



DECENT WORK IN PAKISTANI MEDIA

AN ASSESSMENT OF LABOUR LAWS & THE IMPACTS FOR MEDIA WORKERS



A report by the Institute for Research, Advocacy and Development (IRADA)
July 2021 // International Federation of Journalists (IFJ)

ACRONYMS

ABC	Audit Bureau of Circulation
AEMEND	Association of Electronic Media Editors and News Directors
APNS	All Pakistan Newspapers Society
CBA	Collective Bargaining Agent / Agency
CPNE	Council of Pakistan Newspaper Editors
DigiMAP	Digital Media Alliance of Pakistan
EOBI	Employees Old Age Benefits Institution
HR	Human Resource
HRM	Human Resource Management
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IFJ	International Federation of Journalists
ILO	International Labour Organization
IRAs	Industrial Relations Acts
ITNE	Implementation Tribunal for Newspaper Employees
KIIs	Key Informant Interviews
NECOSA	Newspapers' Employees (Condition of Service) Act, 1973
NIRC	National Industrial Relation Commission
PBA	Pakistan Broadcasters Association
PECA	Prevention of Electronic Crimes Act
PEMRA	Pakistan Electronic Media Regulatory Authority
PESSIs	Provincial Employees Social Security Institutions
PFUJ	Pakistan Federal Union of Journalists
PMDA	Pakistan Media Development Authority
PSPC	Pakistan Security Printing Corporation
PTA	Pakistan Telecommunication Authority
SECP	Security and Exchange Commission of Pakistan
SPL	Security Papers Limited
UDHR	Universal Declaration of Human Rights
UNESCO	United Nations Educational, Scientific and Cultural Organization

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This document has been produced by the Institute for Research, Advocacy and Development (IRADA) with the support of International Federation of Journalists (IFJ) and its affiliate the Pakistan Federal Union of Journalists (PFUJ)

Cover photos

Top left: Activists at a women's rally in Lahore.
Credit: Arif ALI / AFP
Top right: Pakistani journalist wearing a face mask.
Credit: Asif Hassan / AFP
Bottom left: Journalists in Islamabad mark World Press Freedom Day in 2020.
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Bottom right: Pakistan journalist Shazia Bhatti.
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CHAPTER 1: A STRATEGY FOR A MORE REPRESENTATIVE & BENEFICIAL LEGAL FRAMEWORK FOR THE MEDIA IN PAKISTAN

EXECUTIVE SUMMARY

Pakistan's constitutional and legal frame provides a number of constitutional and legal protections and remedies to media workers. The Constitution of Pakistan, 1973 outlines the policy framework for provision of fair and enabling environment for workers and guarantees fundamental rights of labourers.

Existing legal framework governing workers' rights in Pakistan provides a wide range of laws covering subjects and matters including abolition of bonded labour; employment of children; trade unions and worker-employer relationship; wages and compensations; working conditions and workers' welfare; old age benefits; and employment rights of disable persons. Special laws are also made for working conditions of media workers and newspaper employees. Currently, Pakistan's government is planning to repeal the Newspaper Employees (Conditions of Service) Act, 1973 and merge all existing media regulatory laws into a proposed "Pakistan Media Development Authority (PMDA)."

Nevertheless, there is a need to determine the shortcomings, and deficiencies in the existing legal framework governing rights of workers, particularly media workers, in the aftermath of 18th amendment. This assessment of Pakistan's existing and applicable labour, industrial and worker laws was conducted to understand the status, facts, qualities, shortcomings, and deficiencies in the legal framework relating to labour rights – in the wake of ongoing crisis of non-payment of wages, mass job losses and job security issues in media industry of the country.

The assessment consisted of two stages: (i) desk study of Pakistan's labour laws, impacting media workers, in the light of best examples and international standards including relevant ILO Conventions and review of performance of the Wage Boards and Implementation Tribunal for Newspaper Employees (ITNE); and (ii) Key informant interviews of journalists' / workers' unions leaders, media owners (industry experts), labour law experts, Wage Board and ITNE officials and local and international media development experts.

This assessment report provides an overview of constitutional and legal framework relating to the labour, especially affecting media workers. This covers appraisal of the relevant constitutional provisions in the light of international standards relating to media workers. This includes study of: Article 17(1) relating to freedom of association; Article 11 relating to abolition of slavery and forced labour; Article 19 relating to freedom of speech; Article 37(e) relating to promotion of social justice; and Article 38(a) relating to social and economic well-being.

Study of legal framework encompasses overview of labour laws falling in following four categories of themes:

1. Protective laws such as factories acts, merchandise shipping laws, laws relating to dock labourers, road transport, etc.
2. Laws relating to wage determination in terms of minimum, living and fair wage and regulation of their timely payment.
3. Labour welfare, social security, social insurance and old age benefits laws
4. Laws relating to labour relations.

The report deliberates upon applicability of general labour laws on media workers in the light of decision of higher judiciary and describes the extent of rights and privileges provided in the NECOSA for newspaper employees. The Wage Board and Implementation Tribunal for Newspaper Employees (ITNE) are key institutions in realization and protection of workers' rights in newspaper industry. The report thoroughly discusses performance of these institutions including formation of Wage Boards over the years and implementation of the Awards given by them. Legal and administrative challenges in the implementation of these awards are also touched upon. Furthermore, this part assesses the performance of the ITNE in terms of filing of cases therein and disposal thereby. The data shows that the ITNE could dispose of mere 10% of the cases filed – before or after 2010 – until May 2021. To qualify findings of the desk review, stakeholders' feedback was collected through key informant interviews on a variety issues including state of implementation of the legal framework; suggestions to improve protection mechanism for rights of media workers; and strategies / ideas to face challenges – mainly due to technological and state-led proposed structural changes in the laws – for media workers in future. Key research findings (Chapter 2) and recommendations (Chapter 8) are also part of the report.

THIS ASSESSMENT OF PAKISTAN'S EXISTING AND APPLICABLE LABOUR, INDUSTRIAL AND WORKER LAWS WAS CONDUCTED TO UNDERSTAND THE STATUS, FACTS, QUALITIES, SHORTCOMINGS, AND DEFICIENCIES IN THE LEGAL FRAMEWORK RELATING TO LABOUR RIGHTS – IN THE WAKE OF ONGOING CRISIS.

CHAPTER 2: KEY FINDINGS

1. NON-INCLUSIVE LEGAL FRAMEWORK FOR WOMEN & MARGINALIZED SEGMENTS

- The language of most of the laws including the Industrial Relations laws and the NECOSA is non-inclusive for women workers and employers. For examples these laws use 'workman' for both male and female workers. Other than representation of women in the executive of a trade union where women are also employed, there is no mentioning of women employers / workers in these laws.
- Formations of National Industrial Relation Commission (NIRC) and Wage Boards do not have any reference to the representation of 'women employers or workers.'
- Women occupy a significant role in the labour force in the media industry but face significant disadvantages and discrimination in relation to their male colleagues. Further work could be undertaken to assess any differentiated effects on women workers of recent changes in employment relationships in the media industry.
- Apart from the industry-related risks that women face as their male counterparts, the women grapple with additional work-related hazards such as sexual discrimination and harassment and wage disparities that must be addressed in all campaigns and initiatives.
- The laws are silent on the inclusion and representation of other marginalized groups such as religious minorities, etc.
- There needs to a strong gender affirmative element to all efforts related to enforcement of labour rights for media workers.

2. NON-RECOGNITION OF ELECTRONIC & ONLINE / DIGITAL MEDIA PLATFORMS

- There is no registration required for online / digital news media platforms in the country. Therefore, status of employees working with the digital / online news media platforms is in question.
- There is no adequate mechanism for the protection of employment in case of electronic and social/digital media employees as we have seen in case of newspaper employees. It has been seen that the journalists who speaks against the government or some other powerful institutions have lost their jobs immediately.
- There is a need to reform the existing labour laws dealing with print and electronic media to align them to international best practices. Furthermore, there is also a need to make pragmatic and positive regulations relating to the business of social/digital media platform so that rights of employees associated with that platform may be safeguarded.
- There is a dire need to organize, facilitate and provide technical resources to workers of the

IN PAKISTAN, COLLECTIVE AGREEMENTS APPEAR TO BE BECOMING MORE DIFFICULT TO ACHIEVE, AND SOME EMPLOYERS ARE CHOOSING TO WITHDRAW FROM COLLECTIVE BARGAINING.

digital media who are growing in number but who don't have adequate public and industry recognition of their status.

3. NON-RECOGNITION OF INFORMAL WORKPLACES & FREELANCERS

- These laws mainly deal with the formal workplaces and establishments. This issue is particularly relevant to those online / digital workers who operate from their homes.
- Since most of these laws are related to formal work places and establishments, therefore, they don't recognize freelancers and independent contributors as 'worker'. This is particularly relevant to the media industry where many writers, freelancers and reporters work independently and contribute to the news through their write ups.
- Freelancers are a fundamental part of the labour market in the media sector, and their interests and rights as workers – including as regards freedom of association and collective representation – need greater consideration. Ways to extend coverage in collective agreements to freelance workers and to permit freelancers and other atypical workers to seek collective representation could be examined.

4. FRAIL COLLECTIVE BARGAINING & MEDIA WORKERS' RIGHT

- Collective bargaining is long-established in the employment sector. When working effectively it brings benefits both to employers and to workers. It remains at the heart of a well-functioning labour market in the media industry.
- Unfortunately, in Pakistan, collective agreements appear to be becoming more difficult to achieve, and that some employers are choosing to withdraw from collective bargaining.
- Collective agreements should be extended to cover media workers' working in new media platforms, including online content creators.

5. LACK OF AWARENESS ABOUT LAWS AMONG MEDIA WORKERS

- There is a lack of understanding and awareness among majority of workers of print, electronic and digital media about the application of labour laws as well as their rights and privileges under the existing legal framework.

6. JOURNALISTS / WORKERS SAFETY

- In recent time, it has been seen that journalists have been attacked. Even some of them have lost their lives on duty. However, neither any effective investigation was conducted nor the prosecution service was up to the mark. Adequate measures should be adopted to ensure safety of media workers and journalists.

7. FORMATION & PERFORMANCE OF ITNE & THE WAGE BOARD

- There are serious challenges and issues pertaining to the formation and performance of, both, the Wage Boards and ITNE. As a result of these challenges, these institutions are becoming ineffective and redundant. These issues include:
 - Administrative control of the government over the Board and ITNE;
- Media owners' manipulations of the system and process;
 - Delays in implementation of the Awards;
 - Weaker implementation and enforceability mechanisms; and
 - Delay in formation of Board and appointment of the Chairman of ITNE.

8. IMPLEMENTATION CRISIS OF GENERAL LABOUR LAWS

- Most of the forums in general labour laws are also either becoming redundant or have already become ineffective due to absence of: required financial support; presiding officers; or human and technical resource.

9. PROPOSED PMDA AND MEDIA WORKERS

- In May 2021, government planned to repeal several media-related laws – including the NECOSA, 1973 – under the proposed PMDA Ordinance. If this proposed Ordinance becomes the law, it will entail a deeper look at how to ensure labour rights as enshrined in the NECOSA, 1973.

CHAPTER 3: BACKGROUND OF LABOUR LAWS AFFECTING MEDIA WORKERS IN PAKISTAN

The Constitution of Pakistan, 1973 outlines the policy framework for provision of fair and enabling environment for workers and guarantees fundamental rights of labourers. Under the principles of policy, in Article 37(e), the Constitution obligates upon the States to make provisions for securing just and human conditions of work. As a part of the fundamental rights, through Article 11, the Constitution prohibits slavery and all forms of forced labour in the country. Furthermore, under Article 17(1), it gives right to every citizen to form associations or unions subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality. For media workers / journalists, in Article 19, the Constitution guarantees their right to freedom of speech and expression, subject to any reasonable restriction imposed by law in certain cases.

Existing legal framework governing workers' rights in Pakistan is quite extensive. The legal framework provides a wide range of laws covering subjects and matters including: abolition of bonded labour; employment of children; trade unions and worker-employer relationship; wages and compensations; working conditions and workers' welfare; old age benefits; and employment rights of disable persons. Moreover, special laws are made for working conditions of media workers and newspaper employees.¹

The efforts for specialized legislation for media workers in Pakistan can be traced back to 1950s. The first-ever attempt for such dedicated legislation for employees of the newspapers was made in 1953 when the Central Legislative Assembly passed a resolution to meet the demands from a general body of press to improve their working/service conditions. In pursuance of this resolution, a Press Commission was set up on September 28, 1954 and was replaced by another Commission on September 5, 1958. The commission was mandated "to examine and make recommendations on the rates of pay and working conditions of the journalists."²

In response to the recommendations of the Commission, the government promulgated the Working Journalists (Conditions of Service) Ordinance, 1960. The Ordinance first time defined the working conditions of journalists. According to the Ordinance, Wage Board was mandated to fix the rates of wages only for working journalists not for all the employees of the newspaper organizations. It also stated that all the working journalists would be given wages according to the Wage Board decision. Complying with the provisions of Section 8 of the Ordinance, the

BEFORE 2010, THE FEDERAL GOVERNMENT HAD A SUBSTANTIVE ROLE IN LEGISLATION ON LABOUR RELATED SUBJECTS.

government constituted country's first Wage Board on May 30, 1960.

In 1968, government promulgated the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance. The Ordinance was applicable to all such Industrial/Commercial Establishment, including newspapers, wherein twenty or more workmen were employed. However, the enactment of the Newspaper Employees (Conditions of Service) Act (NECOSA), 1973 was a landmark development for employees of the newspapers in the country. The Act provided a broad definition of employee, covering almost all employees of a newspaper including editors working in the newspapers. This law also contained provisions relating to termination from employment, provident fund, hours of work, leaves, and medical care and includes appointment of Wage Boards to fix employees' wages. The Act provided for the constitution of a Wage Board and an implementation tribunal as well.

Before 2010, the Federal Government had a substantive role in legislation on labour related subjects. Apart from a few recently enacted laws in industrial relations by the provinces, most of the existing legal framework governing labour market in the country were enacted/promulgated by the federal government. The 18th Amendment changed the legislative scheme through abolishing the entire Concurrent Legislative List and devolving a large number of legislative subjects, including labour related issues, to the provinces. In May 2021, government revealed its plan to merge all existing media regulatory laws and proposed a new "Pakistan Media Development Authority."³

This proposal also included repeal of the Newspaper Employees (Conditions of Service) Act, 1973 and constitute new media tribunals without any reference to the formation of Wage Boards in future and protection of benefits under the NECOSA. The stakeholders including journalists, media workers, media houses and civil society and human rights groups strongly rejected the proposal.⁴ On June 2, 2021, the government formed a committee consisting of the Minister of State for Information and Broadcast and three federal government officials to liaise and discuss this proposal with relevant stakeholders.⁵ However, until June 30, 2021, no further development was reported in this respect.

CHAPTER 4: METHODOLOGY

This legal review was conducted through following methodology:

Desk Research:

- Review and comparison of Pakistan's labour laws, impacting media workers, with best examples and international standards including relevant ILO Conventions.
- Review of implementation of Wage Awards and role of Implementation Tribunal for Newspaper Employees (ITNE). Under this part, an assessment of implementation of Wage Board Awards – since enactment of the Newspaper Employees (Conditions of Services) Act, 1973 – was conducted. This also included an evaluation of performance of the ITNE through appraisal of 'case disposal rate' by the tribunal during past ten years (2010-2020).

Key Informant Interviews:

In order to encapsulate overall picture of labour and industrial landscape in Pakistan and discover impediments to labour rights strengthening and collective bargaining for media workers, Key Informant Interviews (KIIs), using a semi-structured questionnaire (structured and open-ended questions for quantitative and qualitative analysis), of the followings were conducted:

- leaders of journalists' labor unions/associations – five interviews;
- media owners (industry expert) – five interviews;
- legal (labour law) practitioners – five interviews;
- former and existing officials of ITNE and Wage Board – five interviews;
- representatives of local and international media development and civil society groups – five interviews.

These interviews were conducted in the month of June 2021.

¹ <https://irada.org.pk/wp-content/uploads/2019/10/Labour-Rights-in-Pakistan-In-the-Framework-of-the-Country-Constitution-National-Labour-Legislation-and-International-Labour-Standards.pdf>

² The Gazette of Pakistan, extraordinary, October 25, 2001

³ <https://www.geo.tv/latest/352761-is-the-governments-proposed-media-ordinance-really-media-martial-law>

⁴ <https://www.thenews.com.pk/print/843433-stakeholders-reject-pakistan-media-development-authority-ordinance>

⁵ <https://www.dawn.com/news/1627120>

CHAPTER 5: PAKISTAN LABOUR LAWS IMPACTING MEDIA WORKERS⁶

Labour Rights are central part of human rights. Pakistan has ratified several labourers' related International Declarations, Conventions and Convents to show its commitment towards the labour rights. In addition to the to the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR)⁷ and the International Covenant on Civil and Political Rights (ICCPR)⁸, Pakistan has ratified all key conventions of the International Labour Organization (ILO).⁹

Pakistan's constitutional and legal framework on labour issues is quite detailed. This framework seems to correspond to almost all ILO conventions, which Pakistan has so far ratified. Important to mention here that all of the constitutional provisions relating to labour issues are applicable to the workers in media industry. Similarly, beside the Newspaper Employees (Conditions of Service) Act (NECOSA), 1973, most of the general labour laws are also applicable to the workers in media (print, electronic and digital) industry.

5.1 Constitutional Framework & International Standards Relating to Media Workers in Pakistan

The constitutional framework of Pakistan provides several provisions recognizing fundamental right of citizens to freely form association and unions and workers right to collective bargaining for the protection and promotion of their interests. These provisions constitute the foundation of labour rights that goes by institutional mechanism as a vehicle to enforce these rights.

The Constitution of Pakistan, in Article 17(1), recognizes right to every citizen to form associations or unions subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality. Similarly, Article 11 of the Constitution prohibits slavery and all forms of forced labour in the country. Furthermore, Article 19 guarantees right to freedom of speech and expression, subject to any reasonable restriction imposed by law in certain cases. Moreover, in Article 37(e), the obligates

PAKISTAN'S CONSTITUTIONAL AND LEGAL FRAMEWORK ON LABOUR ISSUES IS QUITE DETAILED. THIS FRAMEWORK SEEMS TO CORRESPOND TO ALMOST ALL ILO CONVENTIONS, WHICH PAKISTAN HAS SO FAR RATIFIED.

upon the States is to make provisions for securing just and human conditions of work. Article 38(e) & (c)

5.1.1 Freedom of Association

Article 17(1) of the Constitution of Pakistan provides that every citizen shall have the right to form associations or unions subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality. Pakistan has affirmed its commitment to international community to ensure without restrictions the right of every citizen of the country to form and join trade unions or associations, for the protection of his or her economic and social interests by ratifying ILO Conventions 87 (Freedom of Association) and 98 (Collective Bargaining). These are two of the eight core conventions related to labour standards. Pakistan has also ratified ILO Convention 11 to ensure security of agriculture workers the same right of association as given to industrial workers.¹⁰

Industrial relations laws of the country are the most important legitimate legal instruments to translate the rights of unionisation and collective bargaining into practice. The 18th Constitutional Amendment in 2010, devolved the matters of industrial relations and trade unions to the provinces. Consequently, all the four provinces enacted Industrial Relations Acts (IRAs). Provincial laws so made were followed by the enactment of Federal IRA 2012 to regulate industrial relations, registration of trade unions and their federations in the Federal Capital Territories and in the establishments which cover more than one province.

5.1.2 Slavery, Forced, Bonded & Child Labour

Article 11 of the Constitution of Islamic Republic of Pakistan 1973 provides that: -

1. Slavery is non-existent and prohibited and no law shall permit or facilitate its introduction into Pakistan in any form.
2. All forms of forced labour and traffic in human beings are prohibited.
3. No child below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment.
4. Nothing in this Article shall be deemed to affect compulsory service –
 - a. by any person undergoing punishment for an offence against any law; or
 - b. required by any law for public purpose:

Provided that no compulsory service shall be of a cruel nature or incompatible with human dignity.

Following core ILO conventions, ratified by Pakistan, address these subjects in so far as the labour field is concerned: -

- ILO Convention 29: Forced Labour Convention, 1930, *in force since December 23, 1957*
- ILO Convention 105: Abolition of Forced Labour Convention, 1957, *in force since February 15, 1960*
- ILO Convention 138: - Minimum Age Convention, 1973 (No. 138) *Minimum age specified: 14 years, in force since July, 2006*
- ILO Convention 182: Worst Forms of Child Labour Convention, 1999, *in force since October 11, 2001*

The existing labour regulatory instruments (until repealed by the enactment of corresponding laws by provinces) that respond to the subject of the above Constitutional and ILO Conventions are: -

- Children (Pledging of Labour) Act, 1933
- The Bonded Labour System (Abolition) Act 1992
- The Bonded Labour System (Abolition) Rules, 1995
- The Employment of Children Act, 1991
- The Shops and Establishments Ordinance, 1969

These pieces of laws contain the relevant provisions regulating and restricting the employment of children and young persons in keeping with objective conditions of each of the above labour enactments.

5.1.3 Freedom of Speech

Article 19 of the Constitution of Islamic Republic of Pakistan, 1973 states: -

“Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or in relation to the contempt of court, commission of or incitement to an offence.”

In so far as the domain of labour is concerned, the Declaration of Philadelphia 1944, which is appended to the ILO Constitution 1919, is a mentionable instrument. The declaration, which has a binding effect, has laid down thematic convictions in the following terms:-

- a. labour is not a commodity;
- b. freedom of expression and of association are essential to sustained progress;
- c. poverty anywhere constitutes a danger to prosperity everywhere; and
- d. The war against want requires to be carried on with unrelenting vigour within each nation, and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare.

Industrial Relations Laws enacted at the level of the federation and the provinces are also a response to these commitments. Moreover, other media related law including media registration law and media regulations – the Press Council of Pakistan Ordinance, 2002 and the Pakistan Electronic Media Regulatory Authority Ordinance, 2002 – are also relevant here.

5.1.4 Promotion of Social Justice

Article 37(e) of the Constitution of Islamic Republic of Pakistan 1973 says that the State shall make provisions for securing just and human conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment.

Following technical ILO Conventions are ratified by Pakistan are relevant to this issue:

- Co01 - Hours of Work (Industry) Convention, 1919
- Co04 - Night Work (Women) Convention, 1919
- Co06 - Night Work of Young Persons (Industry) Convention, 1919
- Co14 - Weekly Rest (Industry) Convention, 1921
- Co15 - Minimum Age (Trimmers and Stokers) Convention, 1921
- Co16 - Medical Examination of Young Persons (Sea) Convention, 1921
- Co41 - Night Work (Women) Convention (Revised), 1934
- Co45 - Underground Work (Women) Convention, 1935
- Co59 - Minimum Age (Industry) Convention (Revised), 1937
- Co89 - Night Work (Women) Convention (Revised), 1948
- Co90 - Night Work of Young Persons (Industry) Convention (Revised), 1948
- C106 - Weekly Rest (Commerce and Offices) Convention, 1957

The relevant existing legislative instruments that correspond to the subject include:

- Factories Act 1934
- Maternity Benefits Ordinance 1958

⁶ This part of the report is primarily based on the research, conducted by IRADA in 2014-15 on labour laws in Pakistan: <https://irada.org.pk/wp-content/uploads/2019/10/Labour-Rights-in-Pakistan-In-the-Framework-of-the-Country-Constitution-National-Labour-Legislation-and-International-Labour-Standards.pdf>

⁷ Articles 10(3) and 8(3) of the International Covenant on Civil and Political Rights (ICCPR): <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

⁸ Articles 8 and 22 of the International Covenant on Civil and Political Rights (ICCPR): <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

⁹ Pakistan has so far ratified ILO's 36 conventions (8 fundamental conventions, 2 governance conventions, and 26 technical conventions): https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103166

¹⁰ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:Co11

- Road Transport Workers Ordinance 1961
- Provincial Social Security Ordinance 1965
- Shops and Establishment Ordinance 1969
- Apprenticeship Ordinance 1961

5.1.5 Promotion of Social and Economic Well-being of People

Article 38(a) of the Constitution of Pakistan 1973 provides that [the State shall] “secure the well-being of the people, irrespective of sex, caste, creed or race, by raising their standard of living, by preventing the concentration of wealth and means of production and distribution in the hands of a few to the detriment of general interest and by ensuring equitable adjustment of rights between employers and employees, and landlords and tenants.” Similarly, Article 38 (c) of the Constitution ordains that [the State shall] “provide for all persons employed in the service of Pakistan or otherwise, social security by compulsory social insurance or other means.”

These subjects are covered also by following ILO Conventions, ratified by Pakistan:

- C098 - Right to Organise and Collective Bargaining Convention, 1949
- C100 - Equal Remuneration Convention, 1951
- C111 - Discrimination (Employment and Occupation) Convention, 1958
- C018 - Workmen's Compensation (Occupational Diseases) Convention, 1925
- C019 - Equality of Treatment (Accident Compensation) Convention, 1925
- C118 - Equality of Treatment (Social Security) Convention, 1962
- C159 - Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983

The existing Labour Laws that respond in this regard can be cited as follows: -

- The Fatal Accidents Act 1855
- The Employers Liability Act 1938
- The Workman Compensation Act 1923
- The Payment of Wages Act 1936
- The Minimum Wages Ordinance 1961
- The Provincial Social Security Ordinance 1965
- The Companies Profits (Workers Participation) Act 1968
- The Industrial and Commercial Establishment (Standing Orders) Ordinance, 1968
- The Minimum Wages for Unskilled Workers Ordinance 1969
- The Workers Welfare Fund Ordinance 1971
- The Workers Children Education Ordinance 1972
- The Employees Cost of Living (Relief) Act 1973
- The Newspaper Employees (Conditions of Service) Act (NECOSA), 1973
- The Employees Old Age Benefits Act 1976
- The Disabled Persons (Employment and Rehabilitation) Ordinance, 1981

5.2 Legal Framework Relating to Print Media Workers in Pakistan

Pakistan's legal framework relating to labour covers a variety of thematic areas. These subjects / themes include labour relations, employment conditions, productivity, occupational safety and health, ergonomic sciences, environmental pollution, scientific management, human resource management (HRM) paradigms, personnel management, human rights movements, gender issues, labour administration, wage determination, socio-economic ideologies and legal precepts and principles, business and corporate culture, etc.

For the purpose of simplicity and ease, this framework can be divided into following categories:-

1. Protective laws such as mines acts, factories acts, merchandise shipping laws, laws relating to dock labourers, road transport, airways, railways, environmental laws etc.
2. Laws relating to wage determination in terms of minimum, living and fair wage and regulation of their timely payment.
3. Labour welfare, social security, social insurance and old age benefits laws
4. Laws relating to labour relations

Each of the above areas individually and collectively aims to improve upon the condition of life and work of labourers with positive dividends to employer, entrepreneur, industry and economy. Important to mention that most of the law, except Mines Acts, Merchandise Shipping laws, Laws relating to dock labourers, road transport, airways, railways, relating to labour, etc., are applicable to the media – print and electronic – workers in the country.

A few of the labour enactments that are prominent and relevant to the media workers are briefly described below: -

[FEDERAL] INDUSTRIAL RELATIONS ACT 2012

This Act is concerned with the formation of trade unions and improvement of relations between employers and workmen within the Islamabad Capital Territory and trans-provincial establishments and industry. The Act provides for establishment of the National Industrial Relation Commission (NIRC). The Act is applicable to all persons of the establishments and industry except the followings:

- (a) in the Police or any services or installations exclusively connected with the Armed Forces of Pakistan including an Ordnance Factory maintained by the Federal Government;
- (b) in the administration of state other than those employed as workmen;
- (c) as a member of the Security Staff of the Pakistan Airlines Corporation or drawing wages in pay group not lower than Group V in the establishment of that Corporation as the Federal Government may, in the public interest or in the interest of security of the Airlines, by notification in the official Gazette,

Given that the labour issues were devolved through the 18th amendment, all four provinces also enacted their own industrial relation laws. These laws are almost similar to the [federal] Industrial Relation Act of 2012 except that the Acts have no provision for industrial relation commissions.

specify in this behalf; and
(d) by the Pakistan Security Printing Corporation or Security Papers Limited; by an establishment or institution for the treatment or care of sick, infirm, destitute or mentally unfit persons excluding those run-on commercial bases.

The law is based on the genesis of ILO Convention 87 (Freedom of Association) and Convention 98 (Collective Bargaining). With the legal sanctions of enforceability, it gives right to both workers and employer to form trade unions, federation of trade unions, affiliation with international Federations and Confederations. It also gives right of registration of trade unions and federations incorporated in Pakistan. Under the law, registered trade unions have the right to choose representative trade union as Collective Bargaining Agent (CBA) with authority to bargain with the employer.

Apart from system of collective bargaining and social dialogue, this Act has also explains how workers can exercise the right to seek remedy for redress of individual grievance and challenge threat to jobs and employment career, etc. The main emphasis of the Act is the protection of right to trade unionism. However, the language of the law is non-inclusive for women workers as the law uses ‘workman’ for both male and female workers. Other than representation of women in the executive of a trade union where women are also employed, there is no mentioning of women employers / workers in the law. Moreover, constitution of NIRC does not have any reference to the representation of ‘women employers or workers’ in the Commission.

PROVINCIAL INDUSTRIAL RELATION LAWS

Given that the labour issues were devolved through the 18th amendment, all four provinces also enacted their own industrial relation laws. These laws are almost similar to the [federal] Industrial Relation Act of 2012 except that the Acts have no provision for industrial relation commissions. The power for adjudication of the issues and redress of individual grievance, in these laws, rests with the provincial labour courts. Moreover, the decisions / determination of the labour courts lies with the provincial labour appellate tribunals.

INDUSTRIAL & COMMERCIAL EMPLOYMENT (S.O.) ORDINANCE 1968

The Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 is the basic law that prescribed conditions of the employment of workmen and other incidental matters. The entire industrial

and commercial establishments, excluding statutory organizations having statutory rules of services, are covered by the Ordinance. This law prescribes special rules relating to the terms and conditions of service of persons employed in industrial and commercial establishments employing 20 or more workers. It provides for compulsory group insurance, wage payments during lay-off, termination gratuity and dismissal and disciplinary procedures. Certain provisions apply to industrial establishments which employ 50 or more workers whereas all provisions apply to commercial establishments employing 20 or more workers.

Several other labour laws such as the Employees Old Age Benefits Act, Social Security Ordinance, Workmen Compensation Act, Cost of Living Act, etc. have borrowed the definitions from this Ordinance. Therefore, benefits of these law will be available to those workers who fall under the definitions of Industrial and Commercial Employment (Standing Orders) Ordinance, 1968.

SHOPS & ESTABLISHMENTS LAWS

These laws cover the industrial establishments situated within corporations, municipal or town committees and employing less than ten workers. These laws prescribe rules and restrictive conditions in respect of employments of children and young persons, hours of work, leave benefits, regulation of payment of wages, termination notice and closing hours. The West Pakistan Shops and Establishments Ordinance 1969 is applicable to Balochistan and Federal Capital Territory. Khyber Pakhtunkhwa and Sindh have enacted their own laws after 2010. Punjab has adopted the old law after some amendments. The Khyber Pakhtunkhwa Shop and Establishment Act, 2015 (section 36) provides for protection against discrimination and Special Provisions with regard to women workers. The Punjab Shops and Establishments Ordinance, 1969 (section 10A) provides for daycare facility in the establishment where twenty or more than twenty women are employed.

PAYMENT OF WAGES ACT 1936

This Act is applicable to the payment of wages to persons employed in any factory, industrial establishment or commercial establishment. It prescribes different pay periods depending on number of workers employed. Rules relating to the payment of wages at the time of termination of employment have also been prescribed. Authority under this law is appointed to hear cases of delay in payment of wages or unauthorized deductions from wages.

MINIMUM WAGES ORDINANCE 1961

This law deal with determination of minimum wages. According this Ordinance, minimum wages are to be fixed industry wise fixed periodically. The law requires the provincial governments to review the minimum wages on the recommendation of the Provincial Minimum Wages Boards. The Ordinance also prescribes procedure for the determination minimum wages and recommendations therefore by the Wage Boards.

MINIMUM WAGES FOR UNSKILLED WORKERS ORDINANCE 1969

This special law deals with the minimum wages of unskilled workers employed in industrial and commercial establishments. Prior to the 18th Constitutional Amendment, Federal Government had the prerogative to determine minimum wages. However, the subject now has been devolved to the provincial government; therefore, now provincial governments determine the scale of minimum wages.

ROAD TRANSPORT WORKERS ORDINANCE 1961

This law applies to all persons engaged on mobile duty. This includes drivers, cleaners, conductors and checkers employed by a road transport service. The Ordinance prescribes age limits for employees, hours of work, rest intervals, and leave benefits. Drivers must be at least 21 years of age. It also provides for group insurance in certain cases, rules relating to termination of employment and requires terms and conditions of employment to be laid down in writing.

WORKMEN COMPENSATION ACT 1923

This law falls in the company of social insurance and provides for payment of compensation for certain classes of persons for injury arising out of and during the course of employment. Under the law, Commissioner Workmen Compensation is appointed to hear and decide claims of compensation.

PROVINCIAL SOCIAL SECURITY ORDINANCE 1965

This Ordinance introduces a scheme of social security for providing benefits to certain employees and/or their dependents in the event of sickness, maternity, employment, injury or death and for connected matters. The Provincial Employees Social Security Institutions (PESSIs) is established in the province by the Provincial Governments to run this scheme. Apart from running the Scheme for other benefits, the PESSIs have set up hospitals and dispensaries in the provinces for treatment of employees.

WORKERS WELFARE ORDINANCE 1971

This Ordinance has been enacted to provide for the establishment of a Workers Welfare Fund. The purpose of this fund is to provide residential accommodation and other facilities for workers and for connected matters. Apart from providing for industrial housing, the WWF has tailored the needs of workers for marriage grants of their children, death grants and technical and post matriculation education of workers' children.

EMPLOYEES OLD AGE BENEFITS ACT 1976

The law introduces employees' old age benefits schemes and provides for the establishment of the Employees Old Age Benefits Institution (EOBI) to administer the benefit scheme. EOBI manages benefit schemes for the persons employed in industrial, commercial and other organizations. Presently, it provides following benefits to persons registered with EOBI or their survivors:

- Old Age Pension on attaining superannuation.
- Invalidity Pension on sustaining invalidity affecting insured person's earning more than one third of normal.
- Survivors' Pension to the following in case of death of insured person/pensioner:
 - Surviving Spouse till life;
 - Surviving Children till 18 years of age;
 - Surviving un-married female child till marriage;
 - Surviving disabled child till life;
 - Surviving parents for 5 years, if an insured persons / pensioner not survived by spouse or children; and
 - Old Age Grant not meeting the benchmark for old age pension

The functions of the broad of the EOBI include: -

- Registration of Employers and Employees
- Collection of Contribution
- Disbursement of Pension / Grant
- Investment and Fund Management

Age for entitlement of old age pension / grant, for other than those employed in the mines, is 60 years. In case of women and insured persons employed in mines, the retirement age has been reduced by five years. According to the law, amount of minimum pension is fixed at Rs. 3,600/- per month. Old Age grant is paid in lump sum. This amount is equal to one month's average monthly covered wages of the insured persons for every completed year of insurable employment if he / she do not meet the benchmark for pension.

FACTORIES ACT 1934

This Act applies to premises where any manufacturing process is carried out and in which ten or more workers are employed. The Act prescribes the measures to be taken in respect of workers' safety and

protection against facilities, ventilation, lighting, dust and fume control, fire precautions, cleanliness and maintenance. There are other general provisions in the law relating to:

- medical examination in certain cases;
- appointment of a welfare officer where 500 or more workers are employed; and
- the establishment of a canteen where 250 or more workers are employed and rest sheds in the case of 150 or more workers are employed.

The Act also covers hours of work, rest intervals and weekly and annual holidays. Section 21(1)(b) of the Act requires separate enclosed latrines and urinals for male and female workers. A number of Rules made under the Act prescribe special precautions in respect of the administration of the Act including, for example, provisions for Fair Price Shop.

5.2.1 General Labour Laws and Media Workers

All these general labour laws are applicable to all workplaces, which fall in the definition of 'industrial and commercial establishments' under the Industrial and Commercial Employment (S.O.) Ordinance 1968. This definition includes 'newspapers establishments' as the Labour Appellate Tribunal of Sindh province – in Messrs Daily Mashriq versus Nafees Ahmed Bazmi (1992 PLC 314) – has determined so.

In this case, Daily Mashriq terminated service of Mr Bazmi, who was working as calligrapher in the newspaper and attained status of permanent employee, without any notice. Mr Bazmi approached the Labour Court which set aside his termination. Messrs Daily Mashriq filed an appeal at the Labour Appellate Tribunal, Sindh. The Tribunal dismissed the appeal and held that:

“Employees, who were employees of Newspaper industry, were to be governed by provisions of Standing Orders Ordinance, VI of 1968 and according to S. 17 of Act LVIII of 1973.”

Similarly, in another case, an employee of Daily Post filed an application with the 'Authority under the Payment of Wages Act, 1936'. The Applicant claimed an amount of Rs. 347578 on account of arrears of pay from 5-6-2005 to 30-11-2007, three months' notice pay and five months' pay as gratuity. The claimant asserted that he was an employee of the said newspaper from June, 2005 till 25-5-2009 when his services were terminated with immediate effect.

The Authority, through its *ex-parte* order, allowed the claim of the employee and directed the newspaper to deposit Rs.90,000 as his three months' notice pay and his gratuity for five years amounting to Rs.150,000. The newspaper filed appeal against this order before Lahore High Court. The Court – in Zia Shahid and Others versus Authority under Payment of Wages Act etc., (2011 PLC 300) – acknowledged the jurisdiction of the 'Authority under the Payment of Wages Act, 1936'.

Though the appeal was allowed, the Court directed

the Authority to take decision afresh in this case. The Court further held that:

“Newspaper establishment falls within the definition of a factory given in S.2(ia) of Payment of Wages Act, 1936, by reference to S.2(i) of Factories Act, 1934-- Printing of newspaper involves manufacturing process whereby newsprint is converted into newspaper---Even if it is assumed that newspaper establishment is not a factory, even then it is a commercial establishment to which provisions of Payment of Wages Act, 1936, are equally applicable in view of S.1(4) of Payment of Wages Act, 1936, after its amendment in year, 2001---Newspaper establishment is subject to provisions of Payment of Wages Act, 1936.”

In another case – Messrs Emmay Zed Publication (Pvt.) LTD. versus Abdul Rahman Baloch - 2005 PLC 344) – service of Mr Abdul Rahman Baloch, who was working as sub-editor with the *Daily Business Recorder*, was terminated on May 23, 1996. As per the facts of the case, Mr Baloch challenged the termination order before Labour Court through Grievance Application but the same was dismissed. His appeal against that dismissal was, however, accepted by the learned Sindh Labour Appellate Tribunal.

The newspaper challenged the said order before Hight Court of Sindh through Writ petition which was dismissed on January 5, 1998. The matter was further agitated before the Hon'ble Supreme Court through civil appeal which dismissed it by order on December 5, 2000. Later, he was reinstated as result of dismissal of the appeal filed by the newspaper.

However, just two days thereafter, his received another termination letter. This way the respondent was pushed into second round of the litigation. He once again approached the Labour Court which declared termination order illegal and malicious. The Labour Court also directed the reinstatement of the respondent within one month.

The newspaper challenged this order in the High Court of Sindh. In this case, the High Court of Sindh and the Supreme Court acknowledged the jurisdiction of Labour Court and Labour Appellate Tribunal for the cases [of termination] newspapers employees including journalists. The Court, while recognizing application of general labour laws on newspaper employees, held that:

“[The] termination of the respondent was malicious and outrageous. The ,order passed by the learned Labour Court declaring the termination as malicious does not call for interference and the appeal is liable to be dismissed.”

5.2.2 The Newspapers Employees (Conditions of Service) Act (NEGOSA), 1973

This Act came into force with the assent of the President of Pakistan on August 11, 1973. It repealed and re-enacted the Working Journalists (Conditions of

Service) Ordinance, 1960 with certain modifications and alterations. It has been enacted with the objectives to:

- constitute a Wage Board for fixing wage rates for the journalists as well as non-journalist newspaper employees;
- provide for mechanism for implementation of the decision of the Wage Board;
- provide for the application of the Industrial Relations Ordinance 1969;
- provide for the application of the Industrial and Commercial Employment (Standing Orders) Ordinance 1968 to newspaper employees and newspaper establishments; and
- provide for security of service, hours of work and medical care.

The NECOSA provides a broad definition of employee, covering almost all employees including editors working in the newspapers. This law also contained provisions relating to appointment and termination of employment, social security, provident fund, working hours, leaves, and medical care. As mentioned above, NECOSA provides for the constitution of a Wage Board and an implementation tribunal.

Wage Board:

Section 9 of the Act provides for the constitution of the Wage Board. According to the law, federal government has the authority to constitute the Wage Board consist of a Chairman, who shall be a person who has been or is qualified to be a Judge of a High Court, and as many members to advise the Chairman as may be appointed by the Federal Government. However, one half of the members of the Board are required to be the persons representing the newspaper employees and the other half representing the employers in relation to newspaper establishments.

Fixing the Wages:

The Board is required to give its decision within a period of one hundred and eighty days from the day of its constitution. In fixing rates of wages in respect of newspaper employees, the Board may take into consideration the cost of living, the prevalent rates of wages of comparable employments, the circumstances relating to the newspaper industry in different regions of the country, and any other circumstances, which to the Board may seem relevant. The Board may fix rates of wages for timework and for piecework. The decision of the Board fixing rates of wages shall be communicated as soon as practicable to the Federal Government.

The law requires publication of the decision of the Board within a period of one month from the date of its receipt by the Federal Government. A decision of the Board so published is deemed to be an award of the Full Bench of the National Industrial Commission.

Implementation Tribunal for Newspaper Employees (ITNE)

The Act requires the Federal Government to constitute a Tribunal – the Implementation Tribunal for Newspaper Employees (ITNE) - consisting of one or more members to implement the decision of the Wage Board. The Chairman of the Tribunal is required to be a person who has been, or is, qualified to be, a Judge of a High Court. Under the law, Federal Government has the authority to determine qualification of other members – if any – of the Tribunal. The Tribunal has the power:

- to try an offence punishable under section 55 of the Industrial Relation Ordinance, 1969 Ordinance, if the offence relates to failure to implement any decision of the Board;
- to withdraw from any court (except the Supreme Court or a High Court) any application, proceeding or appeal relating to such an offence and dispose of it; and
- refer any such application, proceeding or appeal to any such competent court for disposal.

The law also provides that the Tribunal shall follow the same procedure and exercise the same powers for the trial of an offence as the NIRC follows and exercises for the trial of an offence.

Appointments, Promotions and Terminations:

The Act requires the newspaper establishment to furnish the terms and conditions of the service to the employees at the time of their employment, transfer or promotion. According to the Act, the services of employee shall not be terminated without good cause, through a written notice of such termination. It also provides the notice period or amount in lieu of notice. The criterion is as follows:

Total period of continuous service	Notice period
Three months to two years	One month
Two years to three years	Two months
Three years or upwards	Three months

Provident Fund:

Every newspaper establishment is under obligation to constitute a provident fund for the benefit of its employees. The law requires that the provident fund shall be held and administered by a Board of Trustees consisting of an equal to number of representatives of the newspaper establishment constituting the Fund and of the newspaper employees employed in it. Every newspaper employee shall, after the completion of the first two years of his service with any newspaper

establishment, subscribe to the Provident Fund. Employee and establishment are liable to equally contribute to the fund a sum not less than 6 1/4 per cent and not more than 10 per cent of his monthly wages. Under the Act, a newspaper establishment is deemed to be a public institution for the purposes of the Provident Funds Act, 1925 (XIX of 1925).

Working Hours:

The law requires that no newspaper employee shall be required to work in any newspaper establishment for more than forty-two hours in a week, exclusive of the time for meals. Working hours of the employees are subject to the Factories Act, 1934 (XXV of 1934) and related rules.

Leave entitlement:

- Act provides following leave entitlements for the employees
- Sick / medical leave: Newspaper employee is entitled for leave on submission of medical certificate on one-half of the wages, for not less than one-eighteenth of the period of service subject to a minimum period of ten days in a calendar year.
- Casual leave: Fifteen days per year.
- Annual / earned leave: Newspaper employee is entitled for earned leave on full wages, for not less than one-eleventh of the period spent on duty.

Medical Care:

A newspaper employee shall be entitled, together with his dependants, to medical care at the cost of the newspaper establishment in, or in relation to, which he is employed. As per the law, medical care includes:

- treatment by a medical practitioner registered under the Medical Council Ordinance 1962 (XXXII of 1962), both at the clinic of such practitioner and at the residence of the newspaper employee;
- treatment by specialists in hospitals and by such specialists as may be available outside hospitals;
- essential pharmaceutical supplies as prescribed by a medical practitioner under clause (a) by a specialist under clause (b); and
- hospitalization, where necessary

5.2.3 Shortcomings in the Existing Legal Framework

While on papers, all these laws look quite promising. The text in most of statute books also seem to comply with the requirements of international conventions and standards. However, there are a few shortcomings in these laws which need to be addressed.

- **Inclusion of gender and marginalized groups:** The language of most of these laws including the Industrial Relations Act is non-inclusive for women workers and employers. For examples these laws use 'workman' for both male

BACK IN 2002, THERE WERE MERELY 3,000

WORKING JOURNALISTS AND APPROXIMATELY

25,000 MEDIA WORKERS IN PAKISTAN. BY 2018,

THE NUMBER OF WORKING JOURNALISTS

ROSE TO 18,000 AND NUMBER OF MEDIA

WORKERS REACHED TO 250,000.

and female workers. Other than representation of women in the executive of a trade union where women are also employed, there is no mentioning of women employers / workers in these laws. Moreover, constitution of NIRC does not have any reference to the representation of 'women employers or workers' in the Commission. The laws are silent on the inclusion and representation of other marginalized groups such as religious minorities, etc.

- **Distinction between formal and informal labour force / workers:** These laws mainly deal with the formal workplaces and establishments. Except Sindh, no other province has so far enacted any law for rights of home-based workers. This particularly relevant to those online / digital workers who operate from their homes.
- **Recognition of freelancers:** Since most of these laws are related to formal workplaces and establishments, there is no recognition of freelancers and independent contributors. This is particularly relevant to the media industry where many writers, freelancers and reporters work independently and contribute to the news through their write ups.
- **Implementation crisis:** Most of the forums in these laws are either redundant or have become ineffective due to absence of
 - required financial support;
 - presiding officers; or
 - human and technical resource.

5.2.4 Electronic and Digital Media Workers' Rights in Pakistan

During past 20 years, media market in Pakistan has seen exponential changes. At the beginning of the new millennium, there was only the newspaper (print media) industry alongside the state-run television and radio (electronic media) in the country. Since 2002, there has been a massive growth in the sector due to opening of electronic media licencing for the commercial sector. This resulted in massive increase in human resource in the media landscape of the country as well. Back in 2002, there were merely 3,000 working journalists and approximately 25,000 media workers in Pakistan. By 2018, the number of working journalists rose to 18,000 and number of media

workers reached to 250,000. This massive human resource growth was mainly due to expansion in the electronic media – television, radio and cable.

The Pakistan Electronic Media Regulatory Authority Ordinance, 2002 is a special law which provides a regulatory framework for the establishment and operation of all broadcast media and distribution services in Pakistan. All commercial electronic media platforms (television, radio, cable) in Pakistan are required to: (1) have registration with the Security and Exchange Commission of Pakistan (SECP) as for-profit companies; and (2) get licence from the Pakistan Electronic Media Regulator Authority (PEMRA) to operate themselves as electronic media platforms.

Resultantly, all registered and licenced electronic media platforms become subject to the labour laws— other than NECOSA – of the country as well. The NECOSA of 1973, due to its special nature, is applicable to the newspapers' employees only. Besides, PEMRA¹¹ also requires all its licensees to “arrange for regular training of its employees that may be helpful in performing their duties better.” However, mainly due to lack of understanding and awareness as well as ineffectiveness of most of the legal forums, the majority of media workers have not explored remedies available in the general labour laws.

In recent years, as result of convergence of communication technologies, media industry in the country has started reshaping again— from non-digital / offline media platforms to digital / online media platforms. New technologies have already had a major effect, both, on the composition of the sector as well as on the employment relationships within it. Back in 2006, the International Federation of Journalists wrote that “the nature of work in the media is changing. Employment in media had become more precarious, less secure and more intense.”¹²

Changing media environment, due to technological advancements, is also transforming dynamics of human resource in the industry. Digital / online media is fast replacing traditional electronic and print media. Like All Pakistan Newspapers Society (APNS) and Pakistan Broadcasters Association (PBA), representatives of emerging digital / online news media platforms have established their association, namely: Digital Media Alliance of Pakistan (DigiMAP).

DUE TO LACK OF UNDERSTANDING AND AWARENESS AS WELL AS INEFFECTIVENESS OF MOST OF THE LEGAL FORUMS, THE MAJORITY OF MEDIA WORKERS HAVE NOT EXPLORED REMEDIES AVAILABLE IN THE GENERAL LABOUR LAWS.

So far, there is no registration required for online / digital news media platforms in the country, so the status of employees working with the digital / online news media platforms is in question. However, the Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards), Rules, 2020 – made under section 37 (2) of the Prevention of Electronic Crimes Act, 2016 – requires all [internet] service providers and social media companies, which have more than half million users in Pakistan, to register with the Pakistan Telecommunication Authority (PTA) and establish a registered office in Pakistan.¹³ This may bring many service providers and social media companies into the fold of labour laws as well. Moreover, government may introduce a registration regime for these online news media platforms in the country.¹⁴ As a result thereof, the digital / online news media may also become subject to the labour law in future.

Nevertheless, individuals working with online digital media platforms may have benefits of the labour laws only when they will fall within the ambit of the Industrial and Commercial Employment (Standing Orders) Ordinance, 1968. This law is applicable to those establishments, which are employing 20 or more workers. For all such establishments, all of the above labour laws – applicable to the electronic media platforms – will also be applicable to these online digital media platforms. However, there seems to be lack of awareness and understanding among the stakeholders on this matter.

CHAPTER 6: PERFORMANCE OF THE WAGE BOARD & IMPLEMENTATION TRIBUNAL FOR NEWSPAPER EMPLOYEES (ITNE)

The enactment of the NECOSA was a landmark development for the employees of the newspaper industry in Pakistan. The Act provided a broad definition of employee, covering almost all employees including editors working in the newspapers. Alongside the recognitions of rights of newspapers employees, the NECOSA provides two unique institutions. One is the Wage Board and other is the Implementation tribunal for Newspaper Employees (ITNE).

6.1 Wage Board¹⁵

Section 9 of the NECOSA provides for the constitution of the Wage Board for fixation of wage rate of the newspaper employee. According to the law, Federal Government has the authority to constitute the Wage Board consist of a Chairman, who shall be a person who has been or is qualified to be a Judge of a High Court, and as many members to advise the Chairman as may be appointed by the Federal Government. However, one half of the members of the Board are required to be the persons representing the newspaper employees and the other half representing the employers in relation to newspaper establishments.

The Board is required to give its decision within a period of *one hundred and eighty days* from the day of its constitution. In fixing rates of wages in respect of newspaper employees, the Wage Board may take into consideration the cost of living, the prevalent rates of wages of comparable employments, the circumstances relating to the newspaper industry in different regions of the country, and any other circumstances, which to the Board may seem relevant. The Board may fix rates of wages for timework and for piecework. The decision of the Board fixing rates of wages shall be communicated as soon as practicable to the Federal Government. So far eight Wage Board Awards have been announced.

First Wage Board

Constitution of first Wage Board predates enactment of the NECOSA. The first-ever effort for a dedicated legislation for employees of the newspapers was made in 1953 when the Central Legislative Assembly passed a resolution to meet the demands from general body of press to improve their working/service conditions. In

THE ENACTMENT OF THE NECOSA WAS A LANDMARK DEVELOPMENT FOR THE EMPLOYEES OF THE NEWSPAPER INDUSTRY IN PAKISTAN.

pursuance of this resolution, a Press Commission was set up on September 28, 1954. This was later replaced by another Commission on September 5, 1958. The commission was mandated “to examine and make recommendations on the rates of pay and working conditions of the journalists.”¹⁶

In March 1959, this Commission submitted its detailed report / recommendations to the government. The Commission recommended that a law should be made to regulate the condition of service of working journalists. It also suggested constituting a Wage Board, which would fix the rates of wages of the working journalists. In response to the recommendations of the Commission, the government promulgated the Working Journalists (Condition of Service) Ordinance, 1960. The Ordinance defined the ‘working conditions of journalists.’ Complying with the provisions of Section 8 of the Ordinance, the government constituted country’s first Wage Board, headed by Mr Justice Sajjad Ahmad Jan – a learned judge of the High Court of West Pakistan – on May 30, 1960. The Board rendered its award on the December 31, 1960.

Second Wage Board

The Second Wage Board was constituted on April 25, 1969, again, headed by Mr Sajjad Ahmed Shah. However, he expressed his unwillingness or continue with the assignment. He was succeeded by Mr Justice A. S. Faruqi, a learned judge of the West Pakistan High Court on October 17, 1969 but he resigned from the chairmanship of the Board on February 1, 1970. On March 5, 1971, Mr Justice (Retd.) S.M.Shafi was appointed as a chairman of the Board. In addition to the chairman, the board had two members representing the owners and two representing the employees of the newspapers. The mandate of the Board was to revise wages of newspaper employees according to the criteria given in the NECOSA, 1973. The board announced its decision on 8th of June 1974 and fixed new pay scale for the employees.¹⁷

Third Wage Board

The third Wage Board headed by Mr Justice (Retd.) Muhammad Munir Faruqi was constituted on January 24, 1979. The board consisted of eight members. Four

¹¹ PEMRA’s Electronic Media (Programmes and Advertisements) Code of Conduct, 2015, Clause 20(2): https://pemra.gov.pk/uploads/legal/Code_of_Conduct.pdf

¹² https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_161547.pdf

¹³ Rule 9 (5) of the Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards), Rules, 2020.

¹⁴ In May 2021, Federal Government planned to promulgate an Ordinance in order to merge all media related bodies and processes including PEMRA, Press Council of Pakistan and departments for registration of newspapers. The plan proposed a dedicated digital media directorate as a part of the proposed Pakistan Media Development Authority (PMDA) for registration / certification of online / digital news media platforms and social media outlets. The proposal also included repeal of the NECOSA and establishment of new media tribunals. This plan was strongly rejected by all stakeholders including Pakistan Federal Union of Journalists, All Pakistan Newspapers Association (APNS), Council of Newspapers Editors, and Pakistan Broadcasters Associations (PBA). In response to this strong reaction, in June 2021, the government constituted a committee, consisting of government officials and chaired by the Federal Minister for State on Information and Broadcast, to initiate dialogue with the stakeholders on this plan.

¹⁵ This part of the report is primarily based on the information taken from the “review of employment contracts of media workers in Pakistan (2015)”: <https://irada.org.pk/wp-content/uploads/2019/10/Employment-Contract-with-Media-Workers-An-Overview-of-Employment-Contracts-in-Pakistan-English.pdf>

¹⁶ <https://irada.org.pk/wp-content/uploads/2019/10/Employment-Contract-with-Media-Workers-An-Overview-of-Employment-Contracts-in-Pakistan-English.pdf>

¹⁷ Gazette Notification of the Fourth Wage Board Award, published on October 17, 1985.

IN FIXING RATES OF WAGES IN RESPECT OF NEWSPAPER EMPLOYEES, THE WAGE BOARD MAY TAKE INTO CONSIDERATION THE COST OF LIVING, THE PREVALENT RATES OF WAGES OF COMPARABLE EMPLOYMENTS, THE CIRCUMSTANCES RELATING TO THE NEWSPAPER INDUSTRY IN DIFFERENT REGIONS OF THE COUNTRY.

of them were representing the employers (owners) and four representing the employees. The board announced its final decision May 25, 1980. The decision allowed the scheme of categorization of establishment and gradation of employees.

Fourth Wage Board

On October 4, 1984, the Federal Government constituted fourth Wage Board. Mr Justice (Retd.) Mian Fazle Mehmood of Lahore High Court was appointed its chairman. The Board consisting of 12 members - six representing employers six representing employees - gave its decision on September 28, 1985 and was made operative from April 15, 1985.

Fifth Wage Board

Fifth Wage Board was constituted on December 20, 1989. Mr Justice (Retd.) Agha Ali Hyder headed the board. Consisting of 14 members - seven from employers and seven from employees - the board granted interim relief vides its order dated February 8, 1990. The final decision was given on December 18, 1990. The decision was notified on 13th of January 1991 and was made operative from April 15, 1990. However, before the arrival of the final decision, the APNS challenged the interim award in the Supreme Court. Upon the arrival of final award, the Supreme Court rendered the petition as in fructuous. Though the Court allowed the APNS to challenge the final award before a court of competent jurisdiction but it did not do so.

Sixth Wage Board

Sixth Wage Board came into existence on October 23, 1994. Mr Justice (Retd.) Zia Mehmood Mirza headed the board as its chairman. In addition, the board consisted of 18 members - nine each from the employers and the employees. However, the Board was reconstituted on February 7, 1996, with the same composition. The board announced its final decision on March 13, 1996.

Seventh Wage Board

On July 8, 2000, the Government constituted 7th Wage Board. The Wage Board was comprised of 10 members - five each representing the employers and employees of the newspapers. Mr Justice Raja Afrasiab Khan (Retd.) pronounced its award on October 7, 2001. APNS challenged the Seventh Wage Award through

a Representation to the Government of Pakistan through Secretary, Ministry of Information and Media Development. However, it was not entertained.

In 2002, the APNS then approached the Supreme Court of Pakistan under Article 184 (3) of the Constitution of Pakistan challenging constitutionality of the NECOSA. The Supreme Court, however, dismissed the petition as 'not maintainable' and asked the petitioner to approach to proper forum for relief.

APNS later filed two separate petitions in the High Court of Sindh. The Divisional Bench of the High Court of Sindh dismissed both the petitions on May 31, 2011. The petitioner filed an appeal in the Supreme Court alleging that Section 9 of the NECOSA (about constitution of Wage Board) was violative of the due process of law and requested the Court to declare the law as void and liable to be struck down for having failed to provide even a single right of appeal. The Supreme Court of Pakistan dismissed the petition vide judgement dated 19th October 2011 (PLD 2012 Supreme Court 1). The Court however held that:

"Newspaper industry is distinct and different from all other industries (electronic media i.e., radio and television) and for such reason alone Newspaper Employees (Conditions of Service) Act, 1973 is not ultra vires to Constitution."

Nevertheless, the Award remained inoperative during the pendency of the cases. Therefore, newspapers employees could not benefit from this Award as per its spirit.

Eighth Wage Board

On November 7, 2018, the government notified appointment of Justice Hasnat Ahmad Khan as Chairman of the Eighth Wage Board for newspaper employees. Subsequently, the government notified twelve (12) members of the Board on November 28, 2018. The Board was reconstituted on February 8, 2019 and removed names of two members - Mr Shafi-ud-Din Ashraf, who died even before the first meeting of the Board, and Mr Ijaz ul Haq on the protest of employees' members - from the Board. The 8th Wage Board announced its decision on December 26, 2019. The same was published in the official Gazette on March 12, 2020. The Board made its decision operative from February 1, 2019. However, representatives of the media workers are still demanding implementation of this award.¹⁸

PRIOR TO 2012, ACCORDING TO THE DATA RECEIVED FROM ITNE, THERE WERE 40,474 CASES PENDING BEFORE THE TRIBUNAL. OUT OF THESE PENDING CASES, THE TRIBUNAL HAS SO FAR DECIDED JUST 2,645 CASES.

6.2 The Implementation Tribunal for Newspaper Employees (ITNE)

The ITNE was established through Act No. LXXVIII of 1976 by adding 12A in the NECOSA, 1973. The Tribunal is mandated to implement the Award of the Wage Board constituted under Section 9 of the NECOSA for journalists and non-journalists. The Tribunal is an important institution established in 1975 as an attached department of the Ministry of Information, Broadcasting and National Heritage, Government of Pakistan. The tribunal has made its functional rules in 1977 titled "*Tribunal for Newspaper Employees (Procedure and Functions) Rules, 1977*". According to Section 12A of the NECOSA, 1973.

It is the responsibility of the Federal Government to constitute the tribunal consisting of one or more members to implement the decision of the Wage Board. The Chairman of the Tribunal is required to be a person who has been, or is, qualified to be, a Judge of a High Court. The tribunal has all the powers of Labour Court while implementing decision of Wage Board including the powers to punish breaches of award. The tribunal is empowered to hold inquiry for the determination of the category of the newspaper employee, for the purpose of implementing the decision of the Wage Board.

Since 1975, the government has appointed 11 chairmen of the ITNE. The NECOSA is silent on the term - in office - for chairman of ITNE; therefore, each of them served for a different duration.

DISPOSAL OF CASES BY ITNE: 2012 - 2021

Number of cases filed / pending before 2012	Number of cases filed after 2012 until May 2021	Total Number of cases decided after 2012 until May 2021	Number of cases pending so far
40,474	1,265	2,783	38,956

Here are the details of individuals who served as chairmen of ITNE.

1. Justice Mushtaq Hussain Munir (15.05.1975 - 14.07.1978)
2. Justice Muhammad Munir Faruqee (16.09.1978 - 04.03.1983)
3. Justice Mian Fazale Mahmood (12.06.1986 - 28.02.1994)
4. Justice Mian Dilawar Mahmood (29.06.1994 - 28.06.2000)
5. Justice Jawaid Nawaz Gandapur (22.07.2000 - 21.07.2005)
6. Justice Tanvir Bashir Ansari (29.10.2005 - 01.04.2007)
7. Justice Mansoor Ahmed (18.12.2007 - 17.12.2009)
8. Nasir Hussain Haideri (21.12.2009 - 20.12.2013)
9. Justice Rauf Ahmed Sheikh (15.07.2014 - 14.07.2005)
10. M. Arshad Khan Jadoon (16.02.2017 - 15.02.2019)
11. Raja Amer Khan (07.03.2019)

Prior to 2012, according to the data received from ITNE, there were 40,474 cases pending before the tribunal. Out of these pending cases, the tribunal has so far decided just 2,645 cases. In the meanwhile, during past ten years, the ITNE has received 1,265 fresh petitions / applications. Out of these fresh applications, the tribunal has decided 138 cases. In total, the ITNE has decided 2783 cases during past ten years.

CHAPTER 7: IMPEDIMENTS TO LABOUR RIGHTS & STRENGTHENING COLLECTIVE BARGAINING FOR MEDIA WORKERS

KEY INFORMANT INTERVIEWS

1. After the 18th constitutional amendment, labour issues are devolved to the provinces. But, the Newspaper Employees (Condition of Services) Act, 1973 is still a federal legislation. Should this law be devolved to the provinces for its effective implementation?

Post-Devolution Implementation of NECOSA, 1973

- Most of the respondents agreed that devolving the NECOSA 1973 to the provinces may prove beneficial for the media industry workers.
- All the provinces should enact their local NECOSA incorporating new and updated provisions to address the issues of modern day needs of the workers.
- At the federal level, its implementation proved a failure/ ineffective since its enactment in 1973.
- Devolution of NECOSA, 1973 may solve the important issue of limiting legal distance and administrative resources for implementation of labour rights at the provincial level. Media houses operate nationally, while their staff serves in various provinces.
- This issue likely requires additional consultations with stakeholders to arrive at the right answer that is acceptable to majority of their workers. Any final solution needs to be acceptable to the representative associations and unions of working journalists.
- Trans-provincial cases should be dealt by the federal law, while intra-provincial matters should be taken up in the provinces.
- Another respondent stated that the Committee on 18th Constitutional Amendment decided not to devolve NECOSA until and unless there is a comprehensive framework for labour rights at provincial levels. The NECOSA was then shifted to Ministry of Information from Ministry of Labour. At the time of constitution of 8th Wage Board, Law Ministry argued that the subject has been devolved to the provinces. In the presence of both NECOSA and IRAs, there arises a question of jurisdiction of implementation. Either NECOSA should be brought down to the provincial level – five NECOSAs - or IRAs should be applicable to media workers in the province and across the country as well.
- The Federal Ministry of Information is no more required after the 18th amendment. Therefore, television licensing and Audit Bureau of Circulation (ABC) certification of should go to the provinces.

MOST OF THE RESPONDENTS AGREED THAT DEVOLVING THE NECOSA 1973 TO THE PROVINCES MAY PROVE BENEFICIAL FOR THE MEDIA INDUSTRY WORKERS.

- A respondent suggested that there should be Provincial Media Employees (Conditions and Services) laws. Provinces should establish implementation tribunals to address issues of media workers at local level.
- Some respondents agreed that there should be devolution of NECOSA. However, they argued that the law should not be devolved to the provinces without any proper homework by all stakeholders. They also emphasized that the NECOSA should be extended to all media industry.
- Another respondent, who was against the devolution of NECOSA to the provinces, proposed that there should not be special provincial laws for the media. Media workers unions and organisations should deliberate on the issue before advocating for such legislation.
- According to one respondent, NECOSA has lost its spirit. It is no more effective, and responsibility of its ineffectiveness lies on the government, owners and judiciary as well.
- NECOSA covers permanent employees of newspapers. However, now 80% employees are working under contracts or the third-party contracts. This law should be amended, and all workers should have security of job under it.
- It is inevitable to negotiate a similar framework on minimum wages for the entire media sector including the electronic media and internet media which currently do not fall in the ambit of the NECOSA Act 1973. There should be amendment in NECOSA to extend it to the electronic media as well.
- To make the law, as it currently stands, effective, there need to be an on-going program of literacy on the law for the print media employees and an advocacy program involving All Pakistan Newspaper Society (APNS), Council of Pakistan Newspaper Editors (CPNE), PFUJ, ITNE and the federal and provincial information ministries.
- Newspapers should not be included in the Central Media List without ABC certificate. This work should also be done for electronic media.
- The ITNE should be perform as a part of judicial system and appoint of the chairman should be through judicial commission – similar to the appointment process of a High Court Judge. The Ministry of Law should be relevant ministry, and not the information ministry, for administrative purposes of the ITNE.

2. What is your understanding about the role and performance of newspaper employees Wage Board?

Role and Performance of Newspaper Employees Wage Board

- Many respondents said that the Wage Boards in the past have performed good. However, there is a room for the improvement in the process of the constitution, formation and decision-making process of the Wage Boards.
- The media industry has consensus that is Wage Board is a hard-earned benefit which was won after agreeing on its efficacy in ensuring some degree of minimum wages. This quantification of labour value of media workers – considering the historic risks they have operated under (over 170 killed and more than 2,000 assaulted, injured, kidnapped, arrested and intimidated in the last 20 years alone) – is invaluable in protecting the justification of the Wage Board.
- Wage Board is definitely a good platform/tool through which newspapers employees can get their rights. It was made with thorough research, understanding and consensus of senior journalists decades ago. It's the real formula to do regular appraisal of the employees and has remedies for the redressal of employees as well as employers' issues. However, the formation of Wage Board by the government and then announcement of Wage Board award has always remained a daunting challenge for journalists as this is used as a tool by the employers to delay appraisal and increments to the employees.
- Secondly government also uses it as a tool to control employers and employees at the same time. The government promises to employees that they will form Wage Board and make sure its implementation. On the other hand, government doesn't force employers to implement the Awards in true spirit. Sometime, nomination of members of Wage Board and chairman becomes a controversial due to divisions in journalists' trade unions. Wage Board Awards' implementation always remains a problem. 7th Wage Board Award was implemented after 12 years as employers went in the court and journalists had to fight in courts to get their rights and its implementation cases are still being heard in the ITNE.
- The Wage Board is overawed by the newspapers' owners. They influenced its head during the pendency of an award and even challenged it in courts for years. The non-implementation of the previous Wage Board award for over a decade with multiple litigations proves this. The current Wage Board has not yet been implemented by most newspapers. Many, including Jang and Dawn, hire staff through offshore recruitment companies and adopt other legal methods to deny Wage Board award implementation.

QUANTIFICATION OF LABOUR VALUE OF MEDIA WORKERS – CONSIDERING THE HISTORIC RISKS THEY HAVE OPERATED UNDER (OVER 170 KILLED AND MORE THAN 2,000 ASSAULTED, INJURED, KIDNAPPED, ARRESTED AND INTIMIDATED IN THE LAST 20 YEARS ALONE) – IS INVALUABLE IN PROTECTING THE JUSTIFICATION OF THE WAGE BOARD.

- The spread of Covid-19 has made the matters worse and now many journalists are facing salary cuts or no salary at all. If implemented properly, the scope of the Wage Board should be extended to electronic and digital media as well, so that the financial security of all the journalists, irrespective of their media affiliation, can be ensured.
- Actualization of the wage award takes too long and could also be preceded by newer awards which means that negotiated wages implemented at a particular time might not be commensurate with prevalent inflation. The process needs to be made swift and binding – perhaps on the lines of the Industrial Relations Act that sets legal bindings, time-limits and penalties for every step of the process including charter of demand, negotiation, arbitration & reconciliation (if needed), agreement, and implementation.
- When 7th wage award was being constituted, electronic media was not there, there was no concept of digital and social media. With exception to one or two newspapers, it was not implemented by majority of the newspapers. Then, there was boom in media with electronic media. So, the electronic media workers started getting two to three times higher salary as compare to the print media employees on A grade or so in the Wage Board Award. Furthermore, electronic and print media started hiring worker on contracts. Now there is a little number of regular employees left in the newspapers. They are not supported by other contractual employees in TV and digital.
- ITNE is responsible to ensure that all employees get Wage Board Award, but their inspection is again a matter of debate as labour inspection isn't done the way it should be. Inspectors either don't come and, if they come, they only sit with Human Resource (HR) and leave without consulting employees or their unions. Surprise visits of labour inspectors which should be done, is just a dream for journalists. Trade union either doesn't exist or they are just pocket unions of employees. So, expecting them to work for the employees is again a dream.

- Thankfully no one has challenged the recent Wage Board Award, but its implementation and arrears are yet to be given. Many organisations have still not implemented it. Wage Board doesn't object on giving maximum to any employee, but employers usually prefer to give only the minimum to the employees. This creates demotivation for the people who work hard and are better performers than other people.
- A respondent said that there should be some universal structure for the print and electronic media staff. The new proposed authority looks like a solution to many, but it is already been opposed tooth and nail by the owners. In the Wage Board award, salaries are also kept unrealistically low under the influence of the owners thus violating the basic principle of the relevant law that they should be commensurate with the current cost of living.
- In India Wage Board was constituted in 2003 for 20 years. Indian law empowered the district labour courts to deal with the issues of salaries and perks. The Indian Wage Board Award was linked with the monthly fluctuation – as per the increase in government employees' salaries and inflation. The India Model seems to be quite appropriate in this regard.
- There is no time limit available in law to form Wage Board Award. This is the reason that the 7th Wage Board announced its wage award in July 2000 and 8th Wage Board announced its wage award in February 2019. There must be a four-year limit to form a Wage Board. The Wage award must be implemented on all newspaper employees including contractual and outsourced employment.
- However, a large number of respondents (13) consider the performance of Wage Board is not up to the mark. Although, the Wage Board announces the wages for all newspapers, but very few well circulated newspapers comply with the wages determined so. Furthermore, Wage Board mandate should be extended to include every employee of print industry.
- The delay in constitution of regular Wage Boards – after every five years as a matter of practice – resulted in serious infringements of the rights of media workers. Moreover, rates fixed in the last Award are below the minimum wages standards and practices. This is also against the fundamental rights.
- Wage Board Award is not being implemented by majority of newspapers groups. There is need ensure its implementation through bringing amendments in the law.
- Practice of contractual employment should be stopped. This practice was started by media houses to avoid determination of 7th Wage Board Award. The law gives discretion to the government to constitute the Wage Board at any time and there is no timeframe provided in the law for (PLD 2012 SC1).
- The Wage Board have proved to be ineffective.

This evident from the fact that Seventh Wage Board Award remain in force for more than 18 years – out of which it was inoperative for more than 10 years due to pendency of the case in the court. Ultimately, its benefits became redundant and irrelevant.

- Wage Board Award should be implemented within the given timeframe. Furthermore, only those newspaper should be given the official advertisements which implement the Wage Board award.

3. Is Implementation Tribunal for Newspapers Employees (ITNE) – which is the implementation body for Wage Board awards and other issues concerning the rights of the newspapers' employees – performing its functions as mandated by law?

Law-mandated Performance of ITNE

- One of the respondents said that ITNE is an excellent organization for media employees, as ranked by many respondents. To make it more effective, there should be ITNE benches at the district level. One chairman cannot deal with the cases all over the country.
- There should be a separate department / institution of ITNE inspectorate. The inspectors be empowered visit / inspect offices of the newspapers / media. They can be instrumental in ensuring implementation of the decisions of ITNE.
- The State should remove the bottlenecks through amendments in the law and make decisions of ITNE binding on media houses. ITNE delivered many good judgements which are yet to be implemented to benefit the media workers.
- Many respondents ranked ITNE performance low. It mostly works in Islamabad and hardly visits to other cities. It needs to create more Tribunals and it should be bound to time limit to decide cases in maximum 3 months. One wage award implementation should not have taken much time. Overall system is working on delaying tactics.
- All labour court should be empowered / brought under the provincial NECOSAs. Appeal should be addressed to the High Courts. Tribunals should be part of the judicial system instead of administrative system. ITNE is currently like any other tribunal in Pakistan – devoid of any engagement framework between the principals involved such as PFUJ, CPNE, APNS and print media journalists. A program needs to be enacted that allows for an organic advocacy engagement among these principals while also generating an annual published report on the performance of ITNE to inform the debate around what needs to be done to promote wage justice for print media employees.
- The present condition of the media industry is clearly reminiscent of the fact that the ITNE is unable to fulfil its role which is ensuring that the Wage Board is implemented in all letter and

SEVERAL RESPONDENTS STATED THAT ALL LABOUR LAWS, INCLUDING LAWS RELATING TO INDUSTRIAL RELATIONS, ARE GOOD BUT THEIR IMPLEMENTATION IS QUESTIONABLE, DUE TO FLAWS IN THE JUDICIAL AND ADMINISTRATIVE SYSTEMS.

- spirit. The ITNE should be given more authority and should also have the provisions of imposing fines on media houses that are unable to fulfil their obligation under the Wage Board.
- All respondent mentioned that appointment of chairman always remains a controversial issue. There is time gap in the outgoing and new chairman's appointment. For example, a new chairman of ITNE is still awaited. Since there is no provincial bench of the ITNE, the chairman comes to every province in every 3 months. Therefore, we have to wait for 3 months for hearing of our cases. The ITNE usually sits in large cities. Small city newspapers and employees have to travel to these big cities for hearing.
- ITNE remains the leading organization responsible for ensuring the implementation of laws for the newspaper employees. However, interestingly, the electronic media doesn't come under the scope of the Wage Board or the ITNE.
- It is important that a separate Wage Board should be created for the electronic and digital media employees or they should also be brought under the Wage Board constituted for the newspaper employees so that their problems which are common in nature can be dealt with effectively.
- Surprisingly, many of the respondents were unaware of the establishment, role and functions of the ITNE.

4. Is the existing legal framework, governing labour issues of news media workers (comprising various industrial relations laws), being implemented effectively?

Implementation of Legal Framework of Media Workers

- Several respondents stated that all labour laws, including laws relating to industrial relations, are good but their implementation is questionable, due to flaws in the judicial and administrative systems.
- In Payment and Wage Act 1936, wages authority must have power to recover the wages and implement its judgement. In Islamabad, the authority is doing this under the Rules, but in rest of the provinces, the recovery is still being through land revenue laws. The Wages Authority should be able to recover the wages.

- Labour code of Pakistan for the entire workforce that comprises 100 or more laws and rules is mostly archaic, complex and overlapping.
- There remains a need to simplify the entire framework as well as ensure implementation.
- Industrial Relation Laws regulate collective bargaining and dispute resolution, extension of this law is minimal as best in the media industry. Although in media, some "plant-level unions" are registered with and operate under the Industrial Relations Commission, media workers and their apex bodies are mostly organized and/or registered as "associations." Therefore, they are unable to undertake formal and legally binding collective bargaining, grievance settling and dispute resolution.
- Several government institutions: EOBI, social security etc. are working like government departments. These labour laws are not being implemented in their true letter and spirit. Contractual system is a clear negation of principles of labour rights.
- Labour courts should be brought back at district level to deal with the issues of labour rights including media workers' rights – which are not covered under the NECOSA.

4a. What are the implementing agencies for various parts of this framework? And how effectively do they do their work as far as news industry is concerned?

Implementing Agencies of Legal Framework of Media Workers

- The following agencies are identified by the respondents under the general labour law framework:
 - Wages Authority
 - Labour Court
 - Labour Appellate
 - National Industrial Relation Commission
 - Registrar Trade Labour Union
 - Social Welfare Department (district administration)
- Various respondents showed their concern about these implementing agencies. In practice, effectiveness of these forums has been a matter of serious concern. It's mainly due to flawed judicial system. The delay in provision of justice due to flawed procedural systems has made these forums less effective. There should be a system of advance guarantee / security payment – to be deposited by the defaulting party in the court or with the arbitrator (similar to the British system).
- The decree holder should be paid out of that security deposit rather than recover as land revenue areas or through wages authority.
- One respondent said that media workers are asked to get themselves registered as trade union under these laws but the protection to the workers available under these laws are not applicable

to the media workers. For them, NECOSA is the only remedy. Therefore, he suggested to make the registration process for media workers union separate from these IRAs and media workers should not be confused with other labour market.

5. Since 2002, the news industry in Pakistan has seen mushroom growth – from 3,000 working journalists in 2002 to 18,000 news industry workers / employees to 250,000 news industry workers. This massive human resource growth was mainly due to expansion in the electronic media sector – television, radio and cable. However, the Newspaper Employees (Condition of Services) Act, 1973 is applicable only to the newspapers. In this situation, are general labour laws (Industrial relations laws) applied on other industries also applicable to the electronic news industry?

Application of industrial relations laws in the presence of NECOSA

- Most of the respondents confirmed that all labour laws, including the IRA, are applicable to electronic media industry. However, there should be legislation for electronic media employees.
- Though these laws are applicable to the entire media – electronic and print, the implementing agencies are not performing as per their mandate.
- However, the awareness and literacy on the relevancy of these laws on the electronic media industry is shockingly low. This is evident from the fact that one respondent stated that there is no law for rights of workers of electronic media in Pakistan. Thus, there is need to have law for workers in electronic media.

5a. How much these general laws protect the rights of worker in electronic news industry?

Protection of Electronic News Industry

Workers by General Laws

- Most of the respondents stated that these laws have protections for the rights of workers in electronic media industry. However, they questioned their implementation status.
- Currently, these general laws including IRAs can be used for the rights – including salaries and perks – of electronic media news industry workers.
- However, another group of respondents mentioned that these general labour laws are usually not applicable in case of the electronic media industry.

5b. Do workers engaged with electronic news industry – TV, radio, news websites – have right to collective bargain like the employees of newspapers have?

Collective Bargain of Electronic

News Industry Workers

- A mix response was forwarded by the respondents. Many agreed that laws give them the right to collective bargaining. Under these laws, electronic media workers may form their unions. However, mainly because of owners' pressure, they are not permitted to do so.
- Workers in these media need to organize themselves into collective bargaining agencies.
- Interestingly, many respondents were of the view that workers in electronic media do not have the right to collective bargaining like employees of the newspaper have.

5c. Do existing labour laws protect their right of minimum wage, social security, job security, working hours, etc.?

Right of Minimum Wage, Social & Job Security,

Working Hours

- Many of the respondents submitted that these labour laws can protect their rights of minimum wages, social security, job security and working hours, etc. However, they believe that there is plenty of room to improve the current labour laws by incorporating newer realities related to a greater involvement of technology in the workspace. There is a need to introduce newer legislation on issues like data protection and privacy as well as workplace hazards.
- Most of the respondents pointed out that lack of adequate enforcement is a principal problem with existing labour laws.
- However, many respondents were unaware of the protections available to media worker in the general labour laws.

6. Should the protections available to newspaper employees under the Newspaper Employees (Condition of Services) Act, 1973 be also available to the workers of electronic / digital news industry?

Protection under NECOSA to Electronic /

Digital News Industry

- Print media and electronic media should not be segregated. There are no boundaries. Every TV media has text media, and every newspaper has audio video platform. Wage Board should also be implemented on all types of media.
- Protections available to newspaper employees under the NECOSA, 1973 should also be available to the workers of electronic / digital news industry.

However, there will be a need to bring new laws for workers of electronic / digital news industry. Workers are facing various many vulnerabilities. Therefore, such protections must be extended to them on priority basis.

- Media has become fast with big exposure therefore, NECOSA should be amended to cover issues of entire news media industry including electronic and digital media. Press clubs and other stakeholders should take initiatives.
- There should be Media Employees (conditions and services), TV employees will get benefit from it. Digital media could be difficult at this time, but it would provide benefit to the TV media.
- Electronic media representatives should also be included in the Wage Board; and its decision should be applicable to electronic media employees as well. However, their implementation is serious question.
- A respondent mentioned that labour issues fall under provinces after 18th amendment, but provinces have not worked on it. Though Sindh government has made some legislation, but there is no implementation regarding newspaper employees. Besides, there is no law related to electronic media. Media houses are spread all over the country. There must be a law for the right of workers of electronic media, which should be implemented across the country.
- News media is used for all forms of news media whether it is in text, audio or TV format. There is no media or entertainment media. There should be implementation of laws where general laws are not been workable. Revenue based incentives should be implemented and law should be constituted. This act is outdated, non-implementable. There is need to readdress this act.
- Another view is that the electronic and digital news media in many jurisdictions are still out of the purview of such laws. Therefore, the mandate of Wage Board should be restricted to the newspapers' employees only.
- One respondent said that regional media should also be respected and given equal share in opportunities. Language of people varies after each 30 to 40 kilometers and people are comfortable with their native language media. There is no support to the regional media. They are treated as secondary class. All should be treated equally.

Additional Comments:

- There is a dire need to organize, facilitate and provide technical resources to workers of the digital media who are growing in number but who don't have adequate public and industry recognition of their status. Also, there needs to a strong gender affirmative element to all efforts related to enforcement of labour rights for media workers. Apart from the industry-related risks that women face as their male counterparts, the women

THERE IS A DIRE NEED TO ORGANIZE, FACILITATE AND PROVIDE TECHNICAL RESOURCES TO WORKERS OF THE DIGITAL MEDIA WHO ARE GROWING IN NUMBER BUT WHO DON'T HAVE ADEQUATE PUBLIC AND INDUSTRY RECOGNITION OF THEIR STATUS.

grapple with additional work-related hazards such as sexual discrimination and harassment and wage disparities that must be addressed in all campaigns and initiatives.

- In May 2021, government planned to repeal several media-related laws – including the NECOSA, 1973 – under the proposed “Pakistan Media Development Authority” Ordinance. If this proposed Ordinance becomes the law, it will entail a deeper look at how to ensure labour rights as enshrined in the Newspaper Employees (Condition of Services) Act, 1973.
- While reflecting on the proposed Pakistan Media Development Authority (PMDA), another respondent said that the proposed law will repeal the NECOSA and new tribunals will be formed for media workers. However, there is no mentioning of the Wage Boards awards in this proposal. Therefore, this proposed law will end the liberty of media that would increase unemployment.

CHAPTER 8: RECOMMENDATIONS

1. INCLUSION OF GENDER & MARGINALIZED SEGMENTS: All labour laws, general and special – should conform to the international standards of inclusivity to make them give due representation to women and other marginalized group alongside men and other influential groups.

Action: Consultations with relevant stakeholders on reforming the laws to make them more representative including gender affirmative and socially diverse.

2. INCLUSION OF DIGITAL / ONLINE MEDIA INDUSTRY: In keeping with the expanding digitalization of media landscapes, there should be inclusion of freelancers and online / digital workers in the legal framework.

Action: Support advocacy capacities of groups/associations representing digital media and its workers to lobby for their inclusion in journalists' unions, press clubs and media workers' associations.

3. IMPROVEMENTS IN IMPLEMENTATION OF EXISTING LAW / MECHANISMS: Implementation and enforcement mechanisms must be technically and financial resourced. Required human resource including heads of the bodies should be appointed immediately.

Action: Hold a series of dialogues with relevant stakeholders including line ministries / departments (including law, finance and information) and representative associations of media workers, managers and owners on reforming mechanisms to identify required resources for effective implementation and appropriate reforms to the mechanisms.

4. RELINQUISHMENT OF GOVERNMENTAL CONTROL OVER IMPLEMENTATION INSTITUTIONS: Government should relinquish or minimize its administrative control over the Wage Board and ITNE.

Action: Hold a series of roundtables with relevant stakeholders, including journalists' unions, press clubs, media workers' associations, ITNE, APNS, CPNE and DigiMAP.

5. MAKING MEDIA OWNERS TO COMPLY WITH THEIR LEGAL DUTIES: Media owners should be made to implement the decisions of the Board and ITNE.

Action: Facilitate a series of dialogues with relevant stakeholders, including ITNE, APNS and CPNE.

6. REFORMATION OF EXISTING LABOUR LAWS: There is a need to reform the existing labour laws dealing with print and electronic media to align them to international best practices. Furthermore, there is also a need to make pragmatic and positive regulations relating to the business of social/digital media platform so that rights of employees associated with that platform may be safeguarded.

Action: Produce draft of model laws listing the required reforms to the relevant laws and hold a national and four provincial seminars on a roadmap for reforms that identifies duty bearing to help materialize the required reforms. The seminars should be attended by all relevant principals including line ministries (law, finance and information), media industry associations (APNS, PBA, DigiMAP, CPNE, PFUJ, AEMEND, etc.) and media development groups.

7. ADEQUATE MEASURE TO ENSURE JOURNALISTS SAFETY: Adequate measures should be adopted to ensure safety of journalists. In recent years journalists have been killed, attacked, injured, kidnapped, injured and intimidated but neither any effective investigations were conducted, nor the prosecution services were up to the mark.

Action: Support advocacy efforts for federal and provincial legislations on safety of journalists; capacity building for media houses to draft in-house safety policies and protocols; and establish and train cells of lawyers versed in media laws and safety best practices to boost prosecution services.

ANNEXURES

LIST OF KEY INFORMANT INTERVIEWEES

ITNE and Wage Boards Representative

Mr Justice (R) A. Rauf Sheikh, Former Chairman ITNE
Mr Abdullah Jan, Member – Seventh Wage Board
Mr Shahzada Zulfiqar, Member – Eighth Wage Board
Mr Pervez Shaukat, Member – Eighth Wage Board
Mr Muhammad Mazhar Hanif, Registrar – ITNE

Legal Experts

Mr Akhtar Hussain, Advocate Supreme Court of Pakistan
Mr Syed Ishtiaq Mustafa Bukhari, Labour [NECOSA] Law Expert
Mr Adnan Bashir Chaudhry, Labour Law Expert
Mr Iftikhar Ahmed Mian, Labour Law Expert
Mr Mian Muhammad Zulqarnane, Advocate Supreme Court of Pakistan

Local and International Experts / Academician

Mr Adnan Rehmat, Media Development Expert
Dr. Tauseef Ahmed Khan (Mr), Academician
Ms. Gulmina Bilal Ahmad, Development Practitioner
Mr Immad Ashraf, Expert on Unionism
Dr Imran Munir (Mr), Academician

Media Owners

Dr Jabbar Khattak (Mr), Print Media Owner
Mr Ovais Iqbal Baloch, Electronic Media Owner
Ms. Sultana Siddqui, Electronic Media Owner
Ms. Xari Jalil, Digital Media Owner
Mr Tahir Mehdi, Digital Media Owner

Journalists / Media Workers Representative

Mr Mazhar Abbas, Senior Journalist
Mr Nasir Zaidi, PFUJ
Mr Rana Azeem, PFUJ
Ms. Sheher Bano, PFUJ
Mr Amir Suhail, PFUJ
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RESEARCH INSTRUMENTS (QUESTIONNAIRES)

1. After eighteenth constitutional amendment, labour issues are devolved to the provinces. But, the Newspaper Employees (Condition of Services) Act, 1973 is still a federal legislation. Should this law be devolved to the provinces for its effective implementation?

2. What is your understanding about the role and performance of newspaper employees Wage Board? How can it be made effective in protecting the rights of newspapers employees? Should the mandate of the Wage Board be extended to electronic and digital news media industry?

3. Is Implementation Tribunal for Newspapers Employees (ITNE) – which is the implementation body for Wage Board awards and other issues concerning the rights of the newspapers' employees – performing its functions as mandated by law? What should be done to make it more effective to protect the rights of news media workers?

4. Is the existing legal framework, governing labour issues of news media workers (comprising various industrial relations laws), being implemented effectively? What are the implementing agencies for various parts of this framework? And how effectively do they do their work as far as news industry is concerned?

5. Since 2002, the news industry in Pakistan has seen mushroom growth – from 3000 working journalists in 2002 to 18000 working journalists in 2018 and from 25,000 news industry workers / employees to 250,000 news industry workers. This massive human resource growth was mainly due to expansion in the electronic media sector – television, radio and cable. However, the Newspaper Employees (Condition of Services) Act, 1973 is applicable only to the newspapers. In this situation, are general labour laws (Industrial relations laws) applied on other industries also applicable to the electronic news industry?

- i. How much these general laws protect the rights of worker in electronic news industry?
- ii. Do workers engaged with electronic news industry – TV, radio, news websites – have right to collective bargain like the employees of newspapers have?
- iii. Do existing labor laws protect their right of minimum wage, social security, job security, working hours, etc.?

6. Should the protections available to newspaper employees under the Newspaper Employees (Condition of Services) Act, 1973 be also available to the workers of electronic / digital news industry?

7. Any further suggestion? •

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