

Employer-Employee Relationship in Pakistan

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Industrial Laws

The traditional relationship between the employee and the employer is that of 'Master and Servant', which is governed by terms of the contract between the two parties. Unfortunately, the terms of employment contract are usually not expressed explicitly in Pakistan. Lack of explicit terms of contract will likely lead to disputes and subsequent unrest. The government adopts measures to avoid exploitation of the weaker party – the workers. The relationship between the employers and the employees are governed by two legislation acts:

1. The Industrial & Commercial Employment (Standing Order) Ordinance (VI of 1968) for regulating the relationship at to Provincial level;
2. The Industrial Relations Ordinance (XCI of 2002) that is applicable through at the country. Of the two Industrial Relations Ordinance is of prime interest because of its wider scope.

Labor Legislation

Pakistan's labor laws trace their origin to legislation inherited from India at the time of partition of the Indo-Pak subcontinent. The laws have evolved through a continuous process to meet the socio-economic conditions, state of industrial development, population and labor force growth, growth of trade unions, level of literacy, social welfare needy these objectives, the government shifts in labor policies have reflected the difference of political orientation of the different regimes.

Under the Constitution labor is regarded as a 'concurrent subject', which means that it is the responsibility of both the Federal and Provincial governments. However, for the sake of uniformity, laws are enacted by the Federal government, stipulating that Provincial governments may make rules and regulations of their own according to the conditions prevailing in or for the specific requirements of the provinces in 200 ft. The total labor force of Pakistan is comprised of approximately 37.15 million people, with 47% within the agriculture sector, 10.50% in the manufacturing & mining sector and the remaining 42.50% in various other professions (PES 2004)

Historically, in the subcontinent the ordinary law of master and servant regulated the relationship between employers and employees. The first piece of legislation affecting the employer-employee relationship was promulgated in the form of Industrial Disputes Act XIV of 1947. For the first time it seems to have been recognized that the workers had rights other than those conferred by mere contract. The act was adopted by Pakistan after independence. The Act remained valid till the promulgation of the Industrial Disputes Ordinance, LVI of 1959. The point to appreciate is that the concept of industrial dispute was not the dispute between any individual employee and his employer, but in essence it represented the differences between the employers and the employees as groups or even between different employee groups.

The next legislation came in the form of the West Pakistan Industrial Disputes Ordinance of 1968, which repealed, in its application to West Pakistan, the Industrial Disputes Ordinance, of 1959. While the scheme of the Industrial Disputes Ordinance, 1968 was almost similar to that of the earlier ordinance, a significant change was introduced in the form of setting up of an appellate body. The Industrial Relations Ordinance, XXIII of 1969 was implemented at federal level. The ordinance was applied for over three decades; though it was amended significantly a number of times. The IRO XCI of 2002 has repealed the Industrial Relations Ordinance (IRO), XXIII of 1969.

The successive governments of Pakistan have been quite sensitive to the issues related to labor. Government has also expressed the desire to improve the condition of workers by actively participating at international forums. As of July 2004, Pakistan has ratified 34 ILO Conventions. These include important conventions such as:

- Abolition of Forced Labor
- Minimum Age for workers
- Freedom of Association
- Weekly Rest for Workers
- Equality of treatment
- Abolition of Worst Form of Child Labor

Keeping in view these commitments governments have promulgated various labor laws. While the legislation has gone through amendments at frequent time, the spirit of all acts of legislation was almost the same – creating an environment that is conducive for promoting economic growth while safeguarding the interests of the workers. In broad terms, the provisions of the labor laws include:

- ***Contract of Employment*** – provision of an explicit contract of employment
- ***Termination of the Contract*** – specifying the notice period for termination.
- ***Working Time and Rest Time*** – Provides a compulsory weekly rest time.

- **Working hours** – provides the maximum number of hours an employee can work in day (including over time)
- **Paid Leave** – includes various types of leave e.g sick leave, maternity leave etc
- **Minimum Age and Protection of Young Workers** – 18 years is the stipulated minimum age workers.
- **Equality** – employers to give fair and equal treatment of genders.
- **Pay Issues** (bonuses, minimum wages etc)
- **Trade Union and Employers Association Regulation** – Right granted to employees as well as to employers for forming their associations and the rules to govern those associations.
- **Workers' Representation in the Enterprise** – workers are given the right to participate in decision making by participation in joint work councils.
- **Collective Bargaining and Agreements** – rules defining the formulation of Collective Bargaining Agents and the modes operandi for safe guarding the interests of the workers as groups.
- **Collective Labor Disputes** – procedures for disputes resolution are laid down.
- **Strikes and Lockouts** – procedures for strike and lock out by employees and employers respectively are explicitly defined.
- **Labor Courts** – various types of courts are established for adjudication.

While the core provisions of IRO 2002 are similar to that of IRO 1969, there are some changes that have been introduced. These include:

Workers' Representation in the Enterprise – Until the adoption of the Industrial Relations Ordinance, 2002 (IRO 2002), Pakistan had a three-pronged system of employee participation in management (i.e., within the Works Council, the Management Committee and the Joint Management Board), independent of each other and each having its own sphere of activities. The 2002 law simplifies the system, introducing a single body in place of the three previous ones: This is the Joint Works Council (Article 24 of the IRO 2002). Joint Works Council must be set up in any establishment employing fifty persons or more. It consists of no more than ten members, forty per cent of which are workers' representatives. In the previous system, the Management Committee and the Works Council were composed of an equal number of representatives of the employer and workers, whereas the Joint Management Board had a workers'

participation of 30 per cent. The Convener of the Joint Works Council was from the management.

The Joint Works Council established by IRO 2002, deals with matters, which were of the competency of the earlier Joint Management Board, such as the improvement in production, productivity and efficiency, provision of minimum facilities for those of the workers employed through contractors who not covered by the laws relating to welfare of regular employees. It has also taken up functions of the previous Works Council, i.e. promoting settlement of differences through bilateral negotiations, promoting conditions of safety and health for workers, encouraging vocational training within the establishment, taking measures for facilitating good and harmonious working conditions in the establishment, provision of educational facilities for children of workers etc.

Procedure for Appeals – The adjustment of rights takes place through collective bargaining including adjudication in Labor Courts. IRO 2002 has changed the appellate procedure at the provincial level cases used to be brought before a Labor Appellate Tribunal (as per the provisions of IRO 1969). This institution has been abolished by IRO 2002. Appeals against of Labor Court decisions now lie directly with provincial High Courts. Consequently, Any party aggrieved by an award or a decision given or a sentence passed by the Labor Court may now submit an appeal to the High Court (Article 48 of the IRO 2002).

Collective Bargaining and Unions' Role

The Industrial Disputes Act of 1947 and IRO 1969 had provisions recognizing employee's rights. However it was under Bhutto that the trade union movement achieved rare pour in Pakistan

As a result of legislation done by Bhutto regime, reversed major enterprises especially in the financial sector nationalized and the workers were empowered to a significant extent. The regime became the champion of the employees. The labor unions became strong. Due to factors such as extreme poverty, low literacy rate, lack of trust in management, poor communication between workers and management etc, the unions started to press management for their rights without productivity growth. The newly nationalized institutions became a symbol of in-efficiency and corruption and the power of the union was strongest in these institutions.

Keeping in view the low literacy rate of the workers, the legislation allowed non-workers to be the leaders of the labor unions and act as 'Collective Bargaining Agents'. Consequently, many professional politicians became into the heads of labor unions. While such a provision was made considering the ignorance of the workers and their inability to safeguard their interests, the politicians turned labor leaders / Collective Bargaining Agents worked mostly to accomplish their own political objectives. Many of such CBAs played the role of blackmailing the employers and focused on the agenda of the political parties they were affiliated with. Resultantly, while there was no significant improvement in the pay or working condition of the workers, industrial peace was

adversely affected. The Labor Unions, during the decade of the 1970s, became synonymous with blackmailing of employers and promoters of in-efficiency, which led to extremely low productivity and poor industrial relations.

Mismanagement and in-efficiency turned many nationalized institutions into sick units. In sum, the experiment of nationalization and empowerment of unions did not produce good results. With strengthening of labor unions, and the new legislation the workers started to exercise their rights given in the Industrial laws. Employees reacted to this in several ways. For example to avoid forming of the labor union, the employers would ensure that the number of employees never exceeds the minimum number of workers required to form unions. Similarly, the employers started to use the provisions of the 'Termination' Clause of the IRO 1969 to get rid of undesired workers. In the worst cases the employers would exercise their options of 'retrenchment' and lock outs became frequent.

As a result of the mistrust and the hostile environment, a number of firms, which otherwise were performing well, were closed down. While with the closure of every industrial unit, the employer lost his capital; the workers suffered the most because of their weak and vulnerable position. Gradually, the workers also started to realize, to some extent, their responsibilities and started to expect rewards compatible to their performance. Because of these changes the roles of the unions started to diminish, and the unions in Pakistan are no longer major players in the labor market. The emergence of HRM systems has brought a change in the industrial relations environment. Strong HRM systems are expected to look after the interests of the employees since an HR manager is supposed to be a champion of the employees. The track record of HR departments in safeguarding the interests of the employees is much better than that of the labor unions. With the strengthening of HRM systems the role of the labor unions has become insignificant.

Human Resource Management Systems

The human resource management system has gone through significant changes in Pakistan. During the early days, there was no real system. Public sector organizations used to have 'Personnel Departments' that would take care of ***recruiting, staffing and discipline*** needs of the organizations. The recruitment process in the government organizations except the defense forces does not enjoy a good reputation. Different regimes have been appointing people on the basis of political affiliations. Similarly the promotions at top levels were also politically motivated. Such irregularities were common because public sectors firms did not have strong HRM systems. Overall, the role of the personnel departments in government organizations fell way short of the provisions of modern HR systems. However, the government organizations made considerable efforts for human resource department. Most of the government organizations invested in training and development of their employees.

In the private sector, the multinational companies have better HR systems in place. The recruitment and selection processes are transparent, and they maintain clearly defined policies. The multinational companies regard their employees as an asset. Therefore, they invest heavily in the development of their employees. Since multinationals believe in policy consistency and rely on systems instead of on individuals, there is significant importance accorded to ***succession planning***. As a result of strong HRM systems, the multinational companies have presented a model of a systematic approach towards managing the organizations. On the other hand, in the majority of local private organizations, there is hardly any formal HRM system. The selection of personnel is based on the decision of the owners. Most of the organizations do not pay enough attention towards ***human resource development***. Individuals are responsible for exchanging their skills on their own. The role of the personnel department is limited to hiring and firing of the workers. But, as new challenges have started to emerge, the HRM systems of local private firms have also started to move towards maturity.

The development of HRM systems in Pakistan is mostly attributable to multinational companies that have contributed a lot in this field. These organizations introduced globally tried modern concepts of HRM. Some local organizations are also following multinational practices. Due to increasing competitiveness and greater emphasis on profits, the local organizations are under tremendous pressure to improve their productivity. Managements of most major corporations recognize that it is not physical capital that makes the real difference; instead, it is human resource that can lead to the development of a real competitive edge. Therefore, many leading companies are compelled to implement modern HR concepts. As a result of the introduction of their systems, there is more trust established between employers and employees. HRM systems are becoming more refined and concepts like Paying for Performance, Training & Development of employees, Shared Leadership etc. are gaining popularity.

Trends in Compensation Management

Traditionally, compensation has been viewed as a financial cost to the organizations. However, progressive organizations have, contrary to the traditional view, regarded compensation as a powerful tool that can boost performance and profits. Professional HR managers endeavor to establish a total compensation strategy within the organization's internal as well as external environment, keeping in mind factors like:

- Developing a total compensation strategy that is in line with the organization's goals and is consistent with the legal, regulatory, taxation and community framework.
- Identifying potential sources and markets in which the organization competes for qualified candidates.
- Ensure that it is consistent with the objectives of attracting, motivating and retaining qualified people required in attaining the organizational goals.

- Monitor the competitiveness of the total compensation strategy on an ongoing basis.

The HR managers develop and administer remuneration programs that include a mix of elements such as base pay, variable pay, profit and gain sharing, incentive pay, stock options etc. The programs are designed to be sufficiently competitive to attract and retain the required quality of human resources. External and internal equity is an important element the HR managers cannot ignore while developing the compensation and remuneration packages.

Compensation management in Pakistan has passed through several stages. Government organizations and Private firms have been following different compensation strategies. The Government organizations have established scales for their employees. The employees are entitled for a level of pay and benefits depending on the scales. The benefits include cash payment as well as other fringe benefits like subsidized housing, medical treatment, pension gratuity, paid leave etc. The extent of benefit varies from organization to organization. The scales are revised from time to time in order to compensate for the rising price level in the country. The government organizations follow these scales very rigidly, and do not relate the benefits to the performance of the employees. Length of service is usually the main criteria for determining the level of benefits entitled to an employee. A fixed level of benefits that includes long term benefits like pension, gratuity, medical, paid leave prior to retirement etc and high job security make government service very attractive. However, the guaranteed benefits without any relation to productivity is one of the factors that explains the persistent inefficiency in the public sectors. While there is growing realization of the importance of relating pay to performance, government organizations are extremely slow in adopting the mechanisms of rewarding performance. This is due to the inherent inertia. Government organizations are still maintaining the system of ‘Annual Confidential Report (ACR)’, and there is little transparency in performance appraisal.

In the private corporate sector, multinationals follow the concept of pay for performance; though, most of the national firms are yet to subscribe to this idea. Depending upon size and objectives, private firms reward their employees in a number of ways. The compensation packages include short term as well as long-term benefits; though most of the firms tend to restrict their remuneration packages to short term pay and allowances only.

Historically, most of the local private companies grew out of sole ownership. In such organizations, the individual performance had not been a real determinant of compensation awarded to the individual employees – the overall profitability of the venture remained the major factor. However, loyalty to the organization has been a very strong factor in determining compensation for an individual. In the old days, the employers were not significantly concerned about term profitability. Of course, being

rare profit maximization over the major corporate objective. But the size of the organization, and the reputation of the organization were valued high. The employers displayed prides in having a large number of employees under their control, the employees were equally proud of being part of big organizations. The employees with greater length of service were regarded as more loyal to the organization and were rewarded accordingly. Managerial benevolence and paternalism reflected organizational and inefficiency nature the personal generosity of the employer. The average wages level was low; but so were employee demands and Pakistan has historically been a low wage country.

The situation dramatically changed during the days of Zulfikar Ali Bhutto. With the introduction of the slogan '*Roti, Kapra aur Makan*' and low union legislation, the trade unions became powerful. The employees became aware of their rights and the unions became more assertive. For example a company was paying fixed 11 bonuses to unionized employees each year without any regard to the profits of each year. The higher costs with little or no improvement in productivity diminished the financial viability of the organizations. The results were visible in the form of a number of failed organizations that were nationalized during Bhutto regime. Due to the increasing friction between employers and employees, the employers also became assertive and aggressive. Consequently, the employers' federations came into being as provided for in relevant legislation. As a result of increasing burden, the employers also started more objective evaluation of employees' performance. Dismissal for lack of efficiency became common practice while following the requirements of the prevailing laws.

The most prominent feature of compensation in the private sector continues to be the discretion of the employer. There is still a large element of personal bias while determining the remuneration packages (or adjustments) to the compensations packages, and the employers usually disregard the factor of equity – external as well as internal. The nature of compensation packages also varies between various sectors of the economy in Pakistan. The pharmaceutical sector is probably the most organized sector as far as employees' compensation is concerned. This may be the result of a large number of the existence of multinationals that exist in this sector. The compensation packages are well within the regulatory and legal framework. The employees get not only short term benefits – usual pay and allowances – but also long term benefits like pension, gratuity, employees old age benefits etc. On the other hand, compensation packages offered in the textile sector of Pakistan rarely include formal pay scales. There is a growing trend of considering the employees a long-term liability. The compensation mostly includes short-term benefits i.e. monthly salary only. To circumvent the provisions of the law, most of the work force is hired on a contract basis and that too replaced quickly to avoid paying long-term benefits such as pension, gratuity, social security etc. The government has defined Rs 2500 per month as the minimum wage that should be paid to every worker. While most of the employers do adhere to this Rs. 2500/month is not a living wage of where the frequent price _____. So ethically, the employers should pay fair wages that are enough to meet the basic needs of the workers. The corporation must assess the realist in amount that must be paid to an individual to enable him to subsist.

Another visible trend in the area of compensation packages is the existence of major supply and demand imbalance. For example traditionally, professions like medicines, engineering, commissioning in the armed forces etc were very popular. The result was too many doctors and engineers. Consequently, these days a fresh MBA graduate from a reputed institution would be paid much more than a doctor or an engineer who has also graduated from a reputed institution. However, there is the likelihood that it is more difficult to gain a degree in engineering or medicine from a reputed institution as compared to achieving MBA qualification. There is little or no planning at national level in regulating the skills / professions; there are hardly any meaningful placement centers at our educational institutions.

In the wake of the privatization drive launched since the early 1990, there are certain sectors e.g. banking, auto industry, telecommunication etc which have witnessed a boom. The newly emerging institutions are very aggressive in hiring the professional of their choice. Besides, the changing of focus from long term to short term gains – by the employers as well as employee – has also resulted in exponential increase in salaries / wages. The new organizations are snatching employees from their competitors by offering inflated compensation packages. These inflated salaries / benefits raise a question regarding sustainability of such compensation packages. There is a serious concern whether such organizations would be able to hold the employees at such a high cost over a long period of time. This could only be possible if the organizations continue to maintain their profitability level over a long term; which itself is a big question mark.

Managing the Downsizing of the Organizations

With increasing information and access to global markets, there is ever increasing need for the corporations to be more competitive. Unfortunately, because of low literacy rate, and lack of technology usage as a result of little or no HRD efforts, the skill level and the productivity of the Pakistani work force has been lower than that of most competitors. While the adaptation to technology is increasing, a very large portion of the work force is becoming redundant due to insufficient HRD efforts. Due to intense competition, organizations are focusing on short-term objectives and the emphasis is on the '**Bottom Line** – short term profits'. As a result of this the employees are also focused on short terms gains. Consequently, employment contracts are aiming to meet the present needs of the employers and employees – short term needs. As a consequence of this trend, the short-term benefits of the employees – cash payments – are on the increase, while the long term benefits are diminishing.

With the passage of time, firms are becoming more focused on productivity, which has led to increasing automation in business processes. The use of technology coupled with cost cut measures has led to downsizing. These days, much smaller units are economically viable and profitable. Downsizing has made a large number of employees redundant. The availability of a larger supply of workers has subsequently led

to exploitation of employees. With the increasing bargaining power of employers and lack of trust between the employers and the employees, firms are employing more contract labor than the company's permanent employees. This is done to avoid assuming any long-term liabilities like pension, gratuity, old age benefits etc.

The practice of employing contract workers is being accomplished in two ways: organized contract workers; and un-organized workers. The organized contract workers are usually hired by multinationals (and some national firms) and they do get fringe benefits (as per law) like pension, social security, old age benefits etc. On the contrary, the un-organized contract workers are those who get no long-term benefits what so ever. Such workers are not included in the employment records of any organization. The practice of un-recorded employees is being carried out to defeat the provisions of the laws that make even the contract workers entitled for certain long term benefits. The un-organized contract employment takes the shape of daily wages and piece-rate workers. Though their employees work for several years in an organization, are never registered in the record of the companies, and are entitled for no benefits except the daily wages. As a result of lack of long-term benefits, the employees become dependant on others in old age, which puts further pressures on the earning members of the society as a whole.

Other Causes of Downsizing and Focus on Strength – Another way to manage downsizing is to focus on firm's strength and eliminate the weak areas. For example if a composite textile company feels that its strength is in spinning and weaving is not producing good results, all may restrict business to spinning only and eliminate the weaving business. In this way, the organizations tend to maximize their profits in the shortest possible time.

Sharing the Pooled Resources – Un-living resources by sharing. Large conglomerates maintain pools of resources of critical skills that can be shared. For example a group of companies will have one common finance department for a number of companies. Similarly, a central workshop may be looking after the maintenance problems of a number of work centers / sub units of the larger companies.

Collaboration – This is relatively new concept in the country, where similar types of industrial concerns collaborate with each other and join hands to compete against a common competitor. For example the package milk companies joined hands and launched a combined campaign to compete the traditional fresh milk suppliers.