

# **Alternative Labour Policy for Rural Workers**

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## **Introduction**

Given the present crisis in food prices and the ongoing crisis of employment and lack of rights for agriculture workers, after many years of what can only be described as global policy neglect, agriculture and rural employment are back on the agenda. In 2008, the World Bank's World Development Report is dedicated to agriculture. And, for the first time in 20 years the ILO Conference in My 2008 held a general discussion on rural employment. There is awareness that the Millennium Development Goals will NOT be achieved unless attention is paid to agriculture and rural areas.

Hunger in rural areas is nothing new - indeed of the 800 million people estimated to be living in hunger in the world, the vast majority is in rural areas. It is indeed a cruel irony that those workers and small farmers who feed the world often have the least resources to feed themselves and their families.

Governments have chosen to exclude agriculture from labour legislation or to have lower standards for agriculture. Labour inspection in many countries is non-existent. Inclusion of all workers and proper inspection are at the heart of the decent work - yet this is a distant dream for rural workers.

A report prepared by the International Labour Organization's Committee on Promotion of Rural Employment for Poverty Reduction stresses that there is substantial evidence to show that rapid poverty reduction can be achieved through agricultural and rural development. The report puts quite a lot of emphasis on off-farm employment. The report however acknowledges that agriculture is the driver of development and therefore it would make sense to put more emphasis on agricultural job creation.

What is clear is that despite increasing urbanization, agriculture continues to play a major role and that in absolute terms the number of people employed remains the same as it was in 1991. Some ministries of agriculture forecast that the figure will remain the same or will even grow over the next 10 years. One billion people are currently employed in the sector - most of them in Asia and sub-Saharan Africa. Agriculture is the most important sector for women's employment in many countries, also.

Agricultural workers include those that work on farms and plantations and in primary processing facilities for food and fibre production. They work for cash and/or in-kind payments and do not own or rent the land or equipment used in their work. They include permanent / full-time, seasonal, temporary / casual, migrant, indigenous and piece-rate workers (those paid per unit of work) and small farmers who often undertake paid agricultural employment to supplement their farm incomes.

Agricultural workers are among the poorest and most food insecure groups: in many countries, more than 60 percent of them live in poverty. Furthermore, most rural and

agricultural employment is based on informal arrangements, in the sense that workers are not recognized or protected under legal and regulatory frameworks.

Rural workers suffer high rates of poverty, food insecurity, death, injury and illness. They are also often denied basic human rights. Mainly due to the informal character of agricultural production, but also to other factors such as incomplete markets, asymmetry of information, high transaction costs, and imperfect functioning of complementary markets (especially land and credit), rural labour is not homogeneous and comes with a wide range of contractual arrangements and employment relationships.

Rural Workers' Organizations Convention, 1975, says:

#### Article 2

1. For the purposes of this Convention, the term *rural workers* means any person engaged in agriculture, handicrafts or a related occupation in a rural area, whether as a wage earner or, subject to the provisions of paragraph 2 of this Article, as a self-employed person such as a tenant, sharecropper or small owner-occupier.
2. This Convention applies only to those tenants, sharecroppers or small owner-occupiers who derive their main income from agriculture, who work the land themselves, with the help only of their family or with the help of occasional outside labour and who do not--
  - a) permanently employ workers; or
  - b) employ a substantial number of seasonal workers; or
  - c) have any land cultivated by sharecroppers or tenants. (1)

It is important to recognize the variety of employment relationships and conditions of rural workers because, while they suffer the highest incidence of poverty and vulnerability, the lack of homogeneity in the sector and the predominance of informality are the main causes for their low level of organization and unionization. This is, in turn, one of the determinants of their continued invisibility with policy-makers and institutions at micro and macro level. Civil society groups working directly with agricultural workers, continue to get little support for strengthening their capacity and improving their livelihoods, if compared with farmers' groups.

Rural workers play an important role in agricultural and rural development which is not often recognized, while their contribution to making food production and food security sustainable, safe and healthy is virtually untapped. Modern agriculture that is capable of both feeding the world and protecting the planet requires a highly skilled and motivated workforce. Increasing output to feed a growing population while protecting soil and water and reducing dependence on costly and damaging chemical inputs also require a skilled workforce.

## **Rural workers in Pakistan**

Based on an estimated population of 149m people in mid-2004 and a participation rate of 30%, the government estimates the size of the labour force to be about 44m, 67% rural and 33% urban. The employed labour force is defined as individuals of at least ten years of age who work for at least one hour during the reference period and are either "paid employees" or "self-employed".

According to the government's 2003-04 economic survey, the total number of employed persons was 41.3m in June 2004, compared with 40.5m a year earlier. During 2003-04, the number of employed persons in urban areas increased from 13.1m to 13.4m, and that in rural areas grew from 27.4m to 27.9m. Employment increased at the rate of 2.1%, the same as in the previous year. According to the survey, agriculture remains the largest employer in Pakistan, employing 42.1% of the total labour force.

In Pakistan, agriculture sector has been specifically excluded from the general labour legislation. Rural and agricultural workers are not protected by national labour laws, or the labour laws are not applied because employers and workers are unfamiliar with the details of the law, application is found to be impractical or enforcement is weak. Typically, casual, temporary or seasonal agricultural workers do not have labour protection equal to that of permanent employees.

According to another survey by the Institute of Development Economics, in the rural sector, where 79 percent of the female population above the age of ten is actively involved in farming, only 37 percent are gainfully employed in their own family farms while the rest fall within the category of unpaid workers.

Though the Constitution of Pakistan, in its article 11, prohibits every kind of slavery, bonded and forced labour but still the worst forms of bonded labor and slavery remains a big issue. Bonded labor is common in the brick, glass, and fishing industries and is found among agricultural and construction workers in rural areas. The Bonded Labor System (Abolition) Act, adopted in 1992, outlawed bonded labor, canceled all existing bonded debts, and forbade lawsuits for the recovery of existing debts. However, the provincial governments, which are responsible for enforcing the law, have failed to establish enforcement mechanisms, and the law is largely ineffective. The theme of workers rights has never been taken seriously by the policy makers as they do not represent the workers.

The right to join and/or form independent and democratic workers' organizations of one's own choosing is a cornerstone of the ILO's stance on social justice. Already in 1921 the ILO adopted a Convention extending to agricultural workers the same rights of association as for industrial workers but the real challenge is to assure the full exercise of this right in practice. For agricultural workers, numerous obstacles remain. Trade union organizations are generally non-existent in rural areas. Seasonal, migratory and casual labour processes, with the added constraints of illiteracy, ignorance of workers' rights, and isolation render the task of organizing among rural workers particularly difficult. ILO

tripartite bodies have consistently recalled the need to apply in practice basic labour rights in rural areas and strengthen rural workers' organizations.

According to the World Bank, Pakistan has one of the highest ( 36 per cent share of temporary workers) while the average real earnings of the workforce has declined by 3.5 per cent in 2003-04 compared to 1997-98. The World Bank calls for a flexible labour policy with tilt towards the employer, which it believes would, in turn, improve the labour conditions – an expectation so far unheard. Interestingly, the slower growth in job creation has not been compensated by improvement in the quality of jobs.

“Job earnings are low and Pakistan faces the double challenge of providing more jobs while also improving earnings and the quality of jobs”. Average earnings for salaried employees in 2003-04 were Rs4,088 per month (\$68). For a typical family of six with one person employed, the average earning places that family below the poverty line. Earnings for self-employed are not available but are believed much lower.

Average earnings for poor rural workers are less than Rs2000 per month (\$33 per month). Earning differentials are large – average earnings in rural areas are 68 per cent of earnings in urban areas, while female wage employees earn 59 per cent of males although it is not clear if it is for similar work. Earning differentials between rural and urban areas have been diminishing, while those between men and women have been increasing.

Informal sector employs 73 per cent of workers in rural areas and 67 per cent in urban areas. “Informality overall grew by five percentage-points from 65 per cent in 2001-02 to 70 per cent in 2003-04”. The challenge for policy makers is, therefore, not only creating jobs for the unemployed and for the new entrants in the labour market but also further improving the productivity and earnings of the available jobs in order to reduce the very large number of ‘working poor’ and to improve the welfare of a large number of poor, marginalized or exploited workers. (2)

### **Definition of rural worker**

The rural workforce is hard to define - many workers are seasonal, casual or temporary workers and will move from sectors, typically between agriculture and construction. Small farmers may not be able to survive on the income from their land and will look for paid work on bigger farms. Agricultural workers have aspirations to have land of their own. One person can fall into several employment categories. Data collection at national level is weak - classifications are very general and do not provide the detailed breakdowns necessary to understand fully the situation in rural areas.

Waged agricultural workers are the women and men who labour in the crop fields, orchards, glasshouses, livestock units, and primary processing facilities to produce the world's food and fibres. They are employed on small- and medium-sized farms as well as

large industrialized farms and plantations. They are waged workers because they do not own or rent the land on which they work nor the tools and equipment they use and so they are a group distinct from farmers.

Such workers do not form a homogeneous group. Their terms and conditions of employment vary tremendously, creating diverse categories: permanent (full-time) agricultural workers; temporary or casual agricultural workers; seasonal agricultural workers; migrant agricultural workers, piece-rate workers; or workers receiving some form of 'in-kind' payment. There are also many indigenous agricultural workers who are part of the employed workforce.

Agricultural workers work for some kind of 'wage', whether cash payment, in kind payment, or a combination of these. They work within an employment relationship, be it with a farmer, farming or plantation company, or labour contractor or sub-contractor. The demand for agricultural labour fluctuates with the seasons and this is reflected in the nature of the workforce. Hours of work tend to be extremely long during planting and harvesting, with shorter hours at off-peak times.

During rush periods, field work can go from dawn to dusk; the intensity of the work offers little chance for rest breaks; the length of the working day offers insufficient time for recuperation. Payment systems can exacerbate this situation. As minimum wages tend to be low or non-existent for agricultural workers in general and many casual, temporary or seasonal workers are paid at least in part on a piece work basis – i.e. per kilo of crop picked, row weeded, or hectare sprayed, there is a strong financial incentive for them to extend their working time to the maximum so as to enhance their earnings.

Much agricultural work is by its nature physically demanding, involving long periods of standing, stooping, bending, and carrying out repetitive movements in awkward body positions. The risk of accidents is increased by fatigue, poorly designed tools, difficult terrain and exposure to the elements and poor general health. Even when technological change has brought about a reduction in the physical drudgery of agricultural work, it has introduced new risks, notably associated with the use of sophisticated machinery and the intensive use of chemicals often without appropriate safety measures, information and training. Unsurprisingly, the level of fatal and serious accidents and illness in agricultural workers is high. Yet, they are among the least well protected in terms of access to health care, workers' compensation, long term disability insurance and survivors' benefits. (3)

### **Full-time (permanent) workers**

Full-time, permanent agricultural workers receive more job security, relatively higher wages, better housing and better health and work benefits than do other waged agricultural workers. However, this does not mean that such workers are well-paid, relative to the average wage levels in a given country. Wages in rural areas, both in cash terms and in real terms, are generally lower than in cities, and the hours of work are longer. Many full-time workers in agriculture live on or below the poverty line.

Permanent contracts are the least common form of contract and their share in total agricultural employment has been declining. There is a trend away from full-time employment to more casual and seasonal employment, often referred to as the "casualization" or "flexibilization" of employment, with little or no social protection.

### **Casual, temporary and seasonal workers**

The majority of waged agricultural workers are employed on a seasonal and often a casual or temporary basis. Casual work refers to those employed and paid at the end of each day worked or on a task basis. Temporary work refers to those employed for a specific but limited period of time. The seasonal, casual or temporary workers do not receive any form of social security or unemployment benefit, holidays with pay, or sickness or maternity leave. Indeed, many full-time waged agricultural earners lack these same benefits.

An increasing number of women workers are employed as casual or temporary workers. Furthermore, jobs are often classed as casual or temporary even if there is in reality continuous employment.

### **Migrant workers**

Migrant workers are found in all types of employment relationships as casual, temporary, seasonal or even full-time workers. They may be migrant workers from a different part of a district, province or country. Wherever they come from, migrant workers are always heavily disadvantaged in terms of pay, social protection, housing and medical protection.

Labour migration is one of the major consequences of growing work flexibility, casual employment, low pay, bad working conditions and poverty. This labour mobility is very significant throughout the world. The migrant labour force often consists in reality of whole families, although formally only the head of the family is employed. Children of migrant and seasonal workers work next to their parents but do not figure on the payroll. As much work is paid on a "piece-rate" basis, migrant and seasonal workers need their children to work in order to achieve a living wage.

### **Indigenous rural workers**

Indigenous agricultural workers form part of the agricultural workforce. Having been forced off their own lands, particularly in canal settlement areas, they often end up as agricultural workers, usually under poor employment and working conditions. The living and working conditions of indigenous workers and their families are below the average for workers belonging to what is referred to as the "dominant ethnic groups", including non-indigenous rural workers. These differences are evident in access to education, social security, wages and occupational health and safety.

### **Lack of standardization**

These categories of waged workers often overlap. The lack of standardization of definitions impacts on accurate calculation of the number of workers. However, definitions of permanent workers differed greatly and many farmers defined casual



workers as seasonal and vice versa. There was in fact little consistency in terms from farm to farm, or within a sector or region.

### **Wage-dependent small farmers**

Many small farmers regularly work on a farm or plantation for part of the year to supplement their meagre incomes. Their annual income depends on waged work as a regular source of revenue. In reality, they are part farmer/part waged worker. This phenomenon of wage-dependent small holders, though well-known, rarely forms part of agricultural programs to empower small farmers.

### **Linkages development**

There are many common issues which affect waged agricultural workers and small farmers and many similarities in their needs and roles, especially where farmers are regularly wage dependent. Similar interests include, for example, the right of freedom of association and organization and improving health, safety and environmental conditions on farms.

As rural employment becomes increasingly casualized, the distinction between waged agricultural workers and the rest of the rural working population becomes less and less clear-cut. As a result, waged agricultural workers have become potential allies of disadvantaged rural groups such as small, subsistence farmers, tenants and share croppers, the unemployed and the landless.

### **Child labour in agriculture**

Child labour is work which, by its nature and/or the way it is carried out, harms, abuses and exploits the child or deprives the child of an education. Seventy per cent of all child labourers work in agriculture. While many children have traditionally been employed in family enterprises, children also work in large-scale commercial plantations and in agriculture as migrant farm workers. They usually work alongside their parents, often in situations of indirect employment where only the head of the family is actually employed, but where he or she is paid according to the amount of fruit or vegetables that are turned in at the end of the day. With more hands to help, the family makes more money. (4)

Participating in home-based agriculture helping the family is a completely different situation from working during harvesting on a piece-rate basis, as a member of a migrant worker's family. The migrant children work long hours, sometimes over 60 hours a week. The prevalence of child labour in agriculture also undermines decent work, sustainable agriculture and food security as it maintains a cycle where household income is insufficient to meet the needs of families. Children work as cheap labour because their parents do not earn enough to support the family or to send their children to school.

Working children represent a plentiful source of cheap labour. Child labour undermines the bargaining power of agricultural workers and their trade unions and weakens the possibility of negotiating a fair and decent wage for adult workers. Improving conditions for waged agricultural workers will in the long term reduce child labour by ensuring that workers have the economic means to support their families.

BOX

#### **Agriculture and child labour**

**Most working children are found toiling in the fields and fisheries of the world, not in factories. This basic fact about child labour is often ignored in favour of an urban and industrial view of what constitutes child labour. This urban image has its origins in the struggle against child labour in the nineteenth century in Europe. But even at the time, most children in Europe were working in the rural areas on family farms, where it was taken for granted. This neglect of agricultural child labour, linked to an unquestioned assumption that children working on farms and in fisheries are less likely to be at risk than urban workers, still prevails today. As a result of this cultural attitude, a false view of the child labour problem is promoted and legislation that would protect children fails to cover most agricultural settings where they work.**

**The work children perform in agriculture is often invisible, because they assist their parents in task work or other forms of work organization. Because this work is not recognized, nor easily recorded in statistics, it goes largely unnoticed. This creates a cycle of poverty and affects the future of children since their access to education and training is greatly reduced.**

**In addition, agriculture is amongst the three most dangerous industries (along with mining and construction). Half of all the workplace fatalities are in agriculture alone. Sadly, children figure among these fatalities – they die because they work in agriculture. The problems facing workers in agriculture need to be highlighted because they also affect children who are working in agriculture. Thus to alleviate the need and pressure for children to work in agriculture, other areas have to be addressed — social exclusion, poverty alleviation, fundamental rights, sustainable agriculture and sustainable development, food security and decent work in agriculture.**

**Trade Unions have conducted campaigns, programs and activities to promote decent work in agriculture and to use their collective action, either through collective bargaining or grass-roots action. This commitment is to ensure that children have a chance in life: to live in a safe environment, particularly one free from hazardous work, and to have access to school so they can achieve their full potential.**

## **The employment relationship**

The "employment relationship" involved in the different forms of waged employment is often complex and difficult to understand, especially where casual labour is employed or labour is supplied through labour contractor. The employment relationship is a notion which creates a legal link between a person called the "employee" and another person called the "employer" to whom she or he provides labour or services under certain conditions in return for remuneration. (5)

Disguised employment occurs when the employer treats a person who is an employee as other than an employee so as to hide her or his true legal status. False self-employment, false subcontracting, the establishment of pseudo-cooperatives, false provision of services and false company restructuring are amongst the most frequent means that are used to disguise the employment relationship. The effect of such practices can be to deny labour protection to the worker and to avoid costs that may include taxes and social security contributions. (6)

## **BOX**

### **Importance of agricultural workers**

#### **Key points**

- **Waged agricultural workers are a very large occupational group.**
- **Waged employment is now a central feature of employment in rural areas, and the number of waged workers is increasing in most parts of the country.**
- **Women waged agricultural workers account generally for 20-30% of the waged workforce. The numbers of women in waged employment are also increasing. New jobs are usually in export-orientated agriculture like fruits and vegetable growing and packing. These jobs are often classed as temporary or seasonal even if there is, in reality, continuous employment.**
- **Waged workers are often poorly paid, with wages well below those earned by industrial workers. They and their families often live below the poverty line, and they form part of the core rural poor in the country. Hundreds of thousands of these workers earn the lowest wages in the rural sector, lower even than the amount required to subsist.**
- **Their employment is often unstable and temporary. Employment problems have increased as the impact of globalization has led to less and less permanent labour and a more casualized and marginalized workforce (often hired through labour contractors or subcontractors). Migrant workers face particular difficulties.**
- **Working and living conditions are often poor.**
- **Agricultural workers earn their living in an industry ranked as one of the three most hazardous along with mining and construction. They face a wide variety of hazards at work ranging from, for example, dangerous machinery, unsafe electrical wiring and appliances, livestock-transmitted diseases and falls from heights, to exposure to toxic pesticides. Every year, a large number**

- of waged agricultural workers and farmers are killed injured or made ill as a result of their work.**
- **Generally, agricultural workers are denied fundamental human rights; the right to freedom of association, to organize and to collectively bargain with employers. Rural workers are more subject to forced labour than other categories of workers.**
  - **Agricultural workers are typically excluded from active participation in decision-making processes with employers and government.**
  - **The prevalence of child labour in agriculture undermines sustainable agriculture and food security as it maintains a cycle where household income is insufficient to meet the needs of families. Most children work because their parents do not earn enough to support the family and to send them to school.**

### **Non-farm employment**

Rural non-farm employment in the form of emergency relief or poverty-targeted Labour-intensive public works has been promoted by many countries (e.g. India) over the years. The ILO has long advocated diversification of rural employment through such labour-intensive works programs in view of the benefits accruing to the poor, both directly through employment and income generated by the public works programs and indirectly, through the employment effects induced by the infrastructure created and the increased demand for locally-produced goods.

In addition, producers of simple consumer goods may also be located in rural areas, particularly those making use of local raw materials. The development of agro-ecological tourism has also become important in some areas.

Rural non-farm activities are generally small-scale and labour-intensive, using local materials and generally catering to local demand. Such activities can provide supplementary employment to that section of the rural labour force significantly underemployed during the lean agricultural season.

Despite declining levels of labour absorption in agriculture, aggregate rural employment can rise with the expansion of non-farm activities and result in lower levels of poverty, as has been demonstrated especially in countries such as China, India, and some Latin American countries. (7)

### **Contract labour and labour contractors**

An essential characteristic of labour contracting arrangements is that the workers concerned do not have a direct employment relationship with the person or enterprise for which they perform work. In the majority of cases, the contracted workers remain the employees of the labour contractor. In some other cases, the workers may only be supplied to the workplace by the contractor and have no recognized employment relationship with either the user enterprise or the contractor. This gives rise to a number of practical and legal difficulties.

Where a worker is employed by a labour contractor and performs work for a user enterprise, the role and functions of an employer are actually shared between the contractor and the user. The contractor might pay the workers, provide transport to and from work and may in some cases provide workplace supervision. The user enterprise often determines the work to be done and the hours of work, and establishes the general terms and conditions of the worksite including in relation to occupational health and safety standards. This often means that the worker is uncertain about who her/his employer is, and thus about how to claim employment rights. These situations result in a lack of legal clarity around the employment relationship. Workers are particularly vulnerable in these situations.

There are many well documented cases of the abuse of workers by so-called “labour contractors”, such as asking for commissions, over-charging for transport, housing and food, holding back wages and imposing debt slavery. There are growing demands from trade unions for effective regulation of labour contractors and of the terms and conditions under which contract labour is hired and supplied.

### **Hours of work**

Hours of work for waged agricultural workers tend to be long compared with other sectors, often over 45 hours per week, and remain largely unregulated. Hours tend to vary due to a variety of factors such as seasonal and climatic conditions, peak periods of sowing and harvesting.

Adequate working time arrangements which can both limit overall daily, weekly and annual working time and meet the specific conditions of agricultural work cycles are, for the most part, still to be designed, negotiated and implemented. An important breakthrough in this respect is Article 20 of the ILO Safety and Health in Agriculture Convention, 2001 (No.184) on hours of work which states: "Hours of work, night work and rest periods for workers in agriculture shall be in accordance with national laws and regulations or collective agreements".

### **Housing and living conditions**

Because many agricultural workers live where they work, their lives and occupations are inseparable. There is a close link between housing, worker well-being and productivity. Housing of agricultural workers is characterized by inadequate and overcrowded installations, poor ventilation, deficient sanitary facilities and non-potable drinking water, which enhance the spread of communicable diseases such as upper respiratory tract infections, influenza and tuberculosis. Living conditions on many farms and plantations remain inhuman, with workers living in tents, or makeshift plastic huts/shacks for long periods.

Casual workers are rarely provided with plantation housing. Many are migrants who live in shanties near the estates without even the most basic sanitary facilities. The hygiene situation in these settlements can be deplorable, as witnessed by frequent outbreaks of waterborne diseases such as cholera, typhoid, malaria and dysentery. Provision of decent housing on farms has been an issue, historically, on which trade unions have negotiated

with farm employers. In some countries, employers are obliged by law to provide housing or a housing allowance to employees.

However, when the accommodation is part of the remuneration package, this has often meant that workers are not free to change employers, as they would lose their housing. Also, they would lose their accommodation on retirement. Laws giving workers more secure housing rights on farm housing, including retirement provisions, have been introduced in a number of countries. Many unions, however, argue that wages should be sufficient to allow workers to buy houses like other citizens, and to live where they choose. (8)

### **Occupational health, safety and environment**

Improving occupational health, safety and environmental (OHSE) standards for agricultural workers and small farmers, including regulation and enforcement must be included as one of the key components of sustainable agriculture. Furthermore, there must be recognition that improving health, safety and environmental standards for workers can help protect and improve standards of public and environmental health, consumer food safety, and environmental protection, especially with regard to exposure to pesticides and other agrochemicals.

Waged agricultural workers face a wide range of hazards at work including dangerous machinery, unsafe electrical appliances, livestock-transmitted diseases, falls from heights, and exposure to toxic pesticides. The ILO estimates that there are some 355,000 on-the-job fatalities the world over each year. It is estimated that half of them occur in agriculture, the sector with half of the world's workforce.

Agricultural work is carried out in a rural environment where there is no clear distinction between working and living conditions, unlike the case of the factory or office worker. As a result, agricultural workers and their families face extra dangers such as exposure to pesticides. Furthermore, the poverty experienced by waged agricultural workers and small farmers can contribute to increased risks of work-related ill-health due to bad diet and malnutrition. (9)

Many of those killed, injured or made ill are women workers. They are especially at risk because they are often employed on a part-time or casual basis and receive less training and instruction, often do repetitive work which can result in musculoskeletal problems, and face reproductive hazards as a result of exposure to pesticides. (10)

Child labourers are also at risk – each year, 22,000 children are killed on the job, many of those in agriculture. An immediate priority is to eliminate all forms of hazardous work carried out by child labourers in agriculture. (11)

## **Labour inspection**

To provide advice to both employers and workers, to administer social and labour policy, and to supervise and enforce labour legislation and standards, effective national systems of labour inspection are required. Labour inspection is a public function, a responsibility of government, best organized as a system, within the context of a larger state system. The ILO Labour Inspection Convention, 1947 (No.81) sets out the basic international standards, supplemented by the ILO Labour Inspection (Agriculture) Convention, 1969 (No.129) which take into account the special characteristics of the agricultural sector.

Labour inspectorates work to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours, wages, weekly rest and holidays, safety, health and welfare, the employment of women, children and young persons and other connected matters. Inspectors also supply technical advice and information to employers and workers concerning the most effective means of complying with the legal provisions.

## **Social security schemes and benefits**

Social security is defined as being composed of contribution-based social insurance schemes and tax-financed social assistance. In their most comprehensive form, social security systems aim at providing nine types of benefit, namely, medical care, sickness and maternity benefits, family benefits, unemployment benefits, employment injury, invalidity and survivors' benefits, and old age benefits. (12)

One of the key global problems facing social security now is the fact that more than half of the world's population, workers and their dependents, are excluded from any type of social security protection. (13)

The problem is particularly acute in agriculture. ILO data show that fewer than 20% of the world's agricultural workers are covered by one or more of the nine standard contingencies. As high levels of poverty and income fluctuations are characteristics of waged workers in agriculture, they are especially vulnerable economically when loss of wage-earning power occurs in event of death, injury, ill health, invalidity or natural disasters. (14)

Few developing countries are able to provide comprehensive social security coverage with regard either to the contingencies or to the population covered. For these countries, improving social security protection is a key development objective. For rural populations, the standards contained in the ILO Safety and Health in Agriculture Convention, 2001 (No.184) represent an important step forward. Article 21 states:

*1) In accordance with national law and practice, workers in agriculture shall be covered by an insurance or social security scheme against fatal and non-fatal occupational*

*injuries and diseases, as well as against invalidity and other work-related health risks, providing coverage at least equivalent to that enjoyed by workers in other sectors.*

*2) Such schemes may either be part of a national scheme or take any other appropriate form consistent with national law and practice.*

### **Right to form organization**

In 1921 the ILO adopted a Convention extending to agricultural workers the same rights of association as for industrial workers. The challenge is to assure the full exercise of this right in practice. For agricultural workers, numerous obstacles remain. Trade union organizations are generally non-existent or weak in rural areas. Collective bargaining is often limited to large plantations. Seasonal, migratory and casual labour processes, with the added constraints of illiteracy, ignorance of workers' rights, and isolation render the task of organizing among rural workers particularly difficult. World bodies, however, have consistently recalled the need to apply in practice basic labour rights in rural areas and strengthen rural workers' organizations.

Agricultural workers are rarely protected by national labour law because the scope of the relevant legislation – a Factories Act, for example – is limited to industrial enterprises and their workforce. In Pakistan, agricultural sector is specifically excluded from general labour legislation. Labour laws are not applied on the pretext that employers and workers are unfamiliar with the law, and application is impractical. Typically, casual, temporary or seasonal agricultural workers do not have labour protection at all.

International labour standards are comprised of ILO Conventions and Recommendations which together form the International Labour Code. ILO standards span most subjects relevant to labour law and the social aspects of development and thus provide guidance to member States for the improvement of national labour legislation and social policy.

Many ILO Conventions apply to all workers. These include, but are certainly not limited to, ILO core labour standards on freedom of association<sup>vii</sup>, the right to collective bargaining, non-discrimination, equal pay for men and women workers, the abolition of forced labour, and the elimination of child labour. These core labour standards are often referred to as human rights at work.

Not only are they important in their own right, but they also serve as enabling rights. That is, they create conditions to allow access to other rights. Freedom of association is a prime example of that function. The right of workers and employers to establish and join independent organizations of their own choosing creates the basis on which social dialogue between employers and workers can take place, with a view to regulating terms and conditions of employment through collective agreements. Freedom of association is a fundamental human right which paves the way for improvements in social and labour conditions, for example, through collective bargaining.

The ILO's Rural Workers' Organisations Convention, 1975 says:



### Article 3

1. All categories of rural workers, whether they are wage earners or self-employed, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations, of their own choosing without previous authorization.
2. The principles of freedom of association shall be fully respected; rural workers' organizations shall be independent and voluntary in character and shall remain free from all interference, coercion or repression.
3. The acquisition of legal personality by organizations of rural workers shall not be made subject to conditions of such a character as to restrict the application of the provisions of the preceding paragraphs of this Article.
4. In exercising the rights provided for in this Article, rural workers and their respective organizations, like other persons or organized collectivities, shall respect the law of the land.
5. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Article.

### Article 4

- It shall be an objective of national policy (of the signatory nations of the Convention) concerning rural development to facilitate the establishment and growth, on a voluntary basis, of strong and independent organisations of rural workers as an effective means of ensuring the participation of rural workers, without discrimination as defined in the Discrimination (Employment and Occupation) Convention, 1958, in economic and social development and in the benefits resulting therefrom.

### Article 5

1. In order to enable organisations of rural workers to play their role in economic and social development, each Member which ratifies this Convention shall adopt and carry out a policy of active encouragement to these organisations, particularly with a view to eliminating obstacles to their establishment, their growth and the pursuit of their lawful activities, as well as such legislative and administrative discrimination against rural workers' organisations and their members as may exist.
2. Each Member which ratifies this Convention shall ensure that national laws or regulations do not, given the special circumstances of the rural sector, inhibit the establishment and growth of rural workers' organisations.

### Article 6

- Steps shall be taken to promote the widest possible understanding of the need to further the development of rural workers' organisations and of the contribution they can make to improving employment opportunities and general conditions of

work and life in rural areas as well as to increasing the national income and achieving a better distribution thereof.

Other core labour standards are:

- Freedom of Association and Protection of the Right to Organize Convention, 1948 (No.87); 142 ratifications as of 23 March 2005.
- Right to Organize and Collective Bargaining Convention, 1949 (No.98); 154 ratifications as of 23 March 2005.
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111); 161 ratifications as of 23 March 2005.
- Equal Remuneration Convention, 1951, (No. 100); 161 ratifications as of 23 March 2005.
- Forced Labour Convention, 1930 (No. 29); 164 ratifications as of 23 March 2005 and the Abolition of Forced Labour Convention, 1957 (No. 105); 162 ratifications as of 23 March 2005
- Minimum Age Convention, 1973 (No. 138); 135 ratifications as of 23 March 2005 and Worst Forms of Child Labour Convention, 1999 (No. 182); 152 ratifications as of 23 March 2005.

International labour standards, because they are formulated and adopted by representatives of governments as well as employers' and workers' organizations, offer member States valuable guidance on what minimum standards should apply in the world of work. Despite nearly universal recognition of the right to freedom of association, national legislation in Pakistan either denies the right to organize in agriculture, or excludes the sector from the relevant legal protections.

### **What is collective bargaining?**

A major factor influencing workers' rights and the terms and conditions of employment is their ability to bargain collectively with their employers rather than on an individual basis. When workers band together in trade unions and bargain together, i.e. collectively, their power is increased and they can secure better terms and conditions. Collective bargaining is a process of negotiation whereby terms and conditions of work are determined and rules created to govern labour relations. The participants in the process are employers and their organizations on the one hand, and worker representatives, usually from trade unions, on the other. The government is sometimes involved as a third party.

The process usually culminates in the conclusion of an agreement, known as a "collective bargaining (labour) agreement (CBA)", though it may also be given other names. Individual bargaining between an employer and her or his employees is *not* regarded as collective bargaining. Structurally, collective bargaining can take place at two levels: either at the enterprise (farm or plantation) level or the industrial or sectoral level. Issues which are collectively bargained can include wages, contracts of employment, labour contracting, maternity rights, health benefits, hours of work, leave, occupational health,

safety and environment, housing conditions, grievance procedures, transport of workers and elimination of child labour.

The right of workers to bargain collectively with their employers is supported by the ILO Right to Organize and Collective Bargaining Convention, 1949 (No.98), which is also linked to the right to freedom of association. With the adoption of the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up in 1998, it was agreed that all ILO member States, even if they have not ratified the Conventions in question, have an obligation, arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith the principles concerning the fundamental rights embodied in the core labour standards. (15)

### **Gender implications of collective bargaining**

Given the predominance of women in the agricultural sector and their vulnerable situation, it is particularly important that the gender implications of collective bargaining be understood and addressed. There are issues that in practice are of particular concern to women, which can be addressed through collective bargaining, such as equality of opportunity policies, equal pay for work of equal value, maternity leave and benefits, child care issues, reproductive health services. It is also important that the gender implications of apparently neutral issues for collective bargaining be assessed, including regarding wages, leave, overtime, bonus systems since these often in reality impact on women and men differently.

### **Importance of collective bargaining in agriculture sector**

Collective bargaining is undoubtedly one of the principal instruments for regulating industrial relations. In many countries including Pakistan, however, collective bargaining does not appear to be a significant feature in the agricultural sector, largely because the respective institutions are lacking, governments do not encourage such negotiations, and trade unions and other forms of rural workers' organizations are non-existent. It does not form part of the system of industrial relations. However, as more and more workers enter the rural labour market in search of wage employment, the importance of collective bargaining in the agricultural sector is increasing.

In general, CBAs are concluded in those sectors and enterprises where fulltime employment is significant and they tend to reflect the concerns of permanent workers. Other workers, whether daily, weekly, temporary or seasonal, may not be covered by such agreements, or may be only partially covered even if they form the majority of the total workforce.

Collective bargaining plays a more important role in plantation agriculture than in the sector as a whole. Because plantations are far better organized than the rest of the agricultural industry, the wages and terms of service set through collective bargaining have tended to be more favourable than those obtaining in the rest of the agricultural sector.

## **What is a trade union?**

A trade (or labour) union is an organization created and run by workers to protect and promote their livelihoods and labour rights in workplaces. A free trade union is independent of patronage. It is not a workers' organization established openly or secretly by an employer to control the actions or demands of the workers or an organization promoted by the elite or the authorities for the same purposes. Through collective bargaining with employers, trade unions work to improve their members' remuneration and conditions of work, and to ensure their security of employment. Unions also lobby and work with governments to maintain and improve labour rights, standards and policies. (16)

Workers' membership dues provide the financial basis of unions. Union policies are democratically decided at conferences and congresses by delegates elected by the members. Unions also provide workers with a means of expressing their views on wider societal, economic, ethical and political issues.

## **Levels of trade union organizations in agriculture**

The level of trade union representation among agricultural workers, and particularly workers who are not permanent, is generally low in most countries, and particularly among women agricultural labourers. Data on agricultural trade union membership are far from comprehensive. There are many reasons why agricultural workers remain poorly organized. Some of these difficulties are practical or financial, e.g. difficulties of organizing over large geographical areas, lack of transport for organizers, low membership dues resulting in only basic union services, and so on.

Often however legal and administrative barriers are placed in the way of workers wishing to exercise their basic human right to freedom of association by becoming unionized and joining the union of their choice. In Turkey, for example, the labour laws were only modernized in 2003 to cover agricultural workers. However, each new union membership application has to be approved by the public notary, for which a substantial fee is charged. This requirement makes it costly for unions, especially poor agricultural ones, to recruit members, and is an obstacle to freedom of association. The situation is even more critical for indigenous workers who are often denied the legal capacity to set up or join such organizations.

The fundamental right of both employers and workers to establish and join organizations of their own choosing as a means of defending their interests and improving their conditions is enshrined in the principle of freedom of association as expressed in the ILO Right of Association (Agriculture) Convention, 1921 (No.11) and the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No.87). Both these Conventions are part of the ILO International Declaration on Fundamental Principles and Rights at Work

However, violations of freedom of association among those working in agriculture are frequent, as evidenced by cases examined by the ILO Committee on Freedom of Association. Such violations range from regulatory restrictions and practical impediments to physical assaults and the assassination of trade union leaders and officials in rural areas. Cases of forced and bonded labour involving agricultural workers in a number of countries in several regions have been examined regularly by the Committee of Experts. The ICFTU also publishes an annual survey of violations of trade union rights around the world.

Furthermore, waged workers engaged by labour contractors or subcontractors often face difficulties in registering as union members. This is causing growing concern, due to the increasing numbers of workers hired by these labour supplying intermediaries. The trade unions, federations and confederations found in many countries in agriculture sector include:

### **National level**

- National agricultural trade unions having a membership composed solely of agricultural workers on commercial farms and plantations. This type of union is normally found in developing countries where agriculture is still the dominant economic activity. Such unions may organize workers across all agricultural sectors, or only have membership in specific crop sectors, e.g. tea, sugar, tobacco. These unions are often the largest workers' organization in a country. Plantation agriculture is often synonymous with large unions. Examples include the National Union of Plantation and Agricultural Workers in Uganda, and the Kenya Plantation and Agricultural Workers Union in Kenya.
- National general workers' unions bring together members from different industrial and commercial sectors and are found in countries where the size of the agricultural workforce is relatively small. Waged agricultural workers form sections or trade groups within these large general unions. Such unions are often found in developed countries. Examples include the agricultural workers' sections of Kommunal in Sweden, SiD in Denmark and the Transport and General Workers in the UK.
- There are also agricultural trade unions which are hybrid organizations representing both agricultural wage earners and self-employed farmers. For example, CONTAG in Brazil has some 9 million members (3 million waged workers and 6 million smallholders). Such unions usually have separate organizational and political structures for dealing with the dual types of membership. Sometimes the relationship between the two types of membership in the same organization is not easy, especially where small farmer members also employ waged labour.
- Some agricultural unions are organized on a federal state basis such as, for example, in India.

### **International and regional levels**

National unions may affiliate on a sectoral basis to global union (labour) federations such as the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco

and Allied Workers' Associations (IUF). The IUF network of 336 national affiliated unions organizes workers on farms and plantations, in food and drink manufacturing companies, in hotels, restaurants, and tourism and catering services around the world.

The IUF has targeted six major crops – bananas, cocoa, coffee, (cut) flowers, sugar and tea – for developing links between unions along the food chain and bringing together workers in all stages of the production process.

Global union federations work in turn with the International Confederation of Free Trade Unions (ICFTU), which is made up of national trade union centres. The ICFTU has 233 affiliated organizations in 154 countries and territories on all five continents, with a membership of 148 million workers. It has three major regional organizations, APRO for Asia and the Pacific, AFRO for Africa, and ORIT for the Americas. It also maintains close links with the European Trade Union Confederation (ETUC) and Global Union Federations.

Two other international trade union organizations made up of national centres also exist. The World Confederation of Labour (WCL) is an international trade union confederation uniting 144 autonomous and democratic trade unions from 116 countries with over 26 million members. Its head office is located in Brussels, Belgium. (17)

### **Lowest paid workers**

National or sectoral statutory or negotiated minimum wages aim to protect the most vulnerable and lowest paid workers so as to guarantee a living wage to all workers. As collective bargaining is often weak in agriculture, some form of national wage-fixing machinery, involving government, can be important to set minimum wage levels. Such wage-fixing machinery varies according to national systems and practice but is usually characterized by having a legal framework with some form of third-party arbitration between employers and trade unions, often binding, e.g. Wages Boards. Enforcement of minimum wages is widely thought to be difficult if not impossible in rural areas in view of the extent of surplus labour and widespread unemployment. The largely informal nature of labour contracts in agriculture seems to preclude the possibility of enforcing a non-market determined minimum wage. (18)

Government of Pakistan has announced Rs.6,000 per month minimum wages for unskilled workers but this applies only to industrial and commercial establishments employing 50 or more workers. The work that waged agricultural workers do is often badly paid and as a result many live below the poverty line. Also, there is a large gap between the average earnings of industrial workers and their agricultural counterparts.

### **Factors affecting wages**

Five major elements affecting wage levels in agriculture can be identified as; agricultural growth, food prices and food security, labour supply, non-farm employment, and minimum wages.

The classical “trickle-down” argument is that agricultural productivity growth can translate in a sustainable reduction of hunger and poverty, as farm incomes rise following productivity increases. Increased farmers’ incomes and higher agricultural workers’ wages create increased demand for basic non-farm products and services in rural areas. These include: tools, blacksmithing, carpentry, clothes, processed food bought from roadside kiosks. These goods and services are often difficult to trade over long distances. They tend to be produced and provided locally, usually with labour-intensive methods, and so have great potential to create employment and alleviate poverty.

FAO surveys in four African countries showed that between one-third and two-thirds of income increases in rural areas were spent on local goods and services. However, according to a recent study by Indian trade unions on the impacts of globalization on agricultural workers there has not been any automatic trickledown effect of increased productivity on wages in the agricultural sector. Positive changes in wage rates seem instead to be associated with bargaining by agricultural workers or with the availability of alternative work opportunities. Despite the nominal gains, real wages have in fact deteriorated as consumption goods that were earlier available free of cost (e.g. water, fuel, fodder, wild vegetables, and river fish) are now becoming marketable commodities. (19)

Worker households often spend over 70% of their cash wage on food. Rising food prices can push significant numbers of waged workers and their families below, or even further below, the poverty line. Improving earning power and livelihoods and ensuring food security are closely linked issues for agricultural workers and their trade unions.

Whilst noting that targets have been set at successive World Food Summits to improve food security globally, because of low earnings, agricultural workers lack the purchasing power to buy sufficient food from the market. Furthermore, changes in crop patterns from staple food grains towards higher priced cash crops have worsened food insecurity for many worker households. (20)

### **Wage difference affects migration**

Numerous studies show that migrants respond primarily to economic incentives. People move from poorer areas to wealthier areas for economic gain. Differences in average income or wage levels between rural and urban areas significantly affect migration between two locations. According to the World Bank, the urban-rural wage gap is huge in developing countries. An urban construction worker earns 8.8 times the rural wage rate and an urban steel worker in India earns 8.4 times the rural wage in that country. Wages are, in turn, kept high in cities by union pressure, by strict application of minimum wage laws or by the payment of relatively high wages by government and foreign corporations.

Along with the rapid spread of urbanization has come the prolific growth of huge slums and shanty towns. Today, slum settlements represent over one-third of the urban

population in all developing countries; in many cases they account for more than 60% of the urban total.

Surveys confirm that air pollution, congestion, social disturbances, crime and similar problems increase disproportionately with city size. The concentration of people also causes congestion and raises the cost of travel so that scarce resources like time and fuel are wasted. In addition, the mounting pressure on existing services means deteriorating quality and a reduction of what is available per person. As cities expand, the cost of providing basic services can rise enormously.

Huge and growing cities are a feature of many developing countries - it is predicted that by early next century 22 of the worlds largest 27 cities will be in developing countries. Whilst cities may have a certain lure in terms of 'bright lights' it is economic factors that largely explain this tendency towards urbanization - urban wages are very substantially higher than rural wages. (21)

### **Pakistan's labour policy 2002**

The labour policy issued by the Government of Pakistan lays down the parameters for the growth of trade unionism, the protection of workers' rights, the settlement of industrial disputes, and the redress of workers' grievances. The policy also provides for the compliance with international labour standards ratified by Pakistan. A forum, Workers Employers Bilateral Council of Pakistan (WEB COP), has also been established which facilitates the resolution of issues relating to bilateral rights.

Labour is a "concurrent subject", under the Pakistani Constitution: that means that both federal and provincial governments are responsible for that. In practice, in order to guarantee more uniformity, province may stipulate their own regulation according with the conditions set by the federal government. Other regulations are accepted only for specific needs of the province at issue.

Pakistan has ratified these ILO Conventions so far; Convention 29 Forced labour, Convention 87 Freedom of association, Convention 98 Collective Bargaining, Convention 100 Equal Remuneration, Convention 105 Abolition of forced labour, Convention 111 Discrimination in employment and occupations, and Convention 182 Worst Forms of child labour. Pakistan has not ratified the Rural Workers' Organizations Convention, 1975, yet.

### **Agriculture: The largest employer**

Based on an estimated population of 149m people in mid-2004 and a participation rate of 30%, the government estimates the size of the labour force to be about 44m, 67% rural and 33% urban. The employed labour force is defined as individuals of at least ten years of age who work for at least one hour during the reference period and are either "paid employees" or "self-employed". Agriculture remains the largest employer in Pakistan, employing 42.1% of the total labour force. The agricultural workers, however, are not protected by national labour laws.



## **New Labour Policy**

In September 2002 the government adopted a new labour policy that aimed eventually to consolidate more than 50 existing labour laws into just seven. Of these, a new Industrial Relations Ordinance 2002 (IRO 2002) was passed in October 2002 to replace the IRO 1969. However, the trade unions strongly criticized both the policy and the IRO 2002. (PPP-led coalition government has announced repealing of IRO 2002)

The unions opposed the IRO 2002 on various grounds. They pointed out that it has curtailed the power of courts to order the compulsory reinstatement of workers after wrongful termination, allowing them instead to order only compensation. Furthermore, courts may no longer send employers to prison; they may order fines of up to only Rs50,000. Unions claimed that their registration process has been made more difficult.

They also argued that a designated collective-bargaining agent could previously have ordered a re-audit of the company's accounts and that trade unions could have presented a panel of auditors from which the government would choose one; this was no longer possible under the IRO 2002. The IRO 2002 also curtailed the power of the National Industrial Relations Commission, and proposed to abolish the labour appellate tribunal. Several joint negotiating forums have been eliminated and replaced with a workers' council that promises little. The government claimed that those moves were meant to improve dialogue and reduce litigation.

## **Salient features of Labour policy**

The Government's vision for Labour Policy 2002 generally focuses on industrial peace by "strengthening bilateralism, elimination of animosity and antagonism by fostering a trust-relationship between employer-employee and promoting social dialogue." The government is of the view that both industrial growth and decent working conditions can be achieved only through peace and tranquility in the industrial sector. This is only possible if there is an awareness and understanding between workers and employers of their reciprocal rights and obligations with all-round commitment to higher productivity.

## **Objectives**

Hence, the Labour Policy has been developed within the following framework of Objectives and Initiatives:

1. Support to bilateral and tripartite mechanisms for policy formulation, self-regulation, and peaceful resolution of disputes.
2. Regulatory authority of government to be exercised only when bilateral mechanisms fail to resolve disputes.
3. Consolidation/simplification of labour laws.
4. Structural legislative changes to provide easy access to speedy justice in the labour sector.
5. Promotion of employees' social security and social insurance programs and improvement of labour welfare institutions namely; Workers Welfare Fund,

- Employees Old Age Benefit Institutions and Provincial Employees Social Security Institutions.
6. Progressive extension of labour laws and welfare measures to informal and unorganized sectors.
  7. Special emphasis on workers' children education.
  8. Combating child and bonded labour.
  9. Elimination of gender discrimination to reinforce gender equality.
  10. In order to attain these objectives and build upon these initiatives, concerted action by workers, employers and government is necessary. On its part, government pledges to take prompt and comprehensive actions.

Different sections of **Part-I of the Labour Policy 2002** under Principles, Aims and Objectives mention workers in the agricultural sector, informal sector and seasonal workers along with child labour and bonded labour as under:

#### **Elimination of Child Labour and Bonded Labour**

**Section 20:** Targets and activities set out in the National Policies and Action Plans to Combat Child Labour (May 2000) and for Abolition of Bonded Labour (2001) need to be actively implemented. Additionally, Pakistan, by ratifying ILO Convention 182 has accepted the obligation to enhance age limit to 18 years in respect of worst forms of child labour, for entry into the labour market.

#### **Workers in the Agriculture Sector**

**Section 21:** About one half of the employed labour force is engaged in the agriculture sector. An inter-ministerial committee shall be constituted to formulate a package of labour welfare measures for the employees in the agriculture sector. The committee shall make recommendations, in the first instance, for provision of certain benefits to the workers in corporate agriculture farming.

#### **Informal Sector and Home-based Workers**

**Section 22:** About two-third of the non-agriculture employed labour force in Pakistan is in informal sector. A large number, especially women are engaged in home-based work. Currently, the labour in the informal as well as the home-based sector is not covered by any labour welfare legislation. The Labour Policy aims at gradual extension of coverage of labour welfare laws to the workers of the informal/home-based sector.

#### **Seasonal Workers**

**Section 23:** The seasonal workers are generally not benefiting from labour welfare laws. The Government will take steps to extend appropriate social protection to them.

#### **Regulation of Contract Work**

**Section 24:** The rights of contract labour in an establishment will be protected through a written agreement between the employer and the contractor, laying down responsibilities and liabilities of either or both of them in this regard. A system of licensing for contractors will be introduced so that contract workers are covered by labour laws and qualify for labour welfare measures.

## **Occupational Safety and Health**

**Section 30:** Occupational safety and health of labour is required to be given the highest priority. A law covering all workplaces will be enacted and a National Tripartite Occupational Safety and Health Council will be established to meet the objective of providing adequate safety and ensuring compensation to workers. (22)

**Part-II of the policy** regarding Action Plan, however, does not mention any action plan particularly relating to agricultural workers except that a comprehensive Social Insurance Scheme for old-age and health benefits will be introduced on self-registration/voluntary basis to allow workers in the formal and informal sector of economy to benefit from it.

## **Rural workers deprived of social protection**

Agricultural/rural workers are deprived of, among others, the following particular benefits as the laws are meant for industrial workers and do not apply in agricultural sector:

**1- The Workmen's Compensation Act.** This applies broadly to labourers earning less than Rs5,000 per month and entitles them to compensation for injuries resulting from on-the-job accidents. Employers are liable if incapacity lasts beyond a minimum of seven days. This law was modified with retroactive effect from July 2001.

**2- Provincial Employees Social Security Ordinance, 1965.** The main objective is to provide comprehensive medical cover to the secured workers and their family members including parents and to provide financial assistance in case of sickness and employment injuries. The Social Security scheme is implemented on the basis of the contributory principle. The main source of income is the Social Security Contribution, which is collected under Section 70 of the Ordinance from the employers of the notified industrial and commercial establishments.

**3- Workers welfare fund ordinance, 1971.** Through the Ordinance, the government has constituted a fund called "Workers' Welfare Fund" for the welfare of workers. The Fund is applied to:

- The financing of projects concerned with the establishment of housing estates or construction of houses for workers; and
- The financing of other welfare measures including education training, re-skilling and apprenticeship for the welfare of workers.

**4- Employees old age benefits act, 1976.** The Employees Old Age Benefits Act, 1976 (the Act) is applicable to every industry or establishment where ten or more persons are employed directly or indirectly. This statute intends to provide security and benefit for old age to employees of industrial, commercial or other organizations covered by it. The Employee Old Age Benefits Institute (the Institute) formed under it collects and receives

contributions, donations, bequests and all other payments. It deals with pensions, invalidity pension, widow's pensions, old age grants and other benefits, out of contribution payable to the Institute by every employer of industry.

**5- Payment of Wages Act, 1936.** This act determines the mode of payment of salaries and wages to the industrial workers.

**6- Minimum Wages Ordinance, 1961.** Specifies the minimum wage to be paid to different categories of workers.

**7- Punjab Fair Price Shops Ordinance, 1971.** Provides criteria for the establishment of fair price shops at industrial units where 100 or more workers are employed.

**8- Industrial Relations Ordinance, 2002.** It provides framework for the industrial relations between management and the workers. It regulates trade union activities.

**9- Hazardous Occupations Rules, 1978.** Gives guidelines for protection of workers against certain hazardous occupations in the factories.

**10- Employment of Children Act, 1991.** Regulates the employment of children.

**11- Maternity Benefit Ordinance, 1959.** Provides certain facilities to those female employees, who are expectant.

### **Working Hours**

Under the Labour Policy the Factories Act limits adults to an eight-hour working day or a 48-hour working week. The only exception is seasonal businesses, which operate no more than 180 days a year. In those businesses employees are limited to a ten-hour working day or a 60-hour working week. Many foreign companies observe a five-day week of 42-45 hours. Government offices have a five-day working week of 42 hours. There is no discrimination about working hours on the basis of sex.

### **Wages and Benefits**

The Tripartite National Wage Council was set up in 2000 to determine the minimum wage for different business activities, industries and occupations in different provinces. On the council's recommendations, in October 2001 the government approved PRs2,500 per month as the minimum wage for unskilled workers by amending the West Pakistan Minimum Wage for Unskilled Workers Ordinance of 1969.

The minimum wage was given retrospective effect from August 2001, and it applies to all establishments. The new minimum wage included the existing cost-of-living allowance of PRs550-650. Although the figure is higher than the PRs1,500 minimum wage that had been set in 1993, it is lower than the PRs3,000 per month proposed by the government's

labour adviser. The government also intends to revise the minimum wage every three years instead of every nine years, as previously.

Nevertheless, the actual average monthly wage had been around this level, since inflation has put increasing pressure on employers to raise wages: the average wage for unskilled workers in July 2004 was PRs3,000, with provisions for a one-day weekend every week on Sunday and a half working day of four hours on Friday before afternoon prayers. In the market of daily-wage unskilled workers, wages are PRs90-185 per day.

Mandatory benefits for workers include bonuses, allowances for education of employees' children and pension contributions. Employees are also entitled to 14 days of paid leave plus 10 days of casual leave during each calendar year and 16 days of sick leave at half the daily wage during every 12 months of service. Foreign-owned companies generally provide more generous fringe benefits (such as healthcare, retirement plans and other privileges, including employee-share-ownership plans) than do locally owned firms. The minimum wages in Pakistan might seem low compared with those of many other Asian countries. (23)

### **Guaranteed rural employment: Indian model**

The National Rural Employment Guarantee Act (NREGA, also known as National Rural Employment Guarantee Scheme, NREGS) is Indian legislation enacted on August 25, 2005. The NREGA provides a legal guarantee for one hundred days of employment in every financial year to adult members of any rural household willing to do public work-related unskilled manual work at the statutory minimum wage.

This act was introduced with an aim of improving the purchasing power of the rural people, primarily semi or un-skilled work to people living below poverty line in rural India. It attempts to bridge the gap between the rich and poor in the country. Roughly one-third of the stipulated work force must be women.

The act was brought about by the UPA coalition government headed by Dr. Manmohan Singh. The promise of this project was one of the major factors that gained UPA victory in the Indian general election, 2004. Dr. Jean Drèze, a Belgian born economist, at the Delhi School of Economics, has been a major influence on this project.

Central Government shall meet the cost towards the payment of wage, 3/4 of material cost and certain percentage of administrative cost. State government shall meet the cost towards unemployed allowance, 1/4 of material cost and administrative cost of State council.

According to the Act, adult members of rural households submit their name, age and address with photo to the Village Panchayat. The panchayat registers households after making enquiry and issues a job card. The job card contains the details of adult member enrolled and his /her photo. Registered person can submit an application for work in

writing (for at least fourteen days of continuous work) either to panchayat or to Programme Officer.

The panchayat/programme officer will accept the valid application and issue dated receipt of application, letter providing work will be sent to the applicant and also displayed at panchayat office. The employment will be provided within a radius of 5 km; if it is above 5 km extra wage will be paid.

If employment under the scheme is not provided within fifteen days of receipt of the application daily unemployment allowance will be paid to the applicant.

The scheme started from February 2, 2006 in 200 districts (out of a total of 593 in the country) will cover all districts in five years. The government announced the addition of another 130 districts in the financial year 2007-8.

For financial year 2006-2007 budgetary support for NREGA is Rs 11300 crores. The Congress-led UPA government decided to further extend this scheme across the country at the beginning of the financial year 2008-09, the year the government faces a new general elections. Though the government has already planned to extend the scheme, country's supreme audit institution, the Comptroller and Auditor General (CAG) of India, in its performance audit of the implementation of NREGA found out "significant deficiencies" and had even advised the government to plug these shortcomings before extending the scheme further. However, in April 2008, NREGA expanded to cover the entire India.

The main importance of this Act is that it is a good social safety net. The problem faced by a large number of people in the rural areas is the lack of employment during certain times of the year. Many communities in such areas have to habitually migrate seasonally to other parts of the country in search of work. This annual migration is a painful and disruptive process – it destroys the fabric of the community, the family lives of the migrants, the possibility for education of the children and perhaps worst of all, the possibility for development of their own area.

These forced migrants are subject to some of the worst exploitative conditions of work and living conditions. Those left behind do not have enough to eat or the barest money for other basic necessities, and although there may be no famine, there is surely a slow malnutrition and starvation. Even when communities do not migrate they suffer a great amount of distress at such times. Their food intake is reduced, the children are withdrawn from schools, they go into debt, they are unable to attend to their health problems. At such times there is no safety net, no social security system, which would help to relieve their distress.

Most people in the rural areas work in the unorganized or informal sector. The NREGA is an instrument whereby poor people in the rural areas can begin to organize themselves to ask demand work. However, the Act as it is now framed will not create full employment nor become sustainable because employment being provided under the Act

is only physical labour—mainly digging earth. This Act will become much more powerful if it is viewed in a different way and used as a generator of employment.

According to critics, the Act should promote skilled work. Most of workers in the rural areas do have skills by which they earn their livelihoods. Promoting these will enable the villages to develop and bring new opportunities to the villages. This could include: Work linked to agriculture such as agro-processing, food processing, watershed development; artisan work such as weaving, printing, leather work, carpentry, plumbing; services such as teaching, health work, child care, old age care, has a growing demand and can be included; works of public interest can be sponsored by government such as environmental work like nursery raising tree-plantation, cleaning campaign, recycling, water harvesting, operation and maintenance of water resources such as hand pumps, pipelines.

The work to be given under NREGA should be planned locally. Often employment at the local level can be met by fulfilling a local need such as for irrigation by creating local water harvesting structures, or leveling and clearing waste land or tree plantations and tending in forest areas, or mining local stone and so on. It can also be something that meets local needs such as toilets or health center or drinking water. The decisions for which works are to be taken up should be decided at the local level. The Gram Samitis (village committees) should prepare the village development plans cost estimates of such works and the budget could be allocated to the Samitis.

### **Law for unorganized workers in Madhya Pradesh**

Self Employed Women's Association is working with informal sector workers in 10 districts of Madhya Pradesh for the last 20 years and has so far organized 175,000 women workers mainly engaged in beedi and incense stick rolling, readymade garments stitching, tendu leaf plucking and construction. SEWA is the single largest and strongest trade union of informal sector workers in Madhya Pradesh.

The Government of Madhya Pradesh formed a task force in 2001 under the chairmanship of Smt. Renana Jhabvala. Smt. Manorama Joshi was included as a member in 11-members task force. The task force submitted its report to the Government of Madhya Pradesh in 2002. On the recommendation of the task force report, the government formulated the Bill which was approved by the Union Government in 2004. SEWA suggested:

- To formulate the rules and regulations of the Act for informal sector workers giving proper representation to SEWA and formulate policies soon.
- Set up a Welfare Board for informal sector workers. In this Board proper representation should be given to male and female workers and labour organizations.
- Social security benefits like- health, education, insurance, housing and employment opportunities should be included under the Act.
- The benefits of law should reach to the informal sector workers of MP, hence it demands the quick and simple implementation of the law.

- Every worker in MP should get identity card. (24)

A report about a protest in rural Rajasthan against corruption by government agencies and contractors implementing the Prime Ministers Village Road Program and the National Right to Employment Guarantee Act says that rural workers are not being paid minimum wages and numerous clauses of the Act are being flouted. The Pradhan Mantri Gram Sadak Yojana was launched in December 2000 with the aim of providing all-weather access to unconnected habitations with a population of 500 and above by the year 2007. It is a 100% centrally sponsored scheme with support from World Bank and Asian Development Bank.

27-30% of the investment on this project was to be on labour. With investment levels of Rs. 2000- Rs.2500 crores per year, it was envisaged that the project would provide 6.5 crore human days and 0.56 skilled human days of work per annum. The technology used was to be labour - oriented, making maximum use of local labour and simple tractor-based equipment.

The work though is contracted out and is being done by labour replacing technology. Even the few labour employed are not paid the legal minimum wage, Rs.73. In spite of the rural unemployment, crores of rupees in the name of labour never reach them.

The root of this problem lies in the system of contracting. Through the Contract Labour (Regulation and Abolition) Act, 1970, the State recognizes that the contracting system works against the interests of the labour and subjects them to oppression. At the same time, the public sector has 50 to 60 per cent contract workers, and more and more work is being contracted out.

The workers complained to the district collector and the labour inspector, but no investigation has been done yet. Mazdoor Kisan Sangatan has launched a campaign in the villages to fight for the workers rights. The Sangatan sat on a protest at the Collectorate to assert its demands at the Public Works Department, which is the implementing agency for the project. (25)

They also said that the Pradhan Mantri Sadak Yojana mentioned that most of the work should be done by labour and simple machines, but technology is being used replacing labour. The Labour Commissioner's Office has no power to dictate that machines should not be used. It is under the jurisdiction of the Central Government. The executive engineer refused to let the workers in, but a few managed to enter into the office. There was a huge debate with the workers when he said wages were paid according to the work they did.

### **Machines stealing labour's work and wages**

The Central Government's presentation to the World Bank says that the rural roads are being constructed for the empowerment of people. Improved access to hospitals, schools, markets and generation of rural local employment are cited as the main reasons. It says



at investment levels of Rs. 2000-2500 crores per annum, 6.5 crore man days (unskilled), 0.56 crore man days (skilled) will generated per annum. 27-30% of cost of roadwork is the labour component.

So, there is work for 30 people for 100 days a year on every kilometer of road being constructed. On a rural road (average 3 km long), you should be able to find 90 people working for 100 days a year. But if you look at the roads being constructed, you would not find more than 20 people at any point of time. Most of the work is being done by huge machines and very few labour.

Who is accountable for this? Each department pushes this into somebody else's sphere and there is no one accountable in the entire system. The plan is made by the Central Government, executed by the PWD and district level agencies who contract it out.

Unfortunately, middle class mindset has no problem with the use of these machines. We have come to believe that machines are better, faster, smoother and make better roads faster. One needs to ask why we need a road, a rural road. Why does it need to be made fast. If a village had no access to the main road for 60 years after independence, what is the hurry to construct a road, now. Especially when it supposed to have been planned so as to generate work, why bring in machines replacing labour.

Is it so the rich in the villages can no longer wait to run their cars and motorcyces on these roads subsidized by a poor workers' sweat. What does a road mean to a poor villager? It simply means work and the government acknowlegdes it, too. Their work is stolen, their wages are stolen and there is no one accoutable for this. (26)

## **Recommendations**

Agriculture remains the largest employer in Pakistan. The agricultural workers, however, are not protected by national labour laws. The Labour Policy 2002, under its objectives, says that "progressive extension of labour laws and welfare measures to informal and unorganized sectors" shall be taken. According to Section 21 of the policy, about one half of the employed labour force is engaged in the agriculture sector. An inter-ministerial committee shall be constituted to formulate a package of labour welfare measures for the employees in the agriculture sector. The committee shall make recommendations, in the first instance, for provision of certain benefits to the workers in corporate agriculture farming. Section 23 says the seasonal workers are generally not benefiting from labour welfare laws. The Government will take steps to extend appropriate social protection to them. Part-II of the policy regarding Action Plan, however, does not mention any action plan relating to agricultural workers.

The following measures are suggested for formulating an "Alternative Labour Policy for Rural Workers":

- Pakistan should ratify the ILO's Rural Workers' Organizations Convention, 1975, with immediate effect so that legislation for protection of rural workers' rights could be initiated.
- All categories of rural workers, whether they are wage earners or self-employed, should have the right to form and join organizations of their own choice.
- Despite nearly universal recognition of the right to freedom of association, national legislation in Pakistan either denies the right to organize in agriculture, or excludes the sector from the relevant legal protections. Rural workers should be brought under national labour laws and legal protection.
- Lack of governance in rural areas is an important issue. The role of collective bargaining in extending good governance should be recognized and rural issues should be explicitly included in the national employment policy. There should be horizontal linkages within government to ensure all relevant agencies are included in policy discussion on rural areas. All departments need to address rural/agricultural issues.
- The work that waged agricultural workers do is often badly paid and as a result many live below the poverty line. The agricultural workers should be entitled for minimum wages under the law.
- The need to increase small holders' wages and improve working conditions should be taken into account in poverty eradication programs and strategies.
- There is a large gap between the average earnings of industrial workers and their agricultural counterparts. Differences in average income or wage levels between rural and urban areas significantly affect migration between two locations. The differences between average earnings should be removed to discourage migration of rural labour to urban centers.
- What comes over loud and clear is the massive lack of investment by government over many years in rural areas. Large scale investment is required to build and improve infrastructure in rural areas, and to provide employment to rural labour.
- The laws relating to occupational safety and health and working conditions should be further extended to rural/agricultural workers who work in the third most hazardous sector i.e. agriculture.
- It is well-known that trade and agriculture are inextricably linked. Current trade agreements and proposals for agreements are clearly not delivering for rural workers or the urban poor and are widening income gaps. Focusing simply on removing trade barriers will do more harm than good. Liberalization brings into play multiple factors that are often beyond the control of importing countries. Trade agreements must be beneficial to rural and urban poor.
- Measures should be taken for social protection and to improve living standards, health care, basic services, occupational health and safety for rural workers.
- Measures should be taken to improve workers' wages and farmers' incomes so that their children are not obliged to work to try and help get their families enough to live on.
- Initiatives like the National Rural Employment Guarantee Act in India can be replicated in Pakistan.
- Heavy machines engaged in construction work in rural areas can be replaced by rural labour force to provide employment to un-employed rural workers.

- Civil society organizations should support the development and promotion of an agenda for fair and decent work in agriculture in all relevant forums. They should also support the application of the ILO Fundamental Principles and Rights at Work.
- The FAO and international agricultural agencies must recognize waged agricultural workers as a group distinct from farmers, and must work with these workers and the trade unions that represent and organize them.
- There must be recognition that waged agricultural workers and their trade unions;
  - i. already play an important role in promoting sustainable agriculture and rural development, and world food security; and
  - ii. could in future play a much greater role in promoting these, given proper political, technical and financial support.
- Recognizing the importance of employment for pro-poor growth in rural areas, the FAO and ILO should encourage development partners to assist countries to mainstream employment into investment policy and poverty reduction strategies, including those focused on rural development.

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