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STUDY ON ADVOCACY EFFORTS FOR VISIBILITY IN PAKISTAN



Abbreviations

Aurat Foundation	AF
Convention on the Elimination of All Forms of Discrimination against Women	CEDAW
Gender Reforms Action Programme	GRAP
Homebased Workers	HBWs
Homebased Women Workers	HBWWs
HomeNet Pakistan	HNP
HomeNet South Asia	HNSA
International Labour Organisation	ILO
Ministry of Labour and Manpower	MoLM
Ministry of Women Development	MoWD
United Nations Fund for Women	UNIFEM
United Nations Commission on the Status of Women	UNSCW
Women in Informal Employment Globalizing And Organizing	WIEGO

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The views expressed in this study are those of the Research Institute, and do not necessarily represent the views of Homenet South Asia or any affiliated organizations.

Contents

Disclaimer.....	04
Background.....	05
Structure of the Study.....	05
Methodology.....	05
Acknowledgements.....	05
PART 1.....	06
Tracking the Process of Formulation of National Policy on Home based Workers.....	07
Participating Organizations.....	08
Content Development.....	09
Issues, limitations and Challenges.....	09
Understanding Stakeholders Role in Policy Formulation and Future Implementation.....	12
PART 2.....	16
Creating a supportive environment for Policy to become a law.....	17
Strengthening alliances for stronger advocacy on Policy and for its enactment as law.....	18
Strengthen the platform to advocate for policy.....	19

Disclaimer: This report, supported by the Homenet South Asia has been prepared by the Pakistan Institute of Labour Education and Research (PILER) in year 2010. The study prepared by PILER is meant to trace the process of the formulation of the policy on Homebased Workers in Pakistan, understand roles of different stakeholders involved in policy-making and outline future way forward for translating the policy into legislation and realising its implementation. The study has been developed based on available information/data related to the issue, one-on-one interviews, and consultations with those involved in the process of policy formulation as well as other stakeholders whose future contribution is important to the implementation of the process. Effort has been made to ensure coverage of all aspects related to the topic.

Background: The government of Pakistan recognizes that there are 8.52mn HBWs in the country, making up 17.5% of the country's 50mn plus labour force. The proportion of women in the homebased sector is 65%. Pakistan earns \$50mn in dollar exchange out of this industry alone by way of the country's contribution (80%) to the world's match-grade footballs. Pakistan's HBWs, an integral part of the informal sector of the economy, are not covered by any labour legislation or social security measures as they work in extremely compromised conditions on abusive terms, while accepting an undervalued price for their labour. The state and policy-makers have, for years, ignored this important sector, keeping it out of the loop of legislation and law implementation.

Despite their challenging circumstances, Pakistan's HBWs have made reasonable progress moving their way up the policy-making agenda. Being a relative newcomer in the worldwide movement of HBWs and of formal activism, the sector has travelled significant distance in the last two decades in terms of awareness and negotiation of their rights. Organisations promoting women's rights and workers rights must be credited for their untiring efforts to mobilize the HBWs and engaging the state to bridge the access gaps that have hurdled visibility and policy-making efforts covering HBWs. HomeNet Pakistan is also a member of the HomeNet South Asia. The HomeNet Pakistan, earlier a sister concern of Aurat Foundation, is successfully doing the job of mainstreaming the HBWs, coordinating their activities and promoting networking, linkages and joint lobbying at the levels of public forums and policy-making corridors.

Regardless of the current position of HBWs in the national policy order as well as in the domestic labour structure, the journey of Pakistan's HBWs, from being an invisible entity to a formidable force securing serious attention from general public as well as the state, is worth comprehending. The National Policy for Homebased Workers has played an important role in this regard as the long-drawn process of its formulation, development of consensus on key items and the processing of the policy from the drafting stage to reviews by executive offices to action in legislative corridors has aroused the interest and commitment of stakeholders to the cause of the HBWs. The brief study undertaken by the Pakistan Institute of Labour Education and Research, supported by the Homenet South Asia aims to trace the policy formulation process, roles of different stakeholders involved in the policy-making and future way forward for translating the policy into legislation. The study incorporates reading material comprising official documents and exchanges between stakeholders for policy formulation, interviews with individuals and organizations involved in the process and observations from a broad-level consultative meeting facilitated by the HomeNet Pakistan to gather information on the subject.

Structure of the Study: The study has been divided into two sections. In the first part, we attempt to track the process leading to the formulation of the policy on home based workers. The section covers role played by lead organisations/bodies, the process of content development, challenges and issues that emerged during the course of policy formulation and after the submission of the policy to the government, and the role of advocacy efforts in expanding the visibility of home based workers.

In the second section, we seek to explore the way forward with regards to stepping up the process of policy advocacy and development of policy into legislation.

Methodology: The study is meant to trace the process of the formulation of the policy on Homebased Workers in Pakistan, understand the roles of different stakeholders involved in policy-making and outline future way forward for translating the policy into legislation and realising its implementation. The broad scope of the study necessitated primary research as well as drawing of resources from secondary data. This is to develop a clear understanding of the background, the structure and issues of the Homebased Workers entities; Pakistan's political, economic and constitutional framework; and roles and positions of key stakeholders involved. The study has been conducted incorporating interviews; consultations with stakeholders including Homebased Workers, civil society members, parliamentarians, legal experts and media; drawing of data from existing literature; deliberations from meetings of the working groups; as well as collective and individual interaction with government officials and stakeholders.

Acknowledgements: We are grateful to civil society organizations especially the Sungi Development Foundation and the HomeNet Pakistan for their assistance for the study. Rights activist Ms Tahira Abdullah, ILO Pakistan Office, UNIFEM representatives, officials at the former Ministry of Labour and Manpower, and members of the Homebased Workers community too contributed their input for the study. We are grateful to them for their time and contribution.

STUDY ON ADVOCACY EFFORTS FOR VISIBILITY IN PAKISTAN

PART 1

Tracking the Process of Formulation of National Policy on Home based Workers

The Kathmandu Declaration on Homebased Workers in 2000 attended by representatives from South Asian governments, NGOs and trade unions identified the importance of formulating a national policy on homebased workers as per ILO Convention 177, provision of minimum protection, remuneration, health and safety, and child care services. The Declaration is considered to have played an instrumental role in pushing for the organization of the Homebased Workers (HBWs). Following the Declaration, a number of initiatives were launched incorporating mapping of organizations, formation of networks, building alliances with trade unions and media, conducting surveys and studies, political consultations at the federal and provincial levels, and holding of dialogues with stakeholders. The 2007 Regional Conference on 'Women, Work and Poverty' tried to address the issue of HBWs in the presence of policy-makers from five countries. At the Delhi conference in 2007, the template for the national policy was presented by the Homenets.

The Delhi Charter 2007 urged for national policy on homebased workers. After the Delhi Policy Conference, where Pakistan was represented by the Sungi Development Foundation, HomeNet Pakistan (HNP) and the Ministry of Women's Development (MoWD), the initiative directed towards framing a national policy for the women HBWs was launched. This process was led by Sungi, the HNP, along with its partners and Aurat Foundation. These organizations collaborated with the Ministry of Women's Development to develop a formal policy on HBWs.

The government and legislators too took an active interest in the policy formulation. The MoWD made a commitment to the UNSCW while reporting on CEDAW in May 2007, that it would work on the issue of HBWWS with the UNIFEM. During 2007, Sungi together with Action Aid Pakistan organized a series of consultations to bring into public discourse the regional recommendations that were drawn out from a 2006 WEIGO General Assembly in South Africa on the issue of social protection and data collection on HBWs. These consultations were held with HBWWS, entrepreneurs, government officials, line departments, parliamentarians, civil society organizations, private sector and the media. The consolidated findings/recommendations of these consultations were presented to the MoWD as an input for the national policy on HBWWS. This was followed by convening of a meeting by the Chairperson of the Parliamentary Standing Committee on Women's Development in 2007. The meeting aimed at sharing the outcomes of HBWs consultation and to obtain inputs for formulation of a National Policy on Homebased Workers. The meeting was attended by the Standing Committee's member women

parliamentarians belonging to leading political parties along with top officials of the MoWD, Health, Labour, and education. UNIFEM, Homenet Pakistan and Sungi were invited as observers. Following the meeting, the Ministry of Women Development requested Sungi's assistance to prepare a draft national policy on Homebased Workers.

Noted rights activist Ms Tahira Abdullah, based in Islamabad, was contracted to draft the policy in 2007.

The process of policy development (drafting and consultations) ran from 2008-2009. During this time, consultations for inputs and situation review were carried out with Homebased Workers, relevant government departments, and NGOs. According to HomeNet Pakistan, these consultations were held on national, provincial and district levels involving homebased workers from 70 districts. In June 2007, a two-day national consultation was organized by Sungi and UNIFEM on request from the MoWD to bring together relevant stakeholders to contribute inputs to the policy. The suggestions and inputs drawn from all these consultations were incorporated in the draft and presented before a group of experts and major stakeholders gathered at the South Asian consultation in Islamabad on 14-15 October 2008.

In year 2009, the draft policy was finally handed over to the Ministry Of Women Development. The draft policy was later moved to the Ministry of Labour and Manpower. Though initially, there was little action to process the policy, the Ministry finally moved to take the policy out of the official corridors to send it to the Cabinet for approval. For this purpose two meetings were organized in the month of October 2010. This included a meeting of the Homebased Workers Working Group with the Central Labour Advisor in early October 2010 followed by another meeting with ILO representatives three weeks later. According to information, the government officials expressed some reservations on the definition and certain aspects of the policy, such as employee-employer relationship and the role of the tripartite commission. The Ministry had reportedly sought views from the Homebased Workers representative bodies after which the policy was to be sent for cabinet review.

1. Recognising and Supporting Homebased Workers: South Asia Regional Consultation on National Policy for Homebased Workers in Pakistan, International Labour Organisation, ILO Office, Pakistan, 2010.

2. As mentioned by Director HNP Ume Laila in a consultation held for the purpose of the study on Nov 5, 2010 in Lahore.

Participating Organizations

There are four organizations that led the process of policy formulation and development. These include:

UNIFEM : UNIFEM works with Governments, NGOs, UN and other development organizations, to promote gender equality and women's empowerment. In accordance with its mandate, UNIFEM plays a catalytic role triggering the national women machineries to deliver on gender equality commitments. UNIFEM's programme on economic security and rights titled, "Towards Gender Equality: Women's Economic Empowerment - Homebased Workers' includes visibility of HBWs, advocacy of their issues, and strengthening the HBWs at the grassroots level. UNIFEM also worked with the MoWD, MoLM, legislators, parliamentarians, UN agencies, civil society organizations etc by providing technical and financial support to develop broader consensus on HBWs policy.

Sungi Development Foundation : The Sungi Development Foundation is a rights-based organization that focuses on the ultra poor, marginalized and vulnerable groups of society, to promote equal and unbiased distribution of resources to people. The Organisation has an Enterprise Development Programme which focuses on advocacy for the rights of the homebased women workers. Sungi also served as secretariat for the Working Group on HBWs. This is a national level forum for lobbying on legislative reforms for homebased workers and promoting their rights.. On the basis of Sungi's direct experiences in the field, the Ministry of Women Development, in collaboration with the UNIFEM, requested Sungi to take up the coordination role and prepare a draft National policy on Homebased Women Workers.

HomeNet Pakistan : HNP is a network of organizations working for the labour rights of Homebased Workers. HNP, registered in 2005, is a member of the HomeNet South Asia set up by the UNIFEM, WIEGO and HomeNet International. HNP has 400 members including community organizations, NGOs, microfinance organizations and research institutes. As a body focusing exclusively on HBWs and as a part of UNIFEM initiative, HNP has been naturally involved in the formulation and follow up of the policy for HBWs.

Ministry of Women Development : The MoWD made a commitment to the UNCSW while reporting on CEDAW in May 2007, that it would work on the issue of HBWWs with the UNIFEM. The MoWD directly and through its department, GRAP remained involved with the process of policy formulation. However, its role appeared to have stayed that of an actor mobilizing the government departments for contribution related to policy formulation, organizing meetings and pushing for broader consultation. The tasks of consultations and the formulation of the policy

were primarily carried out by the HNP and Sungi supported by the UNIFEM. Being a planning and monitoring body, the MoWD was not mandated to carry out implementation of policies and legislation. The policy was moved to the Ministry of Labour and Manpower for action on processing of the document through the government departments and for presentation to the Cabinet.

ILO : The ILO has been providing technical assistance to Pakistan on issues related to labour standards and administration. The ILO was approached for technical assistance and inputs after the preparation of earlier drafts of the policy. An expert at the ILO headquarters was engaged to provide inputs on the policy. After the preparation of the policy, the ILO engaged the Ministry of Labour to process the policy for presentation before the Cabinet.

Content Development

The task of drafting the policy on HBWs was assigned to Ms Tahira Abdullah in summer 2007 by the Sungi Development Foundation (in collaboration with the HNP, while the UNIFEM supported the process). Apart from primary research and data collection, the draft incorporated position papers on the subject from SAARC countries, and official documents and related position papers from Pakistan. Extensive inputs were also drawn from consultations and interviews with the federal and provincial governments and parliamentarians, semi government institutions, financial and training institutions, NGOs, lawyers, civil society, women's rights activists, homebased women workers, trade unions, employers' federations, donor agencies, and UN entities. Data collection and consultations started in 2007 and ended in 2008. The draft Policy was presented at a South Asia Conference by HNP/AF/Sungi in October 2008. Based on feedback and comments received, it was revised in December 2008 and January 2009.

The first draft prepared and submitted by Ms Abdullah was titled 'National Policy on Homebased Women Workers'. The title and the content were modified at a later stage (after Ms Abdullah's contract ended) by Sungi and HNP to convert it into National Policy on Homebased Workers. The stream of consultations to draw consensus on the policy resulted in eight drafts.

The primary recommendations in the policy includes: recognition of HBWs as workers, advocating their registration, right to unionise and form association, the sectors' inclusion in labour and employment policies and legislation, provision of minimum wages, access to credit, land ownership and permanent assets and access to markets; and government intervention for policy implementation.

3. As informed by Ms Tahira Abdullah in an interview with the author.

4. As informed by Sungi representative.

Issues, limitations and Challenges

Developing Policy Content and Travelling the Implementation Road : The development of content for policy on a sector that is neither organized nor recognized as formal labour is a challenging task. It was important for the policy to exhibit balance between its aspirations to cover the existing gaps that make this sector a hidden entity, yet set realistic goals to enable the HBWs to make a comfortable move towards a rights based framework. Another important challenge was to emerge in the form of involvement of a broad range of actors in policy making including donors, international labour authorities and the government circles each wishing to represent their stated standards and agendas in the policy document.

Key issues related to content and content development appear to be in the areas of definitions, availability of accurate figures on the HBWs, inclusion of certain sectors representing informal sector, incorporation of relevant government departments for the implementation of the policy and then emerging developments following the 18th Amendment that grants greater autonomy to provinces redefining federal and provincial governments' roles in policy formulation and implementation.

Definitions : In terms of definitions, it is difficult to draw clear boundaries on what constitutes HBWs. Key challenges relate to 'Own Account Workers' that could be seen as a case of self-employed entities. Since there are separate regulations covering employers and employees, registering HBWs according to their status means separate provisions of entitlements (such as social security) and laws. This could become a stumbling block since the HBWs, even when self-employed, do not enjoy the same privileges as regular employers do. In case of HBWs being treated as workers, the state, as the policy stipulates, will have to register the HBWs concerned for social security and other benefits. In such a case, similar provisions for self employed entities become unclear.

Another issue which is significant in Pakistan's context is the exclusion of the agricultural sector which constitutes the highest proportion of informal sector activities in Pakistan. If the definition of HBWs according to C-177 is followed, exclusion of agriculture workers - a large proportion comprises women and children doing homebased work - deprives a significant section of the population from benefitting from the provisions of the policy. Since the agriculture sector employs 45% of the population, and the workers in the sector are not covered by any existing policy/laws in Pakistan, their exclusion is a cause of concern for workers rights groups. However, there is also agreement that for practical purpose, it is not possible to extend the ambit of this policy to the agriculture sector that requires a comprehensive set of laws and policies for protection of the rights of the workers.

The absence of agreement on definitions may have been one of the factors complicating the process of policy approval from the government side subjecting the document to a long drawn to-and-fro round of comments, reviews, revisions and re-consultations.

Figures and Statistics : For content development, the issue of figures and statistics too constitutes an important challenge. Neither the Labour Force Survey nor the population census covers Homebased Workers as separate category of workers, making accounting for this sector an extremely difficult task. Absence of authentic data has also been indentified as a key challenge by the actors involved in drafting of the policy, including the author herself. According to estimates, the informal sector accounts for 73% of employment in main jobs outside agriculture sector. The policy draft mainly utilizes the Pakistan Institute of Development Economics figures which point to the presence of 8.52million homebased workers representing 60% of the women workforce of Pakistan.

Technicalities : In terms of technicalities, issues such as registration of workers – with the onus being placed on the state to steer the process - will remain an important challenge. It has been argued that the state's limited capacity to register and deliver social protection to formal workers does not make a strong case for an ambitious venture of registration of informal sector workers, in such large proportion. The state's inability to regulate labour in the private sector, most of which is on contract and a redundant labour inspection policy also casts doubts on its ability to fulfil 'Equal and Fair Treatment in Private Sector' provision in the Policy.

Local Government : The Policy envisages broad role for Local Government for implementation of the provisions. The Local Government system has been suspended since 2009-10 and its future is still unclear due to limited political consensus on its mandate and functions. This hangs as a question mark for the future of the Policy.

Constitutional Reforms : The Constitutional Reforms or the 18th Amendment (popularly known) - which has modified more than 100 sections of the 280-article Constitution - in summer 2010 is seen as a major step in Pakistan's constitutional history that will have a "profound impact on the way the country is governed and its economy is managed." Though the history and process of the Reforms is beyond the scope of this study, for the purpose of its impact on the policy for HBWs, it is important to visit the relevant provisions since the it would be influencing fundamental laws including labour legislation and its implementation.

Key highlights of the Reforms include : Strengthening of provincial economic, legislative and administrative autonomy; expansion of fundamental rights; empowering of the office and authority of the Prime Minister and the parliament; and a more consensus-based method for appointment of judges in the superior courts.

Of particular interest for this study is the provisions related to the provincial autonomy. In this regard, two major changes have been introduced: the list of governmental powers shared by the central government and the provinces – the Concurrent Legislative List – has been abolished and a joint dispute resolution body, the Council of Common Interests (CCI) has been strengthened. Prior to the Reforms, the provincial legislative powers remained residual power under the 1973 Pakistani Constitution. Two sections guided the legislative exercise on provincial and federal level: the Federal Legislative List, an exclusive domain of the central government; a Concurrent List, in which the provinces and the central government both had the power to legislate. However, over the years the federal legislation mostly managed to override provincial legislation, creating unrest among the provinces over their powers and autonomy.

Sixty-seven subjects fell under the Federal List and 47 under the Concurrent List before the Constitutional Reforms. After the 18th Amendment was adopted in April 2010, the Federal List was expanded to cover 59 subjects while the concurrent list stood abolished, meaning subjects covered under the list were devolved to the provinces. Labour was also a Concurrent List subject that has now been transferred to the provinces. Provisions related to labour in the Concurrent List included: 1) Welfare of labour; conditions of labor, provident funds; employer's liability and workmen's compensation, health insurance including invalidity pensions, old age pensions; 2) Trade unions, industrial and labor disputes; 3) The setting up and carrying on of labour exchanges, employment information bureaus and training establishments.4) Regulation of labour and safety in mines, factories and oil-fields; and 5) Unemployment insurance. With the abolition of the Concurrent List, legislation on the above-mentioned subject is now the domain of the provinces and not the federal government.

5. Author of the first draft Tahira Abdullah pointed this out in an interview with the author of the report.

6. Pakistan Economic Survey 2009-10, Chapter 'Population, Labour Force and Employment'

7. Shahid Javed Burki, 'The 18th Amendment: Pakistan's Constitution Redesign' Institute of South Asian Studies, Working Paper No 112, September 2010

8. Cyril Almeida, 'Pakistan empowers its provinces', Federations: Forum of Federations, Dec 2010-Jan 2011

The Constitutional Reforms not only grant greater legislative and administrative powers to the provinces, these also afford greater economic authority to the provinces. Provinces will now have autonomy on issues such as economic and infrastructure development, management of labour and environmental laws, movement of goods and commodities within the provincial boundaries; and improving education and health systems in the province. This autonomy also means raising funds and striking investment deals with foreign countries/corporations, and importantly, legislating in concerned areas to follow the economic direction adopted by the provinces.

In terms of the impact of the legislative and economic empowerment of the provinces on labour related issues or on the policy for Homebased Workers, it is important to understand the significance of the loss of the federal government's power to legislate. After the abolishment of the Concurrent List, the federal government is no more able to legislate on labour related issues and institutions. With the legislative powers devolved to the provinces, the question of compliance to the international treaties including the ILO Conventions that Pakistan is party to, remain ambiguous. There is a fear that with the deletion of the Concurrent Legislative List the federal government will no longer be able to influence implementation of ILO Conventions by the provinces since it has lost the power to legislate on provincial subjects. In such a scenario even if Pakistan ratifies ILO Article C-177, it cannot guarantee its implementation with the federation being unable to ensure that the provinces will act in this regard.

Another issue pertains to the uniformity of the law. With the Concurrent List abolished, and the federal government's failure to devise a framework to guide legislation related to key areas in the provinces, labour unions fear that there will be a great deal of ambiguity over legislation on labour issues. This is particularly significant in the backdrop of concerns regarding the competency, capacity and Pro-rights commitment of the provincial governments to legislate and implement regulations regarding key subjects.

As is the case now, the four provinces have already devised separate structures of the industrial relations law leading to anxiety among workers over the lack of powers of the federal government to ensure that these laws deliver on labour rights and comply with the fundamental provisions in Pakistan's constitution and with international treaties ratified by Pakistan. How the Government pursues the policy on Homebased Workers and the future of its implementation in the country is likely to be determined by the provisions of the 2010 Constitutional Reforms and the strength of the provincial structures to follow a pro-workers framework to implement labour laws.

Another likely impact of the Constitutional Reforms is due to the economic empowerment and autonomy of the

provinces that will also impact the policy direction of the government with regards to labour laws and hence the policy on Homebased Workers. There is general tendency among Pakistan's policy-makers and administrators to bend over backwards to accommodate interests of the business/traders/commercial class to boost investment. With provinces acquiring the power to craft an independent economic direction and pursue supportive legislation, there is likelihood that provinces may adopt provisions that compromise the rights of workers. For instance, the Punjab Industrial Relations Act, 2010, came under severe criticism by labour rights bodies for trading off the rights of the workers to appease industrial and commercial interests. In such a scenario, there is a fear that any state commitment related to the rights of the home based workers - that already have no representation in the legislative order of the country – may be side stepped in favour of the existing policy of boosting an investment-friendly environment in the province.

Legislation Process : Legislation is a complicated procedure in Pakistan. Though a policy is subjected to the same procedures comprising review by relevant departments (in this case, the policy was reviewed by the Ministry of Labour and Ministry of Women Development), it is a long-drawn process requiring civil society organizations to maintain consistent engagement with the bureaucracy to move the file from one office to the next.

After following the process of review and re-review at the Labour Ministry level, the national policy draft on Home based Workers was shared with stakeholders at the provincial level. The Ministry of Labour and Manpower held consultations in all four provinces to share the draft and receive feedback and inputs. It was earlier indicated (by the Ministry) that after incorporating feedback from all provincial stakeholders, the National Policy would be presented to the Federal Cabinet for approval within the first half of 2011. Once it is approved by the Federal Cabinet, it could be officially taken as the national framework. However, following constitutional reforms, provinces are expected to pursue policy-making independently, post Constitutional Reforms.

9. National Policy on home based workers soon, moot told, Feb 21, 2011, at <http://www.onepakistan.com/news/local/karachi/87389-national-policy-on-homebased-workers-soon-moot-told.html?print>

Understanding Stakeholders Role in Policy Formulation and Future Implementation

Donors/Funding Agencies :

Most of the rights-based policy-making initiatives in Pakistan have been spearheaded by civil society organizations that actively engage the state and provide inputs for policy-development. Recent cases are the legislation on sexual harassment, Freedom of Information Act and National Education Policy that had active involvement by civil society bodies in the formulation processes as well as at the phase of adoption of the bills in the parliament. An issue with such a policy-development approach, even when the policy is later adopted by the state, is that it is seen as foreign/donor-driven initiative for a long time owing to the backing of donors for the non-governmental organisations. Apart from influencing the ownership, the backing of donors for policy-making activities is seen as an uneasy proposition since any progress on the effort is tied to donor's ability and willingness to dole out funds for any given initiative.

In a series of interviews with stakeholders for the purpose of the study, civil society members commented on donor's tendency to get involved in replication of projects creating complications and divisions among the non-governmental sector.

To get an idea on the capacity of important actors to influence the policy process, it would be pertinent to mention the role of the ILO pointed out by the author of the policy draft. Though not a donor organization in this case, the ILO is an important body assisting with technical inputs on acceptable standards for state's initiatives on labour. In this regard, its role was commented upon by the author of the policy who noted that the amendments to convert the title and content of the policy from 'Home based Women Workers' to 'Home based Workers' was "probably" influenced by ILO's interventions as the Organization maintains strong adherence to gender balance. The author maintains that the changes were made in a non-consultative manner.

In its comments on the issue, the ILO stated that "the change was recommended by many other partners including the ILO in Regional level workshop and was considered by the whole group of policy promoters including the Ministry of Women Development, UNIFEM (now UN Women) and other architects before changing the draft. The revised draft was again taken to all four provinces where tripartite consultations of government, workers and employers were held and nobody asked to go for a women-specific policy."

State :

Pakistan, as a state, has demonstrated weak commitment to legislate on rights-based issues. Though there is hardly

any evidence on the proportion of policies solely drafted by the state and those that were driven by the civil society, there is a broad understanding that capacity deficits in state's institutions related to policy-making limits the ability of the state to incorporate in policy-making and law enactment the emerging dynamics related to social and economic structures. In a consultation with PILER on the subject, legal experts, civil society members, and political representatives expressed reservations on the state's commitment to implement policies promoting the cause of labour. There is consensus that a strong business and industrial lobby that seeks to influence policy-making processes— an example is the unofficial suspension of labour inspection in the industrial sector in two provinces (Sindh and Punjab) despite the presence of a strong legislation on the subject - is hardly likely to allow successful implementation of this policy. More importantly, the state's own commitment has been rather weak when it comes to delivering on labour rights.

Civil Society :

Pakistan's civil society has come to assume a vital position in the national spectrum making important contribution to the processes of policy-making through activism for rights. The civil society is mainly represented by the non-governmental sector, community based organisations, rights-based organizations, institutions and individuals, trade unions, the legal fraternity, and the media. Over the years, this sector has been able to establish a position for itself in influencing important policy formulation and execution exercises. It acts both as a contributor as well as a watch-dog for actions by the state with regards to citizen's rights, policies, actions and direction. It is estimated that there are over 100,000 NGOs working in Pakistan. However, the government has a database of 45,000 NGOs only.

A large number of these NGOs are working on project-based programmes negotiated with donors after a thorough needs-assessment exercise to identify areas of interventions on issues of importance. This, as mentioned earlier, could act as a challenge as well as a solution. There is a consensus among the non-governmental sector that donor-driven projects limit autonomy of the actors involved, while at the same time they pose challenge

10. Information on provincial action on policy shared in the last section of the document.

11. Tahira Abdullah, author of the initial draft, in an interview with the author of the study.

12. Over 100,000 NGOs operational in Pakistan', statement by Federal Minister for Social Welfare and Special Education Samina Khalid Ghurki, in July 2009 (The Indian, July 30, 2010 at http://www.theindian.com/newsportal/south-asia/over-100000-ngos-operational-in-pakistan_100211256.html).

regarding the sustainability of any initiative. Once the donors decide to withdraw support to the programme, it is difficult for non-governmental organisations to continue the programme on their own. At the same time, donor support comes in handy for interventions in critical areas including service delivery, legislation on important matters, especially rights-based issues and advocacy activities to mobilize public support for relevant areas. This challenge does indicate the need for NGOs to pursue a greater level of financial independence.

An important aspect of the whole equation is the level of development of the non-governmental sector organizations. Some organizations, due to their experience, capacity and strong financial backing are in a better position to make interventions compared to others, especially the local-based organizations that generally need partners' support to carry forward their agendas. This discrepancy results in uneven contribution of the civil society to state's initiatives regarding rights, public service and social delivery. Other segments of the civil society such as the media and the legal community too are assuming an important role in influencing policy-making, impacting, positively or negatively, processes related to state actions.

Homebased Workers :

One of the most important challenges regarding promotion of the rights of Homebased Workers is the limitations of this very sector that restrict internal mobilisation for a policy-change. None of the labour laws cover Homebased Workers nor do the successive labour policies offer any protection to this sector in the labour force. There is hardly any initiative regarding organization of workers in this sector and the nature of job and abject poverty of the workers involved in the sector – further restricts them from mobilizing to advocate for their cause.

During successive interviews, an important point related to the access of homebased workers to state and non state channels also came to surface. Since there is no registration of Homebased Workers while there is no official database documenting the sector, it is extremely difficult for organizations working on the rights of the HBWs to access them. The same information deficit restricts workers in the sector from accessing state and non state channels to advance their cause.

Also demonstrated in meeting with HBWs is a limited level of awareness and understanding of their rights. As this sector is mostly dominated by women, who have to face the triple burden of work, family and community role and responsibility, it is clear that any self-initiative to engage in activities for advocacy on rights is hard to come by, as this requires extra time and energy. With limited capacity for self-initiation in Homebased Workers, it is important that civil society organizations and other actors involved in the promotion of rights of the HBWs take up a more pro-active role.

In future the reversal in the dependency order of the HBWs – enabling HBWs to pursue self-mobilization to build public pressure for their rights - is a critical challenge.

National Policy on Home based Workers :

The advocacy process for homebased workers policy took place on two levels: content-development and circulation of policy for approval with the state bodies. The advocacy for content development comprised consultations with stakeholders including homebased workers, civil society members, legal experts, and trade union activists. These consultations were mainly organised by the HNP and Sungi, and media was invited to cover the events. Advocacy for policy approval incorporated efforts to circulate the policy in the government corridors, working with legislators, policy-makers, bureaucracy and government officials.

For the purpose of content development, according to reports reviewed, in 2007 Round Table Meetings were held in collaboration with the Sungi Development Foundation in all four provinces. Suggestions and recommendations from partner organizations and stakeholders were documented and shared with the consultant and incorporated into the draft of the National policy. In 2008, a consultation with the newly elected women parliamentarians was also held in, Lahore, Quetta, Karachi and Peshawar. Furthermore, in June 2007, a two-day national consultation was organized by Sungi and UNIFEM, supported by the MoWD to bring together relevant stakeholders to present inputs on the policy. The suggestions and inputs drawn from all these consultations were integrated in the draft and presented before a group of experts and major stakeholders gathered at the South Asian consultation in Islamabad on 14-15 October 2008.

Once the policy document was ready, a Memorandum of Understanding (MOU) was signed between the Homenet Pakistan, Aurat Foundation and the Sungi Development Foundation to collect effective inputs on the draft of the national policy for women homebased workers. According to the MOU, Homenet Pakistan was tasked with organizing district consultations in clusters in collaboration with the Aurat Foundation and the Sungi Development Foundation. The Punjab Province was divided into three clusters since the highest number of HBWs associated with the three organizations (35,451 out of 58,262 in Pakistan) is based in the province .while consultations were also held in Karachi and Peshawar. These meetings took place in 2008. The draft national policy for Homebased Workers was shared with participating members/organizations at these meetings and their inputs were documented for consideration for incorporating in the draft policy.

Apart from information-sharing and awareness-raising, these consultations also served the purpose of inviting interest and commitment by civil society members to contribute in the policy-making process and advocate/lobby for its adoption by the government. Stakeholders including partner organizations, trade unions, social workers, and political activists expressed their willingness to take forward the issue of HBW and provide support required for advocacy and lobbying. It can be argued that the presence of media to cover these events helped to highlight and mainstream the significance of the sector and document the statements and commitments made at these forums. The reports of these consultations were published in local and national level newspapers. There is general consensus that reporting of events in Urdu language press is more helpful in highlighting any given issue due to higher readership of Urdu newspapers in the country.

A consistent and focussed series of consultations also helps in networking, exchange of ideas and drawing of consensus on key issues. Going by the minutes of these consultations, one comes across several pertinent issues raised by the homebased workers and civil society members participating in these meetings.

On a similar level, parliamentarians, policy-makers and government officials were approached to incorporate their inputs in the draft of the policy. This has been a slow, tedious process, and the political transition following the 2008 elections further stalled the progress. However, consistent lobbying with public representatives has resulted in a serious commitment by a number of senior parliamentarians to pursue the policy. It has also resulted in some legislative success mentioned below:

- To recognize HBWWs' work, a Parliamentary Resolution was passed in the National Assembly on 3rd April 2007.
- In 2007 a draft Bill on HBWWs was endorsed by a Parliamentary Standing Committee on Women's Development.
- The Baluchistan Provincial Assembly passed a Resolution on HBWWs (drafted by Homenet Pakistan) on May 2010.
- In November 2010, the Sindh Assembly unanimously passed a resolution regarding the protection of the rights of the homebased working women and recommended that a campaign should be launched at the union council level to register Homebased Women Workers;
- In the 13th National Assembly (current parliament), two private members bills were introduced since 2008 for the protection of the rights of the home based workers. These include: 'Social Protection for Homebased Workers (Amendment) Act, 2008' (June 10, 2008) and 'In-House Working Women Protection Act, 2008' (Aug 26, 2008).

These legislative developments have further contributed to awareness-raising and commitment from the parliament to address the absence of legislative support for the Homebased Workers. This may also have been a contributing factor in improved commitment by the Ministry of Labour to respond to gaps in the policy. The ministry, since October 2010, has called at least two meetings to exchange views on the draft policy.

At the same time, these positive developments are moderated by state's lack of interest in proactively and independently pursue the cause of homebased workers without any significant push from stakeholders, including donors such as the UN agencies and the ILO. Despite reminders by civil society, the Ministry of Labour did little to alter the draft the National Employment Policy (NEP, MoLM, 2007), which contained insufficient data, discussion and recommendations on issues pertaining to the informal economy and the significance of HBWs within it. Same is the case with the draft Employment and Services Condition Act (ESCA, 2007) and the Labour Inspection and Labour Protection Policies (MoLM, 2006) that have failed to recognize the Homebased Workers as a section of the labour force. In January 2010, the Ministry of Labour took up a project titled "Towards Gender Parity" that outlined "Advocacy for the implementation of national policy of Homebased Workers and pilot activities for integration of HBWs into main stream" as areas of work. The Ministry's commitment and seriousness notwithstanding, there seems to be lack of a proactive approach to move forward the process of the policy approval. Part of it could also be attributed to the constitutional reforms in May 2010 that was followed by absence of clarity with regards to the roles of the federal and the provincial labour ministries in the areas of legislation and policy making.

Role of the Media :

Pakistan's media spectrum has evolved at a fast pace in recent years. The media liberalization policies adopted by the state in the last one decade have boosted all forms of media (print, television and social media) both in terms of quality and quantity. According to latest estimates, the current growth rate of the electronic media is 7% per annum. There are 1,000 newspapers in the country, with an official literacy rate of 56% and the newspaper reading ratio of 34.2245 per 1,000 People. Forty million people watch cable television everyday. There are 106 radio stations and

13. Information drawn from PEMRA Annual Report 2009; 'Boom of Telecom and Investment Prospects in Pakistan, Pakistan Telecommunication Authority', Jan 2010; and 'Nation Master, quoting UNESCO Institute for Statistics', at March 11, 2003 at http://www.nationmaster.com/graph/me_new_cir_percap-media-newspaper-circulation-per-capita.

radio listener ship is 23%. The number of internet users in the country stand at twenty million.

However, this rapid liberalisation of media while contributing to media's power to influence issues, has also exposed gaps in media's capacity to deliver on its role as a watchdog as well as protector of public interest. In a series of interviews with stakeholders, there was frequent mention of media's tendency to ignore issues related to the Homebased Workers owing to various factors including increasing commercialization among media organisations, capacity deficits, non-availability of consolidated information on the subject, absence of interest in major media houses on the issue and civil society's own deficits to pursue relevant strategies to highlight these issues in the media. Though there is no data on media coverage of Homebased Workers in pre and post policy advocacy phases, there has been reasonable success on the part of the civil society to highlight HBWs in the media through consistent engagement at public forums. However, there is a need for turning media coverage into a public pressure tool to push for reforms on HBWs.

Visibility and expansion of constituency of Homebased Workers : The role of advocacy

It is not possible to quantitatively gauge the role of advocacy in enhancing the visibility and expansion in the constituency of the HBWs. However, there are several indications why it is safe to assume that following the development of the national policy, there has been improvement in the stakeholders' knowledge and approach to the Homebased Workers, creating space for broader interest and commitment towards the issues of the HBWs.

The policy was developed and drafts were shared with non-government organizations (national & international), Government of Pakistan, Provincial Governments, women's rights activists and lawyers community, especially in Punjab. There was also involvement of local councillors, homebased women and men workers, employers' federations, trade unions, academicians and researchers at various levels of policy-development. The interaction of these communities with each other in an environment where Homebased Workers have no formal organization or a platform to promote their interests allowed buy-in from these groups to the issues of the home based workers.

Such interactions facilitate linkages, connect workers to policy-makers and expand the constituency of all stakeholders. The involvement of these communities also signalled individual and institutional interest to adopt homebased workers as a part of their constituency. As mentioned earlier, a number of legislative initiatives came about during and after the policy drafting exercise started. These legislative developments indicate the interest of

parliamentarians – including those who were not involved in the policy-making – to promote the rights of the home based workers sector as a part of their legislative agenda. For instance, in the Parliament, the Private Member Bill on 'Social Protection for Home based Workers' was introduced by Mrs. Yasmeen Rehman and Mrs. Shakeela Khanam Rashid. Similarly, the 'In-House Working Women Protection Act, 2008', another private legislation was introduced by Parliamentarian Riaz Fatyana. These Members National Assembly, though not an active part of policy development, supported and backed legislation on HBWs reflecting political commitment to the issue.

STUDY ON ADVOCACY PART 2 EFFORTS FOR VISIBILITY IN PAKISTAN

In this section, we seek to explore the way forward in advocacy for Homebased Workers Policy and for the development of policy into legislation. In this regard, there are four pertinent concerns that need to be explored: Creation of a more supportive environment for Policy to become a law.

- Facilitating a supportive environment for Policy to become a law
- Unionization
- Strengthen the platform to advocate for policy

Creating a supportive environment for Policy to become a law

Mobilization with political parties :

Political parties have yet to formally make homebased workers a part of their constituency or an agenda item for action. Though the expertise for law-making and legislation lies with technical experts in the government machinery, any stated item on political parties' agenda, when backed by the party's commitment to pursue it, usually finds a favourable response. Case in point is the recent repeal in the Removal from Service (Special Power) Ordinance 2000 and the Section 2A of the Services Tribunal Act 1973 which were part of the election commitment of the lead political party in the current coalition government. Similarly, the Sexual Harassment legislation – though not an explicit part of election manifestos of country's political parties - reflected positively on the pro-woman profile of political parties sitting in the parliament. Though the legislation did face resistance from the right-wing lobby in the parliament, these hurdles were overcome nevertheless.

Promoting homebased workers, their issues and this policy on the agenda of political parties could serve as an important step in prioritizing this sector's interest in the state's agenda for public welfare. However, political parties are less likely to take Homebased Workers issues with commitment, if they do not identify this section as a part of their constituency (both as voters and as political workers). The networks and alliances representing Home based Workers need to strengthen linkages between HBWs and political parties.

Lobbying by Civil Society and the non-governmental sector :

The second important effort in this direction could be identified as lobbying by the civil society. Most of the rights based legislation is developed and pursued by civil society organizations, including NGOs in the face of state's weaknesses in committing itself to the cause. Recent success in sexual harassment law is a powerful example of how the civil society could succeed in turning this important call into law.

Linkages :

During the course of interviews/group discussions, the civil society actors involved in policy-making themselves pointed out the need for greater advocacy towards mobilization and strengthening the bargaining position of the HBWs. This includes linkages with micro-finance institutions, national and provincial Chamber of Commerce, banks, cooperatives, and social welfare delivery organizations. Apart from furthering economic

and financial interests, such linkages should help strengthen the political position of homebased workers, allowing them greater space to influence the policy-making corridors. This could also support HBWS to act as pressure groups to pursue the state to turn this policy into legislation and also promote the broader interests of the sector.

Strengthening alliances for stronger advocacy on Policy and for its enactment as law

Strengthening Existing Structures:

As much as there is need for building broader support for promotion of the rights of the homebased workers, it is important to strengthen the existing structures supporting HBWs. Community based organizations could play an important role in this area. Due to their strong presence at the grassroots, CBOs are in a better position to maintain consistent engagement with homebased workers. Support and assistance from national level organizations for community level organizations – beyond the usual exercise of knowledge-sharing – could go a long way in linking grassroots-based sector of Homebased Workers to mainstream structures working on policy. This may assist in expanding space to influence policy development as well as law-enactment.

Tripartite Mechanism :

A strong tripartite arrangement needs to be developed to link Homebased Workers with employers and the government. This should help equip the HBWs to acquire relative independence to advocate for their rights while it would also encourage state and employers to demonstrate greater commitment to the delivery of their obligations towards home based workers. At the same time, it needs to be realised that in the absence of an organised structure (unionisation) this should remain a challenging task.

Unionization : Informal Unions :

Currently, the existing regulatory structure for union formation is not applicable to the informal sector, preventing the members of this sector from forming official unions. There is a need to explore channels for formation of unions/organizations of HBWs in the absence of regulations for their registration. Apart from following the official process, it is important that the HBWs are organized at districts, cities and provincial levels to act as a force to influence the process of rights delivery by the state. However, leaving the task to the civil society organizations or the existing trade union bodies may not be adequate since successful alliances are built on the foundations of self realization and commitment on the part of stakeholders to pursue their interest.

In this regard, the Labour Qaumi Movement (LQM), an informal labour union of powerloom workers in Faisalabad that emerged in 2003 makes a compelling example. The

Movement has retained its informal characteristic as it is not yet registered under any law but has gained recognition at the state level due to its numerical strength. At the same time it has made strides in negotiations for its interests with the state as well as employers. This includes a 20% increase in piece rates and registration of workers with the social security institution. There is needed a number of powerful, small sized labour unions – due to geographical distance - for homebased workers tied in national and regional alliances to pursue their interests including negotiations with the state on home based workers policy.

Strengthen the platform to advocate for policy

Consistent and committed interaction with the state by stakeholders including parliamentarians, government officials and political parties through a joint platform (such as a working group, or a civil society alliance to advocate for policy) needs to be maintained to pressurize the state to take up the policy and related legislation.

There is also greater need to engage media in creative and consistent ways to highlight the issue of Homebased Workers while also contributing to their profile as a formidable force to influence policy change.

Empowering Homebased Workers by way of facilitating unionization and direct access to public forums could also assist in turning the sector into a powerful pressure group to pursue its own interests. Most importantly, the civil society's role as a support structure should come with a commitment to create space for greater independence of the HBWs. A number of successful local movements, such as the LQM or the Anjuman-e-Muzaraeen are an example that self-made and stakeholders-owned initiatives have greater chances of success compared to donor-driven or civil-society backed efforts.

There is need for developing a clear understanding of the future of advocacy on the policy for Homebased Workers in the post-Constitutional Reforms environment. This may require update in the policy in terms of insertion of certain provisions to adjust to the new legislative and economic realities of the provinces that entail greater power and independence on the two fronts. It may also require greater persuasion on the part of the advocacy lobby to convince the government to make a solid commitment to the rights of the Homebased Workers, in the absence of any legislative coverage for the sector.

Labour rights bodies are also of the opinion that any advocacy and struggle for labour rights need to be carried out on provincial level now. This means greater effort and involvement on the part of the advocacy bodies to engage not only the government of any given province, but to carry out a coordinated exercise in all four provinces to ensure uniformity of policy decisions addressing the HBWs.

Updates on the Progress of National Policy :

This document was written at the end of 2010. An update on actions by the provincial governments on policy-making in 2013 is as follows :

The national policy is currently lying with the Ministry of Human Rights. One expects action on the policy after the elections of 2013.

- At the provincial level, all four provinces are pursuing the policies according to the political agenda and bureaucracy's priorities.
- In the Punjab, the biggest province of Pakistan, the policy was announced as a part of the Punjab Government's "Women Empowerment Package" on International Women's Day in 2012. A thorough engagement with the provincial government has yielded positive results as the draft of the policy has been finalized. However, the announcement has not been followed by official action to adopt the policy.
- In Sindh, the labour department has expressed an interest in working in collaboration with other departments to advance the policy. A task force for this purpose has already been notified. However, the Labour Department in Sindh is besieged by constant changes in the provincial bureaucracy/civil service that makes any positive move on labour issues difficult.
- In Khyber Pakhtunkhwa, following a series of meetings in June year 2012, a task force has been finalized.
- In Balochistan, the Chief Minister was to sign a notification for the establishment of a task force to develop the policy. However, this was hindered by the resignation of the Chief Minister and the imposition of Governor's rule owing to the deteriorating political instability and state of insecurity in the province.

14. The updated information has been provided by the Homenet Pakistan.