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### **Lagging labour**

IN the aftermath of the devolution of labour laws, companies with factories and offices in only one province are governed by the labour laws of that province, while those with establishments in more than one province are termed trans-provincial organisations. Since the 18th Amendment was passed, these organisations have resisted the application of provincial jurisdiction over them by claiming to fall within the scope of the federation.

The stand taken by such firms is strengthened by the fact that, soon after devolution, the federal government promulgated the Industrial Relations Act (IRA), 2012. Its stated purpose is to consolidate and rationalise the law relating to trade unions, and improve relations between employers and workers in the federal capital and in trans-provincial firms and industries. Any establishment, group of establishments or industry operating in more than one province is considered 'trans-provincial' under the law.

The act has been accepted in letter and spirit by employers and workers' unions, and all its provisions are implemented by the two stakeholders. There is one collective labour agreement applicable in trans-provincial firms, decided between the collective bargaining agent union and the employer. The referendum to elect the CBA union among more than one union was previously conducted by the trade unions' registrar in provincial labour departments. These are now organised by the National Industrial Relations Commission (NIRC) in Islamabad, which also registers newly formed unions in trans-provincial companies.

*Federal labour laws are rapidly losing their utility.*

IRA 2012 is the only law promulgated specifically for trans-provincial firms post devolution. Several other important federal laws have neither been amended since 2010 nor formally extended to these companies, such as the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968; Companies Profits (Workers' Participation) Act, 1968; Minimum Wages for Unskilled Workers Ordinance, 1969; Workmen's Compensation Act, 1923; and West Pakistan Shops and Establishments Ordinance, 1969.

While trans-provincial firms maintain that they are covered by these laws, their stance is growing weaker due to the lack of attention paid by the federal government. As a result, it has become difficult for them to defend their position before provincial labour departments and the courts.

Besides, federal labour laws are rapidly losing their utility and risk becoming obsolete due to the federal government's inattention. This situation cannot continue indefinitely; the superior courts will have to intervene and issue directives to the federal government.

Ironically, in some matters, trans-provincial firms began following provincial laws without hesitation. For instance, the federal government fixed the minimum wage at Rs15,000 effective July 2017, for two years until June 2019. The Sindh government increased it to Rs16,200 effective July 2018. Most of these companies followed the latter minimum wage for their establishments in Sindh.

On the other hand, these firms scrupulously guard the quantum of leave allowed to workers and rigidly maintain the status quo. For instance, under the Sindh Factories Act, 2015, compensation against sick leave is at full pay for 16 days. But these companies continue to restrict compensation to half pay as per the Factories Act, 1934. There are several similar inconsistencies being practised by these firms, consciously or otherwise, such as following the Sindh government's notification of public holidays.

There are number of other situations for which the provincial labour departments may have to be empowered by the federal government, eg to carry out inspections. Besides, where should the workers of such companies or their legal heirs lodge claims of compensation or non-payment of wages? In the absence of federal institutions in provinces, these functions should be formally assigned to the provincial commissioner for workers' compensation, the prescribed authority under the Payment of Wages Act, 1936. These matters should be resolved soon to avoid undue hardship to affected workers or their heirs.

Matters of workers' grievances and petitions against dismissal in such companies now fall under the purview of the NIRC. Presently, there are hundreds of cases pending disposal before the few members of the NIRC. Some of these cases are minor in nature and may be disposed of within one or two hearings, but only if they are taken up. The delay is resulting in an inordinate injustice for workers.

The issues highlighted above need to be urgently addressed and resolved by the federal government. Failure to do so will exacerbate confrontations between provincial government officials and trans-provincial companies, with the latter perpetually engaged in fighting avoidable legal battles. This is not a desirable situation for industry in Pakistan.

The writer is an industrial relations professional.