

Labour Legislation and The Transformational Influence of the 18th Amendment in Pakistan

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Abstract

This study takes a critical view of how Pakistan's employment laws have changed over the years, especially after the 18th Amendment to the Constitution. It draws on existing research to trace how labour laws and the role of government have developed from the country's early days to now. This study focuses on how power and accountability have shifted in Pakistan after the 18th Amendment, especially when it comes to labour laws. It looks at how both national and provincial governments have handled labour legislation since the amendment, paying close attention to policy changes, how these laws are enforced, and how workers' rights are protected at different levels of government. The study also looks at how the 18th Amendment has shaped the way employers and workers interact, how well workers' rights are being protected, and how employment laws are being managed overall. It brings attention to some key challenges that have come up since the amendment like confusion over legal responsibilities, a lack of coordination between federal and provincial governments, and differences in labour laws from one province to another. There's also a clear need to make these laws more consistent across the country. In the end, the research offers a clearer picture of how Pakistan's labour system and style of governance are continuing to grow and change.

Keywords: Labour Legislation; 18th Amendment; Pakistan's Constitution; Legislations; Federalism.

Introduction

The 18th Amendment to Pakistan's Constitution 2010 indicated the significant change in governing system of the country. It shifted a large power of authority from the federal government system to its provinces, that made them able to control their own affairs more efficiently without interference. Although the amendment didn't specifically target labour laws, it had a considerable influence on how they are developed and enforced. With control over key areas like education, healthcare, and labour handed to the provinces, each region gained the ability to create and implement its own employment policies. Consequently, all provinces prepared their own policies, which led inconsistencies in labour legislation and implementation across the country (Tunio & Nabi, 2021; Malik & Mufti, 2022; Rana, 2020).

Despite the potential benefits of the decentralization process, it came with several challenges. Many federal officials were hesitant to completely hand over the necessary resources and authority to provinces, which slowed down the transitional process and caused of weaknesses the amendment's intended impact (Shah, 2012; Rana, 2020). Additionally, a promising initiative introduced in 2010 to streamline labour regulation in areas like Employment environment, worker

health and safety, and staff training and growth, workers' welfare, and social safety nets was abandoned after the amendment's passage. Nevertheless, some long-standing welfare programs continued to provide crucial benefits such as social security, healthcare, financial support, and pensions (Zaidi, 2015; ILO, 2015).

Most of the existing studies tend to focus on legal and administrative dimensions of this legislation and overlooked the practical realities and their implications for labour welfare and regulatory enforcement. A significant gap in the current research lies in the insufficient examination of how decentralization has affected labour rights and protections on the ground. This article aims to fill this gap through the assessment of the 18th Amendment comprehensively to see its impacts on labour legislations of Pakistan. It also investigates how the decentralization of labour regulation has influenced the industrial relationship in Pakistan. For this purpose, researcher analyse the legislative frameworks introduced by the provincial governments after 18th Amendment to assess the effectiveness of enforcement strategies and explore the role of trade unions in a decentralized system. This article also employs comparative perspective that highlights the critical need to balance provincial autonomy with the establishment of national standards to ensure uniformity across all provinces and safeguard labour rights.

Research Methodology

This study employs a qualitative desk-based research design that draws on secondary data from the government, primarily secondary data drawn from official sources (e.g., government publications, statistics of the labour market, policy documents, international guidelines issued by ILO) and reviewed academic literature, reputable media coverage, and legal texts to provide depth in understanding recent changes. It engages with national legislation, international labour conventions, and a myriad of secondary materials such as scholarly journals and official reports to provide a comprehensive, multidimensional analysis. Similar labour reforms and decentralization processes in neighbouring South Asian countries (e.g., India and Bangladesh) were examined through the comparative lens. A thematic analysis was also carried out to identify the main trends, challenges, and opportunities that have emerged as Pakistan's system of labour governance continues to evolve. This included a close look at provincial labour laws, how enforcement is being handled, and the role of key stakeholders since the 18th Amendment. The aim was to make sure the findings are rooted in credible data and genuinely reflect the current realities on the ground.

Historical Approach

Legal Framework of Pakistan has inherited some colonial legislation regarding labor from when India and Pakistan were one, but since independence, socioeconomic conditions, industrial growth, rapid population and labor force growth, an increased strength of trade unions, better literacy rates, and government focus on development have all shaped labor policy in the country; successive governments have put forward a number of policies to meet these changing needs. Being a member of ILO, Pakistan has harmonized its labor laws with standards set out in the Core Conventions. Before the 18th Amendment, labor matters were considered a shared responsibility between federal

and provincial authorities. At the same time, whereas governments and prior governments were in charge of drafting and enforcing legislations, it is now the government's obligation to develop and execute labour market rules. Pakistan's history has been complex, with different political, constitutional, and economic difficulties since its inception in 1947. The following is a quick review of Pakistan's main achievements and advances. The partition of British India in 1947 led in the formation of Pakistan, which was made up of Muslim-majority provinces. The nation was first separated into two parts: East Pakistan (now Bangladesh) and West Pakistan (now Pakistan). Pakistan's first constitution, adopted in 1956, established the country as an Islamic republic with parliamentary democracy. The Constitution establishes the authorities of the federal government and the states, as well as a system of governance. To overcome ethnic and regional problems, a unitary strategy was implemented in 1955 to encompass the all four provinces of West Pakistan including Punjab, Sindh, KPK, and Baluchistan as the only operational unit. This shift centralised authority in the federal government while reducing local autonomy. Pakistan established a new constitution in 1962, replacing its parliamentary system with a presidential style of government. This constitution curtailed the federal government's power while also limiting municipal sovereignty. Following the 1971 Bangladesh Liberation War, Pakistan adopted a federal parliamentary system under the 1973 Constitution. The new constitution created boundaries of jurisdiction between the federal and state governments while also extending particular privileges to states. Despite legislative protections for local autonomy, the establishment of power and subsequent military regimes' interference have eroded local authority. These initiatives have raised political tensions and sparked requests for more regional autonomy, particularly in the provinces like Balochistan and KPK (Rabbani, 2011). The 18th Amendment, done in 2010, represents a watershed moment for the country and its federal government system. This amendment delegated notable responsibilities from the central body of government to the states, boosting local autonomy while maintaining the union. A legislative system of government was reinstated, the Concurrent Constitution was repealed, and local sovereignty over natural resources was increased. Despite decentralisation, Pakistan continues to have issues in executing efficient governance. Decentralisation, resource distribution, intergovernmental integration, and federal-state collaboration are still hotly debated issues (Adeney & Boni, 2023).

Decentralization of responsibility and authority

The 18th Amendment to Pakistan's Constitution represented a watershed moment in the country's road towards national and provincial separation, moving the federal government's key responsibilities and powers to the provinces. The most notable aspect of the 18th Amendment is the transfer of governing responsibilities from the federal level to the state level. Education, health, and labour were shifted from a parallel set of legislation to a distinct set, allowing local governments more control over these issues. The administration empowers local governments to oversee and make decisions in their areas of expertise. This freedom enabled each state to tailor its policies and programmes to its own requirements, priorities, and economic circumstances. In addition to its constitutional powers, the 18th Amendment sought to increase state sovereignty.

The National Finance Commission (NFC), which determines how financial resources are distributed between the federal government and the states, has grown in importance. This budgetary sovereignty enabled each state to freely finance and carry out development programmes. The 18th Amendment emphasised the significance of Pakistan's local government system. The formation of local government organisations in each state was intended to simplify decision-making and increase citizen engagement at the national level. The project's goal is to bring the administration closer to the people and tackle local problems more efficiently (Adeney & Boni, 2022). The 18th Amendment introduced the division of duties and powers between federal and provincial governments with the focus shifting from centre to a more decentralized approach which empowers the state and municipal governments to deal with regional imbalances, social development and improving service delivery. Although decentralization is an important part of the partnership, its implementation has proven difficult due to large local and regional limits, lack of clarity about duties and responsibilities, and unwillingness on the part of unwanted interests to cede influence, all of which requires cooperation among stakeholders to ensure good governance.

Pakistan continues in a decentralized direction by strengthening state and local government institutions, increasing budgetary autonomy, improving services, and encouraging greater citizen participation (Rana, 2020).

Impact of the 18th Amendment

The 18th Amendment moved Pakistan from national to provincial labor governance that transferred more legislative power back to the provinces, which was intended to allow greater local flexibility but has created serious enforcement and uniformity problems across provinces with uneven capacity for provincial control and implementation (72 percent of workers employed in the informal economy where labor laws are not enforced (Pakistan Bureau of Statistics, 2021), while the International Labour Organization has noted that decentralization has made it harder to sustain consistent national coverage of labour inspections across provinces (International Labour Organization, 2023)). There are many examples of this systemic challenge for example, even though wage rates were revised for various sectors by Sindh Minimum Wage Board (Government of Sindh Labour Department, 2022), they remain unenforced. Weak institutional frameworks, a lack of coordination mechanisms among provinces, and inadequate resource allocation have compounded the problem, leaving many workers specially migrants and informal workers, vulnerable to exploitation.

Post 18th Amendment and Provincial-Level Labour legislation

According to the 18th Amendment of Pakistan's Constitution, which delegated significant powers to the states, each state has the authority to enact its own legislations based on its requirements and goals. The following is an overview of the labour legislations in Sindh, Punjab, Balochistan, Khyber Pakhtunkhwa (KP), and Gilgit-Baltistan after the 18th amendment (Lanjwani, Memon & Sami, 2021).

Sindh

Sindh Industrial Relations Act of 2013: This includes issues with Sindh industrialists' connections with trade unions, collective bargaining, and labour dispute settlement.

The Sindh Factories Act of 2015: It controls factory establishment, administration, and working conditions, as well as requirements for worker safety, health, and welfare.

Sindh Shops and Establishments Act, 2015: The Sindh Shops and Establishments Act of 1959 regulates working conditions, working hours, and other rules pertaining to shops and retail outlets.

Punjab

Punjab Industrial Relations Act, 2010: This Act lays down the industrial relations system for Punjab, including union formation, collective bargaining, and dispute resolution.

The Punjab Shops and Establishments Ordinance of 1969 controls opening, closing, and working hours of shops and establishments in Punjab, along with terms and conditions of employment for workers employed by those shops and establishments.

Balochistan

Balochistan Industrial Relations Act (2012): This Act regulates industrial relations, including trade union organization, collective bargaining, and dispute resolution;

The Balochistan Shops and Establishments Act of 2013: This regulates working conditions, working hours, and other aspects of the shops and commercial enterprises in Balochistan.

Khyber Pakhtunkhwa (KP)

KP Industrial Relations Act, 2010: KP Labor Code regulates labor relations in KP such as the establishment, administration and representation of trade unions, collective bargaining, dispute resolution.

Khyber Pakhtunkhwa Factories Act 2013: The Khyber Pakhtunkhwa Factories Act of 2013 governs formation, administration and working conditions of factories including measures for worker safety, health and welfare.

Gilgit-Baltistan

The Gilgit-Baltistan Shops and Establishments Act, 2015: It regulates working conditions, working hours and other aspects of shops and commercial establishments in the region.

Gilgit-Baltistan Industrial Relations Act: Gilgit-Baltistan, like other states, may have legislations controlling industrial relations, although the specifics may differ. This measure represents each state's unique work settings and goals, while also addressing common concerns such as labour relations, workplace safety, and working conditions. Efforts have been taken to guarantee that fundamental labour rights and international standards are followed, however precise regulations and enforcement procedures may vary by state.

National-level Labour legislation Employment Agreement

Article 18 of the Constitution guarantees the right of every individual to join a trade union (Amin & Raza, 2022). The Industrial and Business Employment (Standing Orders) of 1968 mandates the creation of labour agreements between employers and workers. This legislation applies to enterprises with 20 or more employees, offering job security. Workers like domestic staff, agricultural labourers, and temporary contract workers often lack written contracts, though oral agreements or historical practices may still be enforceable by court. Written labour contracts typically outline key employment terms such as job type, duration, salary, benefits, and conditions of employment.

Impact of the 18th Constitutional Amendment on Labour Legislations

For permanent employees, termination without just cause requires either a notice of month or payment equivalent to one month's pay, calculated according to the average of the earnings of previous three months. This provision does not apply to workers in other sectors, who do not receive salary in lieu of notice. Termination notices must be in writing and clearly state the reasons for dismissal. Employees who contest their dismissal can seek justice under labour legislation, and employers are required to issue written termination within three months of the issue, employees can raise the matter through the store manager or their union. Courts hold the authority to intervene in cases of employer misconduct or legal violations (Ahmad, 2004).

Working Hours

The Factory Act of 1934 sets work hours for adult workers at 9 hours per day and 48 hours per week, with a maximum of 7 hours in a day and 42 hours in a week for workers under 18. Labour legislations cover formal and informal enterprises with at least ten employees, though local governments can lower the threshold to five employees. Seasonal businesses like cotton and sugar factories often require longer hours—up to 10 hours daily or 50 hours weekly—though in practice, workers may put in 56 hours per week. The Shops and Establishments Act of 1969 limits working hours to 48 per week or 7 per day across Pakistan. The Mining Legislation of 1923 sets an 8-hour daily limit, and the same for underground work. Factories must post work hours on notice boards and ensure workers take a one-hour break after six continuous hours. Special reduced working hours apply in the month of Ramadan (Lee et al., 2007).

Leave with Pay

The Factories Act of 1934 provides workers with 14 consecutive days of annual leave after completing twelve months of service done continuously. Any unused public holidays within a year roll over into the following year. Even in cases of business interruptions due to illness, accidents, approved leave, strikes, or temporary unemployment not exceeding 30 days, employees are still considered eligible for paid leave after 90 days of total work. Weekly leave is separate from this entitlement (Government of Pakistan, 1934).

Maternity and Paternity Leave and Protection

The Maternity and Parental Care Bill, 2023, grants female employees up to 180 days of maternity leave and male employees three days per 30-day work cycle. Article 37 of the Constitution guarantees benefits for women at the time of maternity, working in factories and firms (Ahmed & Malik, 2024). The Maternity Pay Ordinance 1958 allows women six weeks of paid maternity leave for which four months of continuous employment is necessary. This legislation applies across factories and companies with female employees, with limited exemptions. The Mining Production Act of 1941 extends similar protections to women employed in mines related areas.

Additional Leave Rights

Workers receive 14 days of annual leave, 10 days of fully paid casual leave, and 16 days of half-paid medical leave annually under the Factories Act. Casual leave is generally granted without prior notice, while medical leave requires a certified medical certificate. Employers cannot refuse medical leave when a valid certificate is presented. Employees also receive full pay on public holidays declared by the government, with an additional paid day off if required to work on those holidays. Special leave of up to two months is available for religious pilgrimages like Hajj, Umra, and Ziarat through collective bargaining agreements (ILO, 2018).

Age Requirements and Safeguarding of Young Employees

Article 11(3) of the Constitution forbids the hiring of children under 14 in factories and mines, encouraging policies to protect children from hazardous work and promote free education and literacy. The Factories Act of 1934 allows minors aged 14 to 18 to work only with a certified medical fitness report. Child workers cannot exceed five working hours per day and are prohibited working between 7 p.m. to 6 a.m. Factories must display child workers' hours on notice boards, maintain a register of their names, and assign them tasks suitable to their physical capacity (Khan, 2021).

Pay Issues

The Wage Payments Act of 1936 ensures timely wage payments for various types of workers, applying to those earning under 3,000 rupees in sectors like factories, railroads, and sugar mills. For businesses with fewer than one thousand workers, Wages should be given to employees within a week after the pay period ends., while larger enterprises have up to ten days. Employers must clear all wages earned, and contractors hiring workers are also responsible for payments. If an employee is terminated, their final wages must be paid within two business days (Rani et al., 2013 & Baig, 2021).

Constitutional Right to Join Labor Unions

Article 17 of the Constitution guarantees the right to form and join associations or trade unions, with some restrictions to safeguard national sovereignty and cultural integrity. The Industrial Relations Ordinance (IRO) 2002 affirms employees and employers are free to establish and become members of unions they prefer, including international associations.

Union Registration

Trade unions are registered with local Trade Union Registries or the Federal Register under the Industrial Relations Act of 2012 for nationally registered firms. Once registered, unions gain access to various legal benefits. These unions often operate on a factory-wide basis and create their own internal rules and regulations (Lanjwani et al., 2021).

Collective Bargaining and Agreements

Labour unions elect a Collective Bargaining Agent (CBA, who is chosen through a secret ballot and acts on behalf of the employees in negotiations on employment conditions, wages, working hours, promotions, sick pay, pensions, and more. The CBA also consults on collective decisions and legal rights (Hayter, 2011).

Conciliation

If disputes arise and no agreement is reached, either party can issue a mediation notice within 15 days, copying it to the mediator and the labour court. Settlements reached through mediation are reported to provincial or federal governments.

Arbitration

When mediation fails, the matter can be referred to a third-party arbitrator by mutual agreement. The arbitrator issues a binding decision within one month, effective for couple of years (Colvin, 2012).

The labour Court

The national labour legislation gave labourers, owners provided by the constitution or national labour legislation must be upheld. It is the responsibility of the provincial government to establish labour courts. Each court operates within a specific geographic area and is overseen by a presiding officer appointed by the provincial government. These labour courts are responsible for resolving industrial or labour-related disputes presented before it; the court decided the question pertaining to the application of labour legislation or labour rights addressed before it. In criminal matters, the Labour Court rigorously adhered to the Code of Criminal Procedure, 1898. To decide the judgement and the effect of Section 249 of the Eighteenth Amendment on legal procedures connected to the business. During the argument, the Labour Court is officially considered a civil court with powers similar to those provided under the Civil Procedure Act of 1908 (section 5 of the Constitution) establishes fees for the preparation of exhibits and exhibits, the production of papers and documents, and reviewing witness statements or going through documents. The court's verdict will be drafted and presented during a public hearing, with two copies delivered to the government. Within a month, the government will make an official announcement. There is also the Labour Court of Appeal (Higher Court), which hears appeals against Labour Court rulings and has the authority to evaluate or alter them based on facts and legislation (Ahmad, 2004).

Comparative Analysis

Inherited from British India is the Trade Unions Act of 1926, which continues to guide frameworks for labour relations across South Asia, although in Pakistan amendments have been made since 1973 and the decentralization after the 18th Amendment has further fragmented union regulation (a brief comparison with Bangladesh highlights instructive contrasts: despite its own challenges on labour rights, it has retained a centralized model through the Bangladesh Labour Act 2006 that was amended in 2013 and again in 2018 under international pressure following incidents such as the Rana Plaza disaster and is able to negotiate comprehensive labour reforms with bodies such as the ILO; India pursued a more federal approach, with recent labour codes introduced between 2019 and 2020 trying to bring together fragmented legislations into central standards but leaving enforcement still at the state level). Pakistan's decentralized model lacks a similar unifying framework, leading to disparities among provinces regarding minimum wages, social security provisions, and union rights.

Implications of 18th Amendments

The Concurrent jurisdiction List was dissolved by the 18th Constitutional Amendment, and the Federal Government's jurisdiction to act on Labour Welfare and Trade Unions was transferred to the provinces. In India, matters related to Trade Unions and Industrial Labour Disputes fall under Entry No. 22 of the Concurrent List (List III) in the Constitution's Seventh Schedule. This means both the State Governments and the Central Government share authority over these subjects. As a result, the Trade Unions Act 1926 has been promulgated by the Parliament to deal with the matter relating to the registration of trade unions and trade disputes, etc., whereas, in view of the Eighteenth Constitutional Amendment, the federal government of Pakistan no longer has the authority to make legislations about trade unions across the entire country unless a provincial assembly specifically allows it by passing a resolution under Article 144(1) of the Constitution.

To address this, an Ordinance was introduced to organize and modernize the legislations concerning the formation of trade unions and to improve employer-worker relations specifically within the Islamabad Capital Territory and in industries or establishments that operate across multiple provinces. The preamble of this Ordinance highlights that Pakistan has committed to international labor standards by ratifying ILO Conventions 87 and 98 (ILO, n.d.), which protect the rights to freedom of association and collective bargaining.

Although decentralization was intended to give provinces more autonomy in shaping labour laws to suit their needs, its impact has been uneven. Provinces like Punjab have introduced progressive reforms, while others have faced challenges due to limited administrative capacity. In the absence of a cohesive federal oversight mechanism, this has sometimes created confusion, particularly for businesses operating across provincial lines. These challenges highlight the importance of establishing a structured system for intergovernmental coordination.

Challenges

Conflicts in Legislation

Reduced benefits have resulted in a fragmented and inconsistent set of labour rules throughout the government. While some jurisdictions have complete regulations, others have gaps and exclusions, resulting in disparities in performance criteria and safeguards. These distinctions provide difficulties for businesses operating in numerous nations as they traverse diverse regulatory regimes.

Enforcement Issues

Because federal enforcement procedures are decentralised, federal and state authorities must work together to coordinate efforts. However, logistical and electrical constraints have hampered effective implementation, leaving workers exposed to abuse and rights breaches. Addressing these issues necessitates effective and aggressive solutions. The absence of standardisation in labour regulations makes it difficult for businesses to comply. Differences in rules not only cause confusion, but also provide chances for noncompliance.

Workers in the informal sector obtain minimal legal protection

A considerable number of the people working in Pakistan works in the non-formal sector, frequently without labour protection. Decentralisation has highlighted the importance of addressing the rights and welfare of informal sector workers, including them in labour legislations, and protecting them from abuse and exploitation. Vulnerable populations, such as women, children, and migrant workers, suffer increased dangers owing to a lack of legal protection.

Ignorance and access to justice

Many workers, particularly in rural regions, are unaware of their rights and suffer difficulties to seeking legal redress for abuses of workers' rights. Efforts to promote knowledge and enhance access to justice, particularly legal aid programmes, are critical for empowering workers and protecting their rights.

The importance of co-ordination and co-operation

Although local autonomy can help resolve regional labour difficulties, coordination and collaboration across areas are required to provide uniform labour standards and safeguards across the country for example, a 2022 survey by Pakistan Labour Watch revealed that more than 70% of workers in Sindh's informal sector were unaware of available legal aid options. In Balochistan, the Labour Department addressed fewer than 5% of reported labour violations, largely due to administrative hurdles and limited outreach efforts (Legal Aid Society, 2022). Promoting communication and collaboration among local governments will assist to develop opportunities and support workers.

Recommendations for Reform

Improve Coordination Between Provinces

The federal government should set up an Inter-Provincial Labour Coordination Council (IPLCC) with representatives from provinces, employers, unions, and federal ministries to:

- Create national labour standards.
- Share best practices and align policies.
- Resolve disputes, especially those involving migrant workers.

The Inter-Provincial Labour Coordination Council (IPLCC) should function through twice-yearly meetings, specialized technical working groups, and a digital platform to facilitate information sharing. Its role could involve addressing labour disputes between provinces, aligning labour inspection standards, and coordinating employer practices that cross provincial borders. Inspired by models such as India's Interstate Council and South Africa's National Economic Development and Labour Council (NEDLAC), the IPLCC has the potential to serve as a reliable institutional framework for collaborative and consistent labour governance.

Boost Enforcement

Provincial governments need to:

- Digitize inspection processes for better transparency.
- Increase the number of trained inspectors, especially in informal sectors.
- Set up anonymous systems for workers to report issues.

Raise Awareness and Provide Legal Aid

A nationwide campaign should be launched to inform workers, particularly in the informal sector, about their rights by:

- Partnering with NGOs and unions to organize workshops and mobile legal clinics.
- Creating easy-to-understand educational materials in local languages.
- Broadcasting information on TV, radio, and social media.

Update Labour Legislations Regularly

A "Biennial Labour Review Conference" should be held to review and update labour legislations to keep up with social, economic, and technological changes.

Support Trade Unions

The government should:

- Ensure legal rights, negotiation, and management by providing comprehensive training.
- Strengthen the legislations to protect unions from political interference.

- Offer small grants to new unions for outreach activities.

Conclusion

The 18th Amendment drastically re-organized the law on labor legislation by devolving legislative powers to the provinces which opened up opportunities for more tailored labor governance, but at the same time exposed challenges of consistency and enforcement that can be addressed by greater inter-provincial coordination, stronger enforcement mechanisms, and a more empowered trade union movement. The reforms recommended in this paper will help build a more equitable, dynamic, and inclusive labor market with rights protection and economic growth; ensuring fair and consistent labor practices is not only legally necessary but also a vital part of the country's sustainable development.

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