a single and isolated event.

Additionally, a forward-going strategy must be put in place which includes advocacy on ratification of C-177. It is necessary to start building awareness, support and build linkages for advocacy around C-177 with active involvement of and participations from critical stakeholders including both federal and provincial governments, the district and tehsil level governance systems, trade unions and employers' organizations. This background work and preparation will eventually not only make C-177 more acceptable, more familiar but also more logical to ratify.

<sup>113</sup> Interview with Javed Gill, Chief Labour Advisor, 03-02-2012

<sup>114</sup> Interview with Ume Laila Azhar, Executive Director, HomeNet Pakistan, 01-02-2012; Saad Gillani, Senior Programme Officer, ILO Pakistan, 07-02-2012; Uzma Queresh, UN Women Pakistan, 06-02-2012

<sup>115</sup> Ibid

<sup>116</sup> Interview with Saad Gillani, Senior Programme Officer, ILO Pakistan, 07-02-2012

<sup>117</sup> Ibid

<sup>118</sup> Interview with Uzma Queresh, UN Women Pakistan, 06-02-2012

<sup>119</sup> Interview with Ume Laila Azhar, Executive Director, HomeNet Pakistan, 01-02-2012; Saad Gillani, Senior Programme Officer, ILO Pakistan, 07-02-2012; Uzma Queresh, UN Women Pakistan, 06-02-2012

# Chapter VIII

## Recommendations on Potential Strategies for Ratification of ILO Convention 177<sup>120</sup>

As is evidenced from the discussions in previous chapters, there has been a great deal of work with respect to the policy on homebased workers in Pakistan. In recent years, the ratification of C-177 has however not been prioritized by either the State, the provincial governments or civil society, bring a handful of organizations. The current situation seems to indicate that the policy on homebased workers should soon be adopted by at least 2 provinces: Punjab and Sindh. Reports suggested that the Prime Minister was ready to announce a policy on homebased workers on 8th March 2012 (International Women's Day) which has long since lapsed.

With respect to this, as well as the opinions of the civil society, NGOs and donors working on the issue of homebased workers in Pakistan, it is necessary to start working towards the ratification of C-177. There are two possible methods to work towards this.

The first approach would be a direct approach to start lobbying with the government, opposition and individual parliamentarians to ratify C-177.

The second approach is a more indirect, would probably take a longer period of time and is the perpetuation of the strategy being observed. This approach would also be useful in a country like Pakistan where there is recurring political unrest.

By working to institutionalize some of the mechanisms that would follow ratification, support can be gathered by providing knowledge and information within existing institutions and individuals on the issues involved and their expected magnitude. This approach would be sustainable no matter which political party is in power. It would include working within the relevant actors in the Government of Pakistan (GoP) on every level to build support and recognition of homebased workers, establish local mechanisms and institutions in

Pakistan that would raise awareness on the issue and also empower and assist mobilization of the homebased workers, reduce the discrimination against them and provide and protect their rights. While this may not entail direct lobbying with the government on C-177, it would lead to a more conducive environment to initiate strategic dialogue that would encourage the Government of Pakistan to ratify C-177 and reduce its apprehensions and reservations to the same.

Programmes under this strategy would include focus on health initiatives with homebased workers. Identifying the health and occupational hazards issues in specific areas and work towards not just providing them medical care, but raising their awareness to occupational health and safety, providing them medical care as well as equipment to help protect themselves during their work.

Other initiatives could include provision of free education to children of homebased workers, as well as adult literacy classes which would include not just basic education, but also technical training on marketing, product management etc.; registration of homebased workers; creation of collective and/or enterprises to raise their voice on behalf of the informal sector and homebased workers.

This strategy would have organizations in effect implementing the provisions of C-177 itself. It is hoped that once a body of work that can be evidenced is seen to be successful, the government will be a lot more willing to ratify C-177 where it can be seen as a success story. Civil societies' past experiences, especially with regard to the national Policy, demonstrate that the government may be more willing to work on home-grown, local projects as opposed to any international obligations. Strategies must be developed, keeping in the mind the necessity for local initiation and ownership of any project.

<sup>120</sup> Recommendations based on all the interviews conducted.

# Chapter IX

## Recommendations

This segment contains recommendations, based on preceding discussions, interviews, and experts' opinions in Pakistan regarding four major issues in homebased work and pertaining to homebased workers: The ratification of C-177, the recognition and registration of homebased workers, legislation, labour force surveys & census and some general recommendations.

### ILO Convention C-177

- Provinces need to build their understanding and appreciation of C-177. The pressure on the Federal Government for ratification must come from the provinces alongside civil society. It is imperative to educate and work with the provinces in this respect.
- The ratification of C-177 must also be advocated from mainstream labour movement. The trade unions and employers organizations must both be brought on board. There is a concern that the Government sees the trade unions as adversaries as opposed to partners. This mistrust must also be alleviated by increasing dialogue. The tri-partite system must fall into place again and address labour issues from across sectors.
- A consensus on how to deal with all dimensions of homebased work must be reached in order for the development and proper implementation of any policy, law or plan of action. Civil society can play the role of the facilitator in this respect.
- There is a need to pressurize the Devolution Commission to give priority to this, the query submitted by the CLA and give its response at the earliest.
- The Federal Government may be allowed to retain powers to make policies on international conventions, which will be obligatory on the provinces.
- There needs to be international, and specifically regional pressure built for ratification of C-177. This requires advocacy on a regional and international scale.
- The Government also needs to be assured that the ratification will not have a negative impact on the country. In this respect ILO and UN Women have set up 5 pilot projects in Pakistan which amongst other obligations, also register homebased workers. The main purpose of these projects is to show the Government that the process of implementation is not as daunting as it seems. Assistance could be provided to these projects. Other similar projects must also be instituted in collaboration with the Government in order to allay the Government's fears and maintain its involvement.
- The Government may be encouraged to be international and regional champions of homebased workers as being the first country in South Asia to ratify C-177. This strategy has to involve all pertinent stakeholders including trade unions, the government, civil society, homebased workers and the employers' federations.
- There needs to be mass mobilization of public opinion that favours the ratification of C-177. This requires awareness, capacity building and understanding of C-177 amongst the stakeholders and the public at large, prominently homebased women workers themselves. In this regard, media, particularly electronic media must be involved as a strategic partner.
- Awareness of C-177 needs to spread through sharing the text of the Convention and details of what it comprises. This makes it necessary to translate the text of C-177 into Urdu and regional languages for wider distribution.
- A handbook should also be developed with the text and explanation of the importance and benefits of ratification of C-177 for millions of Pakistani workers.

## **Recognition & Registration of Homebased Workers**

- Efforts must be made with trade unions and employers' federation to make them aware and for them to highlight the issues of homebased workers in their mainstream activities and agendas. This could include sensitization & awareness raising sessions, capacity-building and gender mainstreaming within their policies.
- Trade unions and employers' federations must be enabled to support the Policy on homebased workers and lend efforts towards its effective implementation. Trade unions require orientations, gender sensitization, capacity building and alliance-building.
- Efforts need to be made on the part of all stakeholders towards the reinstatement of a regular and productive effective tri-partite system, which also include homebased workers.
- Trade unions and employers' federations can be instrumental in working towards an overhaul of the labour law system and the drafting, formation and effective working of a parallel justice system within labour law for homebased workers.
- A workable system needs to be evolved for registering homebased workers on the basis of sectors. For this purpose, it is necessary to start the organization of homebased workers in groups in order to prepare them for registration once the process starts.
- The local government system needs to be revived which could reach out to homebased workers on a town-level, allowing for rich micro-data.
- Thirty is the minimum number of people required to register a Co-operative. Every district has a Co-operative Department. The registration of homebased workers working in this fashion is thus greatly facilitated and should be utilized. However, the role of those supporting the formation of co-operatives such as NGOs or any other party must be monitored to avoid exploitation of workers.

## **Legislation**

- The Government must work towards consolidating and updating labour laws in line with international commitments and international labour standards.
- Homebased workers and other informal workers must be given formal recognition and legal protections, the same as the formal workers, but with due attention to their specific needs.
- Industrial Relations Act, 2010 can be modified to achieve formal recognition for homebased workers: the classifications of work need to be redefined to include work done at home; the workplace needs to include the home; and the employer needs to be identified to include contractors and sub-contractors commissioning homebased workers. This will, however, not provide legal protections to homebased workers.

## **Labour Force Survey & Census**

- The primary methods of data collection in Pakistan must be updated and modified to ensure the recognition and inclusion of homebased workers and other informal sector workers.
- The methodology and tools used by any department collecting data or carrying out census must be re-evaluated to insert a provision for homebased work under 'profession'. This has already been committed to be the government under the National Policy on Homebased Workers, 2009.
- The personnel of these institutions must also be given special training, including gender sensitization to ensure they ask the right questions to get the greatest amount of information.

## General Recommendations

- Compliance-check mechanisms in labour laws that are not operational should be given due attention. Examples include labour inspections, which Sindh and Punjab (Industrial Relations Act, 2010) have stopped through provincial legislation. Not only is it imperative these checks be reinstated but there should also be inclusion of female labour inspectors and culturally sensitive males in the inspective teams.
- Focus needs to be laid on issues relating to women's mobility and access to the market places.
- Co-operative should be promoted and established in Pakistan as they allow women to work within their communities in collectives and provide them more visibility and chances for building organisational abilities.
- The issues of homebased workers must be mainstreamed through the political systems and in political/public discourse. It is important to start working with the labour committees of prominent political parties. Proactive politicians need to be encouraged, engaged and made more aware across party lines.
- A revised Labour Policy must be drafted with full participation and consensus of trade unions, employers, government and workers from the informal sector.
- Capacity-building and sensitization of provincial departments and district-level offices is necessary in terms of legislation, proper utilization funds for existing support systems, raise awareness and provision of efficient services. Capacity-building of the labour departments through orientations and trainings, especially on International Labour Standards and C-177, are required, with regular refresher courses.
- Focus is needed on the inclusion of women in decision-making positions, especially within trade unions.
- Independent Commissions in all provinces must be formed to oversee the formalisation of the informal sector, drafting, promulgation and implementation existing of laws. The Commissions need to have extended outreach, i.e., national, provincial and district, with proper co-ordination. It must be tripartite and include the workers, employers, homebased workers, trade unions, government, civil society, and all other relevant stakeholders.
- Tripartite partnership within the ILO must include informal sector representation from Pakistan. Even if the informal sector participants are invited as observers initially, they will gradually increase their participation once they are better acquainted with the system.
- The South Asian Alliance for Poverty Elimination (SAAPE) rejuvenated South-Asian workers and introduced the ratification of ILO Convention 177 and 189 into the regional discourse. HNSA needs to push the agenda of ratification of both these conventions at this level. International, regional and national movements all need to infuse the issues of homebased workers into their agendas and campaigns.

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- Ehsanullah Khan, Chairman, Workers Employer's Bilateral Council of Pakistan (WEBCOP).
- Farhat Parveen, CEO, NOW Communities.
- Farida Memon, Program Officer, Aurat Foundation.
- Jan-e-Nisar, President, Pakistan Kisaan Ittehad.
- Javed Gill, Federal Chief Labour Advisor.
- Karamat Ali, Executive Director, Pakistan Institute of Labour Education and Research (PILER).
- Kashihur Rehman, Senior Draftsman, Federal Ministry of Law.
- Mohommed Shafiq Ghauri, National Trade Union Federation (NTUF).
- Mussarrat Jabeen, Deputy Secretary, Women's Development Department, Sindh.
- Nasir Mansoor, Director, Labour Education Foundation (LEF); Deputy General Secretary, NTUF.
- Rehana Hashmi, ex-Project Director, GRAP.
- Rizwan Memon, Director Labour, Sindh Ministry of Labour.
- Saad Gillani, Senior Programme Officer, ILO Pakistan.
- Saud Alam, Secretary, Employers Federation of Pakistan.
- Amir Nawab Khan, Sindh Minister of Labour.
- Tahira Abdullah, Human Rights Activist & author of first National Policy on homebased women workers.
- Umme Laila Azhar, Executive Director, HomeNet Pakistan.
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