

RECOGNISING THE IMPACT OF BUSINESS ON HUMAN RIGHTS: CHALLENGES AND OPPORTUNITIES FOR PAKISTAN

EXECUTIVE SUMMARY

Human rights in business is an issue of major importance in Pakistan. The country's sixty million-strong work force continues to face significant problems, such as salaries below the legal minimum, obstacles to trade union formation, unsafe work conditions, approximately two to three million children in the workforce and women earning significantly less for the same work as men.

Despite these continued issues, there have also been success stories. Sialkot's sporting goods industry managed to eradicate child labour and improve working and living conditions, and an unprecedented compensation agreement was won for the victims of the Ali Enterprise factory fire in Karachi. Important lessons can be learned from both of these positive outcomes, including what approaches were effective, how challenges and disagreements between different stakeholders were overcome, and what aspects could have been improved. The experiences also demonstrated how vital it is for the state, businesses and civil society to work together as well as actively seek out their counterparts in countries that have successfully addressed human and labour rights challenges related to business activities. Efforts to address the impact of business activities on human rights are most effective when all stakeholders work together to respect internationally recognised standards on human and labour rights.

However, the issue of business and human rights is not yet on the radars of many key stakeholders in Pakistan. The National Action Plan on Human Rights, which the government of Pakistan unveiled in February 2016, makes no mention of the issue. Even though businesses exert a significant influence at the national, regional and international levels, affecting the human rights of millions of Pakistanis at home and in the workplace, an appreciation of their impacts is only beginning to emerge. From its interviews with business leaders, DRI found that industries that are not export oriented are particularly unaware of the benefits of promoting human rights in the workplace.

To help countries to pursue a business and human rights agenda, the United Nations Guiding Principles on Business and Human Rights (UNGPs) was developed. It acts as a detailed, practical guide for preventing and addressing the adverse impacts that business activities can have on human rights. According to the UNGPs, states have an overarching obligation to *protect* human and labour rights, while businesses must *respect* these rights and address the negative impacts of their activities. Together, businesses and states must ensure that individuals and communities are able to access *remedies* for negative impacts of business activities. As the voice of the community, civil society can also play a critical role by helping to monitor the degree to which states and businesses respect human rights.

To enhance the implementation of the UNGPs in Pakistan, the following measures could be considered:

- **State of Pakistan:**
Address gaps in laws, policies and practices related to Pakistan's obligations to core international standards on human and labour rights. This includes strengthening and implementing existing laws, policies and practices that seek to protect human rights at the federal and provincial levels. Include business and human rights requirements, in accordance with the provisions of the UNGPs, in the National Action Plan on Human Rights.

- **Business community in Pakistan:**
Publicly commit to respecting human and labour rights, put in place adequate and transparent mechanisms to identify and prevent abuses resulting from business activities, and ensure effective provision of remedies where necessary.
- **Civil society and national human rights institutions:**
Integrate the framework of the UNGPs into research, campaigns and strategic plans. Mainstream the UNGPs' framework for state and non-state grievance mechanisms into all activities that work towards providing remedies and redress for victims of rights abuses linked to business activities.

INTRODUCTION: WHAT DOES “BUSINESS AND HUMAN RIGHTS” MEAN?

From the individual's ability to receive state benefits or enjoy protection from harassment in the workplace, to women earning on average 60% less than men and the millions of children who receive limited schooling because they are compelled to work from an early age, business-related human rights issues impact the lives of all Pakistanis. Business enterprises, and multi-national companies (MNCs) in particular, have tremendous economic, political and social influence at all levels of society.

While the protection of human rights has traditionally been seen as the responsibility of the state, there have been increasing calls to recognise the impacts that business enterprises and their activities have on human rights. At the international level, these calls emerged out of the UN Global Compact, an initiative to encourage businesses worldwide to adopt sustainable and socially responsible policies, including those related to human and labour rights, and to report on their implementation.¹ The first UN Special Representative for Business and Human Rights developed the United Nations Guiding Principles on Business and Human Rights (UNGPs).² Unanimously endorsed by the Human Rights Council in June 2011, the UNGPs have become the most internationally accepted standards on business and human rights.³ The UNGPs are a practical guidebook on how to respect human rights in business operations. The UNGPs do not introduce new international obligations, but instead seek to provide a framework for governments, business and other actors to ensure respect for human rights in business activities.

Many business activities have an impact on human rights; whether these impacts are positive or negative depends upon the approaches taken by the state and the business community. A business might hire workers through a company that subjects them to forced labour and harassment. Or, like the football-manufacturing industry in Sialkot (discussed below), it may institute programs that allow workers and their children to access schools and healthcare. According to international standards on business and human rights, state authorities and business enterprises must respect, protect and fulfil all human and labour rights.⁴ These standards are articulated in a number of different international treaties, guidelines and frameworks. For instance, the European Union has granted General Scheme of Preference Plus (GSP+) status to Pakistan; under the status, Pakistan should implement 15 human and labour rights conventions. The UNGPs reinforce key standards articulated in these 15 conventions.

The aim of this briefing paper is to provide an overview of the UNGPs, the associated frameworks of international standards on business and human rights, the challenges faced in the Pakistani context, and the roles that state authorities, businesses and civil society can play in promoting enhanced rights protections in business activities. It is based on 50 interviews: nine with federal and provincial government officials, eight with industry and company representatives, two with

¹ See UN Global Compact, “Ten Principles of the UN Global Compact.”

<<https://www.unglobalcompact.org/what-is-gc/mission/principles>>

² UN Human Rights Council, Resolution 8/7, A/HRC/RES/8/7, 18 June 2008.

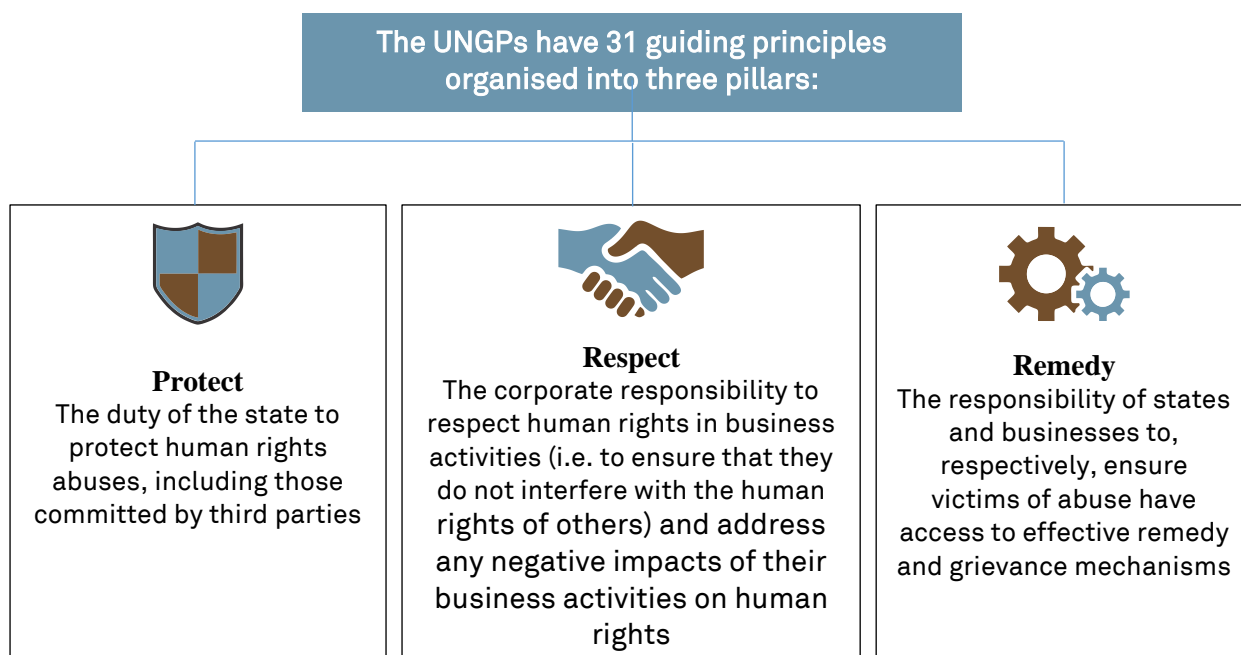
<http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_8_7.pdf>

³ UN Human Rights Council, Resolution 17, A/HRC/17/L.17/Rev.1, 15 June 2011. <<https://documents-dds-ny.un.org/doc/UNDOC/LTD/G11/141/87/PDF/G1114187.pdf>>

⁴ UN Guiding Principles on Business and Human Rights. Other internationally recognised standards include the OECD Guidelines for Multinational Enterprises and the ISO 26000.






international organisation representatives, 27 with workers and members of civil society, and four with international and local experts in Islamabad, Lahore, Karachi, Peshawar, Quetta and Faisalabad. The interviewees were selected from an existing list of DRI's contacts and partners, and were based on developments during the course of research in Pakistan. The interviews were carried out in Pakistan and remotely between 5 and 25 September 2016.

KEY OBLIGATIONS UNDER UNGP



STATE OBLIGATIONS UNDER THE UNGPS

The UNGPs affirm the state's obligation to protect against human rights abuses that are committed by third parties (including business enterprises) within its territory and jurisdiction. It also calls on states to clearly set out the expectation that all business enterprises domiciled in their territories and/or jurisdictions must respect human rights throughout all aspects of their operations. In relation to the duty to protect rights, the UNGPs call on states to:

 <p>Enforce relevant laws</p>	Enforce laws that require business enterprises to respect human rights, and periodically assess their effectiveness and address any gaps;
 <p>Ensure enabling laws for businesses</p>	Ensure other laws governing business enterprises do not constrain but enable business respect for human rights;
 <p>Provide guidance to business</p>	Provide effective guidance to businesses on how to respect human rights;
 <p>Encourage business to communicate impacts on human rights</p>	Encourage and require, as appropriate, businesses to communicate how they address human rights impacts; and
 <p>Ensure access to remedy</p>	Provide access to judicial and non-judicial grievance mechanisms to victims of human rights abuses involving businesses.






States should take additional steps to protect against human rights abuses by business enterprises that are owned, controlled by or receive substantial support from the state. Where appropriate, this should include requiring human rights due diligence and oversight of 1) state-owned businesses and 2) third parties with which state parties have entered into commercial transactions. This is particularly relevant in Pakistan, where the state owns, controls or supports a wide range of business enterprises in several sectors, including transportation, industrial and

agricultural products, petrochemicals, and military goods.⁵

RESPONSIBILITIES OF BUSINESS SECTOR UNDER THE UNGPS

The UNGPs require all business enterprises to respect internationally recognised human and labour rights standards.⁶ The responsibility to respect human rights, therefore, exists independent of the state.⁷ Businesses are expected to respect the principles of internationally recognised human rights “to the greatest extent possible in the circumstances, and to be able to demonstrate their efforts in this regard.”⁸ Respect for human rights extends not only to a business’s own activities, but also to its working relationships, such as its dealings with sub-contractors, suppliers and service providers. Activities that risk causing or contributing to gross human rights abuses should be treated the same as any other legal compliance issue.⁹

Business enterprises have a number of key responsibilities. They should:

 <p>Avoid adverse effects on human rights</p>	<p>Avoid causing or contributing to adverse human rights impacts linked to their operations, products and services, or business relationships, and address these impacts if they occur.¹⁰</p>
 <p>Create policies to commit to respect of human rights</p>	<p>Create policies and processes that commit them to respect human rights. These policies and processes should include a human rights due diligence process to identify, prevent, mitigate and account for how the businesses address their human rights impacts as well as processes to remedy adverse human rights impacts due to their activities.¹¹</p>
 <p>Human rights policies be approved by senior leadership</p>	<p>Approve human rights policies at their most senior level in consultation with relevant internal and external stakeholders directly linked to operations, products or services. Such policies must be publicly available and communicated to all staff, partners and other relevant parties, and be embedded in operational policies and procedures.¹²</p>
 <p>Identify actual or potential adverse effects on human rights</p>	<p>Identify and assess actual or potential adverse human rights impacts that emerge due to their activities or business relationships.¹³ Businesses should also track the effectiveness of their responses to identified human rights impacts.¹⁴</p>
 <p>Provide or cooperate in grievance mechanisms</p>	<p>Provide or cooperate in grievance mechanisms that seek to remedy adverse human rights impacts linked to their activities.¹⁵ Remedies may be provided through state-based processes, such as the courts, or non-state-based processes, including industry, multi-stakeholder and/or other collaborative initiatives.¹⁶</p>

⁵ Muhammad Naveed Iftikhar, “State-owned Enterprises in Pakistan: The Need for Corporate Governance and Private Investment,” *Policy Research Institute of Market Economy*, 2015. http://www.aspaonline.org/global/pdfs/soes_study.pdf

⁶ Principle 12, UN Guiding Principles on Business and Human Rights.

⁷ Commentary to Principle 11, UN Guiding Principles on Business and Human Rights.

⁸ Commentary to Principle 23, UN Guiding Principles on Business and Human Rights.

⁹ Principle 23, UN Guiding Principles on Business and Human Rights.

¹⁰ Principle 13, UN Guiding Principles on Business and Human Rights. *See also* Principle 24.

¹¹ Principle 15, UN Guiding Principles on Business and Human Rights. Regarding human rights due diligence, *see also* Principle 17.

¹² Principle 17, UN Guiding Principles on Business and Human Rights. Regarding the external communication of the business enterprise's actions on human rights, *see also* Principle 21.

¹³ Principle 18, UN Guiding Principles on Business and Human Rights. *See also* Principle 19.

¹⁴ Principle 20, UN Guiding Principles on Business and Human Rights.




¹⁵ Principle 22, UN Guiding Principles on Business and Human Rights.

¹⁶ Principles 28-30, UN Guiding Principles on Business and Human Rights. Non-judicial grievance

In cases where there is a large number of entities in the supply chain, businesses should identify general areas where the human rights risks are the greatest (whether they be due to certain suppliers' or clients' operating contexts, the particular operations, products or services involved, or other relevant considerations) and prioritise these areas for human rights due diligence.¹⁷

KEY HUMAN RIGHTS ISSUES IN PAKISTAN'S BUSINESS SECTOR

Pakistan faces a range of serious human and labour rights challenges relevant to business. They include:

 <p>Child and bonded labour</p>	<p>It is estimated that there are 2.4-3.2 million children and over two million bonded labourers in Pakistan's workforce.¹⁸ Despite laws and programmes to eradicate child and bonded labour, these practices continue across many parts of Pakistan. These practices are particularly prevalent in the agriculture sector and in smaller scale cottage industries, such as those that manufacture bricks and surgical instruments.</p>
 <p>Gender and racial discrimination</p>	<p>Women and religious and ethnic minorities face high levels of discrimination, affecting their access to justice, medical services and the workplace.¹⁹ There is currently no law that prohibits wage discrimination based on sex or gender.²⁰ As a result, women continue to receive far less pay than men. According to the Pakistan Bureau of Statistics, the difference is approximately 58%.²¹</p>
 <p>Unregistered workers, and wage issues</p>	<p>Many of Pakistan's largest industries continue to employ undocumented or temporary workers. These workers do not have clear contracts and have not been registered for state pensions, thereby excluding them from key benefits and protections, such as social security and old age benefits.²² Despite the establishment of a minimum wage under Pakistani law, many workers continue to be paid lower wages. For</p>

mechanisms should be: (a) legitimate, (b) accessible, (c) predictable, (d) equitable, (e) transparent, (f) rights-compatible, (g) a source of continuous learning, (h) based on engagement and dialogue. *See also Principle 31.*

¹⁷ Commentary on Principle 17, Principles 28-30, UN Guiding Principles on Business and Human Rights.

¹⁸ *See* Society for the Protection of the Rights of the Child, "Child Labor," in *The State of Pakistan's Children*, 2015, p. 130 <<http://www.sparcpk.org/2015/SOPC2015.html>>; and Society for the Protection of the Rights of the Child, "Introduction," in *Minimum Age Convention C138*, 2015.




<<http://www.sparcpk.org/2015/Publications.html>> *See also* Dr Hafiz A. Pasha, "GSP Plus Status and Compliance of Labor Standards," Friedrich Ebert Stiftung, November 2014, p. 21. <<http://library.fes.de/pdf-files/bueros/pakistan/11046.pdf>>

¹⁹ S E Shameem and A Ara, "Gender Discrimination and the Role of Women in Pakistan," *Journal of Social Sciences and Humanities* 50(1), (2011): pp. 95-105. On discrimination against religious and ethnic minorities, *see* Minority Rights, "Pakistan Country Page." <<http://minorityrights.org/country/pakistan/>> *See also* International Dalit Solidarity Network, "Caste-Based Discrimination in Pakistan: IDSN Briefing Note," May 2014. <http://idsn.org/wp-content/uploads/user_folder/pdf/New_files/Pakistan/Pakistan_briefing_note.pdf>

²⁰ ILO, "Minimum Wage Setting, Implementation and Working Conditions in the Formal and Informal Sectors of the Garment Industry in Pakistan," 18 October 2016, p. x. <http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-islamabad/documents/publication/wcms_532830.pdf>

²¹ The average monthly income for a man is approximately 14,000 rupees, whereas a woman earns an income of approximately 8,200 per month. *See* Pakistan Bureau of Statistics, "Percentage Distribution of Employees by Wage Groups, Major Industry Division and Sex 2014-2015," 2016. <<http://www.pbs.gov.pk/content/labour-force-statistics>>

²² Pakistan Workers Federation, "European Union GSP Plus and Challenges of Labour Standards Compliance in Pakistan: A Report by Pakistan Workers Federation," December 2015, p. 4. <<http://library.fes.de/pdf-files/bueros/pakistan/12099.pdf>>

		example, an estimated 37% of workers in the garment sector (one of the largest industries in Pakistan), continue to be paid less than the minimum wage. ²³
	Lack of decent work conditions	Approximately six out of every ten Pakistani employees – or around 34 million people – lack, or are at risk of lacking, decent work, with many facing dangerous and unregulated conditions. ²⁴
	Restrictions on union activity and other rights in the work place	According to the ILO, only 441,000 workers, or 1.2% of the urban workforce, are members of a union in Pakistan. ²⁵ Workers face significant hurdles in exercising their rights to form and join a union, collective bargain, take industrial action, and seek union representation during negotiations and disputes. ²⁶ Workers and activists have also been subjected to threats, intimidation, and, on occasion, prosecution for exercising their rights to freedom of expression, peaceful assembly and protest. ²⁷
	Forced evictions and land grabbing	Communities in poor and informal settlements have frequently been forcibly evicted or had their properties seized (with little or no consultation and inadequate compensation) to make way for major construction projects or business facilities. ²⁸

From this short overview, it is evident that both the Pakistani state and businesses operating within the country are not meeting the standards set out in the UNGPs.

One of the core principles of the UNGPs is that businesses should fully understand and respond to the human rights impacts of their activities.²⁹ Businesses are expected to give particular attention to areas where the risk of adverse human rights impacts is likely to be greatest. Due to the fact that many of the most serious human and labour rights issues that are relevant to businesses in Pakistan have been well documented, there is little excuse for businesses to fail to identify, prevent, mitigate and remedy any adverse impacts caused by their activities.

Of course, businesses alone are not responsible for ensuring that rights are respected in the context of business activities. The state, civil society and the wider community also have roles to play in protecting human rights and identifying, preventing and remedying abuses linked to business activities. Actions to prevent abuses or provide remedies after abuses have occurred are most effective when all stakeholders work together.

²³ ILO, “Minimum Wage Setting.”

²⁴ ILO, “Decent Work Country Programme 2010-2015,” (ILO Country Office for Pakistan), p. 9. <<http://www.ilo.org/public/english/bureau/program/dwcp/download/pakistan2010-15.pdf>>

²⁵ Cited in Dr Hafiz A. Pasha, “GSP Plus Status and Compliance of Labor Standards,” p. 32.

²⁶ Danish Trade Council for International Development and Cooperation, “Labour Market Profile 2015: Pakistan,” 2015.

<http://www.ulussekretariatet.dk/sites/default/files/uploads/public/PDF/LMP/LMP2015/lmp_pakistan_2015_final_version.pdf>

²⁷ See, e.g., Saad Sarfraz Sheikh, “How Okara Farmers Have Become the Latest ‘Enemies’ of the State,” *Herald*, 23 August 2016. <<http://herald.dawn.com/news/1153506>> See also Michael Semple, *Beyond Bondage: The LQM Bhatta Mazdoor Tehreek 2013-14 and Punjab’s Brick Kiln Labourers’ Struggle for Rights*, Pattan Development Organisation, July 2015, pp. 68-69.

²⁸ See, e.g., United Nations Office of the High Commissioner For Human Rights, “UN Experts Urge Pakistan to Halt Forced Evictions and Demolitions for New Metro line in Lahore,” 22 January 2016. <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16984&LangID=E>>

²⁹ Principle 11, UN Guiding Principles on Business and Human Rights.

KEY HURDLES IN IMPLEMENTATION

The government of Pakistan does not have a formal policy or guidelines on business and human rights. Pakistan's National Action Plan for Human Rights, which was announced in February 2016, makes reference to neither business and human rights, nor frameworks such as the UNGPs.³⁰ However, a handful of business and human rights projects are currently being carried out by civil society and international organisations in cooperation with government partners in Pakistan, such as the International Labour Organisation's (ILO) Decent Work Country Program. The state's most active engagement with business and human rights focuses on the implementation of the 15 human and labour rights conventions with which it is required to comply under the EU's GSP+ scheme.³¹ In this vein, the Pakistani authorities have established Treaty Implementation Cells (TICs) at the federal and provincial levels to monitor and report on Pakistan's progress in implementing the 15 human and labour rights conventions.³² But even with the increased focus on protections under GSP+, there are significant gaps in the government's implementation, enforcement and policy development. Government representatives indicated that there are a number of factors that contribute to these gaps:

- **Devolution of constitutional powers to provinces:** After the 18th Amendment to the Pakistan Constitution, several aspects of state responsibilities for human and labour rights were devolved to Pakistan's provincial governments. This has resulted in gaps and delays in the passage and implementation of legislation and policy frameworks. There are also capacity shortages in the provincial authorities.³³
- **Inadequate coordination at the federal level:** As a result of the devolution of state powers after the 18th Amendment, provincial authorities are also implementing laws and policies independent of one another.³⁴ A representative of the Punjab Board of Investment and Trade told DRI, "there is no one place in federal government coordinating efforts to implement all rights, whether human rights and labour rights. That makes the government's task of monitoring compliance more difficult."³⁵
- **Gaps between domestic legislation and international treaty commitments:** In some circumstances, the state lacks legislation or policies to enforce its obligations under ratified international human and labour rights conventions, or is unwilling to do so.³⁶ This includes the

³⁰ Pakistan Ministry of Human Rights, "Action Plan to Improve Human Rights Situation in Pakistan," 25 February 2016.

³¹ A full list of the 15 conventions on human and labour rights, and the 12 other conventions pertaining to corruption and environmental protection are available on the European Commission website: <http://trade.ec.europa.eu/doclib/docs/2013/december/tradoc_152024.pdf>

³² The federal government is responsible for the overall monitoring and coordination of treaty implementation. In June 2016, the Prime Minister of Pakistan announced a restructuring of the TIC "to improve compliance" with the 15 conventions. The TIC is headed by the Attorney-General of Pakistan. See Ministry of Information, "PR No. 181 PM restructures TIC to improve compliance on international obligations," 24 June 2016. <<http://www.pid.gov.pk/?p=22042>>

³³ With regard to labour laws, according to the Pakistan Workers Federation, "The 18th Constitutional Amendment from 2010 devolved labour to provincial jurisdictions, but the extraordinary hold-up in the formulation and enactment of provincial labour laws has deteriorated compliance and the uniform application of the ratified ILO Conventions." See Pakistan Workers Federation, "European Union GSP Plus and challenges of labour standards compliance in Pakistan," p. 2. With regard to capacity shortages, see the Jinnah Institute, "Devolution: Provincial Autonomy and the 18th Amendment," February 2015, pp. 21-22. <<http://jinnah-institute.org/wp-content/uploads/2015/02/Devolution-Report.pdf>>

³⁴ See the Jinnah Institute, "Devolution: Provincial Autonomy and the 18th Amendment."

³⁵ Interview in Lahore, Punjab, 7 September 2016.

³⁶ See High Representative of the Union for Foreign Affairs and Security Policy (European Commission), "The EU Special Incentive Arrangement for Sustainable Development and Good Governance ('GSP+') Covering the Period 2014-2015," 28 January 2016, pp. 190, 198.

<[https://eeas.europa.eu/delegations/costa_rica/documents/eu_costa_rica/european_commission._\(2016\)._report_on_the_generalised_scheme_of_preferences_during_the_period_2014-2015..pdf](https://eeas.europa.eu/delegations/costa_rica/documents/eu_costa_rica/european_commission._(2016)._report_on_the_generalised_scheme_of_preferences_during_the_period_2014-2015..pdf)> See also the full list of recommendations made by states party to the United Nations Human Rights Council as part of Pakistan's last Universal Period Review, which provides an extensive catalogue of Pakistan's reservations against international conventions already ratified. (Most of the recommendations that Pakistan agreed to have yet to be implemented). Available at: <https://www.upr-info.org/database/index.php?limit=0&f_SUR=130&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=300&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly>

exclusion of large groups of workers (such as certain public sector employees and workers in the Export Processing Zones and Special Economic Zones) from labour protections under domestic law.³⁷

- **Lack of expertise:** Some government representatives noted that there is a lack of expertise on specific human and labour rights standards. One representative of the Sindh government told DRI that “pollution [and] other environmental issues or child labour, or rights of women in the workplace: these are specialised issues. We need experts to help us address these areas.”³⁸ Chaudhry Muhammad Shafique, the Islamabad member of the National Commission on Human Rights, made a similar point: “At the moment the government’s approach is more reactive than proactive. There needs to be a real understanding of the substance of Pakistan’s commitments under international human rights conventions.”³⁹
- **Poor enforcement of human rights and labour rights protections:** Law enforcement authorities, labour inspectors and the courts lack the resources, capacities and/or will to enforce rights protections. According to some government representatives, these shortcomings are exacerbated by resistance to open discussions of state failings. A representative of the Sindh Human Rights Ministry said, “we need to get over the hurdle of fear of frank reporting or criticism of the government or big businesses. If we don’t get over that then we can’t address issues, but issues will still arise like Ali Enterprises [a factory fire in Karachi in 2012 that occurred due to poor safety standards].”

PRIVATE SECTOR AWARENESS OF HUMAN AND LABOUR RIGHTS

THE BUSINESS SECTOR

Pakistan’s business community appears to have limited understanding of human and labour rights, how their business activities may impact on these rights, and what steps they should take to identify, prevent, mitigate and remedy these impacts. Awareness of human and labour rights is most developed among businesses involved in industries that export to the EU, especially the textiles and garments sectors. Representatives of these sectors noted that the human and labour rights requirements under the GSP+ scheme had placed significant pressure on them to ensure compliance with minimum standards. All of these representatives were aware that 1) the EU monitors Pakistan’s compliance with the 15 human and labour rights conventions under the GSP+ scheme, 2) the EU’s next review of the country is due in the first half of 2017, and 3) failure to adequately meet these requirements could lead to the loss of the GSP+ status, as happened to Sri Lanka in 2010.⁴⁰

“These [human and labour rights] conventions do not concern us because we are not an export industry. Our role is critical to meeting Pakistan’s energy needs, our focus is on increasing efficiencies in production. Once we reach our optimal levels, we can discuss wider issues.”

Some business representatives noted that the business community has an instinctive suspicion of “human rights language.” With businesses operating in a highly politicised environment, some businesses feel that speaking about human and labour rights risks arousing suspicions and controversies from the media, other private groups or state authorities. There could be a number of reasons for this suspicion – not least that human rights remain a sensitive issue in Pakistan. For example, Pakistani law criminalises criticism of religion or state institutions, such as the military, parliament or the courts.⁴¹ Five of the business representatives interviewed also complained that even the business environment is highly politicised. As a garment factory owner (who wished to remain anonymous) noted, “in the Punjab I have to remain on good terms with the [provincial]

³⁷ See International Trade Union Confederation, “Survey of Violations of Trade Union Rights, Pakistan,” 18 February 2014. <<http://survey.ituc-csi.org/Pakistan.html?lang=en#tabs-2>> See also Danish Trade Council for International Development and Cooperation, “Labour Market Profile 2015: Pakistan,” p. 3.

³⁸ Interview in Karachi, 9 September 2016.

³⁹ Interview in Islamabad, 6 September 2016.

⁴⁰ European Commission, “EU Regrets Silence of Sri Lanka Regarding Preferential Import Regime,” 5 July 2010. <http://trade.ec.europa.eu/doclib/docs/2010/july/tradoc_146301.doc%20ftw.pdf>

⁴¹ See, inter alia, *Constitution of the Islamic Republic of Pakistan*, Article 5; *Pakistan Electronic Media Authority Ordinance 2002*, Sections 27, 30, 33; *PEMRA Rules 2009*; *The Code of Conduct for Media Broadcasters or Cable TV Operators Programmes* made under *PEMRA Ordinance 2002*, section 39; *Pakistan Criminal Procedure Code 1898*, Article 99-A; and *Pakistan Penal Code 1860*, Sections 295-295C.

government. Because my stock is exported from Karachi, I also have to keep the [federal] customs people on my side too.” As a result, he argued, he and other businesspersons are averse to engaging with issues they consider to be too political, such as human rights. One industrialist told DRI, “I don’t use the language of human rights, but language that is more acceptable to business, like sustainability, ethics, CSR [Corporate Social Responsibility], and demonstrate profitability and competitiveness [advantages] of respecting human rights and labour rights.”⁴²

Outside the textile and garment export industry, local business appears to have limited interest in seeking to address shortcomings in human and labour rights protections. One representative of an oil and gas company told DRI that “these [human and labour rights] conventions do not concern us because we are not an export industry. Our role is critical to meeting Pakistan’s energy needs, our focus is on increasing efficiencies in production. Once we reach our optimal levels we can discuss wider issues.” Business representatives outside export industries voiced similar sentiments, demonstrating the need to educate the wider business sector about the fact that all business enterprises have a responsibility to respect human and labour rights.

Business representatives also expressed concerns that addressing human and labour rights could adversely impact profits. However, the main reason cited for this concern was the drive to embed better rights protections when, it was felt, there are already so many challenges for business in Pakistan. The three most common challenges mentioned by the businesspersons interviewed were:

- **The challenging environment for export industries:** This environment is a result of the global financial crisis, the strengthening Pakistani Rupee and an increasingly competitive marketplace in which businesspersons believe large multi-national companies put significant pressure on suppliers like to lower costs while delivering goods at limited notice.
- **The ongoing energy crisis:** Due to chronic shortages in energy production, the electricity grid is subject to regular, scheduled shutdowns, especially in the hot summer months, which results in reduced factory outputs. Businesses also complained that energy costs are high.⁴³
- **The tax and regulatory environment:** There is a common perception among the textile and garment export industry representatives that Pakistan has higher taxes and more onerous regulatory frameworks than major competing export states (such as Cambodia and India), placing their products at a disadvantage in the competitive international market.

Despite the clear challenges to improving respect for human and labour rights in Pakistan's business community, important solutions may already be available in existing practices. This includes the critical role of incentivising human and labour rights standards as part of Pakistan's foreign trade relations. The business community has a growing awareness of these incentives. All of the export industry representatives who were interviewed stated that the situation of their business activities and the economy would be worse without the tariff concessions under GSP+.

Business representatives said that government authorities could do more to assist businesses in improving their understanding of, and compliance with, human and labour rights standards. As one textile mill owner in Faisalabad who supplies clothing to several global brands told DRI, “ultimately I have to run a business. I want to respect human rights in my factories, but I need guidance on what that means.”⁴⁴ According to the UNGPs, as noted earlier, state authorities should ensure that laws governing business enterprises are effective, address any gaps in their application and ensure these laws do not constrain but enable business respect for human rights.⁴⁵ To meet these requirements, the Pakistani authorities could improve, develop, and expand the dialogues, trainings and other programmes that were carried out with the business community and civil society after the country was awarded GSP+ status by the EU in 2014. Then – as now – the National Council for Human Rights (NCHR) should play a role in providing expert advice on the preparation, delivery and assessment of such programmes.

⁴² Interview in Karachi, 10 September 2016.

⁴³ See Rashid Aziz and Munawar Baseer Ahmad, “Pakistan’s Power Crisis: The Way Forward,” United States Institute for Peace, June 2015. <<https://www.usip.org/sites/default/files/SR375-Pakistans-Power-Crisis-The-Way-Forward.pdf>>

⁴⁴ Interview in Faisalabad, Punjab, 8 September 2016.

⁴⁵ Principle 3(a) and (b), UN Guiding Principles on Business and Human Rights.

The business community itself should play a leading role in promoting human and labour rights protections. MNCs operating in Pakistan have had the widest exposure to business and human rights standards, including the development and ongoing dialogue related to the UNGPs. This was highlighted by their active presence at the annual Forum of Working Group on Business and Human Rights that was hosted by the UN's Office of the High Commissioner for Human Rights. MNCs have also led the way in addressing workplace harassment and discrimination.⁴⁶ Some of the larger companies in Pakistan have clear codes of ethics and/or guidelines, which prohibit this negative conduct, that are in line with domestic legislation and international conventions. However, labour rights activists complained that MNC practices largely focus on white collar and semi-skilled workers in offices, rather than the much larger unskilled workforce that is either directly employed by the MNCs or within their supply chains. As the labour rights expert Abdul Qadir explained:

“If you’re Coke, Pepsi or Nestlé, for example, you have good processes to prevent harassment or discrimination in the office workplace. But the gentleman who delivers your goods to the local market, or the vendor who sells it – has anyone asked him if he is registered for the state pension? Does he even know what a union is, let alone has he been allowed to join one?”⁴⁷

There is much that can be learned from other successful attempts to eradicate abusive human and labour rights practices in Pakistani business. One of the most striking examples of this was the elimination of child labour from one of Pakistan's largest export activities: the football manufacturing industry.

Elimination of Child Labour from Sialkot’s Football Manufacturing Industry

During the European Football Championship in 1996, several trade unions and non-governmental organisations (NGOs) drew attention to the forced labour of children who were making footballs in Sialkot, Pakistan for global brands, such as Nike, Puma, Decathlon, Adidas and Reebok. Confronted with these revelations, the football manufacturers agreed to take part in a monitoring programme set up by the ILO. In February 1997, the World Federation of the Sporting Goods Industry, the ILO, UNICEF and the Sialkot Chamber of Commerce signed the Atlanta Agreement. The main objective of the Atlanta Agreement was to eliminate child labour in the football industry in Pakistan within 18 months. It also aimed to give child workers the opportunity to go to school, so that they did not end up working in another sector of industry. Funding was provided by UNICEF, the US Department of Labour, the International Federation of Football Associations (FIFA) and the Soccer Industry Council of America. The Atlanta Agreement established the following programme of activities to address child labour in Sialkot:

- Registration of all contractors, football stitchers and stitching facilities;
- Establishment of a monitoring system;
- Agreement to independent monitoring;
- Increase awareness and changed attitudes, including income generation;
- Implementation of social protection programmes, including basic health insurance, day-care facilities and a micro credit fund.

Within 18 months, all registered companies were required to disclose all aspects of their production. Unannounced site visits were made by independent inspectors to verify 1) that children were not present and 2) the accuracy of the

⁴⁶ See, e.g., Unilever Pakistan, “Policy on Prevention of Sexual Harassment (Asia AMET).” Also see, e.g., Nestlé Pakistan, “Nestlé’s Corporate Business Principles,” 2016. <<http://www.nestle.pk/csv/whatiscsv/businessprinciples>>; and Telenor Pakistan “Local Policy: People,” 22 January 2016, pp. 8, 12. <https://www.telenor.com.pk/media/wysiwyg/Telenor_Pakistan_-_Local_Governance_Policy_-_People.pdf>

⁴⁷ Interview in Islamabad, 6 September 2016.

production information provided by the company. If children were found in the workplace, the manufacturer was told that it was in violation of the agreement and that corrective action was required. If monitors found that corrective action was not taken within a certain period of time, the company's membership in the programme would be withdrawn and the World Federation of Sporting Goods Industry would notify the brands and retailers of this violation. Footballs made in child-free work environments received an identification number on the inside of each ball to identify the factory in which it was made.

According to the ILO, by 1999 independent monitors found no instances of child labour at the soccer ball stitching centres, and the overall rate of child labour in the industry was estimated to be under 5%.⁴⁸ The football manufacturing industry in Sialkot continues to be a model for the sustainable elimination of child labour and the improvement of conditions for workers and their communities. Significantly, these results would not have been possible without the active engagement of civil society, labour experts, government, multi-national and local businesses, industry bodies, and concerted local and international public pressure. Learning the lessons of Sialkot is critical for advancing respect for human rights in Pakistani businesses.

CIVIL SOCIETY

A diverse group of civil society organisations are active in Pakistan, including formal and informal bodies as well as networks and individual human rights defenders working at the regional, provincial and federal levels. Likewise, international organisations, such as the ILO and UN, and foreign development agencies actively support civil society efforts related to business and human rights. Civil society has been at the forefront of promoting human and labour rights in the context of business activities, such as their organising brick kiln workers, documenting abusive practices and lobbying state authorities to provide remedies for victims. Workers have also established their own organisations, such as the Labour Quami Movement in central and south Punjab and the Karachi Street Hawkers Union. Civil society representatives told DRI that a key driver for change is the increasingly globalised world through which companies have become more exposed to media (and social media) coverage of exploitative practices and/or other social impacts. The Ali Enterprise factory fire is a case in point.

COMPENSATION FOR THE ALI ENTERPRISE FACTORY FIRE

On 11 September 2012, a fire in a Karachi garment factory resulted in the death of 262 workers and the injury of at least 55 others. It is the worst industrial disaster in Pakistani history. Although the factory received an apparel industry certification only three weeks earlier, survivors gave accounts of locked emergency exits and windows that prevented workers from escaping.⁴⁹ Ali Enterprises, the company that owned the factory, and KIK, a German multi-national company that was its main client, faced significant local and public pressure to provide compensation to the victims. Criminal proceedings against the owners of Ali Enterprises remain ongoing in the courts. Following five years of intensive negotiations involving the companies, Pakistani and German authorities, the ILO, and local and global civil society, KIK agreed on 11 September 2016 to pay a total of six million Euros to victims and their families to fund the gap in statutory benefits that were due from the state's social security scheme. The agreement is the first of its kind and a significant example of state authorities, businesses, labour experts and civil society working together to provide a remedy to victims of a major industrial disaster.

There are several challenges to improving respect for human rights in the context of business

⁴⁸ ILO, "From Stitching to Playing: Sialkot Ten Years After," 7 July 2006. <http://www.ilo.org/global/about-the-ilo/newsroom/features/WCMS_071247/lang--en/index.htm>

⁴⁹ Declan Walsh and Steven Greenhouse, "Inspectors Certified Pakistani Factory as Safe Before Disaster," *The New York Times*, 19 September 2012. <<http://www.nytimes.com/2012/09/20/world/asia/pakistan-factory-passed-inspection-before-fire.html>>

RECOMMENDATIONS

To the Pakistani Authorities



- Address gaps in law, policy and practice with respect to Pakistan's obligations under core international standards on human and labour rights, including by strengthening and implementing existing laws, policies and practices that seek to protect human rights at the federal and provincial levels.
- Include business and human rights requirements, in line with the provisions of the UNGPs, in the National Action Plan on Human Rights.
- Develop and carry out a plan for the implementation of the UNGPs that includes a strategy for increasing public awareness of international standards on business and human rights. Ensure that the widest possible representation of civil society, human and labour rights experts, and the business community is consulted on an ongoing basis for the development and implementation of state policies on business and human rights.
- Increase the scope and quality of coordination between federal and provincial authorities that are responsible for the implementation of – and monitoring of compliance with – Pakistan's international human rights obligations.
- Recognise and protect the rights of human rights defenders in line with the UN Declaration on Human Rights Defenders, and ensure that they are free to carry out their legitimate activities without restriction or the threat of intimidation or abuse.
- Publicly educate the population and workers about their rights.
- Ensure labour ministries 1) actively register workers in the state benefits system and for identification cards, 2) actively and consistently carry out labour inspections, and 3) enhance the capacity and quality of justice processes in labour courts.
- Require full disclosure from all companies, suppliers and factories that produce goods for export markets and their international clients, and publicly release this information.
- Address the low levels of unionisation among the workforce by reforming existing laws to ensure that all workers are able to exercise their right to freedom of association, the right to organise and engage in collective bargaining and collective representation, and freedom of speech.

To the Business Community in Pakistan



- Publicly commit to respecting human and labour rights and put in place adequate and transparent mechanisms to identify and prevent abuses due to business activities.
- Review business practices and policies to ensure that the company does not commit or materially assist in the commission of acts that lead to human or labour rights abuses.
- Require full disclosure from all partners, clients and suppliers, and publish a list of all factories, suppliers and companies in value chains.
- Seek expert guidance, including that of civil society, to embed the UNGPs and other relevant international standards across business activities.
- Ensure workers are able to exercise their right to freedom of association, right to organise, engage in collective bargaining and collective representation, and freedom of speech.
- Actively develop and encourage industry bodies that seek to advance and implement international standards on business and human rights in Pakistan.

To Foreign Businesses Active in Pakistan



- Develop and implement policies and practices on business and human rights in line with the UNGPs and other relevant international standards that partners and contractors in Pakistan must respect as a legal requirement for doing business with you.
- Share specialist knowledge and expertise on business and human rights with counterparts and partners in the Pakistani business community.
- Seek expert guidance, including that of civil society, on how to identify, prevent and mitigate human rights risks due to business activities in Pakistan.

To Civil Society in Pakistan



- Integrate the UNGPs' framework into research, campaigning and strategic plans. Apply the UNGPs' framework relevant to state and non-state grievance mechanisms to activities seeking remedies and redress for victims of abuses linked to business activities.
- Coordinate activities relevant to business and human rights issues in Pakistan with other civil society organisations working at the grassroots, regional, national and international levels. Where possible, avoid duplication and combine efforts to benefit from the strengths of different civil society stakeholders, or where joint actions would improve the impact of activities.
- Work with government and business representative bodies to develop policies and plans for the implementation of the UNGPs by state and non-state stakeholders.

To Foreign Government Partners of Pakistan



- Incorporate business and human rights standards, frameworks, and policies into human and labour rights projects in Pakistan.
- Encourage and facilitate interactions between the state, businesses, trade unions, civil society and other experts from your country with knowledge of business and human rights with their counterparts and partners in Pakistan.

ANNEXES

STATE STAKEHOLDERS WITH RESPONSIBILITIES TO ENSURE IMPLEMENTATION OF UNGPS

State Authority		Role Relevant to Business and Human Rights
Federal Government	Provincial Governments	
Prime Minister of Pakistan	Chief Ministers	Heads of government at the federal and provincial levels wield the power to change laws and policies. As two of the largest businesspersons in the country (whose PML-N party is also in government in the key industrial province of Punjab), the Prime Minister and Chief Minister of Punjab have an increased onus to incorporate human rights in business activities.
Ministry of Foreign Affairs	N/A	Represents the state in international fora. Reports on Pakistan's progress on implementation of international human and labour rights standards to the international community. Closely coordinates with the federal Treaty Implementation Cells
Office of the Attorney-General, Ministry of Law and Justice	Ministry of Human Rights (Punjab) Ministry of Law (Sindh, Khyber Pakhtunkhwa, Balochistan)	Head of the Treaty Implementation Cells that are responsible for monitoring Pakistan's compliance with international human and labour rights standards, principally the 15 conventions that are required under the EU's GSP+ scheme.
Supreme Court (highest judicial organ of Pakistan)	High Courts of Lahore (Punjab), Sindh, Khyber Pakhtunkhwa and Balochistan (highest judicial organs of the provinces); Labour Courts	Appellate jurisdiction courts that hear human and labour rights cases. The Supreme Court is currently hearing a case regarding the implementation of minimum wage requirements of provincial governments.
Ministry of Finance, Federal Board of Revenue, Board of Investment	Provincial Boards of Investment and Trade/Trade Development Authorities, Provincial Wages Boards	Influences the setting of minimum wages as part of budget planning. Overseas aspects of trade and investment. Close ties to business community.
Ministry of Overseas Pakistanis and Human Resources	Provincial Labour Departments	Regulates the foreign recruitment industry, reports on implementation of international labour conventions. Provincial labour departments are responsible for labour inspections and first-instance labour law enforcement.

Other relevant federal ministries include:

- Ministry of Commerce
- Ministry of Textiles
- Ministry of Food, Agriculture and Livestock
- Ministry of Petroleum and Natural Resources

National Assembly and Senate	Provincial Assemblies	Primary institutions of Pakistan's system of parliamentary democracy. Responsible for development, debate, and passing of laws and regulations. The assemblies contain a number of important human and labour rights champions.
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BREAKDOWN OF PAKISTAN'S LABOUR FORCE BY INDUSTRY⁵⁰

Industry	Percentage Distribution of Employed Persons 10 Years of Age and Above (%) (2013-14)		
	Total	Male	Female
Agriculture, Forestry and Fishing	43.48	26.22	17.26
Wholesale and Retail Trade, Repair of Motor Vehicles, Motorcycles	14.58	14.22	0.37
Manufacturing	14.16	11.28	2.88
Water Supply; Sewerage, Waste Management and Remediation Activity Construction	7.33	7.25	0.08
Transport, Storage	5.01	4.98	0.03
Education	3.56	2.27	1.29
Public Administration and Defence	2.33	2.27	0.05
Other Services Activities	2.10	1.92	0.19
Accommodation and Food Services Activities	1.57	1.53	0.04
Human Health and Social Work Activities	1.40	1.03	0.37
Activities of Households as Employers; Undifferentiated Goods and Services-Producing Activities of Household for Own Use	1.15	0.45	0.70
Administrative and Support Service Activities	0.50	0.49	0.01
Electricity, Gas Steam and Air Conditioning Supply	0.48	0.48	

⁵⁰ Pakistan Bureau of Statistics, "Percentage Distribution of Employed Persons 10 Years of Age and Over By Major Industry Division, Sex and Area 2013-14," 2014. <<http://www.pbs.gov.pk/content/labour-force-statistics>>

Financial and Insurance Activities	0.47	0.46	0.02
Information and Communication	0.44	0.43	0.01
Professional, Scientific and Technical Activities	0.44	0.42	0.02
Real Estate Activities	0.33	0.32	0.00
Mining and Quarrying	0.20	0.20	0.00
Arts, Entertainment and Recreation	0.16	0.15	0.01
Activities of Extraterritorial Organisations and Bodies	0.01	0.01	0.00