



**State of Compliance with**  
**DECENT WORK**  
**PRINCIPLES**  
**in the Brick Kiln Sector**

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**Trust for Democratic Education  
and Accountability (TDEA)**

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# ABBREVIATIONS

COVID-19	Coronavirus Disease 2019
DVC	District Vigilance Committee
DWBKF	Decent Work Brick Kiln Framework
ECP	Election Commission of Pakistan
EOBI	Employees Old-Age Benefits Institution
EU	European Union
FGD	Focus Group Discussion
GDP	Gross Domestic Product
GSP	Generalized Scheme of Preferences
HRCP	Human Rights Commission of Pakistan
ILO	International Labour Organization
MRVs	Mobile Registration Vans
NADRA	National Database and Registration Authority
NIC	National Identity Card
NRC	NADRA Registration Center
OHS	Occupational Health and Safety
PESSI	Pakistan Employees Social Security Institution
SDF	Sangat Development Foundation
TDEA	Trust for Democratic Education and Accountability
UN	United Nations

# GLOSSARY

<b>Bonded Labor:</b>	Bonded labor means any labor or service rendered under a system of forced or partly forced labor under which a debtor enters into an agreement with a creditor. (See peshgi below.)
<b>Child:</b>	Child means a person who has not attained the age of 15 years.
<b>Clean Bricks:</b>	Clean bricks are those produced by a brick kiln that adheres to decent work principles and provides better working conditions.
<b>Decent Work:</b>	Decent work means work based on fair terms of employment, social protection, respect for workers' rights, and space for a mutually beneficial dialogue between employers and employees.
<b>Employer:</b>	Employer means any person who employs either directly or through another person, whether on behalf of himself or any other person, any person for whom a minimum rate of wages may be declared.
<b>Hazardous Work:</b>	Hazardous work means work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of adolescents.
<b>Munshi:</b>	Munshi is a contractor or middleman of a brick kiln who manages all the activities and finances.
<b>Peshgi:</b>	Peshgi is the practice of debt bondage in Pakistan. Instead of just seeking wages in exchange for their work, poor workers take an advance from an employer, in money or in kind, under the obligation to work for that employer until their debt is paid off.
<b>Socially-Compliant Brick Buying:</b>	Socially-compliant brick buying means buying bricks from the kilns that comply with decent labor standards.
<b>Wages:</b>	Wages means all remuneration capable of being expressed in terms of money, which would, if the terms of contract, express or implied, were fulfilled, be payable to a person employed in respect of his/her employment or of work done.
<b>Worker:</b>	Worker means any person including an apprentice employed in any industry to do any skilled or un-skilled, intellectual, technical, clerical, manual or other work, including domestic work, for hire or reward.





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## EXECUTIVE SUMMARY

The “Promoting Decent Work in Brick Kilns” project, conducted by the Trust for Democratic Education and Accountability (TDEA) in partnership with Pattan Development Organization (Pattan) and Sangat Development Foundation (SDF), has contributed towards investigating the critical factors related to brick kiln workers’ working conditions and the legal, policy, and administrative gaps that allow such conditions to exist. The project partners undertook multi-dimensional research, including reviewing relevant laws and existing studies by local and international organizations, and conducting primary qualitative research. The project partners conducted 10 focus group discussions (FGDs) with brick kiln owners and workers, government officials, brick buyers, and international funding agencies in Islamabad and Lahore. The overall objective of the research was to understand the issues faced by brick kiln workers and to highlight relevant stakeholders’ understanding of the existing working

conditions. Specifically, the research aimed to explore the following questions:

1. To what extent are stakeholders familiar with decent work principles and the Decent Work Brick Kiln Framework (DWBKF) in the brick kiln sector? Through what mechanisms do stakeholders acquire this knowledge?
2. What are stakeholder attitudes towards the social and economic benefits of decent work?
3. To what extent are decent work principles per national and international labor standards being practiced in brick kilns? To what extent are decent work principles as per national and international labor standards being reported, monitored, and enforced in the brick kiln sector? What are the challenges to enforcement? What are the opportunities for enforcement?

4. What are the necessary conditions and incentives required for brick buyers to adopt decent brick buying?

5. What is the current state of decent work in brick kilns, including the use of bonded and child labor?

The brick kiln sector's development has received little attention, and evidence gathered from the research reveals that brick kiln workers' issues have been prevalent for decades. Although this sector remains one of the most profitable industries contributing to the Pakistani economy, it has mostly remained neglected by policymakers. During the FGD sessions, stakeholders' responses consistently reflected the existing poor working conditions for brick kiln workers. A majority of them highlighted



the lack of access to social security for workers, unregulated kilns, weak labor inspection, non-functional district vigilance committees (DVCs), lax implementation of regulations, and no specific law for the brick kiln sector. Other significant issues included a lack of necessary facilities like safety equipment, medical coverage, clean drinking water, and social protection, low wages, and bonded and

child labor. The project also ventured to update the DWBKF during its implementation. However, the FGDs participants had limited understanding and knowledge about the framework, and therefore, provided no feedback for its improvement.

The first section of the report provides a brief description of the program and background, while the second section elaborates upon the purpose, scope, and methodology of the primary and secondary research. The third section highlights the findings and analysis from the FGDs and the literature review, focusing on brick kiln sector issues such as bonded and child labor, minimum wages, registration of workers, regulations, inspection of brick kilns, social security, occupational health and safety, and other factors. The last section presents legal, policy, and administrative recommendations for promoting decent work at brick kilns.

Based on the research, recommendations include the following:

### **Stricter Government Monitoring and Enforcement of Existing Laws to Safeguard Workers Rights**

The Punjab Prohibition of Child Labor at Brick Kilns Act, 2016 binds employers to sign a written contract with workers by mentioning the peshgi, wage amounts, and the peshgi payback schedule. The law also requires employers to send a copy of the signed contract to the relevant area's labor inspector. However, due to a lack of legal enforcement and monitoring of kilns, workers continue to be employed informally without contracts. The findings of the report highlight that the peshgi system is one of the primary reasons for the deplorable working conditions at brick kilns. The government must ensure stricter monitoring and compliance with the law across all brick kilns to ensure workers' rights to a minimum wage and decent working conditions. Moreover, similar legislation may also be carried out for all the regions of Pakistan.

In addition, the government may contract out an annual independent assessment of brick kilns and their working environment to monitor the monitors. These assessments will provide an independent view of the performance of labor departments and inspections. These may also provide for tangible recommendations to reform the legal and policy frameworks for improving the working conditions.

Some labor officials said they experienced pressure from brick kiln owners not to focus attention on

bonded and child labor. An online monitoring system may be developed or upgraded for prompt reporting of these issues. The labor inspectors may be trained to fill out checklists online, and such inspections should be available to the public on labor departments' websites.

In addition, the research findings highlight a disconnect between workers and duty-bearers. In order to improve the working conditions of workers, the labor department should be easily accessible for seeking their assistance, filing complaints or to raise issues regarding poor working conditions. The department should also ensure regular visits to brick kilns to report cases of exploitation.

### **Formation and Improved Functioning of DVCs and Worker Unions**

Trade unions play a crucial role in collectively bargaining for workers' rights. The law needs to define establishment of brick kiln workers' union as advocated in the Decent Work Brick Kiln Framework. It is vital to ensure that all workers are able to associate freely and become members of trade unions. The unions must comprise of workers from every level at a brick kiln to make sure that all the workers are represented and are able to claim their legal right. Therefore, it is recommended to establish or strengthen unions and other associations of laborers that would help to protect their rights through collective bargaining and representation.

Additionally, DVCs can play an active and important role in monitoring and ensuring corrective action at brick kilns. Such committees exist in Punjab; but they have not been formed in Islamabad to ensure labor standards as directed by the Bonded Labor System (Abolition) Act, 1992. A DVC comprising elected representatives, brick kiln community members, and government officials must ensure labor standards across the industries. Moreover, the labor departments may help develop uniform terms of reference for the DVCs.

### **Improving the Mechanism for Registration of Brick Kilns**

Since brick kilns are a manufacturing industry, they must be registered under the Factories Act, 1934. On the contrary, many brick kilns continue to function without being registered. Since kilns are not registered, the issues facing workers – including lack of registration with NADRA and EOBI, inability to access public services, bonded labor and child labor – are harder to document and

address. Brick kiln owners say that the process of registration is time consuming and cumbersome, and therefore, many of them are either waiting for their applications to be processed or have not filed for registration. The government should revise the registration process, develop a robust strategy to expedite the process by providing additional resources to the labor department, and implement incentives and enforcement mechanisms to ensure the registration of all brick kilns.

### **Legal Provisions and/or Incentives for Buyers to Procure Bricks from Kilns with Decent Working Environments**

Legal instruments may be enacted to help ensure that brick buyers procure bricks from kilns that provide a safe and decent working environment. The labor inspector may certify brick kilns based on a uniform and robust criterion after periodic visits. The research findings highlight that a majority of the brick buyers are oblivious about the working conditions at kilns, and only consider their profits. If the profits are directly associated to decent work at kilns, the owners will have to ensure better conditions for workers.

The government should develop an incentive plan for local brick buyers to promote socially-compliant brick-buying practices in the construction industry. The incentives can include a subsidized tax in return for buying bricks from those kilns that provide decent working conditions for workers. This can be ensured by providing proper work certification to the kilns that would allow brick buyers to invest in the certified brick kilns only. The government should review all brick-buying licenses and repeal those for businesses that do not buy bricks from kilns complying with labor laws.

### **Awareness/Familiarization Sessions for DWBKF and Workers' Rights**

The research findings revealed that stakeholders had no knowledge about the DWBKF. Therefore, it is important to arrange awareness/familiarization sessions with the stakeholders of the brick kiln sector, including workers, kiln owners/employers, brick buyers, government officials, international agencies, as well as civil society organizations and the media. The purpose of the sessions will be to inform the relevant stakeholders of the DWBKF as part of the way forward to solve the challenges that brick kiln workers experience.

An awareness-raising strategy through public-private partnerships would be beneficial. The public



departments such as labor department and ministry of human rights may collaborate with civil society organizations and private sector partners to conduct awareness sessions for all stakeholders to enhance their understanding of decent work principles and the ways in which they can contribute to improving working conditions of workers.

### **Social Security Programs for Brick Kiln Workers**

Brick kiln workers are among the most vulnerable and marginalized segment in society with access to the fewest public social services. Most of these workers earn a meagre daily wage and remain subservient to brick kiln owners for their entire lives and indeed for generations. They typically lack NICs and are therefore unable to access government-sponsored programs related to health, education, and other basic needs for themselves and their families. The government may initiate special programs for brick kiln workers to facilitate them. These programs should be flexible, such as waiving the standard documentation criteria for acquiring an NIC and validating workers' citizenship through other means.

### **Establishment of Community Schools and Healthcare Facilities**

To eradicate child labor, concerted efforts are required by the government and other stakeholders

to establish community schools for brick kiln workers so that they can enroll their children locally. The monitoring teams including the labor inspectors and DVCs may ask education workers about such public facilities as well as report incidents of violations. Strict fines may be imposed on brick kilns where child labor is prevalent. In addition to establishment of community schools, the government may establish basic healthcare units close to the kilns to facilitate workers.

### **Facilitation from NADRA and ECP**

NADRA and the Election Commission of Pakistan (ECP) must coordinate to facilitate the NICs and voter registration of brick kiln workers. NADRA should provide additional mobile registration vans (MRVs) for the brick kilns located at far-flung areas. NADRA should also strategize to set-up NADRA Registration Centers (NRCs) near brick kilns to facilitate the workers. ECP should coordinate with NADRA to acquire the data of registered brick kiln workers in order to add them to the electoral rolls.



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## PROGRAM DESCRIPTION AND BACKGROUND

The Trust for Democratic Education and Accountability (TDEA) implemented an eight-month initiative, Promoting Decent Work in Pakistan's Brick Kilns, in partnership with Pattan Development Organization (Pattan) in Islamabad and Sangat Development Foundation (SDF) in Lahore. The aim was to explore the current state of compliance with decent work principles, including payment of fair wages in the brick kiln sector. The project contributed to creating a reliable source of clean bricks, which as a result advanced labor rights by reducing bonded and child labor, and ensured that brick kiln workers receive fair wages and access to public social services. The project carried out various activities, including research, capacity development of trade unions and labor inspectors, and advocacy with elected and public officials to promote decent work principles at the brick kiln industry and encourage adoption of the Decent Work Brick Kiln Framework (DWBKF).

DWBKF is a strategic guiding document developed by Solidarity Center in 2016 that is based on four broad areas of intervention: (1) labor law reform; (2) employment generation through human resource development, with a focus on employable skills; (3) social protection expansion, including in the informal economy; and (4) tripartism<sup>1</sup> and social dialogue promotion. The framework guides the provincial labor departments for implementing programs that contribute to promoting decent work in Pakistan. It also provides an inspection checklist to systematically monitor decent work at kilns and other comprehensive tools and resources for district labor departments to report labor law violations.

Pakistan is the third largest producer of bricks in South Asia, with about 20,000 brick kilns producing 45 billion bricks per year. Estimates suggest that more than 1,000,000 men, women, and children work in approximately 10,000 brick kilns in Punjab province alone. Brick production is hazardous

<sup>1</sup> Tripartism is "the process by which workers, employers, and governments contribute to the setting of workplace standards and the protection of workers' rights worldwide." <https://www.bls.gov/opub/mlr/1994/09/art6full.pdf>. See also <https://www.ilo.org/global/topics/workers-and-employers-organizations-tripartism-and-social-dialogue/lang-en/index.htm>

work as “the nature of the work exposes the workers to a dangerous environment and working conditions.”<sup>2</sup> According to the International Labour Organization (ILO), brick kilns vent toxic fumes containing suspended particulate matter rich in carbon and containing a high concentration of carbon monoxides that are harmful to the eyes, lungs, and throat. The informal nature of the sector, the lack of regulation, and the weak legal and policy environment leave workers vulnerable to severe exploitation forms. As a result, they have become one of the most marginalized populations in Pakistan.

Despite being illegal, both bonded and child labor are pervasive in Pakistan’s brick kilns. International and Pakistani organizations working on child rights, eliminating debt bondage, and related issues have extensively documented the various forms of exploitation that brick kiln workers routinely face. However, concerted efforts are still required to alleviate the struggles of brick kiln workers, who are poverty-stricken and forced to work in deplorable working conditions.<sup>3</sup> There is severe social injustice in the brick kiln sector, such as bonded labor, child labor, adverse living and work environment, unhygienic water and sanitation, poor education, and adverse occupational health conditions. Multi-stakeholder involvement is required to resolve these issues.

The Decent Work Brick Kiln Framework (DWBKF) is a strategic guiding document developed by Solidarity Center in 2016 that is based on four broad areas of intervention:

1. labor law reform;
2. employment generation through human resource development, with a focus on employable skills;
3. social protection expansion, including in the informal economy; and
4. tripartism and social dialogue promotion.



<sup>2</sup> Sustainable Development Policy Institute. 2011. ‘Fostering Sustainable Development in South Asia: Responding to Challenges.’ Islamabad.

<sup>3</sup> Sustainable Development Policy Institute. 2011. ‘Fostering Sustainable Development in South Asia: Responding to Challenges.’ Islamabad.



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## PURPOSE, SCOPE, AND METHODOLOGY

### 3.1 PURPOSE AND SCOPE

The objectives of the research were to assess the current state of compliance with decent work principles in Pakistan's brick kiln sector and to provide recommendations. Specifically, the goals were:

1. To receive stakeholders' perspectives/ opinions regarding the current state of compliance with decent work principles, including payment of fair wages, in brick kilns of Islamabad and Lahore.
2. To provide recommendations for legal, policy and administrative reforms for promoting decent work at brick kilns.
3. To provide recommendations to improve DWBKF to ensure adoption by civil society, brick kiln workers, brick kiln employers, and government.

The purpose of the research was to answer the following research questions:

1. To what extent are stakeholders' familiar with decent work principles and DWBKF in the brick kiln sector? Through what mechanisms do stakeholders acquire this knowledge?
2. What are stakeholder attitudes towards the social and economic benefits of the decent work?
3. To what extent are decent work principles as per national and international labor standards being practiced in brick kilns? To what extent are decent work principles as per national and international labor standards being reported, monitored and enforced in the brick kiln sector? What are the challenges to enforcement? What are the opportunities for enforcement?
4. What are the necessary conditions and incentives required for brick buyers to adopt the decent work?

5. What is the current state of decent work in brick kilns, including the use of bonded and child labor?

The findings of the research can be categorized in the following themes:

- The extent of stakeholders' familiarity with decent work principles
- The implementation status of international and national labor standards
- The incentives for brick buyers
- The current state of labor inspection of brick kilns

### 3.2 METHODOLOGY

The research adopted an inferential approach.<sup>4</sup> The primary research was guided by review of existing literature, including reports and articles along with legal frameworks concerning brick kiln sector. The literature review helped in developing guide questions, which were used during the primary research.

To gather data from various groups involved in the brick kiln sector, TDEA adopted a qualitative research method to bring out specific and context-focused information. FGDs assisted in collecting the data from various groups to bring forward their opinions and insights regarding the existing working conditions of brick kiln workers in Pakistan. These FGDs were carried out by TDEA's partner organizations - Pattan Development Organization in Islamabad, and Sangat Development Foundation (SDF) in Lahore. These partner organizations identified people from similar backgrounds and experiences, and brought them together to discuss the working conditions of workers at brick kilns in Islamabad and Lahore. FGDs sought participants' perceptions, attitudes, beliefs, opinions and ideas. Each group comprised eight to 12 people, and were led by a moderator (interviewer) with guided questions.

TDEA prepared a set of questions considering the expertise and experiences of the stakeholder groups to be involved in the FGDs. For each set of stakeholders, TDEA developed a specific

questionnaire. The FGD tools comprised a set of main questions complemented by probing questions to acquire in-depth information from the stakeholders regarding the current state of brick kiln workers and the status of compliance to legal frameworks protecting workers' rights.

The questions were devised after carrying out an in-depth literature review on decent work and issues in the brick kiln sector in Pakistan. The literature review helped in framing the questions on issues such as bonded labor, minimum wages, child labor and weak inspection.



All questionnaires are included in annexes of the report. The questions were designed so that the main question provided a broader view of the issue while the probing questions were related to the experiences of the participants. Each questionnaire had five main questions followed by their probing questions. Each question was concise with simple language. Keeping in view the cultural and local context, the FGD guide questions were translated into the Urdu language for stakeholder groups' convenience. The purpose was to make it easier for the stakeholders to understand the questions and participate actively in the FGDs.

#### 3.2.1 Secondary Research - Literature Review

The research team reviewed existing literature, including especially resources about the legal frameworks related to the brick kiln sector in Pakistan. A comprehensive analysis of more than 50 documents was carried out before finalizing the guide questions for FGDs. The purposes of the literature review were to understand relevant law and legal procedures as well as the social context and to begin to identify gaps in the existing legal frameworks. Some of the resources consulted

<sup>4</sup> See, for example, <https://www.scribbr.com/statistics/inferential-statistics/>



during the literature review are presented below, and the bibliography at the end of this report includes the full list of documents reviewed by the research team.

### Selected Reports by International and National Organizations

- Report on Health Safety in Brick Industry<sup>5</sup>
- Hope for the Bonded Laborers<sup>6</sup>
- Report on Differential Implementation of Laws in Brick Kiln Industry<sup>7</sup>
- Social Analysis of the Brick Production Units in Pakistan<sup>8</sup>
- Status of Labor Rights in Pakistan – A snapshot of 2010<sup>9</sup>
- Decent Work Brick Kiln Framework (DWBKF)<sup>10</sup>

- Policy Review & Analysis of Brick Kiln Workers and Bonded Laborers in Pakistan<sup>11</sup>
- State of Human Rights in 2018<sup>12</sup>
- Toiling in the soil: Impact of work at brick kilns on health of children and youth in Pakistan<sup>13</sup>

### Legal Frameworks

- The Bonded Labor System (Abolition) Act, 1992
- Punjab Minimum Wage Act, 2019
- Punjab Prohibition of Child Labor at Brick Kilns Act, 2016
- The Factories Act, 1934
- The Standing Orders Ordinance, 1968
- The Environment Protection Act, 1997
- Punjab Labor Policy, 2018
- Public Procurement Regulatory Authority Ordinance, 2002
- Public Procurement Regulatory Authority Rules

<sup>5</sup> Asia Monitor Resource Centre (AMRC). (2001). Occupational Health and Safety in Pakistan.

<sup>6</sup> Jabbar, J., et. al. (2015). Hope for the Bonded Laborers. Society for Protection of the Rights of the Child (SPARC) and Solidarity Center. Islamabad, Pakistan.

<sup>7</sup> Pattan Development Organization. (2015). Differential Implementation of Laws in Brick Kiln Industry: A Report Based on Survey of Brick Kilns 2015. Faisalabad, Pakistan.

<sup>8</sup> Khattak, S. G. (2009). Social analysis of the brick production units in Pakistan. Twelfth Sustainable Development Conference. December 21-23, 2009. Islamabad. Sustainable Development Policy Institute (SDPI).

<sup>9</sup> Labour Education Foundation. (2011). Status of Labour Rights in Pakistan: A snapshot of 2010. Lahore.

<sup>10</sup> Chaudhry, M.S. (2015). Decent Work Brick Kiln Framework. Development Impact Solutions & Solidarity Center. Pakistan.

<sup>11</sup> Abbasi, S.U. (2013). Policy Review and Analysis of Brick Kiln Workers and Bonded Labourers in Pakistan. Balik Institute for Development and Research (BIDAR). Hyderabad, Pakistan.

<sup>12</sup> Human Rights Commission of Pakistan (HRCP). (2018). State of Human Rights in 2018. Pakistan.

<sup>13</sup> International Labour Organization (ILO). (2013). Toiling in the soil: Impact of work at brick kilns on health of children and youth in Pakistan.

- Decent Work – ILO Policy
- The Factories Act, 1934
- Labor Policy, 2010
- The Industrial Relation Act 2012

### 3.2.2 Data Collection and Analysis

#### a. GEOGRAPHIC SITES

Pattan and SDF conducted five FGDs each in Islamabad and Lahore among brick kiln workers, brick kiln owners, brick buyers, government officials, and international funding agencies.

#### b. STAKEHOLDER SELECTION

Pattan and SDF assisted TDEA in identifying people from similar backgrounds and experiences who could share their perceptions, attitudes, beliefs, opinions, and ideas regarding the existing working conditions at brick kilns. For the stakeholder selection, criteria were set up before the selection process. The participants for each FGD must:



After finalization of the participants’ list, Pattan and SDF conducted preliminary meetings with the participants for the FGDs to seek their consent. For the brick kiln workers, various brick kilns located in the vicinities of Lahore and Islamabad were visited to brief the brick kiln workers regarding the purpose of the FGD and brief introduction to the project. The workers willing to participate were profiled for FGD participation. Similarly, brick kiln owners were contacted during the visits to brick kilns, and their consent was also received for participation in FGDs.

For the FGDs with government officials, Islamabad Commissioner Office, Labor Department, Ministry of Human Rights, Employees Old-Age Benefits Institution (EOBI), and Workers Welfare Department

were approached. The potential officials were briefed about the project and the purpose of the FGD. After seeking their consent, the officials were recruited for the FGD. For the FGDs with brick buyers, various private construction companies were approached and briefed about the project and aim of the FGD and their willingness was confirmed for profiling potential participants.

For the FGDs with international agencies, relevant international organizations were approached to brief about the project and purpose of the FGD. The international agencies group comprised of participants representing ILO, the United Nations High Commissioner for Refugees (UNHCR), the United Kingdom’s Department for International Development (DFID), Mercy Corps, the European Union (EU), the International Foundation for Electoral Systems (IFES), and Friedrich-Ebert-Stiftung (FES).

#### c. ANONYMITY AND CONFIDENTIALITY

It was ensured during the entire duration of the research to maintain the participants’ confidentiality and anonymity. The team shared no information regarding the participants of FGDs in this report as well.

#### d. CONDUCTING THE FGDs

A total of 105 participants — 57 in Lahore and 48 in Islamabad — participated in the discussions. A moderator (interviewer) led each FGD with guided questions. The number of participants for each group discussion varied from eight to 12 persons. On average, the FGDs lasted 60 to 90 minutes. Table 1 presents the details of the FGDs participants.

**Table 1: Number of FGD Participants by Location, Category, and Sex**

						
						
Brick Kiln Workers	21	11	10	12	5	7
Brick Kiln Owners	7	7	0	12	10	2
Government Officials	7	6	1	12	9	3
Brick Buyers	7	5	2	12	11	1



International Agencies	6	4	2	9	7	2
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### 3.3 LIMITATIONS

The project's geographic scope was limited to two districts – Islamabad and Lahore Lahore – whereas there are more than 20,000 brick kilns across Pakistan. In addition, the timeline for the project was compressed and therefore field visits to brick kilns were limited. Since a limited number of stakeholders were part of the research, the report cannot be generalized to the entire brick kiln sector.

In addition, the coronavirus disease 2019 (COVID-19) situation and subsequent lockdown measures imposed by the government posed challenges in conducting the FGDs. The following standard operating procedures were strictly adhered to during the FGDs as precautionary measures.

- Appropriate venue selection to accommodate 12 persons and maintain at least six feet distance between participants.
- Availability of hand sanitizers, masks and gloves for participants and facilitators.
- Each participant was provided an individual pen to sign the attendance sheet to avoid multiple contacts.

Due to the association of bonded and child labor with brick kiln sector, a few brick kiln owners,

government officials and brick buyers hesitated to attend the FGD at the last moment. More generally, the opinions of participants in FGDs were naturally biased based on their various political and socio-economic positions and life experiences. As with all research, responses from participants might have reflected what they perceived the researchers wanted to hear or what might benefit them or justify their actions in some way.

Specifically, some workers might not have been willing to take part in the discussions due to fear of losing their job or other retribution from employers. Similarly, some workers who did participate in FGDs might not have been able to participate fully or discuss issues honestly or completely due to the same fears. In addition, some workers might have been impossible to reach due to physical distances and the inherent restrictions on their time and freedom as bonded laborers.

To mitigate some of these limitations, the research team made efforts to profile and select stakeholders carefully to ensure true representation of the group. In addition, during the FGDs, interviewers were mindful of power dynamics within each group and used professional facilitation techniques to enable all individuals to take part, not only the most outspoken few participants.

Furthermore, the research was unable to fulfill the objective of providing recommendations directly from stakeholders to improve the DWBKF since stakeholders had no knowledge of the framework. Therefore, no recommendations were received from any stakeholders for improving the DWBKF.



## 4

## FINDINGS AND ANALYSIS

Pakistan has a considerable number of brick kilns that contribute to 1.5 percent<sup>14</sup> of the country's \$314.6 billion gross domestic product (GDP). Brick kilns are a source of income for millions of unskilled laborers across Pakistan. In February 2020, the Lahore High Court directed the Federal and Punjab governments to register all brick kilns under the Factories Act, 1934. This judgment was a landmark decision as for many years the industry remained informal and unregulated.<sup>15</sup>

Experiences shared during the FGDs revealed the inattention of the authorities and other stakeholders involved in the brick kiln sector towards workers. The experiences that were shared exemplify the nature and existence of the deeply rooted plight of the workers. A recent ILO report corroborates that

little attention has been given to regulating the brick kiln sector despite its considerable contribution to Pakistan's economy.<sup>16</sup>

Over the years, various laws have been passed for protection of workers, including the Bonded Labour System (Abolition) Act, 1992, the Punjab Minimum Wage Act, 2019, the Punjab Prohibition of Child Labour at Brick Kilns, 2016, the Factories Act, 1934 (amended in 1997), the Labour Policy, 2010, and the Punjab Labour Policy, 2018. However, lack of implementation and enforcement of these laws plays a vital role in the deplorable working conditions of brick kiln workers.<sup>17</sup>

The following are the research findings, which are based on the literature review and FGDs conducted

<sup>14</sup> <https://www.ccacoalition.org/en/news/pakistan-moves-toward-environmentally-friendly-and-cost-effective-brick-kilns#:~:text=There%20are%20around%2020%2C000%20brick,of%20Pakistan's%20Gross%20Domestic%20Product.>

<sup>15</sup> Kataria, J.R., Usman, A., Hussain, S., Usman, M., and Amjad, A. (2018). Breaking the Bonds of Poverty: Effectiveness of Microcredit in Improving the Wellbeing of Brick Kilns' Laborers in Pakistan. *South Asian Studies*, 33(1), 253-274.

<sup>16</sup> International Labour Organization, Brooke Hospital for Animals, and The Donkey Sanctuary. (2017). *Brick by Brick: Environment, Human Labor & Animal Welfare: Unveiling the full picture of South Asia's brick kiln industry and building the blocks for change.*

<sup>17</sup> <https://nation.com.pk/29-Feb-2020/regulating-the-brick-kiln-industry.>

with the stakeholder groups in Lahore and Islamabad.

#### 4.1 STAKEHOLDERS' FAMILIARITY WITH DECENT WORK PRINCIPLES AND DWBKF IN THE BRICK KILN SECTOR

The FGDs conducted with all the stakeholders, highlighted the existing poor working conditions of workers, which was also substantiated by the literature review. The evidence gathered from the FGDs with various stakeholders in Lahore and Islamabad reveals that the issues of brick kiln workers have been prevalent for decades. Although this sector remains one of the most profitable industries that contributes to the economy, it is also the most neglected of all. The responses shared by stakeholders did not vary much regarding the existing poor working conditions for



workers at brick kilns and highlighted the lack of implementation of labor laws.

Lack of basic facilities like safety equipment, medical coverage, clean drinking water, low wages, no social protection, bonded and child labor were some of the pressing concerns mentioned by all the stakeholder groups. The workers during the FGDs mentioned being over-burdened with work with no extra payments and lack of facilities. A worker from Lahore said, *"I bore an enormous amount of work for meagre low wages."* Another labourer from the same city narrated, *"We are not given due facilities, and the kiln owners make us live in harsh living conditions."*

Almost all the workers complained about the harsh behavior of brick kiln owners whenever they demand a higher wage or overtime payments or

facilities. The workers shared their experiences with poor working conditions, but had no knowledge of workers' rights and decent work principles. A worker from Islamabad mentioned, *"I am working at different brick kilns for the past 22 years, but there is no improvement in my life. My social and economic standing is same as it was 22 years ago."*

On the other hand, the brick kiln owners remained hesitant to respond to queries regarding the working conditions of laborers. They primarily blamed the current economic situation of the country as the main reason for the deplorable working conditions. Brick kiln owners particularly mentioned the deteriorating economic situation, which is further worsened by the COVID-19 outbreak. An owner from Lahore mentioned, *"The economic crisis due to COVID-19 has affected our businesses and conditions of workers."*

The government officials showed that they were well-equipped with adequate knowledge of the existing working conditions. Many of them have visited the brick kilns in the Lahore and Islamabad vicinities, where the laborers were deprived of basic facilities like health and education, and were paid low wages with poor working conditions. These officials mentioned the lack of legal frameworks governing the brick kiln sector as the primary reason for the worsening working conditions. An official from Islamabad shared, *"Overall, the situation of laborers at brick kilns is bleak, however, a few kilns are providing adequate facilities at the workplace such as clean drinking water, toilets, healthcare, and minimum wages."*

The FGD with international funding agencies revealed that the participants were well aware of the decent work principles and the international labor standards as a majority of them are currently implementing or have worked on various development projects for labor rights. The participants were of the view that the construction industry in Pakistan lacks quality inspection mechanisms due to weak enforcement of laws, and that this is the primary reason for the deplorable working conditions. A representative of an international funding agency working in Lahore mentioned, *"Within the brick kilns there is a categorization of issues because workers perform duties on various positions at brick kilns, and issues faced by each worker may not be the same."*

The overall findings of the FGD with workers showed that they have little understanding of decent work principles, and limited knowledge of

demanding for their own rights as workers. Their main focus is to earn money in order to sustain their livelihoods. Another reason for a limited understanding and knowledge about decent work principles is the lack of awareness and education. A brick kiln worker from Lahore stated, *“Due to illiteracy, we are unable to question the munshi (contractor) about the calculation of our salaries. The government does not pay heed to the low wages in the brick kiln sector as we get meager salaries. Also, no health coverage is provided, even if we sustain an injury during work.”*

Though some of the stakeholders were aware of the decent work principles, they quoted numerous hinderances for their applicability and implementation in Pakistan. None of the participants were aware of DWBKF, and therefore, were not able to provide any feedback or recommendations for its improvements. There is a strong need for extensive awareness and capacity building sessions to contribute towards implementing decent work principles.

Multiple amendments have been made to the Pakistan Factories Act, 1934,<sup>18</sup> to improve the working conditions at brick kilns, focusing on various workplace dynamics. Moreover, the Act focuses on providing basic workplace amenities such as latrines and urinals, ensuring the type of toilets prescribed and sufficient quantity that should be accessible to all workers. Similarly, the Labour Policy of Pakistan 2010 and the Punjab Labour Policy, 2018,<sup>19</sup> aim to ensure decent conditions for all workers irrespective of the nature of their work, in compliance with primary International Labour Standards on working conditions, hours, health and safety, rest, holidays, and wages. However, government actions such as the implementation of



labor laws, formation of DVCs, and registration of brick kilns remain a challenge.<sup>20</sup>

## 4.2 STAKEHOLDERS' ATTITUDES TOWARDS SOCIAL AND ECONOMIC BENEFITS OF DECENT WORK AT BRICK KILNS

### 4.2.1 LACK OF IMPLEMENTATION OF OFFICIALLY NOTIFIED MINIMUM WAGE RATES

There was unanimous agreement among FGD participants on the issue of low wages. Stakeholders agreed that brick kiln workers receive meagre wages and are unable to earn a livelihood. The workers were not happy about the underpayment by the kiln owners. Almost all of the workers shared the same sentiments. One laborer from Lahore



said, *“We can never understand how the munshi (contractor) calculates our wages because he underpays us and miscalculates the deductions.”*

The biggest issue for the workers is not getting the minimum required wage for the work they perform. Another worker from Islamabad mentioned, *“The Government has set Rs. 1,295 per 1,000 bricks as minimum wage for brick kiln worker, but our owner gives us Rs. 700 only, so where does the rest of the money go?”* Several organizations including Pattan confirmed the workers' concerns that the set wage is approximately Rs. 1,180 per 1,000 bricks, but the workers are not paid the full wage amount. This is in violation of the Punjab Minimum Wages Act, 2019, which authorizes a Minimum Wages Board to declare wages for the workers. Despite the setting of the wage standard, no worker is able to receive the wage as per the set standard. A worker from Lahore said, *“We do not know about any other right; we only know that we must get full wage.”*

<sup>18</sup> <https://www.ilo.org/dyn/natlex/docs/WBTEXT/35384/64903/E97PAK01.htm#c3>

<sup>19</sup> <https://labour.punjab.gov.pk/system/files/Labour%20Policy%202018.pdf>

<sup>20</sup> <https://www.labourfile.com/section-detail.php?aid=759>

The workers are forced to work tirelessly for very low wages, which forces them to enter into the peshgi system (taking loans/advances on wages) with the employer. Peshgi is defined as the practice of debt bondage. Instead of just seeking wages in exchange for their work, poor workers take an advance from an employer, in money or in kind, under the obligation to work for that employer until their debt is paid off. All except the owners during the FGDs agreed that bonded labor under the peshgi system and child labor are prevalent in the brick kiln sector. A worker from Islamabad said, *“I have been working at the same brick kiln for the last 22 years, and the peshgi my father had taken from the employer has not been paid-off as yet. I haven’t visited my village and work tirelessly to return my debt. My family lives with me near the brick kiln, and I do not want my daughters to work in the same sector.”*

The FGDs also revealed that women workers at the kilns are unable to receive their wages, which are directly paid to the male members of their family. One female worker from Islamabad shared, *“Our wages are decided by our men in consultation with the middleman between the owners and the workers, and we do not receive our wage payments. It is directly made to our male family member.”* Women are deprived of the payment for their hard work, which points towards the issue of gender wage disparity.

FGD participants also discussed about the introduction of zigzag technology<sup>21</sup> at brick kilns, which reportedly ensures more profit for owners and increases wages for workers. One worker from Islamabad narrated, *“There are some brick kilns that have adopted zigzag technology and are earning more profits than before. As a result, their workers are getting high wages compared to us.”* However, the workers need proper training to understand the technology and its usage. Moreover, the owners have to invest more in the infrastructure as well as the training of the workers, which owners are often not willing to do.

The issue of low wages was consistently raised by the FGD participants, except for the brick kiln owners. All the FGD groups agreed that the owners

never pay the minimum wage, as often most of the payment is deducted under the peshgi system. Brick buyers quoted that the situation of brick kiln workers has not changed over the years. One brick buyer from Lahore mentioned, *“The laborers are unable to make ends meet, let alone enroll their children in schools. With no opportunity to improve their financial situation, they continue to work in poor conditions.”*

The government officials mentioned that often owners exploit their workers by not paying the full due amounts. Entire families, including women and children, often work at the kiln. One government official from Islamabad stated, *“Overall, the situation of laborers at brick kilns is bleak, as many kiln owners do not pay the minimum wages. However, a few kilns are providing adequate facilities at the*



*workplace such as clean drinking water, toilets, healthcare, and minimum wages.”*

The FGD participants of international funding agencies also substantiated the claims highlighted by workers. One of the representatives from an international funding agency mentioned, *“The issues of workers can be different and difficult to understand. Some may have issue with low wages, some have issues with lack of facilities.”*

The FGD findings were complemented by the information gathered from the literature review. The Punjab Minimum Wages Act, 2019 defines laborers’ minimum wage rate. This law applies to skilled and unskilled laborers.<sup>22</sup> The Act determines the state’s authority and power to declare and fix the

<sup>21</sup> Zigzag firing kiln is a moving fire kiln in which the fire moves in a closed rectangular circuit through the brick stacked in the annular space between the outer and the inner wall of the kiln. The bricks are stacked in such a manner to guide the air flow in a zigzag path. Zigzag flow increases the air flow path length and turbulence in the air, thereby resulting in improved combustion and heat transfer rate and uniform temperature across the kiln cross section.

<sup>22</sup> The Punjab Minimum Wages Act, 2019. Accessed at <http://punjablaws.gov.pk/laws/2750.html>.

workers' minimum wages.<sup>23</sup> Under the Eighteenth Constitutional Amendment, the provincial governments are bound to declare a minimum wage according to the cost of living and economic conditions. Section-3 establishes the Minimum Wages Board, and Section-5 authorizes the board to declare minimum wages for workers involved in piece work.

Brick kiln owners hire workers on a piece-rate basis with laborers paid weekly based on the number of bricks they make.<sup>24</sup> The contractor pays the workers each Thursday after deducting five percent as his commission. The additional deduction on top of already low wages creates further financial repercussions by forcing workers to seek more advance payments. Moreover, there is no periodical review of wages offered to brick kiln workers. The board established under the Minimum Wages Ordinance, 1961, is responsible for conducting a periodic review of minimum wage rates, based on the cost of living and changes in economic conditions. However, a recent article quoted a representative of the Punjab Labor Department as saying, *"Despite the formation of an eighteen-member committee to oversee cases in Punjab, the effort to stop bonded labor under the Bonded Labour Abolition Act is futile due to the deeply rooted culture of bonded labour; also the government is not interested in boycotting those kilns where minimum wage is not paid."*<sup>25</sup>

The issue is not only about paying the minimum wage, but also about wage disparity among workers. For instance, one worker may not get paid the same amount for similar work done by another.<sup>26</sup> The difference is also more obvious between the genders. Women get paid even less than their male counterparts.<sup>27</sup> Despite all the constitutional and legal provisions, wage disparity raises a question about weak implementation of the legal requirements. The Punjab Minimum Wages Act, 2019, also has a clause on prohibiting wage

disparity among workers based on gender, but it lacks enforcement.

The literature points toward the country's overall political culture, where there is no will to deal with the debt bondage system through strict implementation of minimum wage law. Also, no information was available on any review of the brick kiln workers' minimum wages. An ILO Report in 2017 shows that even though existing law safeguards workers' right to a minimum wage, they are still forced to work at much lower salaries through forced or bonded labor.<sup>28</sup> Summing up, the laws provide security to laborers and



safeguard them from bonded labor and advance payments. However, there is a massive gap in the implementation of regulations and no relief for the workers from debt payments due to the lack of monitoring.

As mentioned in the 2017 ILO report "Brick by Brick,"<sup>29</sup> workers at brick kilns are not aware of their rights and entitlements, and thus are unable to negotiate with employers for increased wages. The issue needs further exploration to understand why there is a gap in implementing the law that abolishes bonded labor and how curbing the practice, and advance payments, would improve brick kiln workers' working conditions.

<sup>23</sup> SPARC and Solidarity Center (2015). Hope for the Bonded Laborers.

<sup>24</sup> Javaid, M. (2006). "Bonded Labor in the Brick Kiln Industry of Pakistan.," The Lahore Journal of Economics, 11(1), 99-119.

<sup>25</sup> Janjua, H. (2015) "Brick Kiln Workers: The Endless Battle". The Friday Times, August 7, 2015 Pakistan. Accessed at [www.thefridaytimes.com/tft/brick-kiln-workers-the-endless-battle/](http://www.thefridaytimes.com/tft/brick-kiln-workers-the-endless-battle/).

<sup>26</sup> Shah, I. (2018). Bonded Labor and the Brick Kiln Industry. The Directorate of Human Rights Khyber Pakhtunkhwa. Accessed at <http://www.humanrights.kp.gov.pk/resources/article/36>.

<sup>27</sup> Ibid.

<sup>28</sup> In the 2019-20 budget, the federal government raised the minimum wage from Rs15,000 to Rs17,500 per month, whereas the Punjab government set the minimum salary at Rs16,500 per month ([www.dailytimes.com.pk](http://www.dailytimes.com.pk)).

<sup>29</sup> International Labour Organization, Brooke Hospital for Animals, and The Donkey Sanctuary. (2017). Brick by Brick: Environment, Human Labor & Animal Welfare: Unveiling the full picture of South Asia's brick kiln industry and building the blocks for change.



#### 4.2.2 ACCESSING SOCIAL SERVICES / SOCIAL SAFETY NET

The National Database and Registration Authority (NADRA) documents Pakistan's citizens based on their citizenship by birth, by descent, or by migration. Under the NADRA Ordinance, 2000, a citizen who qualifies under the Pakistan Citizenship Act, 1951, is eligible to acquire a National Identity Card (NIC), which is a prerequisite for all state-sponsored social services as well as voter registration.

The NIC issue was raised by participants during the FGDs. Laborers shared that a majority of them are seasonal or migrant workers. This creates a hurdle for them in acquiring of NIC as they have no permanent residence and often have no identity documents such as birth certificates. In addition, the workers discussed the lack of accessibility to NADRA centers as they are located at a distance, and it is difficult for a daily wage worker to compromise a day's earning for a NIC. A worker from Lahore said, *"We have to complete our daily task of making bricks, so we can't spare time for registration of NIC as it takes a whole day to stand in line and wait for registering of NIC."*

FGD participants also highlighted that a majority of the women workers have no NIC. FGD participants mentioned that due to cultural reasons, women are often not allowed to go to registration centers.

The government representatives mentioned that most of the brick kilns are not registered, and therefore, *"We have no documentation of any workers to assess how many workers are without*

*NICs,"* according to a government official from Islamabad. He further added, *"It creates problems for workers to get themselves registered for NICs and social protection programs."*

In addition, during the FGD with workers it was stressed that there are no state health facilities in the area, forcing the workers to turn to private health facilities, further adding financial burden for them. *"We have to pay back our debts along with catering to our sick family members within the same daily wage making it almost impossible to make our ends meet,"* said a worker from Islamabad. Workers also generally lack awareness and education about the social services available to improve their livelihoods. A majority of them were unaware of any social security program or EOBI funds. One of the representatives from a funding agency mentioned, *"The brick kiln owners resist contributing their share in the EOBI and other similar programs for facilitating workers."*

*"There is a dire need for registration of brick kilns to further facilitate the registration of workers with social security and EOBI,"* said a government official from Islamabad. Another official from EOBI in Lahore mentioned, *"Without the owner's willingness, no workers can be registered with the social protection scheme."* This statement was echoed by an official from Islamabad who said, *"The registration of brick kilns will put pressure on owners to register their workers with the social protection department."*

A brick buyer from Lahore noted, *"Social protection for workers will bring positive impact for the brick kiln industry as workers can protect their future*

*and owners can have loyal workers to give them economic benefit.”* The brick buyers mentioned the need to strengthen workers’ unions to help the illiterate workers get the social protection they deserve. Unions can provide a collective platform to workers to advocate for their rights with owners and the government. The FGDs with representatives of international agencies also pointed towards the importance of labor associations for the protection of labor rights. A participant from Islamabad shared that *“Associations can play a vital role for workers’ welfare as a collective effort, which will benefit owners as well.”*

Brick kiln workers mentioned that a representative from their union usually engages with owners for the promotion of their rights. *“One of the workers, from us, can represent us and negotiate with employers at our workplace to improve our work life, and we will get a chance to manage the affairs of workers independently,”* said a worker from Lahore. However, there is no formal procedure for the owners to guarantee an appropriate environment for the workers as a majority of the kilns are not registered, and therefore, not regulated by the government.

The literature review suggests that around 50 percent of the brick kiln workers do not have NICs.<sup>30</sup> As many workers live a semi-nomadic life, migrating internally within the country, they have several issues in getting their NICs. The primary reason is that the workers have no birth certificate or record



of a permanent address. Lack of an NIC renders them ineligible for any social security scheme or relief program introduced by the government.<sup>31</sup> Not having an NIC has a lasting effect on laborers’ lives. They have no access to welfare programs, cannot prove identity for themselves and their families, and cannot acquire public health and other services.

COVID-19 has further exposed the flaws within the governing systems. Approximately 70 percent of the labor force is unregistered and works in the informal sector without social or legal protection.<sup>32</sup> For example, in April 2020, the Government of Pakistan launched an emergency relief program<sup>33</sup> Ehsaas Emergency Cash for individuals and families affected by COVID-19. One of the prerequisites to qualify for the cash was a valid NIC. Since laborers do not have NICs, they are ineligible for the program.

There is a need to register all brick kilns and their workers and include them in the social security net to safeguard their needs and families. An essential prerogative for regulating the labor force is to increase the labor force documentation and shift vulnerable workers from the informal economy to the formal. Pakistan still faces the daunting challenge of extending social security benefits to all workers operating in the informal economy, accounting for more than 70 percent

<sup>30</sup> Janjua, H. “Brick Kiln Workers: The Endless Battle” The Friday Times, Pakistan., August 7, 2015. Accessed at <https://www.thefridaytimes.com/brick-kiln-workers-the-endless-battle/>.

<sup>31</sup> Labour Education Foundation, (2011). Status of Labour Rights in Pakistan: A Snapshot of 2010. Lahore.

<sup>32</sup> Latif, A. (2020). “Millions of Pakistani Laborers Struggle Amid COVID-19 Lockdown.” Anadolu Agency. Accessed at <https://www.aa.com.tr/en/asia-pacific/millions-of-pakistani-laborers-struggle-amid-covid-19-lockdown/1824231>.

<sup>33</sup> Ehsaas Emergency Cash, (2020). Poverty Alleviation and Social Safety Division, Government of Pakistan. Accessed at <https://www.pass.gov.pk/Detailf90ce1f7-083a-4d85-b3e8-60f75ba0d788>.

of the total labor force. With a critical mass of poor people dependent upon informal workplace activities, there is a dire need for efficient protection mechanisms that can reduce their vulnerability to various shocks and stresses.<sup>34</sup>

Various governments in the past have made efforts to address the plight of the vulnerable informal workforce. One such example is the 2010 Labour Policy that aimed to provide benefits to the informal workforce, including home workers and domestic workers. The services included improved safety and health arrangements, access to social security, and the payment of minimum wages.<sup>35</sup> Realizing the complexity and overlapping nature of existing laws, the 2010 Labour Policy aimed to rationalize and consolidate labor laws. It also targeted the registration of workers for smart cards issued by NADRA. The card serves the purpose of registration under social security, Employees Old-Age Benefit



Institution (EOBI), and Workers Welfare Fund. This registration with smart card would also provide a data bank of the labor force to re-skill the workforce concerning the enhancement of employment within the country and overseas.<sup>36</sup>

To extend labor protection to the large and diverse informal sector, the labour policy states that workers in the informal economy, including home and domestic workers, would benefit from improved safety and health arrangements. They will have access to social security arrangements and the payment of minimum wages, where an employee-



employer relation is evident. Employment of children less than 14 years of age will be eliminated. The employment of those aged above 14 and less than 18 years will be strictly controlled, through a combination of more vital legislation and the introduction of labor extension services.<sup>37</sup> In 2018, the incumbent government drafted the Punjab Labour Policy to alleviate poverty and sustained economic growth by creating opportunities with decent working conditions. However, it is yet to be promulgated.

The Punjab Employees Social Security Institution (PESSI) was established under the Provincial Employees Social Security Ordinance to provide benefits for individual employees or their dependents in the event of sickness, maternity, employment injury, or death. PESSI was envisioned as a pan-Punjab social security insurance organization, responsible for covering all formal and informal workforces. However, experts have highlighted the pressing need to improve execution of the policy and enhance worker registration, keeping in mind the increasing growth of Pakistan's informal workforce.

The Pakistan Labour Policy, 2010,<sup>38</sup> envisages a harmonious working relationship between workers and employers to improve the industry's performance and efficiency. Additionally, the policy emphasizes promoting decent work conditions for labor by focusing on comprehensive social insurance plans for old-age benefits and health services and issuing NIC cards for workers to increase registration.

<sup>34</sup> ILO Social Security. Accessed at <https://www.ilo.org/islamabad/areasofwork/social-security/lang--en/index.htm>.

<sup>35</sup> ILO Informal Economy. Accessed at <https://www.ilo.org/islamabad/areasofwork/informal-economy/lang--en/index.htm#:~:text=The%20informal%20economy%20in%20Pakistan,rural%20than%20in%20urban%20areas>.

<sup>36</sup> Pakistan Labour Policy 2010. Accessed at <https://www.ilo.org/dyn/travail/docs/995/GovernmentofPakistanLabourPolicy2010.pdf>.

<sup>37</sup> Pakistan Labour Policy 2010. Accessed at <http://assp.org.pk/wp-content/uploads/2019/03/Labour-Policy-2010.pdf>.

<sup>38</sup> <https://www.ilo.org/dyn/travail/docs/995/GovernmentofPakistanLabourPolicy2010.pdf>

### 4.2.3 OCCUPATIONAL HEALTH AND SAFETY

Workers mentioned that no safety equipment is provided to them. They also have to cover their own medical expenses, which are difficult to manage within their daily wages. A worker from Lahore shared that *“Once my uncle, a brick kiln worker, fell ill on the job and required some amount of funds for health treatment. The owner provided the loan. Later my uncle died, and the loan was transferred to my account. Now I am paying back that loan amount.”*

Lack of awareness and education further exacerbates the situation. Generally, laborers are unaware of the harmful effects of working at the kilns, and the preventive measures to protect their health. Brick buyers mentioned that there are no government-sponsored programs to educate workers regarding the harmful effects. Brick buyers suggested that there is a need to immediately register the brick kilns so that the owners are bound to provide the facilities and services to their workers and improve the working conditions. *“Kiln workers are living in a pathetic environment as they have no facilities for health, education and even occupational health and safety is not considered,”* mentioned a brick buyer from Islamabad.



The findings of the FGDs were substantiated by the literature review. The ILO Occupational Health and Safety (OHS) Convention (No.161) defines occupational health as, *“the promotion and maintenance of the highest degree of physical, mental and social well-being of workers in all occupations.”*<sup>39</sup> This Convention holds importance in ensuring workers’ safety measures at their workplaces, but Pakistan has not ratified it to date. According to the Asia Monitor Resource Center, no data about OHS is available in Pakistan because most accidents are not reported to the Provincial Labor Departments.<sup>40</sup> The incidence of occupational diseases and injuries is very high in Pakistan because workers are routinely exposed to hazardous situations.<sup>41</sup> The large brick kiln and construction sectors usually have illiterate workers, caught in the vicious cycle of poverty and bonded labor. Thus, they are in no position to ask for safety measures.

The literature highlights that workers’ access to health and education is non-existent. A brick manufacturing plant uses multiple raw materials and produces many by-products.<sup>42</sup> Among these, many substances are potentially harmful to brick kiln workers’ health. The kilns burn wood, coal, plastic, and tires, causing the emission of fine dust

<sup>39</sup> ILO Occupational Health. Accessed at [https://www.ilo.org/safework/areasofwork/occupational-health/WCMS\\_354275/lang-en/index.htm#:~:text=161%20defines%20occupational%20health%20services,environment%20that%20will%20facilitate%20optimal](https://www.ilo.org/safework/areasofwork/occupational-health/WCMS_354275/lang-en/index.htm#:~:text=161%20defines%20occupational%20health%20services,environment%20that%20will%20facilitate%20optimal)

<sup>40</sup> Occupational Health and Safety in Pakistan. Accessed at <https://www.amrc.org.hk/content/occupational-health-and-safety-pakistan#:~:text=No%20data%20about%20occupational%20health,reported%20to%20the%20Labour%20Department.&text=The%20incidence%20of%20occupational%20diseases,routinely%20exposed%20to%20hazardous%20chemicals..> Asia Monitor Resource Center. [www.amrc.org.hk/content/occupational-health-and-safety-pakistan#:~:text=No%20data%20about%20occupational%20health,reported%20to%20the%20Labour%20Department.&text=The%20incidence%20of%20occupational%20diseases,routinely%20exposed%20to%20hazardous%20chemicals](http://www.amrc.org.hk/content/occupational-health-and-safety-pakistan#:~:text=No%20data%20about%20occupational%20health,reported%20to%20the%20Labour%20Department.&text=The%20incidence%20of%20occupational%20diseases,routinely%20exposed%20to%20hazardous%20chemicals)

<sup>41</sup> Abbas, M. (2015). “Trend of Occupational Injuries/Diseases in Pakistan: Index Value Analysis of Injured Employed Persons from 2001--02 to 2012--13.” *Safety and Health at Work*, 6(3), 218-226. <https://doi.org/10.1016/j.shaw.2015.05.004>

<sup>42</sup> Iqbal, M.J. (2006). “Bonded Labor in the Brick Kiln Industry of Pakistan.” *The Lahore Journal of Economics*, 11(1), 99-119.

particles, hydrocarbons, sulphur dioxide, and oxides of nitrogen, fluoride compounds, carbon monoxide, and a number of carcinogenic dioxins. According to estimates, exposure to wood smoke is associated with a 70 percent increased risk of contracting chronic obstructive pulmonary disease.<sup>43</sup> Moreover, brick dust also causes eye allergies, depression, and multiple skin problems.<sup>44</sup> It is also known that excessive exposure to heat and humidity limits human performance. Brick workers are exposed to the sun for long hours and to high dust concentration during the manual breaking of coal. Occupations exposed to dust and smoke, including brick kiln workers, are at a higher risk of developing chronic respiratory symptoms and illnesses. In addition, a majority of brick kiln workers live on-site in kacha houses (made of mud bricks), where they have no access to fresh water, toilets, and drainage facilities.

The Hazardous Occupation Rules of 1978 regulate certain occupations as hazardous and contain special provisions to control factories' working conditions. With the recent court order requiring brick kilns to register under the Factories Act, 1934, the kilns must adhere to the law's occupational safety measures. Each province has also enacted its own rules within the mandate of the Factories Act, 1934. However, its implementation and enforcement remain a challenge.

### 4.3 PRACTICE, MONITORING, AND ENFORCEMENT OF NATIONAL AND INTERNATIONAL LABOR STANDARDS AT BRICK KILNS

A main reason identified by FGD participants for the increased exploitation of workers is the unresponsiveness of authorities towards the brick kilns. The government officials in FGDs accepted that there is no proper labor inspection mechanism



Chronic Obstructive Pulmonary Disease Underappreciated in the United States?

<sup>44</sup> Occupational Health and Safety, Pakistan. Accessed at <https://www.amrc.org.hk/content/occupational-health-and-safety-pakistan>.

due to a lack of resources and political will. Government officials emphasized on the need to enhance the capacity and resources of the labor departments to perform efficiently.

On the issue of labor inspection and monitoring system, participants in the FGD with government officials agreed that there is lack of implementation of labor laws in the country. Lack of proper monitoring by the concerned departments further aggravates the issues faced by workers as the owners do not comply with safety and health protocols. Brick buyers suggested that the government needs to conduct timely inspections and monitor the mishandling of working conditions at brick kilns.

Under the Bonded Labour System (Abolition) Act, 1992, district vigilance committees (DVCs) were set up to perform the following functions:

- To advise the district administration on matters relating to effective implementation of the law and to ensure its proper execution
- To help in rehabilitation of the freed bonded laborer
- To keep an eye on the working of the law
- To provide the bonded laborers, such assistance as may be necessary to achieve the law's objectives

The government officials also shared that the labor departments lack resources to conduct inspections due to which the laws are not implemented in their true spirit, giving a free-hand to the owners to exploit their workers. A labor department official from Lahore mentioned, *"We are facing challenges to inspection as often these owners have high-level references."* Another official from Islamabad shared, *"We have a complaint cell for reporting of any human rights violations. We have received many complaints from several other industries, but not a single case was reported from the brick kiln sector."*

Moreover, the role of district vigilance committees is vital in controlling the exploitation in the brick kiln sector. The Bonded Labour System (Abolition) Act, 1992, requires the establishment of DVCs, which must be properly functional to ensure that decent work principles are truly followed. However, *"There is a lack of capacity among workers and employers."*

<sup>43</sup> Sood A, Petersen H, Blanchette C, Meek P, Belinsky S, Picchi M, and Tesfaigzi Y. (2009). Wood Smoke-Associated



*There should be awareness sessions on the rights of workers and how employers could facilitate their workers,*" said a government official from Islamabad.

The participants were unanimous about the importance of revitalizing the DVCs, and for their formation in areas where they are absent. Participants discussed that the DVCs may play an important role in not only identifying issues faced by workers, but also help mitigate them proactively. The brick buyers emphasized that the authorities need to actively play their role in alleviating workers from working in deplorable conditions. One of the brick buyers from Islamabad mentioned, *"The government must ensure implementation of labor laws, which will result in the registration of brick kilns with NADRA and EOBI, and decent working conditions at brick kilns."*

Participants from international agencies also emphasized on stricter enforcement of labor laws and monitoring of brick kilns. An international funding agency's representative from Islamabad stated, *"In Pakistan there is a law on paper, but there is no proper implementation of it. This gap provides room for exploitation against workers in*

*any given industry."* Another FGD participant from Islamabad shared, *"The stance of those making the law is different from those for whom the laws are made."* Similarly, an official of a funding agency working in Lahore added, "There are many laws in Pakistan governing labor rights; however, there is no accountability and no pressure groups that can enforce the implementation of those laws."

According to an ILO country report<sup>45</sup> in 2013, large workforce segments in the sector consist of children and youth. Many of them live in substandard temporary shelters at the workplace, resulting in increased health and safety hazards. The ILO's Convention No. 81 — Labour Inspection Convention, 1947 — requires states to develop a labor monitoring system and inspection of workplaces to improve working conditions and protect laborers engaged in any form of work.<sup>46</sup> Articles 3, 37(e), 38(a-c) of the Constitution of Pakistan ensures eliminating all forms of exploitation, providing humane conditions of work, securing people's wellbeing through facilities at work, and social security insurances.<sup>47</sup> Moreover, workplace safety is guaranteed through inspections under the Factories Act, 1934,<sup>48</sup> which allows

<sup>45</sup> International Labour Organization, (2013). Toiling in the Soil: Impact of Work at Brick Kilns on Health of Children and Youth in Pakistan. Accessed at [https://www.ilo.org/ipec/Informationresources/WCMS\\_IPEC\\_PUB\\_25298/lang-en/index.htm](https://www.ilo.org/ipec/Informationresources/WCMS_IPEC_PUB_25298/lang-en/index.htm)

<sup>46</sup> Sohail, M., and Mahmood, A.K. (2020). "Extension of Labor Laws in the Informal Economy of Pakistan: Brick Kiln Industry as a Case Study." Pakistan Journal of Social Sciences, 40 (2), 591-602.

<sup>47</sup> Bhatti, K. (2019). Banning Labor Inspection. The News, 10 September 2019. Accessed at <https://www.thenews.com.pk/print/524524-banning-labour-inspection#:~:text=The%20PTI%20government%20in%20Punjab,implementation%20of%20the%20labour%20laws.&text=The%20ban%20is%20also%20an,laws%20and%20of%20ILO%20conventions.> ", 10,

<sup>48</sup> Ahmad, I. (2009). "Labor and Employment Law: A Profile on Pakistan."

monitoring of working conditions, and the health, and safety of workers. However, in practice, the monitoring and enforcement mechanisms are weak.

The Bonded Labour System (Abolition) Act, 1992 mandates the setup of district vigilance committees for keeping a check on working conditions and proper implementation of labor laws.<sup>49</sup> However, limited information is available on the role and functioning of committees, which pinpoints towards an implementation gap of the Bonded Labour System (Abolition) Act, 1992. The provincial labor departments are bound to promote laborers' welfare and protection by conducting inspections to implement labor laws as well as penalize the violators. Contrary to this, an ILO report in 2017<sup>50</sup> suggests that almost 53 percent of the brick kilns in Punjab saw no labor inspector visits to oversee the workers' working conditions.

Labor inspection status remains incapacitated in Pakistan. Weak enforcement of laws and policies is due to the absence of *"institutional arrangements for inspection and monitoring systems."*<sup>51</sup> The country's unstable inspection system can be attributed to various factors, such as lack of facilities, a smaller number of human resources, no transportation, remoteness of industries, and lack of capacity among personnel. The Punjab government has also recently halted labor inspection.<sup>52</sup>

#### 4.4 CONDITIONS AND INCENTIVES REQUIRED FOR BRICK BUYERS TO ADOPT DWBKF



The FGDs with the brick buyers and representatives of international agencies shared the brick buying



trends and highlighted that no particular focus is given to improving the conditions of workers during the procurement of bricks. The FGD with brick buyers revealed that the existing brick buying trend only focuses on the quality and price of the brick. "We never thought about the hard work that goes into brick-making and what kind of facilities the workers who make good quality bricks have," shared a brick buyer from Islamabad. Another brick buyer from Lahore mentioned, *"In order to put pressure on owners to provide decent work at their kilns, we must unite and boycott kilns that do not follow the labor standards. But for this, we also need support from other stakeholders like state and civil society."* The brick buying community agreed that they can play an important role for improving the state of affairs for workers. *"We, as buyers, can perform a key role in the betterment of labor, our association should build pressure on kiln owners for improving the working conditions,"* said a brick buyer from Islamabad.

The international agencies seconded the perceptions of the brick buyers. They agreed that the construction industry's only focus is on the quality and price of bricks. A participant from an international funding agency from Islamabad noted, *"The Government must facilitate the construction industry in ensuring that the quality is maintained with the appropriate pricing as well as owners provide adequate facilities to the workers."*

Procurement is a vital part of public administration that links the financial system to the country's

<sup>49</sup> The Bonded Labour System (Abolition) Act, 1992.

<sup>50</sup> Ibid.

<sup>51</sup> International Labour Organization, Brooke Hospital for Animals, and The Donkey Sanctuary. (2017). Brick by Brick: Environment, Human Labor & Animal Welfare: Unveiling the full picture of South Asia's brick kiln industry and building the blocks for change.

<sup>52</sup> "Ban on Labor Inspection to Increase Safety Risk." Dawn. September 13, 2019. Accessed at <https://www.dawn.com/news/1504871>.

socioeconomic outcomes.<sup>53</sup> The Public Procurement Regulatory Authority Ordinance, 2002 provides critical guidelines<sup>54</sup> for all public procurements in Pakistan.<sup>55</sup> The literature review highlights that all the federal and provincial laws and regulations have been updated in the past 10 years and have a uniform structure.<sup>56</sup> Therefore, they lay the foundation for a consistent bidding process to ensure transparency and accountability. However, the situation on the ground is quite the opposite. According to a 2015 Solidarity Center report, the Government of Punjab's procurement for infrastructure is significant, and stands at Rs.330,000 million.<sup>57</sup> This public expenditure on infrastructure development requires massive purchasing of bricks, meaning more business opportunities for brick kilns. However, the procurement laws and rules do not protect workers by ensuring that the contractor or procurer buy bricks from brick kilns complying with decent work principles.



Despite the legal provisions for public procurement, there is a gap in implementing policies.<sup>58</sup> If implemented properly, the public procurements can play an important role in ensuring decent working conditions for workers. The public procurement agency has the authority to ensure that brick buying

companies carry out business with brick kilns that provide decent working conditions.<sup>59</sup>

## 4.5 CURRENT STATE OF BONDED LABOR AND CHILD LABOR AT BRICK KILNS

### 4.5.1 BONDED LABOR

The brick kiln workers explained that they acquire advance salaries from their employers during the time when the brick kilns are not functioning. When the work is back in full swing, they work on low wages and are indebted to the owner, and have to continue the work to pay back their advances. *"This peshgi system keeps us employed in the days of low production and helps us in making ends meet,"* said a worker from Lahore. All the workers agreed that due to their poor economic conditions, they enter debt bondage with the owner and must work under bonded labor. A worker from Islamabad explained, *"We have been working on peshgi and owe our owners a huge amount of money. We have entered the bonded labor which will take years to repay."* The workers also mentioned that no matter how many years they spend on the brick kilns, the debt will never be repaid. As one worker from Lahore accounts, *"If I take Rs. 10,000 as loan, next year that loan will raise to Rs. 15,000 due to added mark-up every year by the owner."*

The workers also highlighted the exploitation against children and families of workers by the brick kiln owners. The women and children of the workers' families do not get paid for the hefty amount of work they have to perform at brick kilns. It is only the male members of family that receive the wage amount for the work done by their family. As often their payments get delayed, the workers must work in poor conditions with no health care or safety measures at the workplace.

On the issue of the peshgi system, the brick kiln owners said that if they do not pay advances to workers, they are not interested in working. "The workers always demand advance payments for their work," told a brick kiln owner from Lahore. The FGD

<sup>53</sup> E-procurement Strategy of Public Procurement Regulatory Authority. Accessed at: <https://www.ppra.org.pk/doc/epro.pdf>.

<sup>54</sup> Khawar, H. (2018). "What is Wrong with Public Procurement?" The Express Tribune, September 4, 2018. Accessed at <https://tribune.com.pk/story/1794447/6-wrong-public-procurement>.

<sup>55</sup> Punjab Public Procurement Regulatory Authority Annual Report 2017-18. Accessed at [https://ppra.punjab.gov.pk/system/files/Annual%20Report%202017-18.pdf#overlay-context=Annual\\_Reports](https://ppra.punjab.gov.pk/system/files/Annual%20Report%202017-18.pdf#overlay-context=Annual_Reports).

<sup>56</sup> Ibid.

<sup>57</sup> Chaudhry, M.S. (2015). Decent Work Brick Kiln Framework. Development Impact and Solutions Ltd. and Solidarity Center. Pakistan.

<sup>58</sup> Ibid.

<sup>59</sup> Policy Paper: Socially Compliant Public Procurement Practices (2018).

participants added that if an owner refuses to give advance payments, the workers show no sincerity towards their work. Therefore, the owners must give peshgi to the workers to retain them. An owner from Islamabad mentioned, *“Often workers take advance payments and then involve their family members, including their children, to do the work to repay the debt quickly.”* The peshgi system has become a culture of the brick kiln industry in which workers prefer to take advance payments from the employers. *“Even if we don’t want to give advance payments, the workers force us to give them loans. Also their socio-economic conditions are extremely poor so they are in need of the money, so we provide them,”* explained a brick kiln owner from Lahore.

There was a discernible agreement on the acceptance of the peshgi system both by the workers and the kiln owners, but from different perspectives. The brick kiln workers were of the view that owners push them to enter debt bondage by not paying the full wages to which workers are legally entitled. On the other hand, the owners blame the workers, who reportedly ask for large advance payments from the employers, thus resulting in the bonded labor of the workers. The agreement between the worker and employer for entering into the peshgi system bars reporting this violation of law to any authority, therefore promoting a hidden epidemic of bonded labor in the region. A brick kiln owner from Islamabad



mentioned, *“Almost 99 percent of the workers at brick kilns are bound by peshgi as it has become a part of this work.”* As a result of advance loans, the worker has to work harder to pay back the debt. According to the workers, they were mostly satisfied with the peshgi system, but wanted to get adequate facilities at their workplaces.

The government officials shared that there is a general mistrust between the laborers and owners that results in the bonded labor, and there are many cases of forced and child labor. A labor department official from Lahore said, *“There are cases of human trafficking due to bonded labor where one owner sells his worker to another owner.”* The laws are in place; but there is a lack of implementation due to owners’ unwillingness to comply. An official from Islamabad added, *“At times when we visit the brick kiln and want to highlight the violations of bonded labor, the owners, having political affiliations,*



*tend to put pressure on us.*” Government officials also stated that owners often charge workers for providing drinking water and shelter to their families, which further burdens them financially.

The brick buyers shared that they do not get involved in how the business between the workers and owners is carried out. *“We do not directly get involved with the brick kilns as most of their business is dealt with a middleman who acts as an agent,”* said a buyer from Islamabad. A majority of the brick buyers shared that they have never considered the working conditions of kiln workers when procuring bricks. Their only visits to the brick kilns focus on checking the quality and cost of the sample brick product.

The international agencies’ representatives shared that the socio-economic conditions of the workers prompt them to enter the bonded labor and work for generations to pay back the debt. *“The abuse of fundamental rights is in the shape of child labor, forced labor, gender discrimination, lack of freedom of association, and no health facilities available at brick kilns,”* mentioned a representative from Islamabad.

The literature review echoed the findings of the FGDs. Bonded labor, also termed as debt bondage, is defined by the United Nations (UN) as *“the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services are not respectively limited and defined.”*<sup>60</sup> Bonded laborers have limited access to basic needs and rights, including food, shelter, education and health.<sup>61</sup> They are forced to work in deplorable working conditions, hardly aware of their right to a minimum wage,<sup>62</sup> safety at work, health benefits, and freedom to unionization. Pakistan has ratified ILO’s Abolition of Forced Labour Convention (No. 105), which prohibits the use of any form of forced or compulsory labor

as a means of political coercion or education, punishment for the expression of political or ideological views, workforce mobilization, labor discipline, punishment for participation in strikes, or discrimination.<sup>63</sup> In addition to international commitments, the Constitution of Pakistan<sup>64</sup> also safeguards every individual’s right to fundamental freedoms, including the freedom to move, freedom to live, and freedom to associate. However, these constitutional rights have not been guaranteed and the reality of the situation continues to be appalling.

The Bonded Labour System (Abolition) Act, 1992 also prohibits bonded labor. A report by the Human Rights Commission of Pakistan (HRCP) on the Annual State of Human Rights in 2008<sup>65</sup> highlighted massive violations of human rights in the brick kiln sector including low wages, no benefits, overtime, and exploitation of workers. The Generalized Scheme of Preferences (GSP) program of the European Union (EU) allows developing countries to *“pay less or no duties on their exports to the EU that helps vulnerable countries to reduce poverty, improve governance, and foster a process of sustainable development.”* GSP+ provides an additional benefit to the developing countries with conditions attached — to implement international conventions in human and labor rights, environment and good governance.<sup>66</sup> In 2014, Pakistan was awarded GSP+ status to improve the economic situation and make progress in human and labor rights. Since attaining GSP+ status,<sup>67</sup> the government implemented numerous legal initiatives to improve working conditions for laborers and curb human rights violations at workplaces, including the establishment of institutions and mechanisms to deal with human rights violations. However, the HRCP’s 2018 report on the State of Human Rights highlights that neither the progress in controlling the human rights violations is up to the mark nor much improvement is observed in *“occupational health and safety”* at workplaces.<sup>68</sup>

<sup>60</sup> Muhammad, N., Shah, M., Alam, I., and Askar, A. (2010). Debt Bondage: A Sociological Study of Brick Kiln Workers in Badhabar, Peshawar, Pakistan. *Pakistan Journal of Life and Social Sciences*, 8(1): 19-23.

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.

<sup>63</sup> International Labour Organization. Abolition of Forced Labour Convention, 1957 (No. 105). Accessed at [www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100\\_ILO\\_CODE:C105](http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C105).

<sup>64</sup> Chapter 1 Fundamental Rights, The Constitution of Pakistan, 1973. Accessed at [http://www.na.gov.pk/uploads/documents/1333523681\\_951.pdf](http://www.na.gov.pk/uploads/documents/1333523681_951.pdf).

<sup>65</sup> Human Rights Commission of Pakistan (HRCP). State of Human Rights in 2008.

<sup>66</sup> Democracy Reporting International (DRI), Pakistan (2016). Impact of GSP+ Status on Pakistan’s Human Rights Record. Accessed at [http://democracy-reporting.org/wp-content/uploads/2016/05/gsp\\_in\\_Pakistan\\_a\\_brief\\_introduction..pdf](http://democracy-reporting.org/wp-content/uploads/2016/05/gsp_in_Pakistan_a_brief_introduction..pdf).

<sup>67</sup> Ibid.

<sup>68</sup> HRCP. State of Human Rights in 2018. Accessed at <http://hrcp-web.org/publication/wp-content/uploads/2019/04/State-of-Human-Rights-in-2018-English.pdf>.

In Pakistan, all bonded laborers were set free under the Bonded Labour System (Abolition) Act, 1992. This Act constitutes 21 sections based on Article 11 of the Constitution of Pakistan,<sup>69</sup> providing for *“abolition of bonded labour system with a view to preventing the economic and physical exploitation of the labour class in the country and for matters connected therewith or incidental thereto.”*



Research on bonded labor in Pakistan<sup>70</sup> suggests that men, women, and underage children are a significant part of bonded work in the brick kiln industry. The sector’s working pattern is very similar to agrarian culture, in which families work under bonded labor, generation after generation, as the debts are too high for the workers to pay back quickly. The Bonded Labour System (Abolition) Act, 1992, bars any court or tribunal from recovering the bonded debt and orders the release of any laborer confined due to non-payment of debt. A 2010 report by the HRCP on labor rights in Pakistan<sup>71</sup> says that brick kiln owners are violating the constitution and labor laws by retaining laborers and their families in bonded labor. It is a violation of Article 11 of the Constitution of Pakistan that forbids slavery of any kind: *“(1) Slavery is non-existent and forbidden and no law shall permit or facilitate its introduction in any form. (2) All forms of forced labour and traffic in human beings are prohibited.”*

The Bonded Labour System (Abolition) Act, 1992, authorizes the district coordination officer, now referred to as the deputy commissioner under the

Punjab Civil Administration Act, 2017, to ensure that the law’s provisions are carried out correctly. Under the law, the perpetrator’s punishment for compelling bonded labor is imprisonment for two to five years or financial repercussions of a minimum of Rs.50,000. As the HRCP report<sup>72</sup> notes, an increase in the number of cases for bonded labor shows that the state has failed to *“stamp out these practices for good.”* The Bonded Labor System (Abolition) Act, 1992, protects the government official designated for enforcing the law under Section 19 – Protection of Action Taken in Good Faith. The clause states, *“No suit, prosecution or other legal proceeding shall lie against Government or any officer of the Government for anything which is in good faith done or intended to be done under this Act.”* This clause may be used to benefit the authorities, molding disputed cases in their favor.

With bonded labor, advance payments become one of the biggest hurdles for workers to get out of debt. The majority of brick kilns are situated in remote rural areas or on the peripheries of urban centers that lack basic amenities, resulting in trapping the poor in acquiring loans and advance payments. As a result, their inability to pay back the loans and advances leads to the whole family, including women and children, entering bonded labor.<sup>73</sup> The case of Darshan Masih, a victim of bonded labor, led to the Bonded Labour System (Abolition) Act, 1992. The Supreme Court ruled in the interests and welfare of laborers at brick kilns by abolishing all forms of bonded labor and practices of peshgi (advance payments).<sup>74 75 76</sup>

#### 4.5.2 CHILD LABOR

The workers shared in the FGDs about the challenges faced by their children. *“Kilns leave a distressing impact on our children; we are unfortunate,”* said a worker from Islamabad. Another worker from Lahore said, *“The conditions of brick kilns will never improve, therefore working in kilns becomes their family profession.”* Similarly, a worker from Lahore added, *“Our children can*

<sup>69</sup> Ibid.

<sup>70</sup> Malik, N. (2016). Bonded Labor in Pakistan. *Advances in Anthropology*, 06(04): 127-136.

<sup>71</sup> Labour Education Foundation (LEP). (2011). *Status of Labour Rights in Pakistan: A Snapshot of 2010*, Lahore.

<sup>72</sup> Human Rights Commission Pakistan, (2017). *State of Human Rights*, Lahore

<sup>73</sup> Labour Education Foundation, (2011). *Status of Labour Rights in Pakistan: A Snapshot of 2010*, Labour Education Foundation, Lahore.

<sup>74</sup> Peshgi is defined as the practice of debt bondage in Pakistan. Instead of just seeking wages in exchange for their work, poor workers take an advance from an employer, in money or in kind, under the obligation to work for that employer until their debt is paid off. ([www.labour.punjab.gov.pk](http://www.labour.punjab.gov.pk)).

<sup>75</sup> Darshan Masih vs. The State (PLD 1990 Supreme Court 513). Accessed at <https://www.aghslaw.net/about-us/landmark-cases/>.

<sup>76</sup> SPARC and Solidarity Center, (2015). *Hope for the Bonded Laborers*.



*never become a doctor or engineer as they are unable to go to school due to restrictions from employers and lack of educational facilities.”*

The workers make their children enter this labor early in the age to get the hang of the work and learn the technique in order to earn good wages. Adding to this, the workers complained about not being able to enroll their children in schools due to inaccessibility of public schools and unaffordability of the school fees. They demanded that there should be public schools in their area so that they can afford to send their children free of cost to a nearby school. *“We know that our children will always be in the same line of work as we have also grown up on brick kilns and have learned to work here. This is what our children will be doing for generations,”* opined a worker from Islamabad.

A majority of the brick kiln owners remained silent on the issue of child labor. They blamed the kiln workers for involving their families. An owner from Lahore stated, *“Sometimes the worker leaves the work and moves on to another opportunity, then they replace their services by offering another person who is usually their own child.”* The government officials cited mistrust between the laborers and owners. They mentioned that they have witnessed several cases of forced and child

labor, and acted against it. However, the issue still persists. A government official from Lahore noted, *“Once during my visit to a kiln, I took a photo of a child involved in labor as proof to report the violation. However, the owner started harassing me and took my mobile phone to delete the photograph.”*

The brick buyers also echoed the concerns raised by government officials. A majority of them agreed that often on their visit to kilns for quality checks, they have seen numerous children working on various brick kilns. Shared his experience, a brick buyer from Islamabad mentioned, *“the government is weak in implementing the law due to which child labor and bonded labor exists.”* The FGD with international agencies highlighted the prevalent issues of bonded and child labor. A representative of an international organization from Islamabad shared, *“despite the existence of labor laws abolishing bonded and child labor, it is a known fact that these severe exploitations are prevalent to a large extent at brick kilns.”*

In the brick kiln sector, children contribute significantly by working along with their families, due to debt bondage.<sup>77</sup> Poverty leads to children getting into the laborious work.<sup>78</sup> As mentioned earlier, many children enter into bondage labor because someone in their family received an advance payment from the employer that is difficult to pay back. Often, these enormous loans are passed on from generation to generation.<sup>79</sup> Young children are also vulnerable to the hazardous conditions of brick kilns, where they, along with their families, breathe in fumes from the brick-molding process.<sup>80</sup>

Lack of labor rights, unionization, social protection, and poverty have led to increased child labor in countries like Pakistan.<sup>81</sup> According to ILO estimates, almost 3.3 million children are involved in the brick kiln industry, most of them in South Asia. As many as 500,000 children work in the brick kilns of Pakistan,<sup>82</sup> even though the Constitution and other laws abolish all forms of child labor. Article

<sup>77</sup> Labour Education Foundation. (2011). Status of Labour Rights in Pakistan.

<sup>78</sup> Rehman, Z., Ambreen, N., Khan, T., and Khan, A. (2012). Status of Occupational Health and Safety in Brick Kiln Industries at Hatter Industrial Estate Haripur, Pakistan. *Journal of Environment*. 1(2), 56-63.

<sup>79</sup> Labour Education Foundation. (2011). Status of Labour Rights in Pakistan.

<sup>80</sup> Kainth, G.S. (2009). Push and Pull Factors of Migration: A Case of Brick Kiln Industry of Punjab State. *Asia-Pacific Journal of Social Sciences*, 1 (1), 82-116.

<sup>81</sup> Ali, M. A., Ali, M.V., and Abbas, F. (2017). Hidden Hazardous Child Labor as a Complex Human Rights Phenomenon: A Case Study of Child Labor in Pakistan’s Brick-making Industry. *Cogent Social Sciences*, 3, 1-23.

<sup>82</sup> International Labour Organization, Brooke Hospital for Animals, & The Donkey Sanctuary. (2017). *Brick by Brick: Environment, Human Labor & Animal Welfare: Unveiling the full picture of South Asia’s brick kiln industry and building the blocks for change.*

11(3) of Constitution of Pakistan states “No child below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment.”

The most specific law is the Punjab Prohibition of Child Labour at Brick Kilns Act, 2016.<sup>83</sup> Section 5 of the Act prohibits the employment of children at brick kilns: “Notwithstanding the provisions of any other law, an occupier shall not employ, engage, or permit a child to work at brick kiln.” According to the Act, a child refers to “A person who has not completed the fourteenth year of age.” Moreover, the Factories Act, 1934, abolishes any form of child labor, under Section 50: “Prohibition of employment of young children. No child who has not completed his fourteenth year shall be allowed to work in any factory.”

Contrary to the Constitution’s prohibitions and labor laws, Section 3 of the Employment of Children Act, 1991, permits children to work as family members engaged in a non-hazardous process. Child labor and exploitation go unnoticed irrespective of all the legal provisions guaranteeing the prohibition of child labor.<sup>84</sup> Moreover, children working at brick kilns are denied their right to education, guaranteed under Article 25(A) of the Constitution of Pakistan, “providing free and compulsory education to all children of the age of five to sixteen years...”<sup>85</sup>

The implementation of these laws is weak and has resulted in a high number of child labor cases. A survey conducted by Pattan on child labor at the brick kilns of Punjab<sup>86</sup> showed that almost 74 percent employed children. The Government of Punjab’s brick kiln census documents that 32,727 children of 14 years and younger are not attending school.<sup>87</sup> It shows that child labor is prevalent irrespective of the Punjab Prohibition



of Child Labour at Brick Kilns Act, 2016, and the Punjab Restriction on Employment of Children Act, 2016. The Government of Pakistan established the National Centers for Rehabilitation of Child Labor to provide education, stipends, and clothing to children who were victims of child labor.<sup>88</sup> In addition, Pakistan’s Poverty Alleviation Strategy provides access to microfinancing opportunities for families of children suffering from child labor.<sup>89</sup> However, there is an apparent gap between the legal and policy provisions and their actual implementation. The Labour Policy, 2010, also declares child labor as unlawful,<sup>90</sup> but it lacks a strategy to deal with the child labor violators.

A research report by the Directorate of Human Rights Khyber Pakhtunkhwa<sup>91</sup> illustrates that developed countries have been able to minimize and control child labor through rigorous enforcement of laws. By contrast, in developing countries, brick kiln workers and their families have limited options for improving their lives as they are virtually invisible to the rest of society. Although the Constitution of Pakistan and other legal instruments prohibit child labor, the literature suggests that it is common in various industries, including brick kilns.

<sup>83</sup> The Punjab Prohibition of Child Labour at Brick Kilns Act, 2016. Accessed at [https://punjabcode.punjab.gov.pk/en/show\\_article/eubNjjBbij52nvnqCsbwpcvQ4x31FcZ93w5b1nsLHBeJ7LIZjSPRMYHca8QY1VIK3yaUPdubauoaJJBaXHfjZQ-](https://punjabcode.punjab.gov.pk/en/show_article/eubNjjBbij52nvnqCsbwpcvQ4x31FcZ93w5b1nsLHBeJ7LIZjSPRMYHca8QY1VIK3yaUPdubauoaJJBaXHfjZQ-).

<sup>84</sup> Farrulsaqlain, S.M. (2018). A Strategy to Eliminate Child Labor in Pakistan. The Directorate of Human Rights Khyber Pakhtunkhwa. Accessed at <http://www.humanrights.kp.gov.pk/sites/default/files/articles/A%20Strategy%20to%20Eliminate%20Child%20Labour%20in%20Pakistan.pdf>.

<sup>85</sup> The Constitution of Pakistan, 1973. Accessed at [http://www.na.gov.pk/uploads/documents/1333523681\\_951.pdf](http://www.na.gov.pk/uploads/documents/1333523681_951.pdf)

<sup>86</sup> Plight of Brick Kiln Workers: Bricked by Bricks. (2015). Pattan Development Organization and Friedrich Ebert Stiftung (FES).

<sup>87</sup> Punjab Brick Kilns Census. Labour and Human Resource Department, Government of Punjab. Accessed at [http://dashboards.urbanunit.gov.pk/brick\\_kiln\\_dashboard/](http://dashboards.urbanunit.gov.pk/brick_kiln_dashboard/).

<sup>88</sup> Findings on the Worst Forms of Child Labor by the United States Department of Labor’s Bureau of International Labor Affairs. Accessed at <https://www.refworld.org/pdfid/5268e5ba2.pdf>.

<sup>89</sup> Ibid.

<sup>90</sup> Farrulsaqlain, S.M. (2018). A Strategy to Eliminate Child Labor in Pakistan. The Directorate of Human Rights Khyber Pakhtunkhwa. Accessed at <http://www.humanrights.kp.gov.pk/sites/default/files/articles/A%20Strategy%20to%20Eliminate%20Child%20Labour%20in%20Pakistan.pdf>.

<sup>91</sup> Ibid.



## 5. RECOMMENDATIONS

This report is an effort to understand the current state of compliance with decent work principles including payment of fair wages in brick kilns. Based on the comprehensive literature review and FGDs conducted with various stakeholders, as well as the expertise and experience of the researchers, this section of the report focuses on providing recommendations for legal, policy, and administrative reforms.

### 5.1 Recommendations from FGDs and the Literature Review

#### 5.1.1 Stricter Government Monitoring and Enforcement of Existing Laws to Safeguard Workers Rights

The Punjab Prohibition of Child Labor at Brick Kilns Act, 2016 binds employers to sign a written contract with workers by mentioning the peshgi, wage amounts, and the peshgi payback schedule. The law also requires employers to send a copy of the signed contract to the relevant area's labor inspector. However, due to a lack of legal enforcement and monitoring of kilns, workers continue to be employed informally without contracts. The findings of the report highlight that the peshgi system is one of the primary reasons for the deplorable working conditions at brick kilns. The government must ensure stricter monitoring and compliance with the law across all brick kilns to ensure workers' rights to a minimum wage and decent working conditions. Moreover, similar legislation may also be carried out for all the regions of Pakistan.

In addition, the government may contract out an annual independent assessment of brick kilns and their working environment to monitor the monitors. These assessments will provide an independent view of the performance of labor departments and inspections. These may also provide for tangible recommendations to reform the legal and policy frameworks for improving the working conditions.

Some labor officials said they experienced pressure from brick kiln owners not to focus attention on bonded and child labor. An online monitoring system may be developed or upgraded for prompt reporting of these issues. The labor inspectors may be trained to fill out checklists online, and such inspections should be available to the public on labor departments' websites.

In addition, the research findings highlight a disconnect between workers and duty-bearers. In order to improve the working conditions of workers, the labor department should be easily accessible for seeking their assistance, filing complaints or to raise issues regarding poor working conditions. The department should also ensure regular visits to brick kilns to report cases of exploitation.

#### 5.1.2 Formation and Improved Functioning of DVCs and Worker Unions

Trade unions play a crucial role in collectively bargaining for workers' rights. The law needs to define establishment of brick kiln workers' union as advocated in the Decent Work Brick Kiln Framework. It is vital to ensure that all workers are able to associate freely and become members of trade unions. The unions must comprise of workers from every level at a brick kiln to make sure that all the workers are represented and are able to claim their legal right. Therefore, it is recommended to establish or strengthen unions and other associations of laborers that would help to protect their rights through collective bargaining and representation.

Additionally, DVCs can play an active and important role in monitoring and ensuring corrective action at brick kilns. Such committees exist in Punjab; but they have not been formed in Islamabad to ensure labor standards as directed by the Bonded Labor System (Abolition) Act, 1992. A DVC comprising elected representatives, brick kiln community members, and government officials must ensure labor standards across the industries. Moreover, the labor departments may help develop uniform terms of reference for the DVCs.

#### 5.1.3 Improving the Mechanism for Registration of Brick Kilns

Since brick kilns are a manufacturing industry, they must be registered under the Factories Act, 1934. On the contrary, many brick kilns continue to function without being registered. Since kilns are not registered, the issues facing workers - including lack of registration with NADRA and EOBI, inability to access public services, bonded labor and child labor - are

harder to document and address. Brick kiln owners say that the process of registration is time consuming and cumbersome, and therefore, many of them are either waiting for their applications to be processed or have not filed for registration. The government should revise the registration process, develop a robust strategy to expedite the process by providing additional resources to the labor department, and implement incentives and enforcement mechanisms to ensure the registration of all brick kilns.

#### 5.1.4 Legal Provisions and Incentives for Buyers to Procure Bricks from Kilns with Decent Working Environments

Legal instruments may be enacted to help ensure that brick buyers procure bricks from kilns that provide a safe and decent working environment. The labor inspector may certify brick kilns based on a uniform and robust criterion after periodic visits. The research findings highlight that a majority of the brick buyers are oblivious about the working conditions at kilns, and only consider their profits. If the profits are directly associated to decent work at kilns, the owners will have to ensure better conditions for workers.

The government should develop an incentive plan for local brick buyers to promote socially-compliant brick-buying practices in the construction industry. The incentives can include a subsidized tax in return for buying bricks from those kilns that provide decent working conditions for workers. This can be ensured by providing proper work certification to the kilns that would allow brick buyers to invest in the certified brick kilns only. The government should review all brick-buying licenses and repeal those for businesses that do not buy bricks from kilns complying with labor laws.

#### 5.1.5 Awareness/Familiarization Sessions for DWBKF and Workers' Rights

The research findings revealed that stakeholders had no knowledge about the DWBKF. Therefore, it is important to arrange awareness/familiarization sessions with the stakeholders of the brick kiln sector, including workers, kiln owners/employers, brick buyers,

government officials, international agencies, as well as civil society organizations and the media. The purpose of the sessions will be to inform the relevant stakeholders of the DWBKF as part of the way forward to solve the challenges that brick kiln workers experience.

An awareness-raising strategy through public-private partnerships would be beneficial. The public departments such as labor department and ministry of human rights may collaborate with civil society organizations and private sector partners to conduct awareness sessions for all stakeholders to enhance their understanding of decent work principles and the ways in which they can contribute to improving working conditions of workers.

#### 5.1.6 Social Security Programs for Brick Kiln Workers

Brick kiln workers are among the most vulnerable and marginalized segment in society with access to the fewest public social services. Most of these workers earn a meagre daily wage and remain subservient to brick kiln owners for their entire lives and indeed for generations. They typically lack NICs and are therefore unable to access government-sponsored programs related to health, education, and other basic needs for themselves and their families. The government may initiate special programs for brick kiln workers to facilitate them. These programs should be flexible, such as waiving the standard documentation criteria for acquiring an NIC and validating workers' citizenship through other means.

#### 5.1.7 Establishment of Community Schools and Healthcare Facilities

To eradicate child labor, concerted efforts are required by the government and other stakeholders to establish community schools for brick kiln workers so that they can enroll their children locally. The monitoring teams including the labor inspectors and DVCs may ask education workers about such public facilities as well as report incidents of violations. Strict fines may be imposed on brick kilns where child labor is prevalent. In addition to establishment of community schools, the government may establish basic healthcare units close to the kilns to facilitate workers.

### 5.1.8 Facilitation for Workers by NADRA and ECP

NADRA and the Election Commission of Pakistan (ECP) must coordinate to facilitate the NICs and voter registration of brick kiln workers. NADRA should provide additional mobile registration vans (MRVs) for the brick kilns located at far-flung areas. NADRA should also strategize to set-up NADRA Registration Centers (NRCs) near brick kilns to facilitate the workers. ECP should coordinate with NADRA to acquire the data of registered brick kiln workers in order to add them to the electoral rolls.

## 5.2 Recommendations for Improving the Legislative and Policy Frameworks Governing Brick Kilns

The FGD findings and literature review indicate that many of the issues faced by brick kiln workers are due to an inadequate legal framework that governs the brick kiln sector. The following recommendations are offered by the research partners based on their expertise and experience as well as indirectly from the FGDs and literature review. These recommendations relate to legislative reforms to create a conducive working environment for brick kiln workers.

A consolidated labor law along with a uniform national policy should be developed to ensure minimum labor standards across all workplaces. The provincial governments may introduce legislations based on the national labor policy and international best practices.

### THE BONDED LABOR SYSTEM (ABOLITION) ACT, 1992, THE PUNJAB BONDED LABOR SYSTEM (ABOLITION) AMENDMENT ACT, 2012 & THE BONDED LABOR SYSTEM (ABOLITION) RULES, 1995

While drafting the law, the legislature, prima facie, overlooked observations, recommendations, and criteria laid down by the Supreme Court in the Darshan Masih Case. To bring the law into conformity with the Supreme Court of Pakistan's directions and Pakistan's domestic and international obligations, it is recommended that:

- I. The Act presents the definition of 'forced labor' as having an association with debt bondage alone. Hence, it is very limited in its scope compared to Article 11 of the Pakistan Constitution. The Supreme Court of Pakistan, in

its landmark judgment known as the Darshan Masih Case, held that forms of forced labor are to be defined to minimize confusion. Therefore, it is recommended that the scope of legal coverage provided in Section 2(c) and (e) of the Act be broadened from bonded labor to forced labor, prohibiting coercion in all its forms, including contemporary forms of modern slavery.

- II. Contrary to the Supreme Court orders given in the Darshan Masih Case, the law also put together rights such as the right to employment and freedom of movement. However, it ignored a range of fundamental rights associated with forced labor, such as protection from exploitation and collective bargaining, and the right to humane work conditions. The Act, therefore, requires putting together rights related to forced labor or other contemporary forms of modern slavery. Mainly, it may include the right to decent work, the right to adequate living standards, the right to education, and others.
- III. The Act does not lay down the mechanism/procedure that facilitates the respective governments' implementation of the law. The Act requires outlining a well-explained process, roles, responsibilities, and coordination mechanisms between respective government departments, to ensure the abolition of forced labor and protect rights associated with forced labor.
- IV. Although the law criminalizes bonded labor, government and law enforcement agencies have failed to secure a single conviction of bonded labor perpetrators. The government has also failed to take steps against duty bearers who are unable to implement the law locally. There should be a mechanism under which the duty bearers can be held accountable. It may also include an outline of a comprehensive plan ensuring the systematic freedom and rehabilitation of enslaved workers.
- V. The law requires casting responsibility on the government to provide physical protection to the freed bonded laborers from harassment by the employers.
- VI. Section 13 of the Act does not consider negligence on the part of respective public servants' duty regarding identification, freedom, and bonded laborers' rehabilitation. Therefore, a provision should be added to the Act proposing punishment for public servants who wantonly and willfully neglect the identification,

- release, or rehabilitation of bonded laborers.
- VII. Regarding offenses given in the Act, the imprisonment and fines stipulated with each violation are minimal and not severe. Hence, the punishment requires enhancement to serve as a deterrent.
- VIII. Section 17 of the Act, which deals with cognizance of offenses, be amended to provide that every offense under the Act should be cognizable and non-bailable.
- IX. Concerning minimum wages for the laborers, the Act is silent. However, this law should have made it binding on the employer to ensure the laborers' minimum wages, elucidated by the Indian Supreme Court's judgment (1982 AIR 1473). It held that a person working for less than the minimum wage is also covered in the definition of "forced labor." A summary trial provision regarding the Act be added with a specific time limit for the case's disposal.
- X. The Act must make it mandatory for the district administration to create an independent fund under the rules to ensure freed bonded laborers' rehabilitation and sustenance.
- XI. A national survey on bonded labor should be conducted. Alternatively, key indicators or determinants of bonded labor can be incorporated into the Labor Force Survey (LFS).
- XII. As required by the Bonded Labor System (Abolition) Rules, 1995, sufficient budgetary allocations for labor agencies should be made to empower assigned agencies to ensure the effective implementation of labor standards.
- XIII. Regarding the rehabilitation of bonded laborers, the 1992 Act only provides that one of the functions of vigilance committees is to help in bonded laborers' rehabilitation. Apart from that, neither the Act nor the rules made thereunder lay down any mechanism in this regard. This is one of the aspects ignored in Pakistan since the Darshan Masih issue. Nepalese law on bonded labor, for example, has formulated a committee for rehabilitation with specific functions, as mentioned in Section 9 of the Act. Such practice, if provided in Pakistan's law, will ultimately benefit freed laborers.
- XIV. It is important to note that the informal sector economy remains formally unregularized, and workers in this sector are out of the law's ambit in most parts of the country. Given that informal workforce's protection was promised under the Labor Policy, 2010 (Articles 22, 25, 28, 29, and 30), it is thus recommended that the state

ensures the protection of informal workers by aligning reforms with respective legislative frameworks.

- XV. Inspection is key to ensuring compliance with labor standards. Inspection mechanisms and departments must be strengthened in terms of capacity, funding, and human resources. The effective performance of labor inspectors should be scrutinized and reviewed.

## B. THE PUNJAB PROHIBITION OF CHILD LABOR AT BRICK KILNS ACT, 2016

The Punjab Prohibition of Child Labor at Brick Kilns Act, 2016, was enacted to prohibit child labor and regulate labor at brick kilns in Punjab. But astonishingly, Section 4 of the Act allows the occupier to give an advance of up to Rs.50,000 to a worker engaged by him. The essence of the Bonded Labor System (Abolition) System Act, 1992, contradicts Section 4 of the Punjab Child Labor Act in that it states: *"No person shall make any advance under, or in pursuance of, the bonded labour system or compel any person to render any bonded labour or other form of forced labour."* Not only does Section 4 of the Child Labor Act contradict the 1992 Act, it also contradicts observations of the Supreme Court of Pakistan in the Darshan Masih Case. This contradiction should be rectified in the Punjab Child Labor Act, 2016.

## C. THE PUNJAB RESTRICTION OF EMPLOYMENT OF CHILDREN ACT, 2016

The Punjab Restriction of Employment of Children Act, 2016, specifies that an occupier shall not employ or permit a child (who has not attained 15 years) to work in the establishment. The age of a child set in the Act is not only in contradiction to the Punjab Prohibition of Child Labor at Brick Kilns Act, 2016, but it violates Pakistan's commitment to comply with ILO's Minimum Age Convention No. 138 (1973). Pakistan ratified the convention on July 6, 2006, and set that age at 14 years. As given in the Employment of Children Act, 2016, the child's age should be specified as 14 years instead of 15.

## D. THE FACTORIES ACT, 1934

The Factories Act, 1934, is the primary law applicable to premises employing 10 or more workers involved in manufacturing. Implementation of the law in the brick kiln industry has always been debatable. First, no brick kilns meet the requirements of Section 33 read with Rule-95(1) of the Punjab Factories Rule, 1978. Second, it is hard to define premises, as raw brick-making shifts from one place to another, depending upon the quality of land and ancillary factors. Third, due to weather

conditions and the nature of the job, workers' hours cannot be calculated as required under the law. Fourth, migratory workers complicate the situation further and create difficulties in implementation of the law. Due to these difficulties, the registration of a very few brick kilns by Punjab could not bring about the desired results, and brick kiln workers remain deprived of the benefits under Workers Welfare Board schemes.

#### **E. THE MINIMUM WAGE ORDINANCE, 1961**

The minimum rates fixed under the Minimum Wage Ordinance, 1961, do not suit all geographic areas due to variations in the cost of living, quality of bricks, and their price. Minimum wage rates should be made more realistic by considering all such factors. Various rates can be set for different regions in the same province. Minimum wages should be fixed after in-depth research and considering standards for each kind of worker, such as hours and work type. Non-maintenance of records and the informal mode of payment of wages also make the implementation of the Payment of Wages Act more difficult.

#### **F. THE EMPLOYMENT OF CHILDREN ACT, 1991**

The Employment of Children Act, 1991, is also not applied to families engaging their children in brick-making. Health facilities of the social security scheme, pension of Employees Old-Age Benefits Act, and the Workers Welfare Board's schemes have limited scope as far as brick kiln workers are concerned. All of these laws and schemes should be applied to brick kiln workers.

#### **G. IMPLEMENTATION OF LATEST JUDGMENT PASSED BY THE LAHORE HIGH COURT**

On January 31, 2020, the Lahore High Court directed the federal and Punjab governments to ensure the implementation of all relevant laws in letter and spirit to completely eradicate child and forced labor from all sectors of the economy. The sectors include brick kilns, agriculture, mining, tanneries, carpet weaving, glass-bangle making, construction, and fisheries.

Since the Lahore High Court has issued detailed directions to ensure labor laws compliance, the government should comply with court orders. Punjab's government should appoint a senior official as coordinator or focal person to monitor and mobilize the provincial Home and Labor Department to proactively enforce relevant laws in line with the recent Lahore High Court directives.



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