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Editorial

As envisioned by the Honourable Chairman Senate of Pakistan/ President Pakistan Institute for Parliamentary Services (PIPS) Board of Governors, Senator Muhammad Sadiq Sanjrani, a historic first of its kind National Parliamentary Conference on Kashmir, NPCK, was held at the Jinnah Convention Centre on Sept., 18th 2019. The landmark conference saw 1500 delegates including Members from Senate and National Assembly of Pakistan as well as Provincial and Legislative Assemblies, Ambassadors, Media men, civil society activists, parliamentary officials and representatives of *All Parties Hurriyat Conference (APHC)* from occupied Kashmir.

The Hon. President, Islamic Republic of Pakistan Dr Arif Alvi, addressed the closing session of the plenary attended by highest parliamentary leadership including Hon Asad Qaiser, Speaker of the National Assembly, Leader of the House in Senate, President, Prime Minister and Speaker of Azad Jammu and Kashmir, Foreign Minister of Pakistan and Chairman Parliamentary Committee on Kashmir amongst spectrum of parliamentary parties from treasury and opposition. The Research Digest shares the Islamabad Declaration that was adopted unanimously and read out by Hon Chairman Senate, reiterating for urgent need of humanitarian efforts and unmitigated national support from all spectrum of parliamentary parties of Pakistan for the ordained right of self-determination for people of Kashmir. Senate of Pakistan and PIPS teams humbly worked in synergy and feels proud of being part of organizing the biggest parliamentary event on Kashmir in over 70 years of our history.

The digest also includes absorbing articles on subordinate legislation, issues of migrant workers and enhancement of labour standards in industrial sector of surgical instruments.

Muhammad Rashid Mafzool Zaka

Senior Director General (Research and Legislation)



Honorable President of Pakistan Dr. Arif Alvi, Chairman Senate, Senator Muhammad Sadiq Sanjrani, Speaker National Assembly, Asad Qaiser, President of Azad Kashmir, Masood Ahmed Khan, Chief Minister of Sindh, Syed Murad Ali Shah and distinguished Parliamentarians from leading political parties in National Parliamentarians Conference on Kashmir jointly organized by Senate of Pakistan and Pakistan Institute for Parliamentary Services on September 18, 2019



Glimpses of National Parliamentarians Conference on Kashmir, September 18, 2019



**Honorable Chairman Senate/ President PIPS presiding over 33rd meeting of PIPS Board of Governors
September 19, 2019**

CONCEPT

Aspects of Delegated Legislation

Sheikh Sarfraz Ahmed

Legislative Consultant UNDP

Former Additional Draftsman

Ministry of Law & Justice

Delegation of legislative power is necessary because of the technical character of modern legislation and to share extreme burden of legislation upon Parliament but at the same time the executive cannot be exempted from Parliamentary oversight. Delegated legislation includes all sorts of subordinate legislation including rules, regulations, bylaws, schemes, warrants, orders, notifications and any other statutory instrument framed in exercise of the powers conferred under the Act or the Constitution. The Rules of Procedure and Conduct of Business in National Assembly, 2007, Rules of Procedure and Conduct of Business in Senate, 2012, Government Rules of Business, 1973, Parliament Joint Sitting Rules, Rules for Council of Common Interests and Rules for Supreme Judicial Council etc. are the examples of delegated legislation framed under the direct authority of the Constitution. It is for this reason that in the 'Preface' to Rules of Procedure and Conduct of Business in Senate, 2012, it is specifically mentioned that these are Constitutional rules so are placed at a higher pedestal than the rules framed under an Act of Parliament. *Mustafa Impex* judgment, **PLD 2016 SC 808**, also held that Rules of Business are binding on Government and any deviation would render the transaction of business illegal.

There are three main reasons for which delegation has become a normal feature of law-making in Pakistan, [***Taraqiat Bank Limited Vs Said Rehman* 2013 SCMR 642(g)**] :-

- (1) Pressure on parliamentary time,
- (2) Technical Character of modern legislation,
- (3) Need for flexibility.

Subordinate legislation and delegated legislation are synonymous terms used for the powers delegated by the legislature to the executive. Different nomenclatures are used for subordinate legislation as per their nature and substance. Whether subordinate legislation is to be made by President or Government, it will be termed as delegated legislation. When subordinate legislation is sketched by various Divisions and Departments of Government, it is drafted and vetted by Law Division under Rules of Business, 1973. Rule 14(1)(c) of Rules of Business, 1973 states that Law and Justice Division shall be consulted before the issue of or authorization of the issue of an order, rule, regulation, bylaw, notification, etc. in exercise of statutory powers.

It is the parent law which decides about what nomenclature is to be given and a parent law might contain different nomenclatures under one law. For instance, it might be that rules are to be made by Federal Government, regulations are to be made by some Board, schemes to be made by Executive Committee of the Board and notification to be issued by the Chairman of the Board. Many times, we come across cases where in a piece of subordinate legislation, the referring Division speaks of further rules to be issued. This practice shall not be followed because rules shall not speak of further rules to be issued but this does not apply where under the rules an enabling provision is provided for issuing, notifications, circulars, instructions, etc. One such example is Secretariat Instructions framed under rule 5 (15) of the Rules of Business, 1973. Rule 5(15) of Rules of business, 1973 states that detailed instructions for the manner of disposal of business in the Federal Secretariat shall be issued by the Establishment Division in the form of Secretariat Instructions.

It is always advisable that nothing should be in the subordinate legislation to confer arbitrary powers. Sometimes a notification contains certain requisites for a certain license and it is also written in the notification: "any other requirement for obtaining license to be fulfilled under the direction of the Board.". This sort of arbitrary requirement is not only illegal but also opens a gateway to corruption. No substantial provision is to be included in the rules. The subordinate legislation can never be inconsistent with and beyond the scope of principal legislation. Provisions like penalties; fines etc. are substantive provisions and cannot be included in the rules unless so authorized by the Act itself. For instance, the Oil and Gas Regulatory Authority Ordinance, 2002 authorizes imposition of fines through rules.

Sometimes, an enabling provision is provided in the Act for previous publication of delegated legislation. The term "previous publication" is explained in section 23 of the General Clauses Act, 1897 and its purpose is to elicit public opinion before issuance of final notification, order, etc. By virtue of section 24 of the General Clauses Act 1897, the rules made under the repealed enactment fall under the umbrella of new enactment except for the inconsistent provisions. Mention of a wrong provision of law cannot be considered fatal to the grant of relief if it is otherwise available under the law to an aggrieved party (**1994 SCMR 1555**). Order under wrong section or without the mention of section does not vitiate it (**AIR 1966 SC 334**). Delegated legislation laid is sometimes laid before Parliament if required by law, as is in the case of Income Tax Ordinance, 2001. Section 53 (3) of Income Ordinance reads as below:-

"53 (3) The Federal Government shall place before the National Assembly all amendments made by it in the Second Schedule to the Income Tax Ordinance, 2001 in a financial year".

Rules and Regulations are two of main kinds of delegated legislation. The distinction between the two expressions can only be made on case to case basis as per the language used in various Acts and Ordinances containing provisions of making rules and regulations. This viewpoint is supported by the definition of 'rule' contained in the General Clauses Act, 1897, reproduced below:-

'Rule' *shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment".*

Whenever in a statute both the 'rules making' and 'regulations making' powers are given then the distinction and similarity between the two is on the basis that the rule making authority is different from the regulation making authority; the rules are made for the external working of the organization and regulations are made for the internal working of the organization and for this reason the rule making authority is superior to the regulation making authority, always regulations are made on service matters and not rules because service matters of employees pertain to the internal working of the organization; both the rules and regulations are issued under some enabling power conferred under a statute hence both 'Rules' and 'Regulations' are statutory instruments; rules will be superior to regulations when the Act is silent on this point or expressly states that regulations shall not be inconsistent with the rules; if an Act contains only rule making power then for all purposes of the Act, whether external or internal, rules shall be made; and if an Act contains only regulation making power then for all purposes of the Act, whether external or internal, regulations shall be made.

The powers to be exercised under delegated legislation shall not be arbitrary and where discretion is to be exercised there the principles laid down in a leading judgment reported as **PLD 1991 SC 14** shall be followed. The crux of the judgment is that structuring discretion means regularizing it, organizing it, producing order in it, so that decisions will achieve a higher quality or justice. The seven instruments that are most useful in the structuring of discretionary power are open plans, open policy statements, open rules, open findings, open reasons, open

precedents and fair informal procedure. When legislative bodies delegate discretionary power without meaningful standards, administrators should develop standards at the earliest feasible time, and then, as circumstances permit, should further confine their own discretion through principles and rules.

Keeping in view the immense importance of delegated legislation, Senate rules were amended in the past so as to provide for a Committee on Delegated Legislation. Rules 172 C, 172 D and 172 E of Senate Rules of Procedure, 2012 speak of Committee on Delegated Legislation. The Committee shall *inter alia* be mandated to see whether the powers to make rules, regulations, bye-laws, schemes or other statutory instruments conferred by the Constitution or delegated by the Parliament have been timely and properly exercised within such conferment or delegation including the retrospectively involved in such exercise of power. This separate Committee for delegated legislation is in addition to the general provision in the Senate Rules empowering every Committee. The provision is reproduced as below:-

“158(2) Each Committee shall deal with the subject assigned to the Ministry with which it is concerned or any other relevant matter referred to it by the Senate.”

In National Assembly, there is no separate Committee on Delegated Legislation but delegated legislation is scrutinized under the general provision in the Assembly Rules of Procedure, 2007, which is reproduced as below:-

“201(4) A Committee may examine the expenditures, administration, delegated legislation, public petitions and policies of the Ministry concerned and its associated public bodies and may forward its report of findings and recommendations to the Ministry and the Ministry shall submit its reply to the Committee.”

Delegated legislation will normally be declared invalid on the following grounds:

- (1) Bad faith, that is to say, that powers entrusted for one purpose, are deliberately used with the design of achieving another, itself unauthorized or actually forbidden;
- (2) That it shows on its face a misconstruction of the enabling Act or a failure to comply with the conditions which that Act has prescribed for the exercise of the powers; and
- (3) That it is not capable of being related to any of the purposes mentioned in the Act.

The removal of difficulty clause also falls under the category of delegated legislation and in most of the Federal statutes; the power to remove difficulty has been vested in the President but in various Federal statutes, the power to remove difficulty vests in the Federal Government. In some of the statutes, this clause is temporary whereas in some it is perpetual. In my view, since this clause has to be invoked in extraordinary circumstances, therefore, a safety valve shall always be provided in the form of proviso limiting the invocation of provision for a period of one year or so from the commencement of the Act. My personal view is that while drafting the removal of difficulty clause, the powers shall not be vested in the Federal Government or Provincial Government, as the case may be. This power shall be vested in the President or Governor, as the case may be. The reason is that although it is also a form of enabling provision containing delegation yet is different from enabling provisions of delegated legislation where the subordinate legislation making powers are given to the Federal or Provincial Governments. Since it is a dangerous delegation therefore closed period of one or two years should also be mentioned in it. This provision shall be very carefully and sparingly used by a body other than the Federal Government or Provincial Government. In other words, this provision will be invoked by the Government when the matter cannot be resolved through delegated legislation,

therefore, a separate body should have this power to ensure that the Government is not overstepping or transgressing from its mandate of delegated legislation. Hence removal of difficulty clause power should vest in the President or Governor, as the case may be.

Specimen of corrigenda for subordinate legislation

To be published in Gazette of Pakistan, Extra Ordinary- Part-II

In Notification No. SRO. 1125(I)/2009, dated the 21st December, 2009.-

- (a) In Schedule-II, Page Nos. 4810 to 4813, For the words and figures “ For sanctioned load up to 5KW”, wherever occurring, Read “ For sanctioned load less than 5KW” , “ For sanctioned load exceeding 5KW”, wherever occurring, Read “ For sanctioned load 5KW and above” , and “ B-2 (b) 6-500 KW (at 400 Volts) ”, Read “B-2 (b) 5-500 KW (at 400 Volts)” ,
- (b) Page No.4812, in heading “D”, the words “more than 5kW” read as 5kW and above” and in the “Note”, For “20”, Read “5”.
- (c) Page No.4811, in heading “C”, omit the word and brackets “(Optional)” and omit the word “above”.

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- xiv. Corrigenda of SRO 1125(I)/2009, dated the 21st December, 2009

ANALYSIS

**Labour Standards in the Surgical Instruments Industry of Pakistan:
A Legal and Economic Perspective****Muhammad Hanif Khan Nasar**Consultant,
Research and Legislation Wing, PIPS**Introduction**

The surgical instruments industry is mainly clustered in and around the skirts of Sialkot. Over 99% of the country's production is centered at Sialkot. Sialkot has long been known for the expertise of its people in making metal related products. Sialkot's surgical instrument industry started exporting surgical instruments to the foreign market in 1930s. To institutionalize the local expertise of manufacturing surgical instruments and provide common facilities to the manufacturers, the British Government established the **Metal Industries Development Centre (MIDC)** in 1941. This helped the industry to shift from manufacturing of basic metal products to precision surgical instruments. After Independence in 1947, Pakistan inherited 17 registered surgical instruments manufacturers in Sialkot. In 1958, the **Surgical Instruments Manufacturers Association of Pakistan (SIMAP)** was incorporated as a representative body of the exporters and manufacturers of surgical industry to secure the interests of the industry. The association since then has played an important role in addressing issues at the government level, nominating trade delegations and participants for trade fairs and exhibitions, handling inter-industry issues and representing the industry at various local and international forums.¹

Although the industry can be said to be well entrenched and profit making for our country, but it is in fact despicable that the employers with the kind of wealth they possess does not provide absolute basic employment standards, despite the relevant laws and rules that are in place. The reason for this may be because the industry has been running for a well over a century's old tradition; however, adopting old practices cannot be justified in this world and era of modernization with the evolved and applicable basic labour rights that are currently in place. The International human rights appraisers and even the International buyers of our surgical instruments have from time and again expressed their reservations forcefully, with respect to the kind of standards our surgical instrument industry have adopted for its labour, and in particular the problems that being faced by the labour in the informal sector of the said industry.

Countries across the world aim to provide social protection for all citizens or residents, generally by a combination of public social insurance and social assistance. Social protection, or social security, includes cash and in-kind benefits provided for children, mothers, and families; support for those sick and without jobs and pensions for older and disabled persons. Governments recognize the existence of universal needs among their citizens, reflecting vulnerabilities that all people are likely to face at least once in their lifetime. Hence the Government of Pakistan must recognize the existence of the needs of labour working in any sector particularly, for the sake of the matter currently being discussed, in the surgical instrument industry of Pakistan.

¹ Rawalpindi Chamber of Commerce and Industry, "Pakistan Surgical Industry", retrieved from <http://rcci.org.pk/wp-content/uploads/2012/12/SurgicalIndustry.pdf>

The Notion of Universal Social Protection

Universal Social Protection “USP” when explained is a phenomenon adopted by world leaders to commit countries to implement nationally appropriate social protection systems for all its citizens against the reduction and prevention of poverty. USP is a key element of national strategies to promote human development, political stability, and inclusive growth. Evidence shows that in addition to reducing poverty and inequality, well-designed social protection systems with adequate benefits also contribute to increase in productivity and employability by enhancing human capital, boosting domestic consumption and demand, and facilitating structural transformation of the economy. It also promotes human development, where cash transfers facilitate access to nutrition, education, and healthcare; encourage higher school enrollment rates; and bring about a decline in child labor. Moreover, it has the potential to protect people against losses due to shocks, such as economic downturns or natural disasters and it help build political stability and social peace, reducing social tensions and violent conflict.

The commitment of world leaders towards USP reaffirms the global agreement on the extension of social security achieved by the International Labour Organization’s 2012 ‘**Social Protection Floors Recommendation**’, which was adopted by workers, employers, and governments from all countries. Despite significant progress in the extension of social protection in many parts of the world, only 45 percent of the global population is effectively covered by at least one social protection benefit, while the remaining 55 percent i.e. 4 billion people are left unprotected.² Government of Pakistan need proper inclusion of the USP in its employment systems with a clear policy framework and proper implementation of the existing employment laws in place.

Surgical Instrument Industry Structure and Products

This sector comprises large, medium and small sized manufacturing units. Depending upon the size of the unit, there are in-house facilities and distinct processes in medium and small sized units respectively. The surgical instruments industry provides employment to about 50,000 skilled and semi-skilled workers. However, employment is volatile as there is high degree of temporary and contractual employment. The labour force ranges from (15-450) per unit.³ A Large size firm manufacturing surgical instruments is recorded to provide employment to approximately 250-350 persons. Similarly a medium size company provide employs about 100-250 individuals and some of the firms also have their own setups in other foreign countries. A small size firm employs about 30-50 workers.⁴

The production of the industry can be broadly classified into two categories, i.e. disposable instruments and the reusable instruments (or instruments). The largest market for Pakistani disposable instruments is USA. Majority of the reusable instruments, manufactured in Sialkot, are exported to the European countries.⁵ The industry produces on average over 170 million pieces per year. Out of the total production of over 10,000 different medical instruments

² IMF, “The case for Universal Social Protection”, (December 2018), retrieved from <https://www.imf.org/external/pubs/ft/fandd/2018/12/pdf/case-for-universal-social-protection-ortiz.pdf>

³ The Rawalpindi Chamber of Commerce and Industry, “Pakistan Surgical Industry Structure: Issues/Problems & Recommendations”, (September 2010) retrieved from <http://rcci.org.pk/wp-content/uploads/2012/12/SurgicalIndustry.pdf>

⁴ The Dawn, “Pakistan’s shadow surgical instruments’ sector” retrieved from <https://www.dawn.com/news/1279191>

⁵ The Rawalpindi Chamber of Commerce and Industry, “Pakistan Surgical Industry Structure: Issues/Problems & Recommendations”, (September 2010) retrieved from <http://rcci.org.pk/wp-content/uploads/2012/12/SurgicalIndustry.pdf>

covering all basic and surgical segments, approximately over 95% of such products are exported. According to Pakistan Bureau of Statistics, Pakistan's surgical goods exports clocked in at \$253 million during July-February of 2018-19.⁶ Most of the larger and medium sized firms are exporting, however, the smaller/vendor units usually supply to commercial exporters/traders. The main raw material used in the production is 'steel'. Around 60% of this steel is manufactured locally and the remaining 40% is mostly imported from Germany.

For the purpose of trade; three broad categories can be defined where Pakistan is supplying in the export markets. The categories include; (i) HS Code 9018 – Instruments for medical, surgical and dental; (ii) HS Code 9021 – Orthopedic appliances; (iii) HS Code 9022 – Equipment using X-rays, alpha, beta, gamma rays. The exports of Pakistan predominantly fall in the category 9018. Top 10 buyers are the US, Germany, UK, France, Italy, UAE, Japan, Brazil, Mexico, Russia and recently China and India. America is the largest market for disposable instruments while a majority of reusable instruments are exported to the EU. According to a study of the Sustainable Development Policy Institute, Pakistan's exports of surgical products rose to \$9.6m in 2014 from \$7.6m a year earlier. The study indicates a huge potential exists for increasing direct exports of surgical instruments.⁷

Threats to the Surgical instrument industry

According to the former Chairman of the Surgical Instruments Manufacturing Association Mr. Jehangir Bajwa, Pakistan is working as a vendor for other exporting countries and the said countries purchase these products from Sialkot while stamp their logo on them for export to the world market. It is noted that the government's failure to secure direct market access for our products and the increasing number of middle companies or mediators as they are called is the reason for lower prices of our surgical instruments from the manufacturers end. It has been observed that this directly affects the industry hence failing to grow to its potential, whilst giving no space or an opportunity for the industry to develop in all the aspects including the standards it ought to provide to its labour.

It has been further observed that the industry is running on an outdated technology and no funds have ever been allocated by the government or any private businesses for Research and Development (R&D) to stay updated with changing patterns in medical sciences. Moreover, lack of training institutes to train human resource has affected the industries potential and has substantially affected labour asset development. It is therefore held that Sialkot's industry as a leading exporter of surgical instruments is currently facing threat from upcoming competition from China and Mexico where these countries not only have cheap labour but also use superior technology for innovation and use better materials for manufacturing.

In addition, the manufacturing processes of surgical instruments involve die making, forging, filing, grinding, machining, electroplating and heat treatment. Most of these processes are subcontracted to countless small process specific workshops, with the final finishing (chemical cleaning and polishing) and quality checking by the final producers. The use of subcontractors became common in the mid-1970s after a period of labor unrest and strikes. Subcontracting minimizes company overheads and lowers costs, but, because subcontractors are not employees of the company and competition is fierce, it drives down wages and health and safety standards.

⁶ Ibid.

⁷ Mubarak Zeb Khab, "Pakistan's shadow surgical instruments' sector", *Dawn*, August 22, 2016. retrieved from <https://www.dawn.com/news/1279191>

Subcontracted manual laborers are paid per instrument, and the average worker earns around \$2 a day (personal communication). They have no job security or guarantee of income and no medical insurance or provision of education for their children. Nearly all subcontractors are forced to seek wages in advance from the firms that employ them, further disadvantaging these workers' position in arguing for a fair wage.⁸

Moreover, one of the biggest threats to the surgical instrument industry is the involvement of child labour. A heavy amount of labour employed in the surgical instrument industry comprises of child workers. Of the 50,000 laborers around 7700 are children, most starting work at the age of 9, and some as young as 7 years of age. For these children work is often a necessity; with large families and low wages the children in a family must work or the family risks starvation. Because of the subcontracted nature of the manufacturing process, there is little regulation of these employment practices (personal communication). These children are often from illiterate families, and they remain illiterate because of lack of education.⁹

The manufacturing processes result in exposure to machinery used in forging, grinding, drilling, and milling; poor wiring; metal dust; noise; repetitive strain injuries; and toxic and corrosive chemicals including sulphuric acid, nitric acid, and trichloroethylene. In one study into the health of child laborers in the surgical instrument sector, 95% reported poor sleep, 50% reported injuries at work, and over 80% reported pain in the lower back, neck, and shoulders, as well as an increased incidence of conjunctivitis and bronchiolitis. Again the subcontracted nature of the work affords no protection to workers and no finance or incentive for the workers themselves to give occupational health a high priority.¹⁰ Many of such problems exist in informal surgical instrument workshops, which are cramped, inadequately lit and pay workers low wages. Informal surgical workshop employees use grinders to work on metal instruments without any protective gear such as goggles, earphones or masks. Such unsafe working conditions often result in children and also older workers contracting asthma and other respiratory problems due to metal dust inhalation. Such nature or the circumstances of work which has likely harmful effects on the health and safety of children have been prohibited and sought to be eliminated under **Article 3(d) of the International Labour Organizations Convention, 1999**.

On many occasions, the international importers including US have raised concerns and restrictions with respect to child labour and the general labour standards in the surgical instrument industry of Pakistan and the Industry has been threatened to face consequences by sanctions and ban on importing surgical instruments from Pakistan.¹¹ In this regard, the Britain's National Health Service, which is the third largest buyer of surgical instruments from Pakistan accounting for 10% of the country's total exports,¹² has also raised concerns over the supply of surgical goods made by minor children in Sialkot. The NHS Supply Chain, which is one of the

⁸ The Rawalpindi Chamber of Commerce and Industry, "Pakistan Surgical Industry Structure: Issues/Problems & Recommendations", (September 2010) retrieved from <http://rcci.org.pk/wp-content/uploads/2012/12/SurgicalIndustry.pdf>

⁹ Ibid.

¹⁰ Ibid.

¹¹ Iris Punjab, "Surgical Instruments Industry 1999", retrieved from <http://www.irispunjab.gov.pk/StatisticalReport/Manufacturing%20Industry%20Data/Surgical%20Instruments%20Industry.pdf>

¹² Chartered Institute of Procurement & Supply, "NHS Doctors may be using tools made by child labour", (January 2018), retrieved from <https://www.cips.org/en-SG/supply-management/news/2018/january/nhs-doctors-may-be-using-tools-made-by-child-labour-in-pakistan/>

largest suppliers to the UK health service, has shifted blame to manufacturers used by its suppliers in Pakistan.

In 2010 the overall exports of surgical equipment's from Pakistan was reported to contribute approximately US\$250 million to our economy, therefore, it is imperative to ensure proper implementation of our domestic laws in the sector and drive out not only the menace of child labour but also ensure that the general labour of this industry are provided their due legal rights. Compliance of domestic laws is of paramount priority. Amidst the economic crisis Pakistan is currently facing, compels us to ensure compliance of international standards and avert any potential sanctions from the international exporters that could consequently affect this valuable economic industry.

Relevant laws protecting labour against exploitation and abuse

- (1) **The Factories Act 1934** is applicable to factories that employ ten or more workers involved in its manufacturing processes. The Act provides protection to such workers. The protections extended under the said Act obligates factory owners or operators to provide clean workplace to its workers, effective arrangement to provide sufficient supply of clean drinking water. Moreover, suitable protection of eyes shall be provided for protection of workers against any injury by particles or fragments thrown off in the course of manufacturing processes or by reason of exposure to excessive light or heat.

Similarly any factories that employ more than 19 workers during a year, are obligated to provide adequate arrangements for disposal of wastes and effluents due to the manufacturing process carried on therein, provide suitable ventilation and temperature therein, provide reasonable conditions of comfort and prevent injury to health, take effective measures to prevent dust or fume or other impurity of such nature that could be injurious or offensive to the workers employed therein, contain humidity of air inside the workplace, contain overcrowded work-room that can be injurious to health of workers, provision of adequate and conveniently suited and accessible latrines and take precautions against contagious or infectious diseases from spreading to workers, and take adequate precautions in case of fire. The inspectors under the said Act ensure safety of building, machinery and manufacturing processes and ensure that the use of such are not dangerous to human health or safety.

The said Act prohibits employment of adolescent, who has attained the age of 15 but not completed the age of 17, at any machine unless that adolescent is fully instructed as to dangers arising in connection with the machine and acquired sufficient training in work at the machine or is being supervised by an adult. This provision of the Act is, however, subject to government's notification declaring the requisite machines as dangerous. Moreover, children under the age of 14 years are prohibited to work in any such factory. Children over the age of 14 and not more than 17, are not allowed to work in any of such factories except a certificate of fitness showing that the child has attained the age of 14 and this certificate is granted by a certified surgeon on an application of any such child, parent, guardian or a manager of the factory in which such children wish to work. Moreover, such children with a certificate cannot work more than 5 hours in any day with frequent rest periods. The factories must display a notice of period of work for children, showing clearly the periods within which children may be required to work.

Additionally the Act restricts excessive and inordinate workings hours of adults in such factories and provides adequate provision of weekly and annual paid and festive holidays, casual and sick leave, provision of extra pay for overtime i.e. after more than 9 hours in a day or more than 48 hours in any week. Special arrangements has been placed for women workers in factories with specified working hours between 6am and 7pm, subject to arrangement of transport facilities whereupon working hours for a women can be rearranged up to 10 pm with her consent. The manager of every factory in which children are employed are obligated to maintain a register of children workers specifying name and age each child worker in the factory, nature of work, group of work, shift, certificate fitness granted, etc., otherwise will be held liable for a fine.

Any contravention of the Act holds the manager or the occupier of the factory punishable with a fine up to Rs.20,000. Similarly, if the person once been held liable is found guilty of any contraventions of above said Act will liable to an imprisonment for a term upto 6 months and with fine upto Rs.30,000. The said offences if continued to happen will be held liable for imprisonment for a similar term and fine of Rs.40, 000

- (2) Similarly, **Industrial and Commercial Employment (Standing Orders) Ordinance, 1968**, protects in general certain employment conditions of a workman in an industrial or commercial establishment. The Industrial establishment under the said Act is the same as provided in the Factories Act 1934 and is thus applicable to such establishments that have employed ten or more workers.

All such employers are obligated to have standing orders, envisaged in this Act, in a prominent place and kept in legible condition by the employer in English or Urdu and in the language understood by majority of its workers.

Employers that have failed to comply with the practices or contractual arrangements with its workers in parallel to Standing Orders, subject to any modifications otherwise specified in the Standing Orders by a collective agreement with the workers, envisaged in the said Act are liable to a fine which may extend to Rs. 5000 and in the case of a continuing offence, with a further fine which may extend to Rs. 200 for every day after the first day during which the offence continues. Moreover, any employer that acts in contravention of the Standing Orders as applicable to its industrial or commercial establishment shall be punishable with fine which may extend to one Rs. 100, and in the case of a continuing offence, with a further fine which may extend to Rs. 25 rupees for every day after the first day during which the offence continues.

The Standing Orders envisage classification of workers which include permanent and temporary workers, contract workers, badlis (alternates), apprentices or probationers. Moreover, terms and conditions of every workman shall be given in writing to its workers that include, provision of holidays, shift working, wage rates etc. All the permanent workers are deemed to be insured by their employers against natural death, disability and death and injury arising out of contingencies not covered by the workman's **Compensation Act, 1923** or the **Provincial Employees Social Security Ordinance 1965**.

- (3) Similarly the Punjab Government has recently specified the minimum rates of wages for adult unskilled and juvenile workers employed in all industrial and commercial undertakings, through its notification dated 1st July, 2019, under **The Minimum Wages Ordinance, 1961**, which is applicable to the whole of Pakistan. The minimum wage for

unskilled and juvenile workers is set at Rs.17,500/- per month for 26 working days. More importantly, it is duly notified therein that an adult female worker is obligated to get equal wage as of a male worker. In my opinion the minimum wage rate is applicable to surgical equipment industry as well and thus it is obligated upon such employer in the said industry to pay their workers the legal and rightful wage for the work they perform. It is however, unfortunate that workers remuneration in this industry have always been accounted for lower than the legally prescribed wage rate, in so much so, the female workers face the discrimination of being employed on an unequal terms which includes unequal wages compared to what is being paid to male workers. Similarly under **The Payment of Wages Act 1936**, which is applicable in the province of Punjab, obligates employers to pay wages to its workers in a timely manner i.e. not after the 10th day of every month. The Act also protects workers for any unnecessary deductions in workers' wages by their employers.

- (4) In addition the **Provincial Employees' Social Security Ordinance, 1965** which is applicable to Punjab, requires the employers to contribute 6% of the wages of their employees (having wages up to Rs. 18,000/-) to the Punjab Employees Social Security Institution, which is an autonomous body under the administrative control of Labour & Human Resource Department under the **Punjab Government Rules of Business, 1974** established through the **Provincial Employees Social Security Ordinance, 1965**. The benefits provided by Punjab Social Security involves medical facilities in the Social Security Hospitals and the facilities not available in Social Security Hospitals are arranged through other hospitals at the cost of PESSI wherever those be available. Other benefits include sickness, injury, iddat, maternity, gratuity, disablement pensions, survivor's pension, funeral grants, financial assistance and free education of secured workers children.
- (5) The **Employees' Cost of Living (Relief) Act, 1973** which applies to the factories that employ ten or more workers involved in its manufacturing processes, and it unequivocally provides a mandatory living allowance to workers either employed on a time-work or piece-work basis.
- (6) The **Punjab Industrial Relations Act, 2010** gives workers of any industry or a factory the right to form a trade union subject to the rules of that organization. The aim of such trade unions is primarily to regulate the relations between workmen and employers, or workmen and workmen or employers and employers, or for imposing restrictive conditions on the conduct of any trade or business. The trade unions can prove to be imperative to extend and implement international labour standards prescribed to be adopted in the industry.
- (7) The **Punjab Maternity Benefit Ordinance, 1958** obligates employers not to employ woman (who is either engaged on a regular or temporary basis) or engage them in employment of any nature in any establishment during six weeks following the date on which she delivers a child. Moreover, every women employed in an establishment is entitled to a payment of maternity benefit at the rate of her wages.
- (8) The **Punjab Occupational Safety and Health Act, 2019** mandates every employer to ensure occupational safety and health of the workers/employees at its workplace and protects workers against any risks arising out of the occupational hazards. The Act promotes safe and healthy working environment catering to the physiological and

psychological needs of the employees at their workplace. Any contravention of such duties will hold employers liable for a fine which may extend to Rs.100,000.

(9) The Bonded Labour System (Abolition) Act, 1992, provides for abolition of bonded labour system, wherein the system of forced or partly forced labour enters into a debt or has presumed to have entered into an agreement with the creditor in consideration of an advance monetary payment (*Peshgi*), whether it bounds the labourer himself or any of his family members in return for such consideration. The Act also abolitions and prohibits, any type of mortgage charge, lien or other encumbrance on the property or otherwise, in connection with any bonded debt. The said Act is enacted in view to promote the welfare of the freed bonded labourers, prevent the economic and physical exploitation of the labour class in the country, and cease any occasion or reason that labourers may be placed in a position to contract in a bonded debt.

The District Coordination Office's or such other sub-ordinate officer's the DCO designates has been conferred with the powers to implement the above mentioned Act within the local limits of its jurisdiction and conduct inquiries against any non-conformity of the law. Moreover, the said Act provides to set up district level 'Vigilance Committees' comprising District Administration, elected representatives of the area, lawyers bar associations, press, recognized NGOs and the labour Department of Government. The Vigilance Committee is tasked to help implement the law against bonded labour system, rehabilitate bonded labours, and assist bonded labourers.

Any contravention of the said provision of the Act is liable to imprisonment for a term not less than 2 years and not more than 5 years, or with a fine not less than 50,000 rupees, or both if deemed required. Moreover, in case the bonded labourers family members are held to render services under the bonded labour system shall also be liable to imprisonment for a term as mentioned above, or a fine not less than 350,000 rupees, or with both.

Recommendations by Swedish Public Sector

It is important to bring substantial labour care reforms in the surgical instrument industry of Pakistan, not only because the industry brings a significant contribution to Pakistan's economy by way of exports, but also in fact the labour abuse in the said industry has exceeded the threshold where such abuses should no longer be tolerated or condoned.

The Swedish Public Sector has been advised to refrain from accepting surgical instrument exports from Pakistan and India, a drive prompted to improve and necessitate the existing labour standards in the said industry in Pakistan and India and protect the sanctity of labour by pushing for labour friendly business activity. The Swedish public sector has proposed certain recommendations before accepting surgical goods from Pakistan and India which are as following:¹³

1. To have basic trade union and human rights in the production of the surgical goods.
2. The companies that supply goods for the public institutions should report on what they have done to ensure that basic human rights in work life are being respected as well as openly showing which suppliers and subcontractors they use.
3. Such companies should promote education programs for workers on their labour rights.

¹³ Swed Watch, "The dark side of health care", (March 2007) retrieved from <https://www.eldis.org/document/A31582>

4. The suppliers should develop a trustworthy code of conduct which would make clear that the employers respect the human rights of the employees.
5. The manufacturers/employers should cooperate with global trade unions.

It is further recommended that:

1. The government must ensure fair and ethical practices are followed with regard to the labour of the industry.
2. Overseas suppliers and purchasers in the developed world must be pressurized to be transparent about where and in what circumstances their instruments have been manufactured and for them to ensure that the labour rights are protected domestically. Moreover, they must ensure that the labourers have been paid a fair wage for their work and that basic international labor and health and safety standards have been followed, as defined by the International Labour Office. For instance the UK government has declared itself a key proponent of the EU framework for corporate social responsibility, and within this context the NHS Purchasing and Supply Agency has developed a sustainable development policy. The stated aims of this policy include encouraging NHS suppliers to ensure compliance with international labour standards and to act in an ethical business manner. Yet at present the health service is not meeting such obligations. There is no systematic assessment of the origin of the products it uses or the conditions under which they were produced.¹⁴
3. Through public-private partnership, the surgical industry must focus on research and development, which can not only help in adapting new methods of production but also develop new products that are made out of plastics and synthetic material.
4. The government policies may include provision of Foreign Direct Investment in Medical devices industry, giving opportunity to Multi-national Corporations setting up their manufacturing bases in Pakistan.
5. Medical Device parks can be planned across Pakistan aiming to encourage home growth research into commercially viable projects, create employment in the sector, create ecosystem for high end medical device manufacturing, and bring down the cost of health care delivery in Pakistan.

Conclusion

It is unfortunate that all the above requisite laws lack any implementation in the surgical equipment industry of the country particularly in District Sialkot region of the country. In this regard the custom and practices of bonded labour system is still thriving in the said Industry adding more to the abuse and injustices being suffered by the labourers, whereas proper implementation of law can put an end to such unlawful and abusive practices by the employers.

It is worldwide known fact that organizations are made up of people, who are the building block of that organization. But the human resources of our surgical industry are not properly managed and neither are they afforded their due rights, because we have that feudal system and people are not well aware of the resource management. The entrepreneurs themselves execute every function of HR. They consider placement of a professional or business graduate as a waste of money; moreover, the professionals are misconceived as another exploitation tool that might steal their business secrets. The industry for the last 100 years is working on the concept of “ustaad (teacher) and shaagird (student)”. There is an emergent need of surgical training

¹⁴ The Rawalpindi Chamber of Commerce and Industry, “Pakistan Surgical Industry Structure: Issues/Problems & Recommendations”, (September 2010) retrieved from <http://rcci.org.pk/wp-content/uploads/2012/12/SurgicalIndustry.pdf>

institute/centers, where current labour force could be trained for enhancement of their manufacturing skills and new entrants could also be trained in this institute.

There has been international and domestic outcry against the problems in the surgical instrument manufacturers in Pakistan. Most of this has centered on the issue of child labor. It is imperative to monitor child labor in the sector and withdraw children from work to enroll them in funded education programs. Study reveals that so far around 1500 children have been provided with education and reduced working hours, but few have been able to leave employment altogether.¹⁵ Other underlying problems in this industry are regarding inadequate remuneration and labor standards. Purchasers of surgical instruments in EU and US have in the past refused to buy instruments unless they can be certified as not having been produced with child labor; but such moves may reduce trade with the manufacturing regions, only compounding the underlying problems of poverty, hence the government must ensure fair and ethical practices with regard to the labour in the industry.

OPINION

The Challenges and Potential of Pakistani Migrant Workers**Fakiha Mahmood**Research Officer,
Research and Legislation Wing, PIPS**Abstract**

Pakistan is the sixth most populous country in the world, and hosts 9th largest labor force with population growth of 2.4 % per annum. Absorbing the labor force in order to ensure decent employment for all depends upon the level of growth in the economy. Overseas employment offers the government an opportunity to eradicate unemployment within the country; it also contributes in the economic growth through remittances sent from abroad. Pakistan is among the largest migrants workers sending countries and has remained among top five to six remittances receiving countries in the world in the past two to three years. This paper presents the recent trends in labor migration in order to highlight the challenges and potential in sending Pakistani manpower abroad for employment opportunities.

1. Introduction

Pakistan is the sixth most populous country in the world, and hosts 9th largest labor force with population growth of 2.4 % per annum. Absorbing the labor force in order to ensure decent employment for all depends upon the growth of economy. Overseas employment offers the government an opportunity to eradicate unemployment within the country; it also contributes in the economic growth through remittances sent from abroad. Pakistan is among the largest migrants workers sending countries and has remained among top five to six remittances receiving countries in the world in the past two to three years.

Labor Migration is a win-win affair for all parties concerned, if conducted in a fair manner. For the migrant it is a source of income and meeting household expenses. For the country of origin labor migration becomes a source of remittances thereby positively impacting upon national income. It helps in addressing the challenge of unemployment especially in developing countries with large scale young population. It can also facilitate flow of innovative skills and technologies. For the destination country labor migration enhances productivity and overall GDP. It helps filling gaps arising out of the demographic imbalances like ageing.¹ Almost all empirical studies conclude that labor migration is source of good for the immigrants as well as for the destination country.²

Labor migration policies work best when they are focused on eliminating exploitation of migrant workers in destination countries and ensuring their positive contribution to both sides. This cannot be achieved without effective governance at all levels. Labor migration policies are trusted by public when they emerge from active national dialogue involving all stakeholders.³ Pakistan is currently undergoing through the process of formulation of “National Emigration and Welfare Policy” aimed to provide migrant workers every possible facility during the entire

¹ International Organization for Migration – UN Migration, *World Migration Report*, 2018.

² World Bank Group, *Moving for Prosperity: global migration and labor markets* (Washington DC: International Bank for Reconstruction and Development/World Bank, 2018).

³ International Labor Organization, “Addressing governance challenges in a changing labor migration landscape,” *International Labor Conference 106th Session*, 2017.

emigration cycle. The Ministry of Overseas Pakistanis and Human Resource Development is taking the lead in consultation with various relevant stakeholders in this regard.⁴

Research questions:

1. What is the scenario with regard to labor migration at the global level, and Pakistani migrant workers abroad?
2. How do workers' remittances impact upon the economy in Pakistan?
3. What is the legal framework in Pakistan for the governance of Pakistani labor migrants?
4. What are recent trends in migration of Pakistani workers, including potential destination countries?

Definitions:

According to the International Organization for Migration (IOM) – the UN Agency for migration:

- **Emigration** is defined as “The act of departing or exiting from one State with a view to settling in another.”
- **Immigration** is defined as “a process by which non-national moves into a country for the purpose of settlement.”
- **Labor migration** is defined as the “movement of persons from one State to another, or within their own country of residence, for the purpose of employment. Labor migration is addressed by most States in their migration laws. In addition, some States take on active role in regulating outward labor migration and seeking opportunities for their nationals abroad.”
- **Migrant** is “an umbrella term, not defined under international law, reflecting the common lay understanding of a person who moves from his or her place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons. The term includes a number of well-defined legal categories of people, such as migrant workers; persons whose particular types of movements are legally defined, such as smuggled migrants; as well as those whose status or means of movement are not specifically defined under international law, such as international students.”
- **Migrant Worker** is defined as “a person who is to be engaged, is engaged or has been engaged in remunerated activity in a State of which he or she is not a national.”⁵

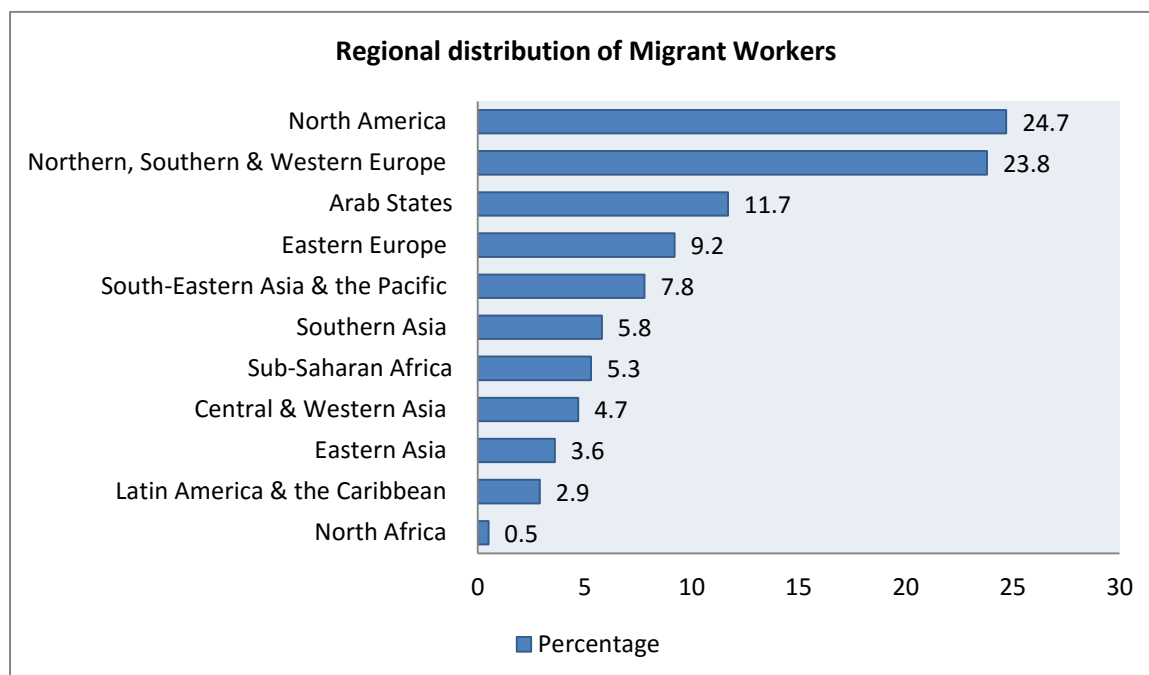
2. Labor migration: Global scenario

As of 2015, 3.3 percent of the total world population i.e. 244 million people were recorded in the stock of international migrants. Though this is a 41 per cent increase since 2000, however, it is a small share of the overall population. Data suggests that though the number of migrant workers has increased over the years, the overall share of migrants is still very small. The migration to developed economies and towards the Arab States accounts for the major share of international migrants globally. At the same time 57 percent of the increase in total migration between 2000 and 2013 was due to increase in South-South migration. A glance over the regional trends reveals that the North America and Western Europe continue to host the largest share of migrant workers. Arab States are next in line in terms of hosting largest percentage of migrant workers.

⁴ Bureau of Emigration & Overseas Employment, *Analysis of Manpower*, 2018.

⁵ IOM, *Glossary on Migration*, 2019.

However, the Arab States top the list of migrant worker as calculated in comparison with the



Source: ILO

host communities.

The World Migration Report (2018) states that the international legal framework pertaining to labor migration rests primarily on bilateral and regional/sub-regional arrangements i.e. MoUs or agreements among the state parties. The global multilateral legal instruments are few in number and less widely ratified. The international charter on labor migration includes: The 1990 Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW), The 1949 Migration for Employment Convention (Revised) (ILO Convention No.97), The 1975 Convention Concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (ILO Convention No. 143).

3. Pakistani migrant workers: Overview

According to the data provided by Bureau of Emigration and Overseas Employment, between 1971 and 2018, Pakistan has sent 10.48 million Pakistanis as registered migrant workers to almost all countries of the globe. However, majority of them are concentrated in Gulf Cooperation Council (GCC) countries. Among the GCC countries, UAE and Saudi Arabia have received major chunk of Pakistani migrant workers.

The flow of Pakistani migrants was towards United Kingdom and USA prior to 1970s. The era of economic and infrastructure development in the gulf region which began in early 1970s due to the fortunes brought about by petroleum products shifted the flow of migrants towards these countries. The South Asia countries including Pakistan, Bangladesh and India were major countries of origin for the labor migrants entering Gulf States. People belonging to various professions and skill sets like doctor, engineer, teacher, pharmacist, designer, laborer, technician, mason, carpenter, electrician, agriculturalist, salesman, steel fixer, plumber, and operator etc.

have moved to these countries for employment purposes. The skill compositions of these migrants have been skilled, unskilled, semi-skilled, and highly-skilled.

Region Wise Distribution of Pakistan's Manpower (1971-2018)			
S.#	Countries	1971-2018	%
1	<i>GCC⁶ Countries</i>	10085476	96.15
2	<i>Other Middle Eastern Countries</i>	106763	1.02
3	<i>Africa</i>	99789	0.95
4	<i>Malaysia</i>	97315	0.93
5	<i>EU Countries</i>	32613	0.31
6	<i>South Korea</i>	15472	0.15
7	<i>Others</i>	52217	0.50
8	Total	10489645	100.00
<i>Source: Bureau of Emigration and Overseas Employment (2019)</i>			

It is noteworthy that though the data provided above demonstrates that major chunk of Pakistani migrant workers i.e. more than 90% moved towards the Gulf States, a significant portion of Pakistani diaspora exists in the developed western countries including UK, USA and European countries. The absence this large diaspora from these statistics can be attributed to various reasons for example this data primarily records those migrants who have proceeded to Gulf States by registering with Bureau of Emigration and Overseas Employment. A large number of Pakistanis left Pakistan to proceed towards the developed western countries with the purpose of higher education and settled there instead of coming back and joining the work force in Pakistan. These people proceeded without going through the process of BE&OE. Perhaps this is the reason that they are missing from these statistics. Their presence in a significant number can be felt from the data and statistics pertaining to workers' remittances in the related section below.

Remittances in the Balance of Payments

Items	July-April	
	2017-18	2018-19 (Provisional)
Current Account Balance	-15,864	-11,586
Trade Balance	-25,813	-23,934
Service Balance	-5,041	-3,217
Income Account Balance	-4229	-4458
Balance of Secondary Income	19,219	20,023
Workers' Remittances in the Balance of Secondary Income	16,482	17,875

⁶ The Gulf Cooperation Council (GCC) includes Kingdom of Saudi Arabia, Kingdom of Bahrain, United Arab Emirates, State of Kuwait, State of Qatar, Sultanate of Oman.

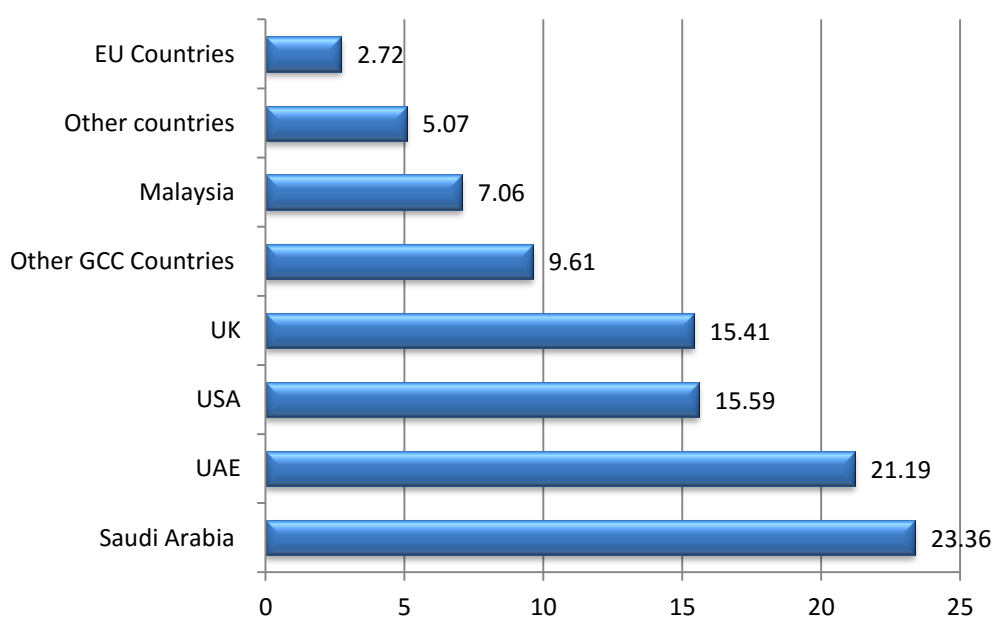
4. Workers' remittances

Source: Economic Survey of Pakistan 2018-19

“Remittances are financial or in-kind transfers made by migrants directly to families or communities in their countries of origin.”⁷ A large chunk of remittances flows through informal channels at the global level. Despite gaps in data and statistics, remittances were recorded USD 575 billion in 2016 across the world, and USD 126 billion in 2000. A comparison between remittances and Official Development Assistance⁸ (ODA), reveals that since mid-1990s remittances have increased much beyond ODA.

Pakistani migrant workers have significantly contributed to economic development of Pakistan in the shape of remittances over the past decades. The flow of remittances was 7,811 million US dollars in 2008-09 and 19,622 million US dollars in 2017-18. These remittances have helped in reviving economic activities, created employment opportunities, reduced poverty; improved the living standards of the recipient families; prevented the balance of payment crisis; built up foreign exchange reserves and stability in exchange rate. Among various types of capital flows, remittances have proven great resilience towards economic shocks. Data reveals that the Gulf States hosting largest number of Pakistani migrants are source of major chunk of remittances in Pakistan. USA and UK are next in line in terms of percent share of remittances.⁹

Country/Region wise cash workers' remittances (% share)



Source: Economic Survey of Pakistan 2018-19

Legal framework in Pakistan

⁷ IOM, *World Migration Report*, 2018.

⁸ Defined as government aid designed to promote the economic development and welfare of developing countries.

⁹ Ministry of Finance, *Economic Survey of Pakistan, 2018-19*. (Islamabad: Printing corporation of Pakistan, 2019).

- a. **Emigration Ordinance 1979:** The Emigration Ordinance was promulgated in March 1979 with the intent to repeal, and with certain modifications, re-enact the Emigration Act 1922. The Ordinance defines “emigrate” or “emigration” as “*the departure by sea, air or land out of Pakistan of any person for the purpose, or with the intention, of working for hire or engaging in any trade, profession or calling in any country beyond the limits of Pakistan.*”

The Ordinance burdens the Bureau of Emigration and Overseas Employment with the responsibility to “control and regulate such emigration, and to look after the interest and welfare of emigrants.” It also empowers the Overseas Employment Corporation to “promote emigration of citizens of Pakistan.” The Ordinance contains provisions with regard to regulations of Overseas Employment Promoters include of procedure for the grant of licenses or its cancellation. It gives the Federal Government power to make rules for the implementation of this Ordinance. It imposes penalty of five years’ imprisonment or fine or both in case of violation of law. If anybody indulges in fraudulently inducing to emigrate anybody, he/she is punishable with imprisonment for a term, which may extend to fourteen years, or with fine, or with both.

- b. **Emigration Rules 1979:** The Emigration Rules, 1979 set out the powers and duties of the Director General, Bureau of Emigration & Overseas Employment, the powers and duties of the Protector of Emigrants, power and duties of Labor Attaché, as well as details pertaining to the role of Overseas Employment Promoter. It contains provisions pertaining to service charges and their distribution. It sets out the procedure for processing the demand of manpower from foreign government as well as scrutiny of private sector demands by the Protector of Emigrants. The Emigration Rules make it incumbent upon the emigrant to get insured with an insurance company.

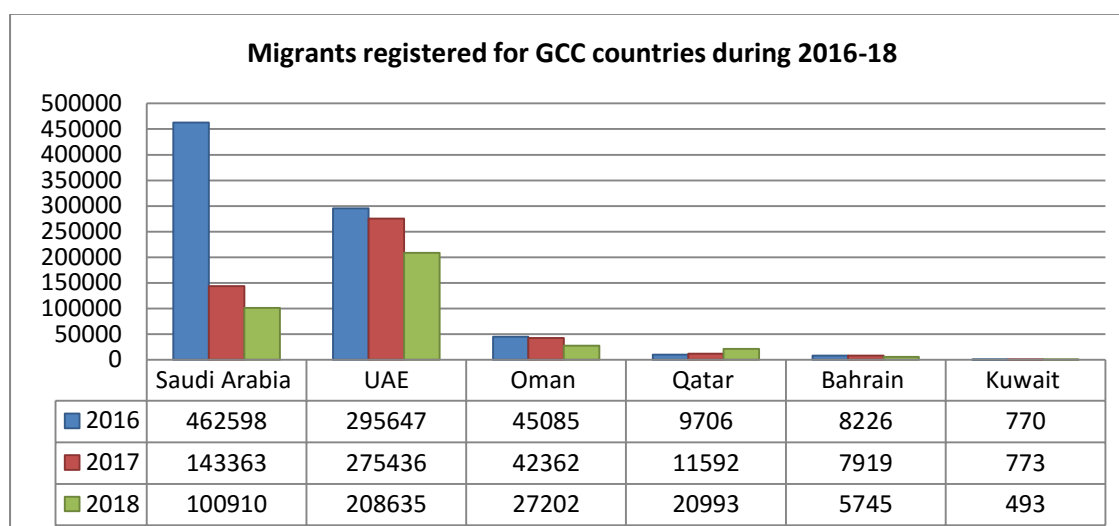
5. Recent trends in labor migration

As of 2018, UAE is the largest recipient of Pakistani migrant workers with more than 54 percent of workers, then Saudi Arabia (26.39%), Oman (7.11%) Qatar (5.49%). Recent years have witnessed a decline in the export of manpower to Gulf States. Despite an overall decrease, Gulf States continue to host the largest chunk Pakistani migrant workers. However, the emerging trends in labor market are posing challenges for sustaining this flow of migrants towards these countries, especially for unskilled and semi-skilled workers.¹⁰ Recent decline in oil prices has compelled the Gulf States to diversify their economies. The global economic crisis is further driving the changes in labor markets. These emerging trends require deeper analysis in order to capture the labor market in a befitting manner.

Data and statistics of past two years demonstrate a decreasing trend in low-skilled category and increasing trend in highly qualified category. The movement to involve indigenous people in labor market in Gulf States has created a challenging situation for Pakistani migrant workers. With increasing competition, low-skilled workers would find it difficult to secure job in these countries. Coping with this challenge requires up-skilling and certification of workforce in order to meet the international standards.¹¹

¹⁰ Bureau of Emigration & Overseas Employment, *Analysis of Manpower*, 2018.

¹¹ Ibid.



POTENTIAL DESTINATION COUNTRIES

	Potential/scope	Demand
UAE	Expo 2020 Dubai: Foreign workers selected would be given free visas.	Demand of 0.3 million jobs of skilled/labor jobs.
Qatar	National Vision 2030, National Tourism Strategy 2030 aimed to boost economy, FIFA World Cup 2022 Qatar.	Demand of 2 million jobs. Emir of Qatar announced 100,000 jobs for Pakistanis.
Kingdom of Saudi Arabia	New Taif City, Neom Mega City, Saudi Vision 2030 - 30 million pilgrims annually, restart of Makkah Haram Project	Demand in energy, IT, healthcare, telecommunications, business management, and commerce sectors. 30 million pilgrims annually, immense scope in hospitality sector.
Germany	Largest economy in Europe, fourth largest worldwide	Demand of 3.0 million skilled workers by 2030 in sectors like IT, engineering, healthcare, services, automobile industry, energy and environmental sciences.
Canada	World's tenth largest economy	Shortage of 430,000 workers in different categories i.e. electricians, welders, mechanics, salesman, drivers, technicians, engineers, IT experts, office support staff, healthcare and education professionals.
Japan	Third largest and high economy of the world, shrinking population with increasing demand in products. The Immigration Control Act was revised in Dec. 2018 to permit foreign laborers to enter Japan from April 2019 under the newly created visa status of "Designated Skilled Labor"	The government approved the acceptance of 345,000 workers in 14 blue-collar ¹² industry sectors over the next five years. In a bid to export manpower to Japan, a Memorandum of Cooperation (MoC) on Technical Intern Training Program (TITP) was signed between Pakistan and Japan

¹² "Blue collar workers do work needing strength or physical skill rather than office work," <https://dictionary.cambridge.org/dictionary/english/blue-collar>.

on February 26, 2019.

Sources: BEOE, Analysis of Manpower Export, 2018; Toshibiro Menju, "A historical turning point – Japan changes course towards admitting immigrants," The Association of Japanese Institutes of Strategic Studies, 14 March 2019, http://www2.jiia.or.jp/en_commentary/pdf/AJISS-Commentary266.pdf.

6. Conclusion

Global analysis of migration reveals that though labor migration has increased significantly in recent years, the percentage of migrant workers is still very low as compared to the world population. Perhaps this is the reason that the international legal framework pertaining to migrant workers is less widely ratified by the states. Therefore international labor migration is governed among the states on the basis of regional arrangements or state to state agreements. Labor migration is a significant component of Pakistan's employment and productivity regime. Over the past three to four decades, millions of Pakistanis have migrated to other countries for employment purpose. The concentration of more than 90 per cent of Pakistani migrant workers creates dependency, thereby making Pakistan vulnerable to economic fluctuations of receiving country. Pakistan needs a well-managed migration policy in order to ensure decent work for its migrant workers, the destination country and boost economic development through remittances sent by the overseas Pakistanis.

A glance over the recent trends in labor migration reveals various transformations in the destination countries. The global economic crisis, oil prices decline, and demographic factors are some of the determinants of these transformations. Pakistani migrant workers are concentrated mainly in the Gulf States. Hit by the decline in oil prices, these countries are seeking to diversify their economies. They are also encouraging their own workforce to grab share in the labor market. Despite these shifts there are enormous opportunities in labor migration in Gulf States. Need of the hour is to provide necessary skills and education to our nationals keeping in view the demand of the labor market in order to ensure decent employment opportunity in these countries.

The demographic compulsions of some of the largest economies of the world including Canada, Germany, and Japan have created huge gap in labor market due to decline in population. This is particularly true about Japan, where the steep decline in local population has compelled the policy makers to ease immigration policy, despite severe criticism, in order to fill the void in the labor market by employing foreign workers. Resultantly, immense employment opportunities can be found in these countries.

The legal framework pertaining to emigration in Pakistan is more than four decades old. Even that piece of legislation was enacted by making necessary changes in the older law which was enacted in 1922. There is a need to conduct post-legislative scrutiny of the Emigration Ordinance of 1979, which is the prime legal instrument pertaining to emigration in Pakistan. Based on this exercise fresh legislation should be done keeping in view the recent trends in emigration. This is needed especially in order to curb illegal practices in emigration like smuggling and human trafficking.

Original carbon copy of the Islamabad declaration signed at the National
Parliamentarians Conference on Kashmir, September 18, 2019



National Parliamentarians Conference
on Kashmir



Islamabad Declaration

Recalling the Universal Declaration of Human Rights which recognizes dignity, equality and inalienable rights as the foundation of freedom, justice and peace, with respect to human rights violations, and subjugation of Kashmiri people in the Indian Occupied Jammu & Kashmir;

Reiterating Pakistan's unconditional support to Kashmiri people in their just struggle for right to self-determination and freedom from suppression and Indian subjugation;

Terming India's illegal and unilateral actions a blatant breach of international law and United Nations Security Council resolutions;

Condemning the serious crimes against humanity, forced disappearances, arbitrary arrests, torture, usage of pellet guns and rape by Indian occupation forces;

Lamenting the looming humanitarian crisis in the Indian Occupied Jammu & Kashmir where more than 8 million Kashmiris remain under curfew and siege, facing deprivation and shortage of basic amenities, food supplies and life-saving medicines, risking the lives of the sick and the wounded;

Denouncing imprisonment and house arrest of Indian Occupied Jammu & Kashmir's political leadership as well as arbitrary arrest of thousands of Kashmiris;

Condemning the unprovoked Indian shelling and use of cluster ammunitions on the Line of Control, resulting in loss of precious lives in the Azad Jammu and Kashmir, threatening world peace, stability and order;


Acknowledging the support of international community, UN bodies, human rights groups, EU, OIC, China, Iran and Turkey, and law-makers from US and UK on Kashmir issue;

Urging the international community, national parliaments around the world, the IPU, the CPA to take strict notice of all unlawful acts on part of India and demand Indian government to roll back and check its unlawful moves as well as human rights violations and state sponsored terror in the occupied territory for the sake of peace, stability and rule of law in the region;

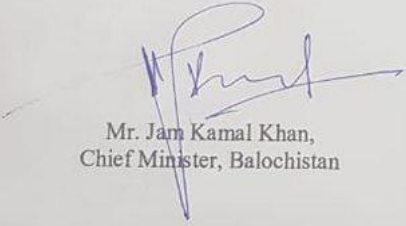
Calling upon the United Nations to constitute an independent inquiry commission to investigate, and fix responsibility for, crimes against humanity in Indian Occupied Jammu & Kashmir.

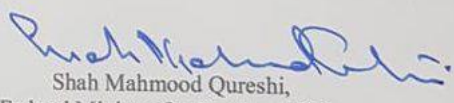
Recalling, reiterating and endorsing Pakistan's plea to the 42nd Human Rights Council while making following demands:

- 1) Calling upon India to put an end to its reign of terror in the Indian Occupied Jammu & Kashmir by lifting curfew, opening communications linkages, releasing political prisoners, restoring fundamental freedoms and liberties, abolishing inhuman emergency laws; and constituting Commission of Inquiry, as recommended by the Office of the UN High Commissioner for Human Rights, to bring to justice those responsible for human rights violations.
- 2) Stressing that humanitarian organizations as well as International Media should be given full access to Indian Occupied Jammu & Kashmir.
- 3) Demanding India to grant people of Indian Occupied Kashmir their right to self-determination and fulfill its obligations as per the United Nations Security Council Resolutions and various human rights instruments.
- 4) Urging the Human Rights Council to authorize the Office of the High Commissioner, and the Council's Special Procedures Mandate Holders to monitor and report India's human rights violations in Indian Occupied Jammu & Kashmir.
- 5) *Urging national Parliaments to send fact finding delegations to Indian Occupied Kashmir to monitor and report human rights violations.*

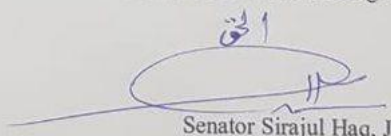

Raja Farooq Haider,
Prime Minister of AJK

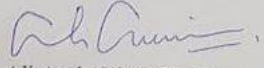

Saïyyed Abdullah Gillani,
Convener, All Parties Hurriyat
Conference

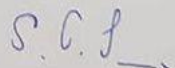

Mr. Jam Kamal Khan,
Chief Minister, Balochistan



Shah Mahmood Qureshi,
Federal Minister for Foreign Affairs

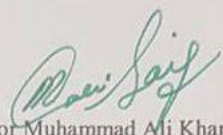
Senator Mir Kabeer Ahmed Muhammad
Shahi, (National Party)

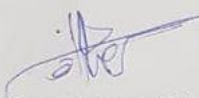

Senator Sirajul Haq, JI


Mr. Ali Amin Khan Gandapur,
Federal Minister For Kashmir Affairs &
Gilgit Baltistan

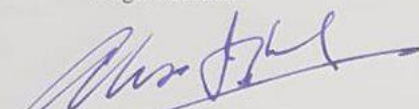

Syed Fakhar Imam, MNA,
Chairperson, Parliamentary
Committee on Kashmir



Senator Sitara Ayaz (ANP)

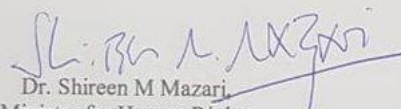

Senator Muhammad Ali Khan Saif,
(MQM)

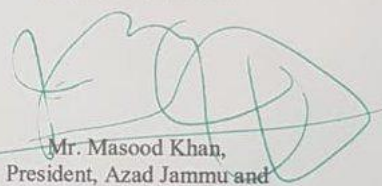

Hafiz Hafiz-ur-Rehman, Chief Minister of
Gilgit-Baltistan

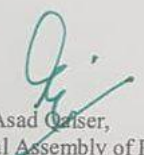

Senator Sherry Rehman, (PPPP)

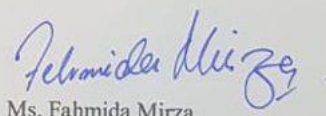

Mr. Ahsan Iqbal, MNA, PML(N)


Syed Murad Ali Shah,
Chief Minister Sindh

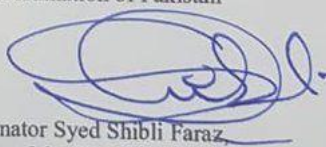

Dr. Shireen M Mazari,
Minister for Human Rights

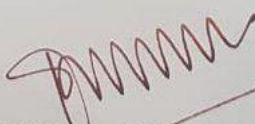

Mr. Masood Khan,
President, Azad Jammu and
Kashmir


Mr. Asad Qaiser,
Speaker, National Assembly of Pakistan


Ms. Fahmida Mirza,
Minister for Inter Provincial
Coordination of Pakistan

Senator Raja Muhammad Zafarul Haq,
Leader of the Opposition in the Senate


Senator Syed Shibli Faraz,
Leader of the House in the Senate


Senator Muhammad Sadiq Sanjrani,
Chairman Senate of Pakistan



Honorable Chairman Senate of Pakistan/ President PIPS Board of Governors Senator Muhammad Sadiq Sanjrani Opening the National Parliamentarians Conference on Kashmir, September 18, 2019



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