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An Islamic Perspective of Industrial Relations: the Case of Pakistan

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Abstract

The aim of this paper is to describe an Islamic perspective of industrial relations (IR). Based on a review of literature on IR in Islam including a reading of the principal sources of Islam (the Qur'an and the Hadith), the paper identifies two divergent ethical approaches to IR: a pro-equality (neutral) approach and a pro-social justice (affirmative) approach. In its second half, the paper offers a case study of IR in Pakistan. The study suggests that the two divergent Islamic approaches to IR may be seen as having ambiguous implications for labor laws and trade unions in Pakistan (and possibly other Muslim majority countries).

Key words: *Islam, Pakistan, Industrial Relations*

Introduction

Although it is now widely recognized that industrial relations (IR) in a country are influenced by its particular socio-cultural, normative and legal institutions (e.g. Black, 2001; Locke, 1995; Streeck, 1998), the state of IR in Muslim majority countries remains largely under-explored. Given that Islam has a dominant role in everyday life in a wide majority of Muslim countries (Lazreg, 1990; Syed, 2008), Islamic values are likely to have significant influence on the laws and practices of IR in those countries.

The purpose of this paper is to offer an Islamic perspective of IR and to contrast that perspective with the actual practice of IR in the Islamic Republic of Pakistan. Based on a reading of the principal Islamic texts (the Qur'an and the Hadith¹) and a review of the state of IR in Pakistan, the paper argues that the legal framework of IR in Pakistan is simultaneously influenced by pro-equality (neutral) as well as pro-justice (affirmative) interpretations of Islamic principles. Consequently, practical implications of Islamic ideological perspectives for IR in Pakistan are likely to be inconsistent and uneven.

The paper is structured as follows. First, the paper offers an overview of Islamic principles of IR presenting two competing interpretations, i.e. pro-equality and pro-justice. It is followed by an account of the state of IR in Pakistan and a discussion of how IR in practice could be related to the Islamic principles and interpretations.

Islamic perspective of IR

It is now commonly known that despite their universal appeal, Islamic teachings are subject to numerous interpretations under the influence of factors such as socio-cultural traditions, history, and religious denominations.² Based on a reading of the principal Islamic texts (and their various interpretations), this paper presents a perspective of IR in Islam, while acknowledging that this is only one of several possible perspectives.

¹ The traditions of the Prophet Muhammad.

² In the words of Edward Said (2002), there are not one but many Islams.

Work ethics

In contrast to a Western philosophical emphasis on knowledge, the foundation of Islamic philosophy is ethics (Goodman, 1992). In particular, Islam is focused on an intuitive understanding of the role of the divine in human existence. Therefore, at least in principle, ethical considerations may take precedence over productivity considerations in IR in an Islamic society.

Work from an Islamic perspective is an imperative necessity not an optional matter with which an individual could dispense. Hard work is equated to spiritual fulfillment; seen as a duty for all individuals (Wilson, 1982), those who have the mental or physical capacity to perform work. According to the Qur'an: "And say: 'Work (righteousness): soon Allah will observe your work, and His Messenger and the believers....'" (9: 105).

Seeking to earn one's living in a lawful manner is considered a religious observance.³ The Prophet Muhammad said: "Allah loves those believers who labor to earn a living through lawful means" (Al-Tabarani). However, in order for work to be considered as a religious observance, workers are advised to endeavor to perform their duties in a professional manner to the best of their abilities (El-Sayyad, 1993). The Prophet said:

The worker, if employed, and takes what is right and gives what is right, is like a mujahid [struggler in the cause of Allah] till he returns home (Al-Tabarani).

Wages, according to Islamic principles, should be determined prior to work and immediately paid after work is accomplished. The Prophet said: "Give the laborer his wages before his sweat dries" (Ibn Majah). The Prophet also said:

Allah says, 'There are three people whom I shall be their opponent on the day of judgment:... [one of them is] A man who hires a laborer, makes use of his service then does not give him his wages' (Bukhari).

Islam ordains that employees should be paid reasonable monetary compensation. It should be high enough to afford the basic necessities of life as a minimum level.

³ It may be noted that the emphasis on the religious value of work is common in Sunni and Shia traditions of Islam. For example, this Shiite tradition attributed to Imam Jafar Sadiq: "When I invoke Allah for something, I ask Him to give me the power of working and earning lawful income. Allah in verse 10 of the Qur'anic Chapter, the Jummah, says: 'But when the prayer is ended, then disperse abroad in the land and seek of Allah's grace'" (Heli, n.d.: No. 225).

Anas who served the Prophet Muhammad for a long time specifically states that “the Prophet never paid a low wage to any person” (Bukhari).

The Qur'an also urges its followers to abide by all types of contracts and agreements. This rule is equally applicable to collective or individual agreements between employers and employees.

When ye deal with each other, in transactions involving future obligations in a fixed period of time, reduce them to writing... whether it be small or big; it is juster in the sight of God, more suitable as evidence, and more convenient to prevent doubts among yourselves (2: 282)

The Qur'an ordains its followers to be kind to each other. This instruction is equally applicable on employees and employers. "God loveth those who are kind" (5:13). A supervisor is morally bound not to mistreat those below her or him in the chain of command. The Prophet said: “One who mistreats those under him will not enter paradise” (Tirmidhi).

Thus, the ethical conduct of employees and employers is a cornerstone of an Islamic perspective of IR. The following sub-section offers an in depth description of an Islamic view on employer-employee relationship and trade unions.

Industrial relations

According to Islamic teachings, management of affairs, be it the business or the state affairs, should be done by popular participation. In the words of the Qur'an: "And their business is (conducted) through consultation among themselves" (42: 38). There are, however, varied Islamic perspectives on the role of political activities in society, ranging from 'being a tool of legitimation and preservation of the status quo to being a vehicle for protest and a spearhead for revolution' (Ayubi, 1991: 61). Such differences are also evident in Islamic perspectives on political activities of employees (see Belal, 2005). In their work on Islamic perspective of labor and trade unionism, Al-Faruqi and Al-Banna (1985) present two divergent views.

The main category in Al-Faruqi's conceptual framework is 'egalitarianism' or 'neutrality', which is based on the Islamic injunction that all human beings are subject to the same law (Al-Faruqi & Al-Banna, 1985: 12-14; Belal, 2005). Al-Faruqi's (1992) notion of egalitarianism derives from the oneness and equality of

human beings, which is connected to the unity of the Creator. Since Islam repudiates social stratification of people based on employment or occupation and condemns a materialistic classification of people into working and ruling classes, the factory worker and the employer or manager are supposed to be equal.

The main category in Al-Banna's (1981) perspective on employer-employee relationship is 'justice'. Al-Banna's notion of justice is socio-economic in nature that is capable of capturing class differences and inequalities. This notion is different from an abstract Islamic idealization of justice as a moral principle. The word 'justice', according to Al-Banna, crystallizes the primary aims of trade unions. To him, justice represents a proactive approach to save workers from exploitation: "All the world knows that workers are still exploited, that the conditions of work are inhumane, that trade unions were established to prevent these gross outrages and enable workers to live a decent life" (Al-Faruqi & Al-Banna, 1985: 67). It may be noted that this perspective has a resonance of Al-Sadr's (1982: 6) perspective who defines Islamic economics as Islam's preferred approach to the pursuit of economic life and to resolve practical economic problems in line with its concept of justice.

Islam, according to Al-Banna, needs to be situated in a modern context. "Because Islam is the last of religions, if it was rigid and closed, it could not stand the changes of the ages" (quoted in Slackman, 2006). In his attempt to resituate justice in the context of employer-employee relations, Al-Banna argues that the primary aim of both Islam and trade unions is justice. He considers Islam not simply as a religion of worship and prayer but as having social, political and economic dimensions. He points to the prohibitions on usury (*riba*) and the imposition of poor-due (*zakat*) and consensus (*shura*) as examples of Islamic principles of economics and politics (Al-Faruqi & Al-Banna, 1985: 68). Al-Banna's approach is inclined towards a just distribution of material resources, for example, when he writes about everyone's right to a decent life. That right is enshrined in the following verse of the Qur'an:

Let them adore the Lord of his house Who provides them with food
against hunger, and with security against fear (of danger) (106: 4).

Based on this principle enshrined in the Qur'an, Al-Banna argues, the role of trade unions can be seen as pertaining to two essential needs: 'food against hunger' and 'security against fear'. Expanding from an abstract Islamic emphasis on morality and ethics, he identifies the custodianship of the poor as an Islamic state's most important responsibility (Al-Faruqi & Al-Banna, 1985: 69). From this angle, Islam takes a clear position, in what Al-Banna calls the great social problem, i.e.

the poor versus the rich, the haves versus the have-nots. The position of Islam is decisive; it stands by the poor and the have-not (p. 69).

It may be noted that the Qur'an permits that those who have been oppressed may organize themselves against such injustice. Any individual or group can peacefully protest against unjust acts of an organization or the state itself.

But indeed if any do help and defend themselves after a wrong (done) to them, against such there is no cause of blame (42: 41).

However, the Qur'an also urges its followers to abide by contracts and agreements. This rule is equally applicable to collective or individual agreements between employers and employees. "O you who have attained to faith! Be true to your covenants!" (5: 1).

In contrast to Al-Banna's pro-worker (or pro-social justice) stance on Islamic perspective of labor relations, Al-Faruqi considers Islam as neutral, claiming that Islam stands for justice for both (employer and employee), regarding all members of the society as equally entitled to live in sufficiency and dignity. All employees, be they rulers or ditch diggers, are "equally obligated to fulfill what their employers and society have hired them to do" (Al-Faruqi & Al-Banna, 1985: 16). Islam's pro-market interpretation has also been accepted by Cummings, Askari and Mustafa who note that "Zakat is primarily a voluntary act of piety and a far cry from what most modern-day taxpayers experience when confronted with increased income levies or complicated regulations." They also remark that, "there is no particular Islamic preference for [a] Marxist emphasis on economic planning over market forces."

Al-Banna's pro-worker stance becomes rather explicit when he discusses the concept of contract in Islam and applies it to trade unions. He notes that in employer-employee relations, legal or formal equality is not translated into substantive equality. Employees always remain under immense pressure to earn a living and therefore accept employers' terms and conditions. Al-Banna terms such contracts as 'submission contracts', because of the employer's influence to dictate its terms in violation of the Islamic principles of justice and equality. According to these principles, if a party to a contract is in an influential position due to intellectual, physical, economic or any other form of advantage, a guardian should be entrusted with negotiating the conditions of the contract on behalf of the disadvantaged party. Al-Banna considers trade unions as a legitimate guardian for workers, and suggests that "a collective contract negotiated by a trade union with

an employer contains all the Islamic merits, advantages and guarantees sought in such a contract" (pp. 77-78).

It is worth noting that according to Islamic sharia, a protection regime is available not only to human being but also to animals at work. For example, Imam Abu Ya'la (1966) states that if the owner of an animal uses that animal for a work which is beyond the animal's capacity, then it is the duty of the Islamic state to stop the owner from that unjust practice. In case the owner claims that the animal has the capacity to do that work, the state, according to Abu Ya'la, must not trust such claim and instead arrange to independently assess the animal's capacity.

Also, it may be noted that it is the duty of an Islamic state itself to safeguard and implement justice in its area of authority. Imam Abu Ya'la (1966) in his book 'Al-ahkam al-sultaniyya' (The Rules of Government) explains the duties of a muhtasib (ombudsman), who will be responsible to ensure that employees are not being exploited by their employers. It is the responsibility of the ombudsman to resolve any dispute between employees and employers, to ensure that employers do not overload employees with excessive work and that employees are paid wages commensurate to their work. An employee has the right to lodge a complaint with the ombudsman against any excesses by his employer. In case the employer refutes or contests the employee's complaint, the employer's refutation will be considered credible only after the ombudsman has made an independent assessment of the employee's circumstance and also understood and verified complaint. Furthermore, the ombudsman will also discourage or reprimand any employee who does not perform his work according to the legitimate work requirements or who demands more payment than the work he has performed. The institution of ombudsman has also been supported by Al-Mawardi (1978) who states that in case a work dispute has arisen between employee and employer, the matter will be referred to a government authority or judge. Al-Mawardi clearly states that an employer must not have the authority to resolve such disputes, and that all labor disputes must be assessed and resolved in special courts set up by an Islamic state.

It is thus possible to identify two key Islamic perspectives on IR. The first perspective is based on interpretations by scholars such as Al-Faruqi, Askari and others who support a neutral and egalitarian approach towards relationship between employee and employers. The second perspective is based on interpretations by Al-Banna, Abu Ya'la and others who support a pro-justice approach to protect the rights of the working class. In its remainder part, the paper will examine how such divergent Islamic positions on IR are reflected in today's Islamic societies.

IR in Pakistan

Given the divergent Islamic positions on IR, coupled with socio-cultural differences, it will be amiss to consider that Islam had a homogenous impact on the evolution of industrial relation in Muslim majority countries. In her study of Islam and human resource management in Asia, Tayeb (1997) noted differing manifestations of Islamic values in Muslim countries, which could lead to differing implications for human resource management. While Tayeb found it difficult to isolate influences of Islam on organizations from those of other institutions, such as the economy, politics and business imperatives, she nevertheless noted that Islam as an all-encompassing religion is bound to have implications for employers and employees. This is especially true in those countries which have committed themselves to achieve an Islamic ideal, e.g. Saudi Arabia, Islamic Republic of Iran, and Islamic Republic of Pakistan.

Based on a review of national laws on IR and the state of compliance with such laws, this section offers an account of IR laws and practices in Pakistan. It also explains how these laws could be related to the Islamic principles of IR. First, an overview of the Islamic influence on the legal framework in Pakistan.

Islamic influence on the legal framework

With a population exceeding 160 millions, Pakistan is the second largest Muslim majority country in the world. The country came into being in 1947 as a separate homeland for Muslims of the South Asian subcontinent. In 1956, Pakistan produced its first national constitution formally pronouncing itself as an Islamic republic. This status has been reaffirmed in the current constitution which was promulgated in 1973. The 1973 constitution provides for a federal democratic State, based on Islamic principles of social justice. Article 2 says "Islam shall be the state religion of Pakistan." Article 31 contains a mandate to adopt comprehensively in Pakistan "the Islamic way of life" and that "steps shall be taken to enable the Muslims of Pakistan, individually and collectively, to order their lives in accordance with the fundamental principles and basic concepts of Islam, and to provide facilities whereby they may be enabled to understand the meaning of life according to the Holy Qur'an and Sunnah [traditions of the Prophet Muhammad]."

Pursuant to Article 175 of the Constitution, there is a Supreme Court of Pakistan, a High Court for each Province, and other courts established by law. The Supreme

Court is the highest court of justice in the country and maintains a permanent seat in Islamabad. In 1978, General Zia-ul-Haq (late military ruler of Pakistan 1977-1988) proclaimed the supremacy of Islamic sharia laws, by which all civil law had to conform to Islamic teachings. Today, there is a Federal Shariat Court which may, pursuant to Article 203D of the constitution, either of its own motion or on the petition of a citizen of Pakistan or the Government, examine and decide the question whether or not any law or provision of law is repugnant to the injunctions of Islam, as laid down in the Qur'an and Sunnah. If the Court decides that a law or provision of law is repugnant to the injunctions of Islam, the law ceases to have effect, and must be amended. Furthermore, the Court also has appellate jurisdiction over all cases which can be tried under Islamic Hudood laws (ILO, 2004).

Labor policies and trade unions

Pakistan at its inception in 1947 inherited the framework of the Bombay Presidency labor laws, involving a tradition of active state intervention in IR (Amjad, 2001). The colonial paternalistic approach towards labor relations was embraced by Pakistan's bureaucracy. It may be noted that the founder of Pakistan, Quaid-i-Azam Muhammad Ali Jinnah, was himself a labor leader and a supporter of workers' cause. He was the elected president of the All India Postal Staff Union in 1925, which had as many as 70,000 members in its fold (APFOL, 2003). As a member of the Legislative Assembly in the British India, Jinnah pleaded forcefully for the rights of the workers and strived for getting a 'living wage and fair conditions' for them. Jinnah played a key role in the enactment of the Trade Union Act of 1926 which for the first time gave the trade union movement of the subcontinent the legal cover that workers needed to organize themselves for collective bargaining. APFOL (2003) offers excerpts from Jinnah's debates in the Assembly on these issues in which Jinnah is seen battling to get suitable pay scales, allowances, housing accommodation, reduced hours of work, and more holidays for the postal staff.

After 1947, two federations, the Pakistan Federation of Labor and the Pakistan Trade Union Federation emerged. In 1951, the then government encouraged the trade unions to affiliate to a central body - the All Pakistan Confederation of Labor (APCOL) - which continued to be the most representative body of the workers till mid sixties. In 1962, a new central body was organized by the name of the Pakistan National Federation of Trade Union and in the same year the National Federation of Labor was formed. Both worked parallel to APCOL. Till

then the trade union movement in Pakistan had generally remained subdued by employers and the state (Rahim, 2000).

Trade unions in Pakistan came to the forefront for the first time in 1972 with the formation of the socialist-leaning Pakistan Peoples Party's (PPP) government. The labor policy of 1972 introduced radical labor reforms, establishing a brand new infrastructure for the administration labor laws, i.e., Workers Welfare Fund Ordinance; Employees Old Age Benefits Act; Industrial Relations Ordinance. The policy resulted in greater protection of workers' rights, such as restrictions on the authority of employer to terminate workers. The scope of labor laws was enhanced and benefits such as increased profit-sharing, statutory bonus, group insurance scheme, group incentive scheme were guaranteed (Jamal, 2002a). Consequently, there was an enormous increase in the number of trade unions and their membership. The number of trade unions went up to 6,551, whereas the membership reached nearly one million by the end of the decade of the 1970's. Perhaps as a result of increased awareness of workers' rights, the number of cases regarding unfair labor practices put before the National Industrial Relation Commission (NIRC) sharply increased in that period (Rahim, 2000).

The NIRC was established under the Labor Policy 1972 as a quasi-judicial authority with three main aims: (1) to promote genuine trade unionism at the trade level and ensure representative character of unions; (2) to help setting up industry-wise federations of unions; and (3) to help formation of federations at the national level. A further important function assigned to the NIRC was to deal with unfair labor practices on the part of employers as well as trade unions. It has played a significant role in the determination of unfair labor practices and registration of national level trade unions (Jamal, 2002b).

The PPP government also ensured that there was adequate protection of workers' rights in the country's Constitution. There are least five articles in the 1973 Constitution that specifically provide for labor rights. They prohibit forced labor and child labor; provide for the right to form unions; ensure the right of a citizen to work and choose his profession; speak of equality before law; and provide for humane conditions of work. Under Article 17 of the Constitution, every citizen has the right of association and to form unions.⁴

⁴ Furthermore, Pakistan has signed and ratified 35 labor conventions that oblige the government to adopt laws to ensure that the workers' rights are duly protected (Mustafa, 2007). Pakistan ratified ILO Convention No. 11 in 1923, long before the establishment of the new country. The Convention grants agricultural workers the right to form unions. Pakistan ratified ILO Convention No. 87 in 1951, which concedes this right to all workers (with the exception of those in the armed forces, police and state administration). Pakistan ratified ILO Convention No. 98 in 1952 which

The 1972 labor policy was however bitterly criticized by employers and entrepreneurs who protested about the alleged indiscipline and low productivity of labor and militancy of trade unions. Threatened by an increasing trade unionism in the country, employers became concerned about the role of non-employees (outsiders) in trade unions leadership. Circumventing the legal provisions about employment security of workers, employers resorted to casualization of workers even on jobs of permanent nature (Jamal, 2002a). There was a widespread perception that union officials were rather interested in politics than work. Since they enjoyed lucrative positions, it led to severe in-fighting amongst the unions to gain control as Collective Bargaining Agents (CBA) (Rahim, 2000). A large number of employers tried to employ home workers and contract labor. However, this period was over within a few years' time when the martial law was imposed by General Zia who had little sympathy with the PPP's pro-socialist agenda (Rahim, 2000).

With General Zia's military takeover in 1977, unionism went into decline. Organized labor was forbidden in much of the public sector and collective bargaining was restricted (APFOL, 2003). The military regime became sensitive to the pro-labor measures of the 1969 and 1972 labor policies, and wanted to reverse the pace set by these policies. Although, the regime faced fierce reaction by labor leaders of the country, one factor that acted counter-productive to strong bilateral IR was the increasing legislative intervention in the form of multiplicity of labor laws. The overlapping character of labor legislation was also noted by ILO Sectoral Review Mission in its report as early as in 1986. While realizing the pressing need of comprehensive revision and codification of the labor laws in Pakistan, the Mission stressed the need to update, harmonize and simplify labor laws (Jamal, 2002a).

Even after 1988, when a civilian government took over office, trade unionism could not take off. During the 11 years of democratic rule (1988-99), progress on the labor front remained largely blocked since no government could complete its full term. Besides, privatization of public sector organizations and associated jobs losses led to labor unrest (APFOL, 2003). With yet another military takeover in 1999, this time by General Pervez Musharraf, IR in Pakistan suffered another blow because of the inherent anti-democracy nature of the military regime. The Musharraf regime, despite its liberal outlook (particularly when compared with the Zia regime), has attempted to reform and simplify the labor laws. However, the ostensible neutrality and anti-trade union tendencies of the Zia regime are still

guarantees adequate protection of workers' right to organize, besides the right of collective bargaining (Ahmed, 1993).

visible in the current IR policies (discussed next). In 2001, the number of trade unions still stood at 7,204, while the membership had remained at 1,040,303 (APFOL, 2003). It may be noted that today, the total labor force of Pakistan is approximately 37.15 million, with 47% working in agriculture, 10.5% in the manufacturing and mining sectors and the remaining 42.5% in various other professions (Khan, 2006).

With a view to provide a forum for resolution of the industrial disputes, the Workers and Employers Bilateral Council of Pakistan (WEBCOP) was established in 2000 by the workers and employers in that country. According to WEBCOP's (n.d.) official website, the Council was formed to meet the challenges posed by globalization, innovation of new technology and WTO regime to the national economy in general and industry in particular through concerted efforts. Both workers and employers have equal representation in the national and provincial chapters of WEBCOP.

Labor Policy 2002

The Industrial Relations Ordinance (IRO) 2002 was adopted by the Musharraf regime in October 2002 repealing the IRO 1969. The new IRO has been aimed to promote "congenial industrial relations leading to economic progress and prosperity in the country" (Haque, 2002). The following are the key elements of the 2002 labor policy (Jamal, 2002a):

- strengthening bilateralism with least legislative and state intervention;
- empowering labor courts to order re-instatement of illegally dismissed workers or award reasonable compensation in lieu of re-instatement;
- integration of the system of labor courts with High Courts in appeal matters;
- creation of climate to allow room for emergence of internal trade union leadership while retaining the room for outsiders as at present;
- improvement of institutions responsible for administration of labor laws and allied disciplines;
- promotion of labor welfare by the employers through development of trust relationship with workers;
- gradual and systematic consolidation and rationalization of labor laws to meet present-day and future needs of the industry; and
- extension and upgradation of vocational and industrial training programs to meet the changes of globalization and avoidance of unnecessary redundancies.

Following the global industrial model, the 2002 labor policy reduces the role of the government to that of a facilitator rather than an overseeing authority. Whereas the policy limits the legality of strikes and abolishes appellate industrial tribunals, it establishes a joint management council and a board of arbitrators to adjudicate industrial disputes, and gives the appellant the right to challenge the orders passed by a labor court in a high court. The ordinance pertaining to labor welfare and social protection calls for setting up an independent tripartite board of governors at the provincial level with representatives of employers and employees, and the government as facilitator. Putting an end to the regulatory role of the labor department, the board is responsible to oversee measures being taken and implemented by employers for the general welfare of employees and their families, including provision of education for employees' children up to intermediate level (*Dawn*, 5 September 2002).

There are, however, some concerns that the IRO 2002 divests the trade unions of the right to strike. For example, the IRO instructs the courts not to reinstate workers summoning a strike. Similarly, employers now enjoy a greater freedom to sack and fine their workers. Before the IRO 2002, a worker could appeal in a Labor Appellate Tribunal but now the appellate procedure has changed at the provincial level (Khan, 2006). The new law also authorizes the federal government to suspend in the public interest the application of the law to any establishment or industry for a limited time period (Jamal, 2002c).

It may be noted that there is another law (the Essential Services Maintenance Act 1952) that applies to most of the civil service, security forces, health care workers, and security and safety personnel at oil companies, airports and seaports, which has been used to ban strikes or restrict collective bargaining rights. Agricultural workers, teachers and non-profit workers are denied the right to form unions, which means that they're not allowed to collectively bargain, strike, or make any demands to their employers. Furthermore, Section 27B of the Banking Companies Ordinance 2002 bans all trade union activities in financial institutions (Loureiro, 2005).

Although the joint draft of IRO 2002 was prepared by the government in consultation with WEBCOP, it has been alleged that when implementing, the government diluted the spirit of the joint draft and marred the rights based approach. The following is an account of adverse implications of the IRO 2002 for workers' rights. Under the IRO 2002, the agricultural labor has not been recognized even as labor force having a right to form unions. Already workers from banking sector, PIA and other state run corporations have been denied the right to form trade unions. Another change brought into the IRO 2002 is that the

powers of the NIRC to give immediate relief to any sacked or retrenched worker have been abolished. Earlier, it has been a practice that if any worker was sacked and case was filed in the NIRC, he/she could have a relief that until the case is decided, he/she could have continued on the job. Now, sacking of workers would be easy for the employers as there would have been no immediate relief from the NIRC. Furthermore, labor appellate tribunal has been abolished, and the power of labor court to reinstate the sacked workers has also been curtailed (Munir, n.d.).

Practical outcomes

Rahim (2007) identifies a number of IR practices common in Pakistan, some of which are stated below. First, an overview of best practices:

- In some organizations payment of annual bonuses to workers has become a part of the emoluments' structure and is paid irrespective of profit to the company.
- Free or highly-subsidized meals is provided in the staff canteens.
- Compensatory holidays are allowed in lieu of festival holidays falling on weekly rest day(s).
- Company goods/other material and/or ration are provided to employees on subsidized rates.

However, there are also a number of areas in which the practical state of IR in Pakistan seems to be less than promising. For example:

- Many employers in Pakistan employ workers without an appointment letter. Conversely when their services are no longer required, they do not convey the termination to the workers in writing.
- Workers employed against work of a permanent nature are not allowed by some employers to work continuously for more than three months. They break their service before the completion of three months, keep them out for a week or ten days and then employ them again.
- A number of statutory forums such as the Union, the Works Council, Shop Stewards, the Management Committee and the Joint Management Board have been prescribed under the IRO, 1969. Employers generally prefer the forum of the Works Council.
- Reduction in permanent staff strength through golden handshake or voluntary severance schemes.
- Contracting out various services at the plants through outsourcing.

Hisam's (2007) report provides information on labor rights and the state of labor movement in Pakistan. The report identifies a wide gap between constitutional provisions and legal obligations on the one hand and the situation on the ground on the other. Hisam suggests not only are the existing laws not implemented, many of them are trampled upon by powerful rulers. For example, despite the fact that Pakistan has ratified several international conventions imposing restrictions on children's employment, today Pakistan has 3.06 million child workers as compared to 2.12 million 10 years ago and many of them are working in industries classified as hazardous, such as carpet weaving, bangle-making, rag-picking and so on. Hisam also expresses concern over the government's move to introduce changes in labor laws through the Finance Bill in 2006. Through the said Bill, the government increased the working hours, allowed employers to make women work till 10pm, added the contract worker to the definition of worker and limited the application of EOBI to institutions employing more than 20 workers. To bypass the constitutional requirement of bringing the IRO 2002 before the Assembly to be adopted as a law, Article 270-AA was introduced through the Legal Framework Order and the ordinance was deemed to have become a law. Hisam opines that this approach was found to be necessary because IRO 2002 placed restrictions on labor rights and also checked the workers' right to freedom of association and collective bargaining. Hisam's report also notes the adverse economic conditions in the country which have also placed labor at a disadvantage and weakened its bargaining power. The unemployment rate in Pakistan has increased over the years. For example, in 1974-75 the strength of the labor force stood at 20.4 million and the unemployment rate stood at 1.9%. In 2003-04, the number of workers had more than doubled to 45 million and the rate of joblessness had jumped up to 7.3 percent. A large pool of unemployed workers looking for a job enables the employer to exploit the situation and keep wages low. The growing incidence of child labor — from 3.4% to 5.5% of the labor force in the above mentioned period and 5.5% today — also allows the employer to manipulate the workers since they are more vulnerable (Mustafa, 2007).

There are scores of examples reported in the national press which suggest that not only the existing laws are inadequate but also there is a widespread violation of the existing labor laws. For example, only in one area, Hattar estate of the NWFP, at least 644 cases of violation of labor laws by industrial units were referred to the labor court in a study in 2005. The violations mostly related to minimum wages, occupational safety and health and issuance of appointment letters to workers under the Standing Order and Factories Act 1934. In many cases, the inspecting official found that workers were not being paid in accordance with the minimum wages ordinance, most went without appointment letters and without being vaccinated against seasonal maladies. The mandatory requirement of providing

occupational safety during work was also widely ignored. In May 2005, 35 cases were registered for violation of the Factories Act and 117 for breach of the Minimum Wages Ordinance. Of them, 52 were decided and fine imposed on the erring entrepreneurs. The report suggests that in some industrial concerns, workers, especially women, were forced to work beyond eight hours without being compensated for the extra work. Their holidays, according to some insiders, were also not paid for. The report suggests that the paltry amount of fine (not more than Rs500 in most cases) seems to be an inadequate measure to discourage legal violation. It has been suggested that severer punishment and heavier fine should be slapped in order to protect the workers' rights (Sadaqat, 2005).

Similarly, a national consultation on labor issues, in 2006, rejected the amendments to labor laws through the 2006 Finance Bill. "Increasing working hours to force workers, including women, to stay in factories till 10pm is aimed at further exploiting workers, who are already marginalised," said a declaration issued at the end of the moot. The meeting was attended by representatives of the All-Pakistan Textile Workers Union, All-Pakistan Road Transport Workers Union, All-Pakistan Bhatta Mazdoor Union and All-Pakistan Light Engineering Workers Union. Besides discussing sectoral issues, the delegates took a serious note of the amendments declaring the same as 'violation of ILO Conventions'. The meeting noted that federal government, by amending to the labor laws through the finance bill, has increased the working hours of from 8 hours to 12 hours, and has asked women workers to work till 10pm. The original laws prohibit setting working hours women to start before sunrise or continue after sunset. Besides, hours of overtime have also been increased from 150 to 624 hours a year. The four labor unions decided to launch a joint struggle for the restoration of eight-hour a day work, social security for all workers, increase in minimum wage slab and its implementation and end to forced labor, particularly in brick kilns (*Dawn*, 7 June 2006).

The Pakistan Workers' Federation, in its meeting of affiliated trade unions in 2006, criticized non-implementation of labor laws in different industrial units, stating that workers were being deprived of their rights. The Federation expressed concern that factory owners did not issue appointment letters to the workers as required under the labor laws nor they registered them under the social security and EOBI schemes. It observed that the workers did not enjoy security of service and they were being deprived of medical facilities and pension. It alleged that the mill owners had refused to implement the minimum wages notification and were not paying Rs3000 per month to unskilled workers, which was mandatory under the law. The Federation noted that the contract and daily wage system introduced by the mill owners had deprived the workers of all their rights. It was alleged that

that throughout the country, the sugar mill workers were working as slaves, and that the attitude of the mill owners and the labor department could lead to industrial unrest (*Dawn*, 31 January 2006).

Taking note of the violation of several international conventions, ILO has urged the government to restore trade union activities stating the ban on such activities was against various ILO conventions (Articles 2 and 3 of the Convention No. 87 and Article 4 of Convention No. 98) (Bhagwandas, 2004). According to Dr. Rashid Amjad, an ILO official in Pakistan, Pakistan needs to introduce labor friendly amendments in its labor laws especially the IRO 2002. Amjad suggested that there was a need for change in labor inspection mechanism and the government and employers' mindset to end exploitation of workers in Pakistan (quoted in Waqar, 2006).

According to another report by the ILO Committee of Experts on the Application of Conventions and Recommendations (the 90th session of ILC), there are concerns about Pakistan's implementations of Conventions 29, 32, 84, 87, 98, 105, 111 and 144, out which Conventions 29, 87, 98, 105, 111 are core instruments concerning forced labor, freedom of association, right to collective bargaining and equality of opportunity in employment and occupations (Jamal, 2002c). The Committee identified the following cases of violation of the core conventions:

- The ban on trade union activities in the Karachi Electric Supply Corporation has not been lifted. This is a violation of the fundamental rights on freedom of association. (Convention 87)
- Free collective bargaining right has been denied in the public banking and financial sectors. The other categories of workers are also deprived of the rights provided in the Convention (public servants of grade 16 or above, public servants in forestry and railways, hospital workers, postal service employees). (Convention 98)
- Workers in the Export Processing Zones are denied the rights guaranteed by Articles 1 (protection against anti-union discrimination), 2 (protection against acts of interference), and 4 (right to bargain collectively) of the Convention. (Convention 98)
- Lack of sufficient legislative protection for workers dismissed for trade union membership or activities (the judgment of the Supreme Court of 11 August 1994 restricts the right to judicial recourse in case of dismissal when it is not connected with an industrial dispute thus impeding the possibility of reinstatement provided for under section 25-A of the IRO). (Convention 98)

- Essential Service Laws prohibit employees from leaving their employment, even by giving notice, without the consent of the employer, as well as from striking, subject to penalties of imprisonment that may involve compulsory labor. (Convention 105)
- Observed number of discriminations on the basis of religion, sex, special industrial zones, export processing zones. (Convention 111).
- Debt slavery and bonded labor of adults as well as children remain most reported in agriculture, construction in rural areas, brick kiln and in carpet making. (Convention 29)

Discussion and Conclusion

Despite a variety of Islamic interpretations, it is possible to identify an emphasis on the ethical conduct of employers and employees in Islamic ideology. However, notwithstanding this ideological emphasis, IR in Pakistan generally seems to be inscribed by unethical legal and organizational practices, such as employee exploitation, discrimination, political and bureaucratic inconsistencies and non-implementation of existing labor laws. This situation may be seen as contributing to bitter employer-employee relationship and economic inefficiencies in that country.

Having inherited a paternalistic British approach to IR, trade unions and labor policies in Pakistan gained momentum in 1970s in the pro-socialist government of PPP. The decade of 1970s was characterized by the pro-worker (or pro-social justice) IR reforms. That era was however short lived. General Zia's military regime switched the direction of pro-social justice policies to pro-equality (or pro-free market) policies by prioritizing the interests of entrepreneurs and industrialists. Subsequently the forces of global capitalism coupled with a so-called bipartisan approach towards employee relations have contributed to a curtailment of workers' rights and trade union activities in Pakistan.

The case study suggests that the IR infrastructure in Pakistan seems to be characterized by the same ambivalence which is found in the Islamic normative interpretations of IR. While there are pro-justice (affirmative) laws which support workers' rights aiming to protect them from employers' exploitation, there are also pro-equality (pro-free market) laws which attempt to foster a bipartisan relationship between employees and employers. With the exception of the pro-worker IR reforms of the 1970s, the legal framework in Pakistan appears to be pro-free market (or pro-employer) while claiming to promote a bipartisan agenda. This ideological ambiguity, coupled with legal inconsistencies and a lack of

implementation, may be seen as having inconsistent implications for IR in that country.

In the absence of a concerted approach towards IR and a commitment by all stakeholders (government, employers and trade unions), the state of IR in Pakistan seems to be less than promising. What is perhaps needed is that managers, policy makers, and labor leaders in Pakistan work together to design and implement an integrated approach to achieving efficient management without compromising workers' rights. Institutional changes and improvements through international support will help improve standards and labor laws profile. However, standards or laws alone may hardly resolve problems faced by workers and the industry. Integrated efforts are needed to resolve these issues gradually by a cultural transformation through a process of education and awareness to foster a better understanding of IR. Other complementary measures must also be considered to enable and implement harmonious employee employer relations. These may include, for example, measures to improve skill levels of workers through better education and vocational policy, to increase legal awareness in workers and managers, and to arrest high unemployment rates through better economic planning in the country.

The case study suggests that despite Pakistan's explicit constitutional commitment to Islamic ideology, it is hard to identify any explicit Islamic element in the IR policies and practices in that country. The legal regime of IR and its implementation remain clearly secular and capitalistic. However, it can be safely assumed that some elements of the two divergent Islamic approaches to IR, i.e. pro-justice (affirmative) and pro-equality (neutral), are to varying extents visible in various laws and policies in Pakistan. For example, the institutions of NIRC and WEBCOP represent a bipartisan (or pro-free market) approach to employer-employee relations. In contrast, the pro-socialist policies of the PPP governments seem to be more inclined towards a pro-worker (or pro-social justice) approach. However, the overall trend of IR in Pakistan in recent decades has been generally inclined towards a bipartisan or pro-free market approach which remains clearly influenced by global and national capitalistic considerations. Consequently, issues of social justice and workers' rights in Pakistan remain compromised. The violation of workers' rights is commonplace notwithstanding any protection available in Islam and the national laws. The weakened state of labor unions has indeed destabilized the bargaining position of the workforce exposing it to bureaucratic and employers' manipulation. Perhaps legally empowered trade unions supported by labor courts could guarantee checks on exploitation, corruption and other violations of labor laws, a step towards a pro-social justice Islamic interpretation of IR which seems a far cry in today's Pakistan.

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