

# SEEKING REDRESSAL

Access to Justice for  
Vulnerable Workers



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Human Rights Commission of Pakistan

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# 1 Introduction

Numerically speaking, Pakistan's labour force is among the top ten in the world. According to the 2020/21 Labour Force Survey, Pakistan has a labour force of 71 million people, out of which around 67 million people are employed in various sectors – both public and private, while 4.51 million people (6.3 percent) are unemployed. It is feared that this number has increased following Covid-19 restrictions and the closure of businesses, big and small.<sup>1</sup> With such a sizeable labour force, coupled with limited skill-building and employment opportunities, it is important to not only nurture economic opportunities but also provide effective redressal mechanisms for cases of exploitation and injustice.

Indeed, the Human Rights Commission of Pakistan (HRCP) has observed frequently during consultations and fact-finding missions that a grievance common to vulnerable workers – ranging from domestic workers and agricultural workers to miners, sanitation workers and industrial workers – was their perceived and real inability to seek, much less receive redressal. This study is a first step towards documenting and understanding this problem.

Following Pakistan's ratification of the International Labour Organization (ILO)'s Convention 87 (the right of workers to organize) and Convention 98 (the right to bargain collectively) in the early 1950s, the Industrial Relations Ordinance (IRO) 1969 provided the right to form trade unions with some exclusionary provisions. After that, successive governments amended the IRO 1969 several times to further restrict labour-industrial relations. The IRO 2002 and the Industrial Relations Act 2008 both excluded from their ambit the employees of law enforcement agencies, Pakistan International Airlines security staff, wage-earners above pay group V, workers in government hospitals and educational institutions, agricultural workers and the self-employed. These groups together constitute about 70 percent of the country's total workforce and yet became ineligible to seek benefits granted under this legislation. Simultaneously, labour unions and the labour rights movement remained restricted, limiting access to justice for ordinary workers.<sup>2</sup>

After the 18th Amendment to the Constitution, labour became a purely provincial subject. However, there are matters still pending vis-à-vis the jurisdiction and mandate of different institutions. The Employees' Old-Age Benefits Institution (EOBI) and workers' welfare funds, for instance, are not under provincial control and instead operate at the federal level, leaving workers uncertain and helpless with regard to institutions that are meant to serve them.<sup>3</sup> The governments that came into power post-18th Amendment blamed the previous government responsible for this stalemate.<sup>4</sup> As for provincial governments, they simply adopted the already promulgated federal laws as provincial laws without making any substantive changes.<sup>5</sup>

Access to justice for Pakistani workers is an unmet reality constrained by normative, implementation and monitoring gaps that hinder workers' right to a decent livelihood. The

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<sup>1</sup> <https://www.pbc.org.pk/wp-content/uploads/Covid-19-Business-Response-and-How-to-Sustain-Employment.pdf> and <https://www.arabnews.pk/node/1668951>

<sup>2</sup> <https://asia.fes.de/news/pakistan-labour-movement>

<sup>3</sup> <https://pildat.org/parliamentary-development1/18th-constitutional-amendment-and-devolution-of-labour-ministry>

<sup>4</sup> <https://www.dawn.com/news/1600724>

<sup>5</sup> The exception was the Punjab Industrial Relations Act, which amended provisions in its federal counterpart, the Industrial Relations Act 2008, but such instances are still too rare and far between to address the longstanding complaints of the labour rights movement in Pakistan.

normative gaps consist of flaws in the existing body of laws that have been reported by labour organizations, independent bodies as well as the ILO. In other instances, laws or policies do exist to protect workers' rights but the implementation of these laws becomes a challenge, thus creating implementation gaps. For example, the Industrial Relations Institute of Punjab, mandated to educate workers, remains dormant and there have been no training programmes for workers in decades. Finally, a monitoring gap persists: for example, labour inspection was a consistent challenge until it was completely banned in Punjab.<sup>6</sup>

From a lack of awareness of their legal rights to limited opportunities for legal assistance, the entire justice chain seems skewed against workers. Moreover, the obstacles workers face in accessing justice are seldom raised in mainstream discourse, with redressal hardly considered a national priority. Today, the labour rights movement in Pakistan grapples with a wide variety of challenges. It is not only divided on ideological and ethnic lines but has also been significantly weakened by privatization policies, which have effectively deregulated big businesses, resulting in poor enforcement of workers' rights. Most regimes—be they dictatorships or democratic governments—have also been hostile towards labour rights movements, apart from announcing a nominal increase in the minimum wage every year on International Labour Day.<sup>7</sup>

There is also a significant dearth of literature that documents the issues workers face in accessing justice, from their employment terms and conditions to taking legal recourse. This study aims to bridge this gap by:

- Assessing the overall state of labour rights in Pakistan vis-à-vis employment status, working conditions, the right to unionize, awareness of existing labour laws and available redressal mechanisms.
- Analysing workers' capacity to access justice through legal recourse, determined through their knowledge, financial status and network.
- Identifying hindrances imposed by the labour department, labour courts or tribunals that affect the dispensation of justice to workers.
- Proposing policy recommendations that could help improve workers' access to justice.

Surveying workers in the districts of Lahore, Multan and Peshawar, this study identifies key barriers that vulnerable labour groups face in their quest for justice against violations of their rights, including but not restricted to employment without issuance of an employment contract, wrongful termination, poor working conditions, wage disparities and vilification of employees engaged in union activities. This study also takes into account the discrimination faced by workers from gender minorities and other marginalized groups who face violations both on account of their employment status as well as their identity affiliations.

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<sup>6</sup> <https://www.dawn.com/news/1503547>

<sup>7</sup> <https://pakistan.fes.de/labour-movement-in-pakistan-video-series>

## 2 Methodology

This study has employed a mix of quantitative and qualitative research methods, aligned with human rights principles and ethical considerations to ensure the confidentiality and safety of respondents.

*Desk review.* A review of the existing body of literature on labour rights was conducted to gain a contextual understanding of selected vulnerable labour groups vis-à-vis provincial labour rights conditions and their employment status. Specifically, the following literature was reviewed: academic papers on the state of labour rights in the formal sector in Pakistan, particularly in Punjab; studies and policy briefs produced by local and international think tanks, nongovernment organizations, labour rights organizations and their representative bodies; special reports and features published in newspapers, laws and legal provisions to determine labour arrangements and the status of their implementation and compliance, and HRCP publications on the subject.

*Research tools development.* In tandem with the desk review, research tools were developed to conduct a survey, key informant interviews (KIIs) and focus group discussions (FGDs). The following table explains the scope and objectives of these data collection methods:

Survey	Workers in selected sectors (particularly within textiles, food, packaging and sugar) were surveyed to assess the following four thematic areas: <ul style="list-style-type: none"> <li>– Formalization of employment</li> <li>– Awareness of rights and available redressal mechanisms</li> <li>– The extent of unionization and any consequences of unionizing</li> <li>– The cost of legal action</li> </ul>
KIIs	Representatives of labour departments and labour courts—involved in the dispensation of justice to workers—and subject experts were interviewed to seek their input.
FGDs	Formal and informal workers were brought together at FGDs and asked questions to assess their working conditions and the obstacles they faced in access to justice.

In total, 14 KIIs were conducted with labour department representatives, labour inspectors, labour rights leaders, lawyers and workers, and two FGDs were conducted in Lahore and Multan.

*Sampling of survey respondents.* Stratified random and purposive sampling methods were used for this survey, taking two districts of Punjab – Lahore and Multan – as well as the Peshawar district in Khyber Pakhtunkhwa to ensure geographical representation. These districts were selected based on the concentration of the formal sector, presence of employees’ unions, regional and geographical diversity, as well as the district’s historical significance regarding the labour rights movement. Around 200 respondents were identified randomly in each district, comprising a total of 602 respondents.

*Data collection.* An online questionnaire was developed using a special tool made in Kobo that was then administered by the field researchers with the identified respondents. The KIIs and FGDs were conducted both in person and online, depending on respondents’ preferences.

*Data analysis.* The data collected through the desk review and quantitative and qualitative methods was then reviewed and analysed. The quantitative data was tabulated in Microsoft Excel and analysed using the programming language R.

### 3 Seeking justice: Workers' perspective

To assess workers' access to justice, a survey was conducted among 602 workers across three major commercial and manufacturing hubs of Pakistan: Lahore and Multan in Punjab, and Peshawar in Khyber Pakhtunkhwa. This survey evaluated working conditions, the extent of awareness among workers about their rights and labour laws, and the level of compliance in workplaces.

Another significant aspect of this survey was to assess the knowledge and access of workers to existing redressal mechanisms. Respondents were questioned about the frequency of labour inspections, the extent of unionization within their organizations, and their experience and knowledge of pursuing legal action in cases of labour rights violations. Two FGDs were also conducted in Lahore and Multan with formal and informal workers for more targeted insights.

#### Working conditions: Basic facilities and benefits

Regarding the number of years of employment at their current workplace, most employees surveyed said that they had been employed for multiple years, with relatively newly hired employees comprising a smaller percentage of the total sample surveyed.

The highest percentage of employees in Lahore (92 respondents) and Multan (136 respondents) had been with their current employer for three or more years. In Peshawar, the highest number of employees (78 respondents) had been with their employer for two to three years. Additionally, 60 employees in Lahore and 39 in Multan had been with their current employer for two to three years (Figure 1). This may indicate a reasonable retention rate among employers in every district. Given that the vast majority of respondents worked in large-scale industries, such as textiles, edible oil and plastics, it is not surprising that almost all employers were registered businesses – 195 in Lahore, 180 in Multan and 201 in Peshawar (Figure 2).

Figure 1: Number of years of employment

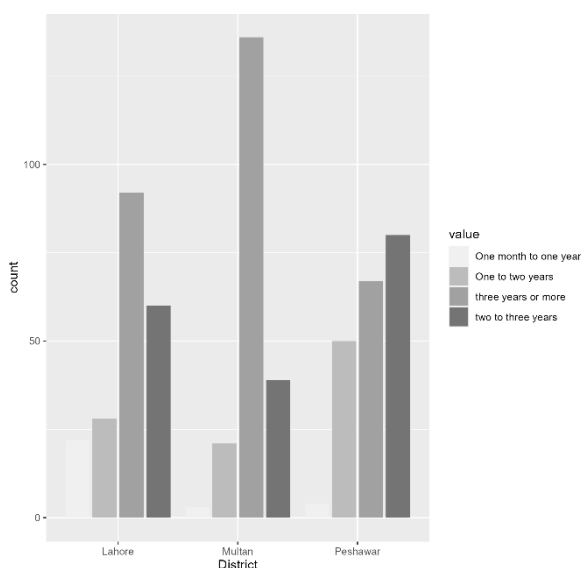
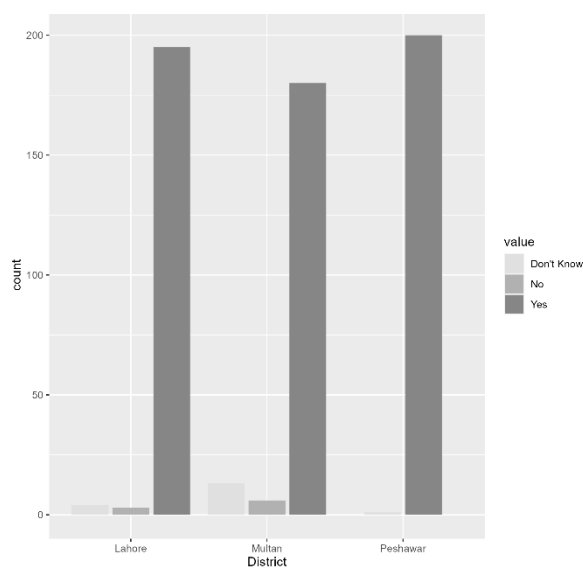


Figure 2: Number of registered businesses



Consistency in remuneration payments is a major part of the contractual agreement between employers and employees and was included in the survey conducted. There was a great deal of



variance in the responses from the surveyed districts here: while most respondents in Lahore (185 in total) and Peshawar (191 in total) were paid monthly, the majority in Multan (155 in total) were paid on a weekly basis. Employees paid daily were marginal in all three districts, with only 16 such respondents in Lahore and three each in Multan and Peshawar (Figure 3). The vast majority of employees in all districts were paid the same amount agreed on at the time of their hiring; only five respondents in Lahore, 19 respondents in Multan and one in Peshawar reported not being paid the amount that was promised to them on being hired (Figure 4).

Figure 3: Reported remuneration frequency

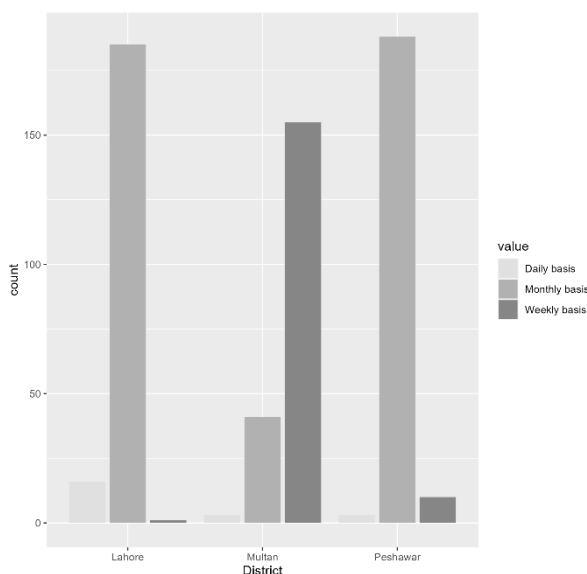
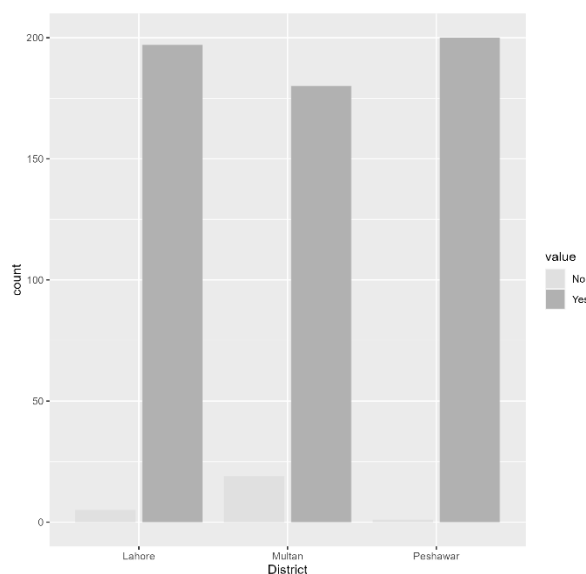


Figure 4: Respondents paid the same amount as promised on being hired



Another vital piece of information that provided a glimpse into the formalization of workers' agreements with their employers was that of the signing of an appointment letter between the two parties. The situation in this case was fairly consistent in the Punjab districts surveyed, with a large number of respondents reporting that they had not received an appointment letter from their employer on hiring. A total of 137 respondents in Lahore and 111 in Multan were not provided such a document, while six in Lahore and 45 in Multan were shown an appointment letter but not provided a copy. Only 59 respondents in Lahore and 31 in Multan were provided an appointment letter. In Peshawar, on the other hand, 111 respondents were given appointment letters, whereas 65 could not remember whether they had received one or not (Figure 5).

Of the 201 respondents across the three districts who received an appointment letter, the information and clauses in the letters also differed. Information on remuneration was not provided in the appointment letter to three respondents from Multan and 108 from Peshawar (Figure 6); information concerning leave was also not provided to 37 respondents from Multan and Peshawar (Figure 7), while information on access to healthcare was not provided to 26 respondents from these two districts (Figure 8). Barring two appointment letters from Peshawar, every respondent's letter contained information on working hours (Figure 9), and a surprisingly large number of such letters (121 across all districts) contained information on a pick-and-drop facility for employees (Figure 10).

Figure 5: Receipt of appointment letter

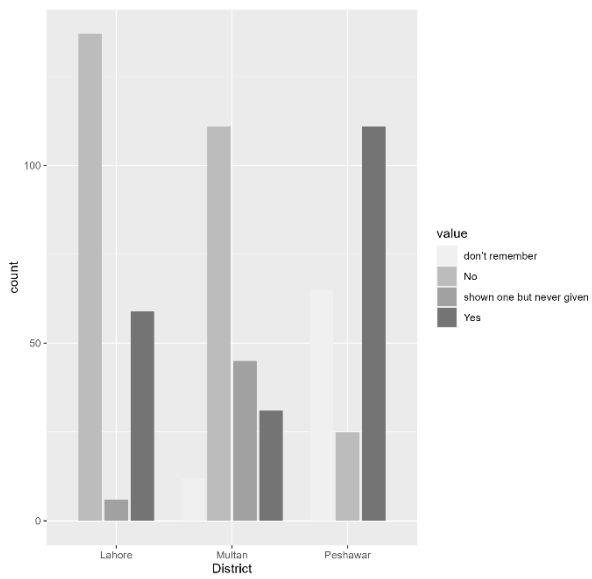


Figure 6: Information received regarding remuneration

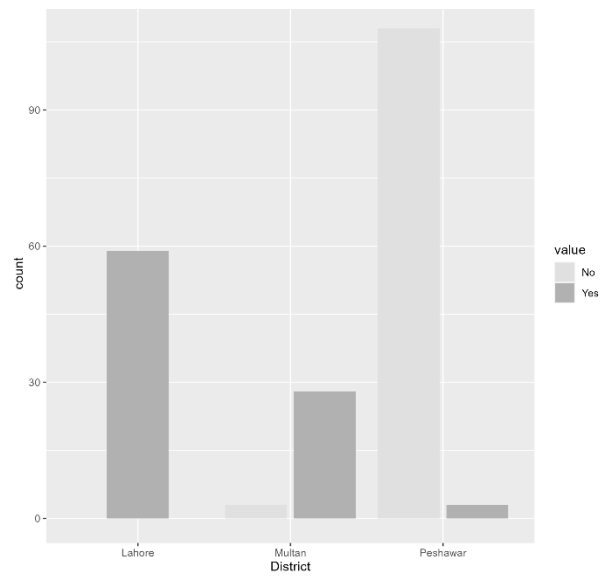


Figure 7: Information received regarding leave

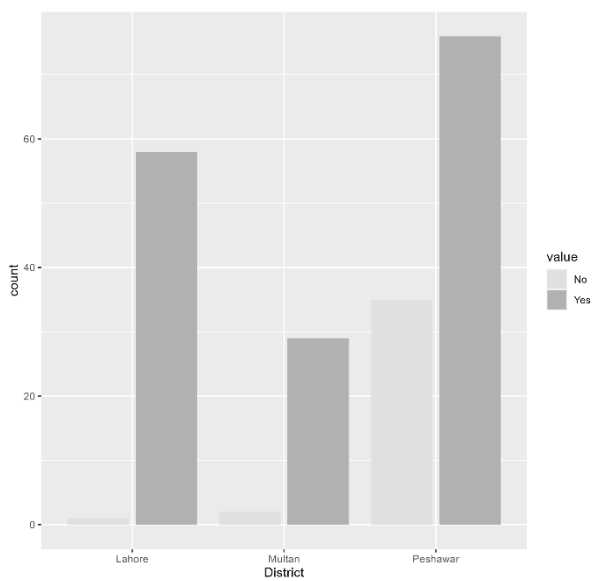


Figure 8: Information received regarding access to healthcare

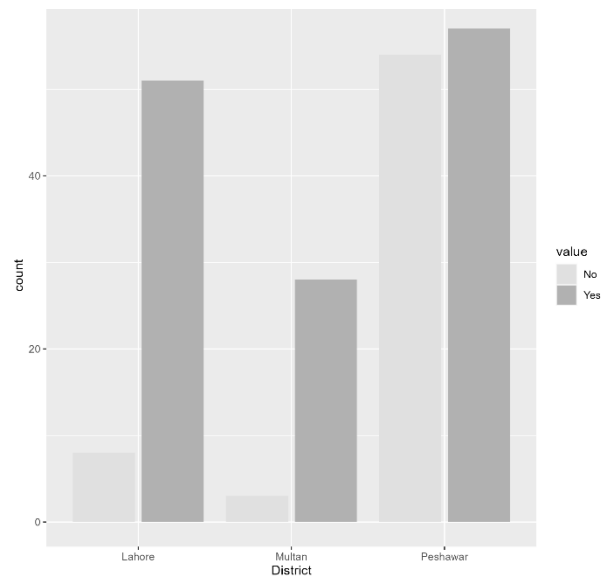


Figure 9: Information received regarding working hours

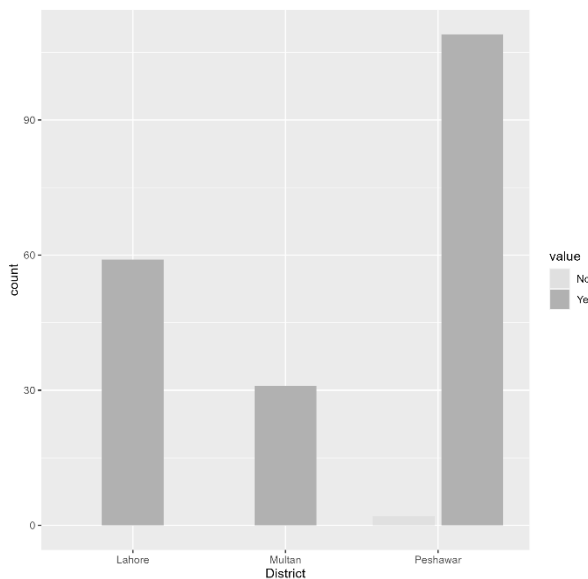
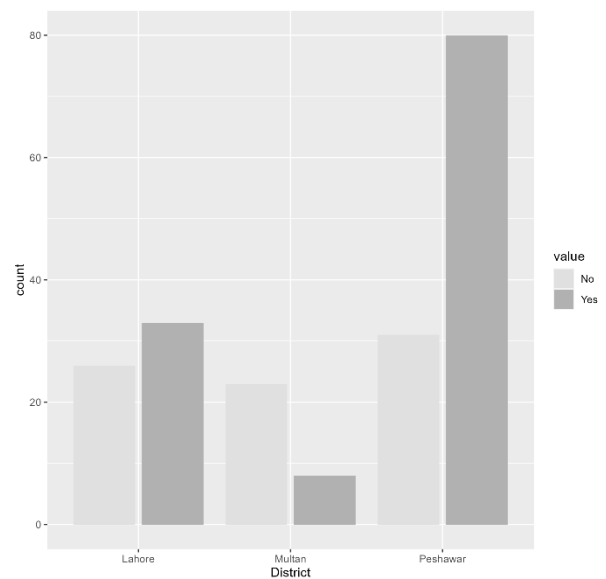


Figure 10: Information received regarding pick-and-drop facility



The provision of a social security card, registration in workers’ benefit schemes and registration in the EOBI—established to provide retirement, old-age, invalidity, survivor and other related benefits—are also significant contributing factors to adequate working conditions and labour rights. In the three districts, EOBI registration was far from ideal, with 110 respondents in Lahore, 115 in Multan and only four in Peshawar registered under the scheme. Interestingly, there were also three respondents in Lahore, 34 in Multan and one in Peshawar who could not say whether they were registered under the scheme or not (Figure 11).

Figure 11: Respondents registered with EOBI

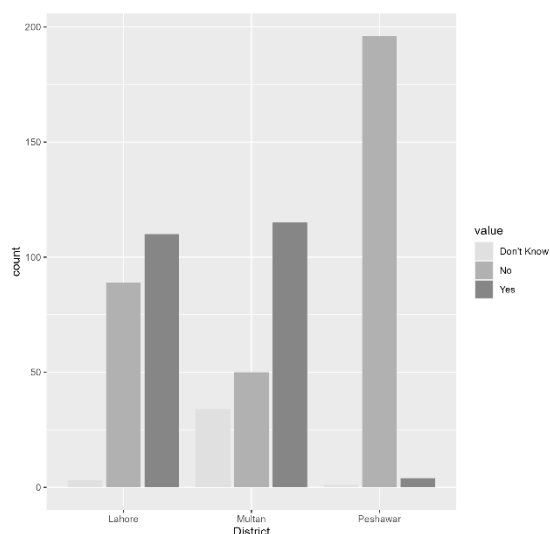
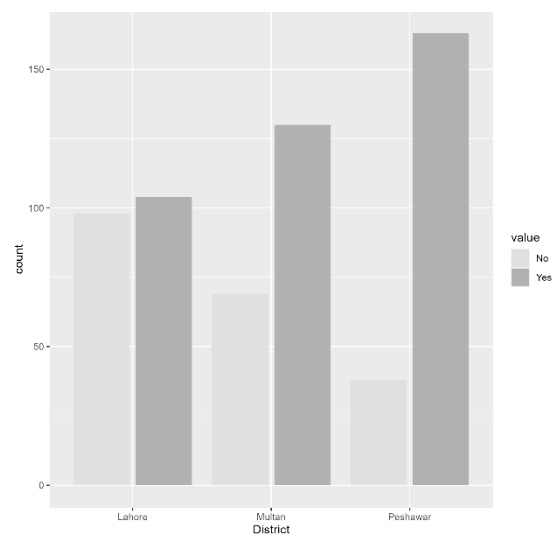


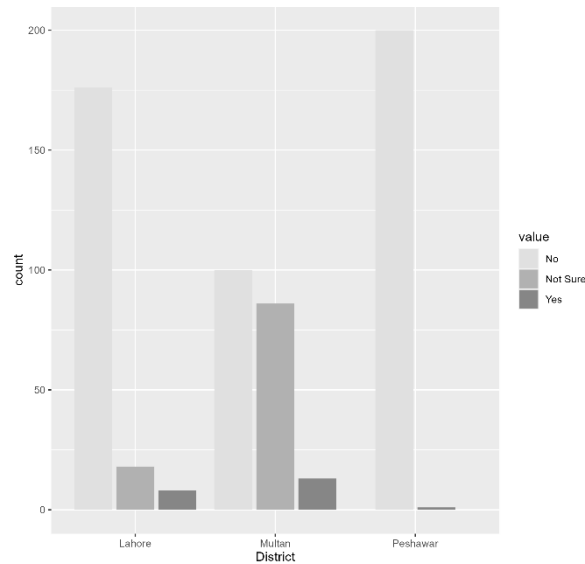
Figure 12: Respondents issued social security cards



As for social security cards, only 104 respondents in Lahore and 130 in Multan possessed these. The provision of cards was much higher in Peshawar, where 163 respondents reported having one (Figure 12). Only eight respondents in Lahore, 13 in Multan and one in Peshawar were

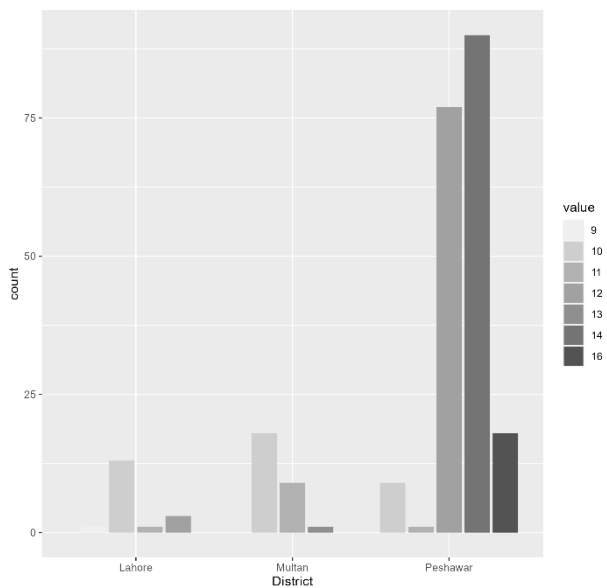
registered under various workers’ benefit schemes: the largest share of these in Lahore were registered under private health insurance schemes, and in Multan, under the Benazir Income Support Programme (Figure 13).

**Figure 13: Respondents registered under other welfare schemes**

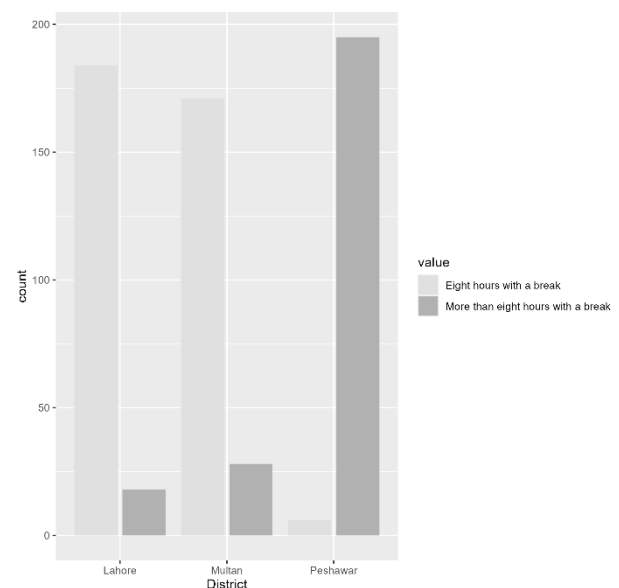


The majority of respondents in Punjab—184 in Lahore and 171 in Multan—reported having an eight-hour working day. In Peshawar however, 195 respondents reported having a working day of more than eight hours. In the 46 cases where respondents reported working more than eight hours—a number that was slightly higher in Multan—two reported working nine hours per day, 41 reported working 10 hours per day, 10 reported working 11 hours per day, and 82 (out of which 78 were from Peshawar alone) reported working a total of 12 hours per day (Figure 14).

**Figure 14: Working hours**



**Figure 15: Breaks allowed during working hours**



All respondents reported being allowed a break during their working hours, the duration of which was surprisingly different when compared across districts: 192 respondents in Multan reported being allowed breaks of 30 minutes or less, while the same break period in Lahore was true for 29 respondents and 109 in Peshawar. On the other hand, 173 respondents in Lahore reported being given breaks of more than 30 minutes, while the same break period in Multan was true for seven respondents and 92 in Peshawar (Figure 15). This may indicate that employers in Lahore, where industry is more developed and formalized, allow employees longer breaks than employers in Multan, where the number of registered businesses is marginally lower. In the case of Peshawar, the results were tied for both break periods, making it difficult to draw any conclusions.

The survey also assessed the number of leave-days allowed per week and per month, as well as the option of taking paid medical leave and leave duration. Almost all respondents in the two districts of Punjab – 186 in Lahore and 199 in Multan – and all 201 respondents from Peshawar reported having one day off per week, whereas only 12 in Lahore reported having no days off (Figure 16). When asked about the number of leave-days per month that employees were allowed to distribute across the month or avail, 186 respondents in Lahore, 99 in Multan and all 201 in Peshawar reported having three to six days off per month (Figure 17). Those allowed less than three days off were significantly higher in Multan, where 100 respondents reported having up to two leave-days per month, compared to Lahore where four respondents reported having up to two leave-days per month and 12 reported having zero leave-days per month.

Figure 16: Leave-days allowed per month

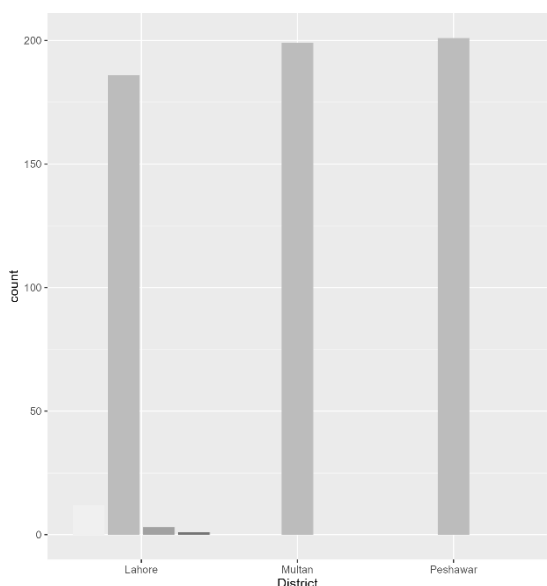
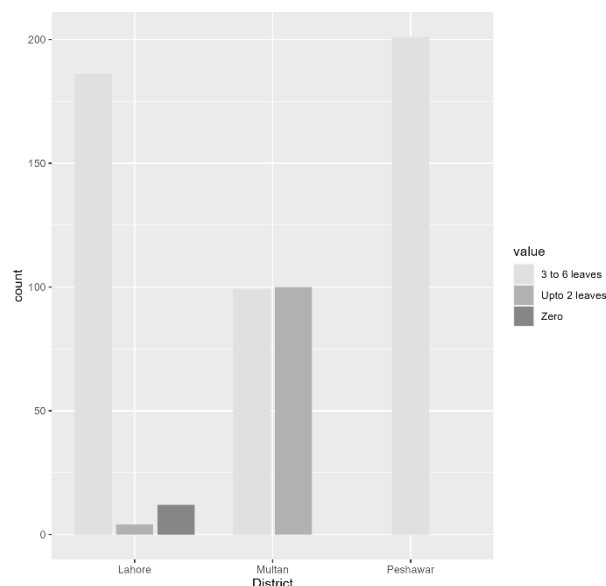


Figure 17: Leave-days allowed per week



As for paid medical leave, the majority of employers in all three districts offered this provision, with employers in Multan faring better than their counterparts in Lahore and Peshawar: 180 respondents in Multan, 153 in Lahore and only 18 in Peshawar reported having paid medical leave (Figure 18). Of the total 351 respondents who could avail paid medical leave, 212 were allowed to avail two to three days per month (126 in Multan, 86 in Lahore and two in Peshawar), while 62 were allowed to avail three to five days (five in Multan, 46 in Lahore and 11 in Peshawar). With the option to avail medical leave still being available, a total of 21 respondents in Lahore, 51 in Multan and five in Peshawar were unaware of the actual number of days to which they were entitled (Figure 19).

Figure 18: Paid medical leave provided

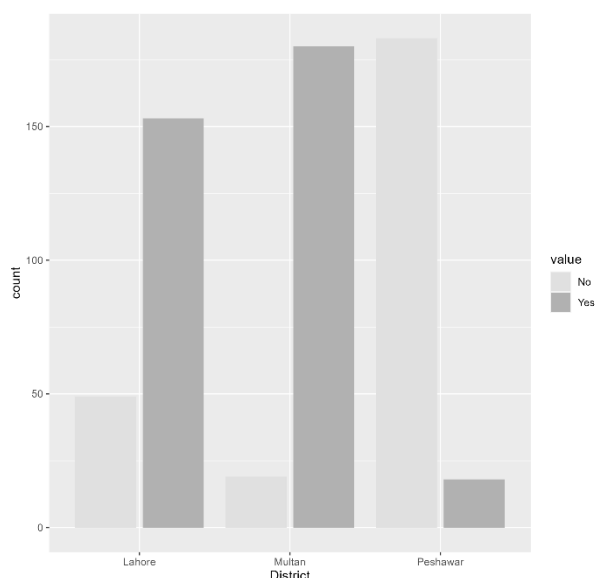
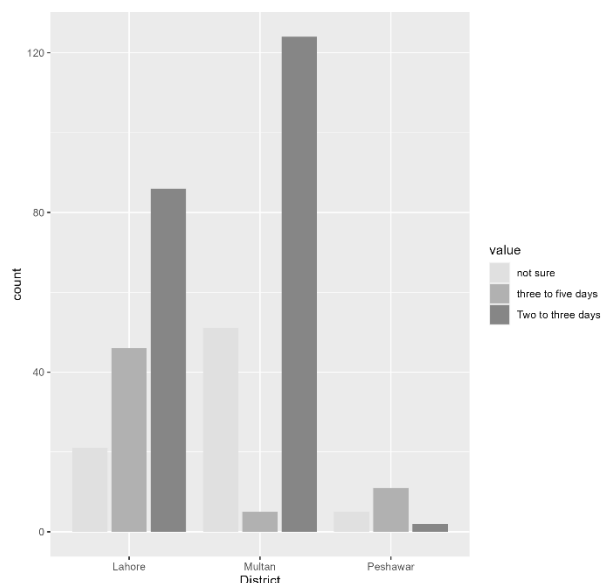


Figure 19: Number of days of paid medical leave allowed



Respondents in Lahore and Multan faced similar issues regarding the terms and conditions of their formal employment. There were mixed responses to questions about the issuance of appointment letters, but most respondents—especially among women—stated not having any appointment letters or that the terms and conditions of their appointment were not clearly laid out. They also reported working more than eight hours, sometimes up to 12 hours without any overtime. Some participants argued that even the overtime compensation was not rationalized in accordance with global standards and was often lower. As one respondent explained:

The standard practice is to pay half (50 percent) of the hourly wage amount, but here a quarter (25 percent) of the amount is given. Workers are also warned against taking breaks or rest and told their entire wages will be deducted if they do so.

Regarding wages, FGD participants had varying responses. While some were paid salaries matching the minimum wage, most participants—especially from Multan—were earning below the minimum wage. Women workers were worse off, being considered a source of cheap labour by employers. One woman said:

We get PKR 7,000 in the beginning, which increases to PKR 16,000 after a couple of months. After six or eight months, we start getting paid PKR 32,000.

The majority of participants reported not having a leave policy at their workplace and not being allowed to avail days off. Those who did so had their monthly salary reduced as standard practice: as much as PKR 1,000 was deducted per day in case the worker did not show up for work. Moreover, Eid was an unpaid holiday for most participants or taking leave on Eid itself was considered enough leave for the month. Thus, workers who are employed even on a formal contractual basis are not entitled to standard benefits and treated like informal workers.

The Multan-based FGD participants (from two leading textile mills) said that they were provided a pick-and-drop facility for limited hours and had to travel to and from work on their own if they missed the bus. Moreover, no support was provided to help workers with medical or educational expenses.

## Access-to-justice mechanisms: Workers’ awareness of their rights

The extent of workers’ awareness – of their rights to a decent wage, access to benefit schemes and redressal mechanisms, and work free from harassment – was a key component of the survey conducted.

There was a substantial difference in levels of awareness of the government-mandated minimum wage across the districts surveyed: most respondents in Lahore (170) were aware of the minimum wage, whereas a significant number in Multan and Peshawar (88 and 197, respectively) were not (Figure 20). Out of those who responded in the affirmative, a total of 259 respondents across districts identified the minimum wage as an amount between PKR 30,000 and 35,000, while 25 identified it as between PKR 25,000 and 30,000 (Figure 21).

Figure 20: Awareness of minimum wage

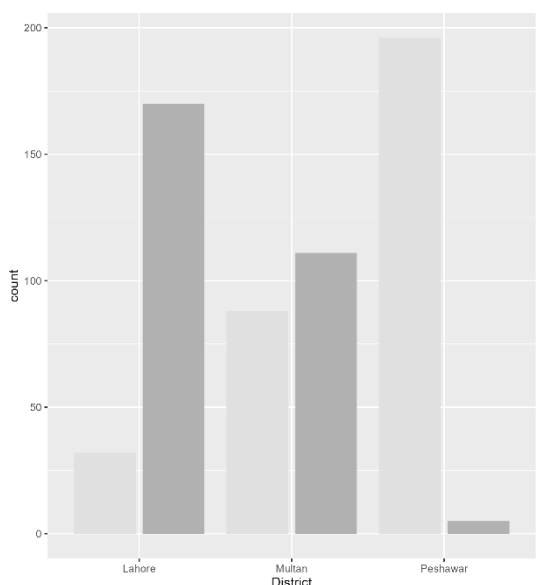
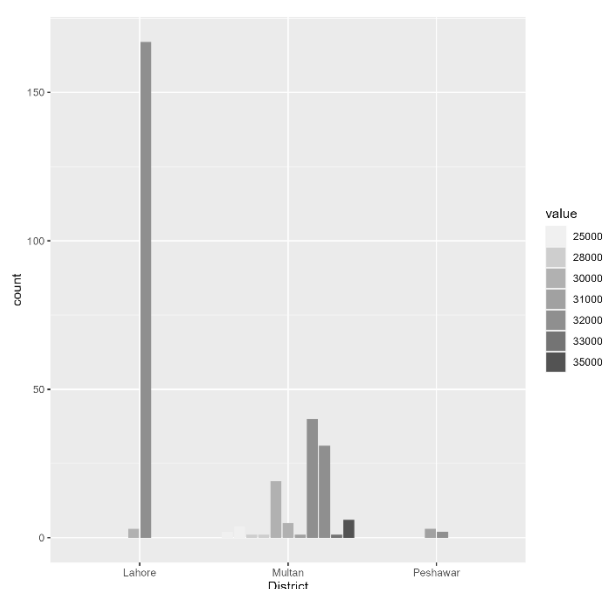


Figure 21: Awareness of minimum wage amount



Respondents were also asked whether they were paid less than, equal to or more than the minimum wage (Figure 22). In Lahore, 95 respondents reported being paid less than the minimum wage, 24 reported being paid the minimum wage rate, while 83 reported being paid more than the minimum wage. In Multan, the number of respondents paid less than minimum wage was only marginally lower at 82; those paid at the minimum wage rate was significantly higher at 106 and those paid more than minimum wage was significantly lower at 11. In Peshawar, the vast majority of respondents – 196 out of 201 respondents – reported being paid the minimum wage. Both provinces therefore fared almost equally in terms of compliance with the minimum wage limit, as shown by only a marginal difference among those being paid less than the minimum wage. The only significant difference was in terms of earning an amount equal to the minimum wage or higher: Lahore had more respondents being paid higher than minimum wage, while Multan had more respondents being paid an amount equal to the minimum wage rate.

Respondents were also asked whether they were aware of complaint mechanisms to address rights violations related to wages, or in other words, what channels they could utilize in case their employers failed to comply with minimum wage laws (Figure 23). In both provinces, most respondents were either not aware of the available complaint mechanisms or were not interested

in pursuing issues related to minimum wage compliance. Only 39 respondents in Lahore, 32 in Multan and three in Peshawar were aware of these complaint mechanisms, while another 115, 67 and 197, respectively, were not aware at all. The number of respondents not interested in pursuing wage-related cases was substantially higher in Multan, with 100 respondents compared to 48 in Lahore and one in Peshawar.

Figure 22: Monthly wage received against minimum wage

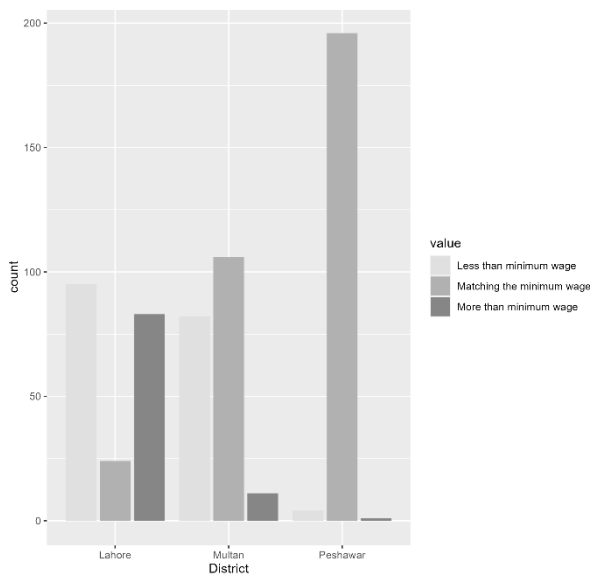


Figure 23: Awareness of complaint mechanisms for wage payment

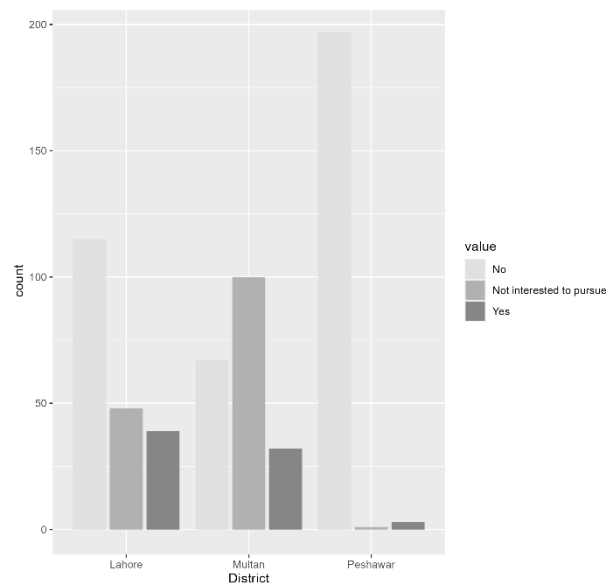


Figure 24: Awareness of institutions dealing with wage-related complaints

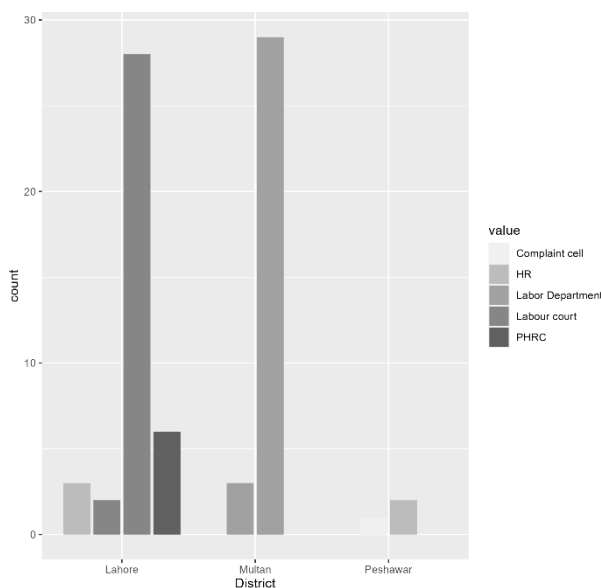
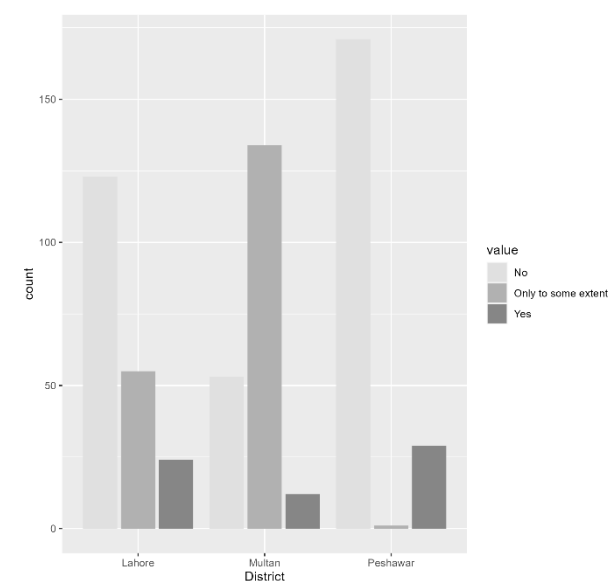


Figure 25: Perceived effectiveness of these institutions



All the respondents in Multan identified the labour department as the primary institution to contact to report cases of noncompliance with minimum wage laws, while in Lahore, respondents considered labour courts more feasible, followed by the Punjab Labour and Human



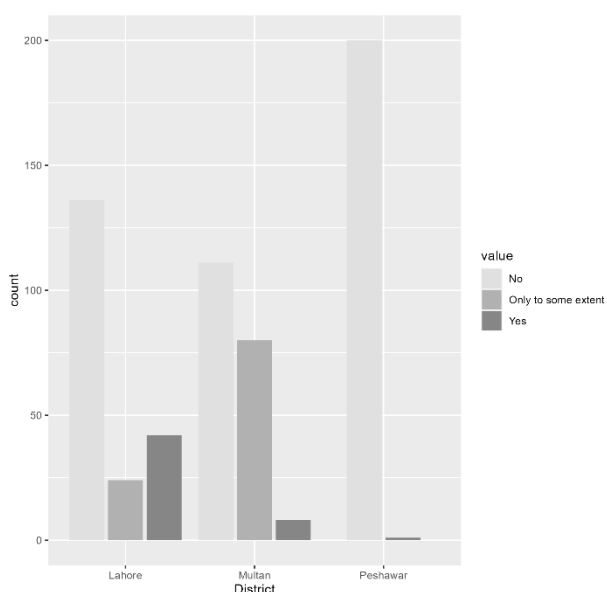
Resource Department and the workplace’s human resources department. In Peshawar, only one respondent identified complaints cells as the place to lodge such complaints (Figure 24).

Regarding whether they considered these institutions helpful, most respondents in Lahore (123 in total) responded in the negative, 55 considered these institutions helpful to some extent, while 24 considered these institutions did indeed help. Multan’s situation was slightly more positive, with 134 respondents considering these institutions helpful to some extent; 12 deemed the institutions helpful, while only 53 considered them unhelpful. In Peshawar, 29 respondents thought that these institutions were helpful, whereas 171 considered them unhelpful (Figure 25).

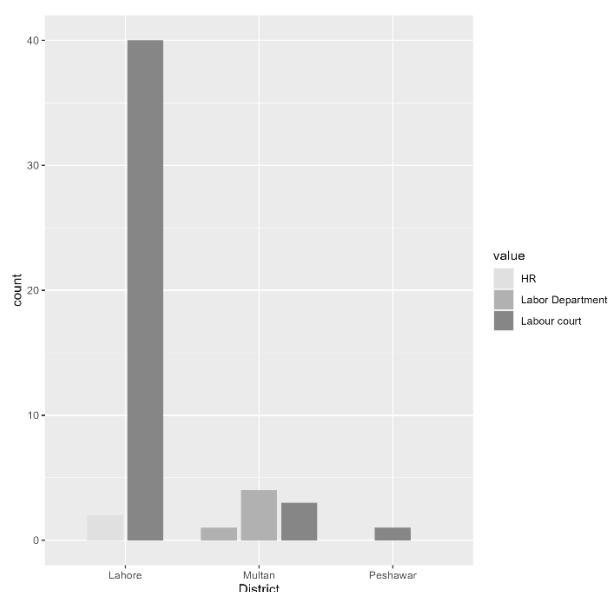
Similar to minimum wage compliance and complaint mechanisms, respondents were asked if they were aware of complaint mechanisms for wrongful termination and which institutions they considered helpful in this regard. The majority of respondents in all districts – 136 in Lahore, 111 in Multan and 200 in Peshawar – did not know where they could register such complaints. Some respondents – 24 in Lahore and 80 in Multan – reported knowing of complaint mechanisms to a limited extent, while 42 in Lahore, nine in Multan and one in Peshawar said they were aware of such mechanisms (Figure 26).

Respondents’ choice and opinions of institutions that address wrongful termination complaints were similar to their choices and opinions of institutions that address minimum wage noncompliance complaints (Figure 27). Almost all respondents in Lahore identified the labour court as the relevant institution, while those in Multan identified the labour department and those in Peshawar identified complaint cells. Regarding the effectiveness of these institutions in addressing wrongful termination, 154 respondents in Lahore, 63 in Multan and 172 in Peshawar responded in the negative; 35 in Lahore and 127 in Multan considered these institutions effective to a limited extent; and 13 in Lahore, nine in Multan and 30 in Peshawar considered these institutions effective (Figure 28).

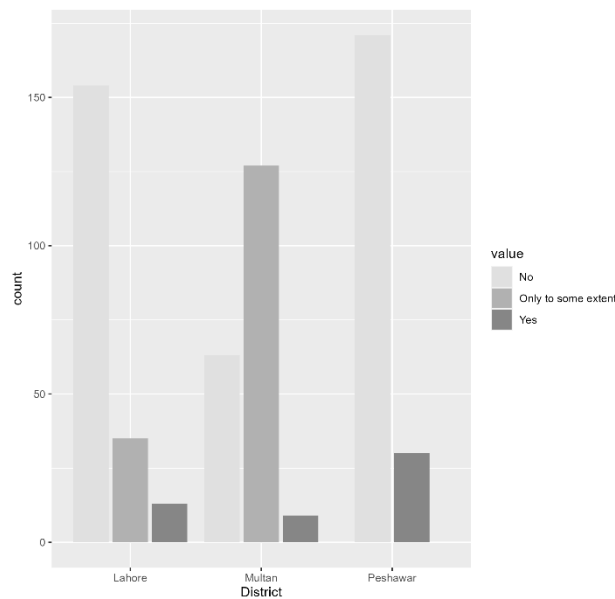
**Figure 26: Awareness of complaints mechanisms for wrongful termination**



**Figure 27: Awareness of which institution to approach in wrongful termination cases**

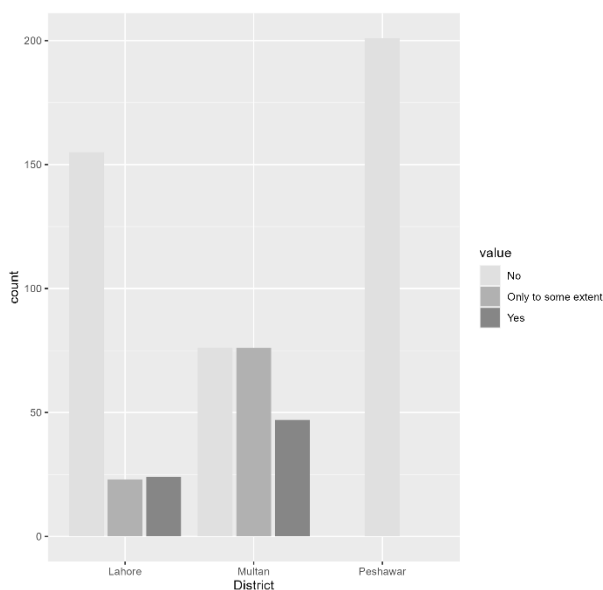


**Figure 28: Perceived effectiveness of institutions addressing wrongful termination cases**

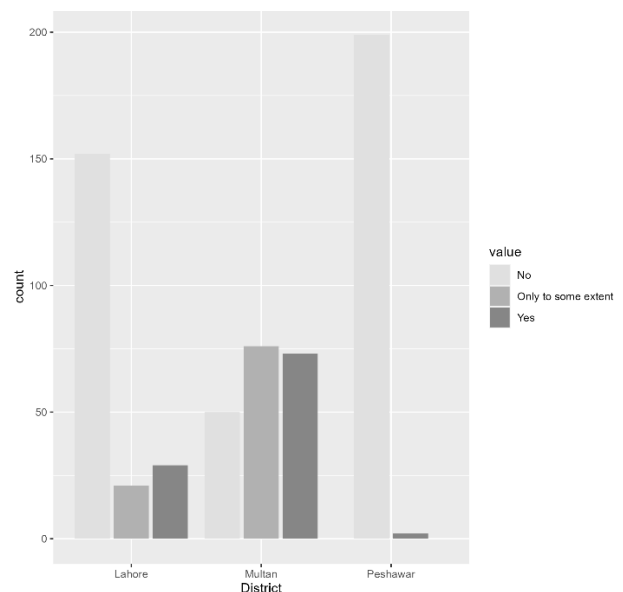


Registration in schemes that contribute to workers’ welfare was hindered by lack of awareness of such schemes among respondents, including the publicly owned EOBI and government-sponsored and employer-sponsored schemes such as workers’ welfare funds, medical grants, housing schemes, marriage grants and hajj/umrah schemes that may be available to employees in various sectors and at different seniority levels.

**Figure 29: Awareness of EOBI registration process**



**Figure 30: Awareness of EOBI requirements and benefits**



Awareness of the process for EOBI registration was generally low in both provinces: 155 respondents in Lahore, 76 in Multan and all 201 in Peshawar did not know how to register for the scheme. A limited level of awareness was reported by 23 respondents in Lahore and another

76 in Multan. Only 71 respondents in Punjab—24 in Lahore and 47 in Multan—reported being aware of the registration process (Figure 29). The level of awareness regarding EOBI requirements and benefits followed a similar pattern, with only 29 respondents in Lahore, 73 in Multan and two in Peshawar reporting in the affirmative. A total of 152 respondents in Lahore, 50 in Multan and 199 in Peshawar reported being unaware of the matter, while 21 in Lahore and 76 in Multan reported limited awareness. Awareness of how to register as well as of EOBI benefits and requirements was thus found to be higher in Multan than in Lahore, while Peshawar had the lowest score (Figure 30).

Regarding other workers’ benefit schemes, respondents in Multan reported a consistently higher level of awareness than respondents in Lahore, while the Punjab respondents overall fared better than those in Khyber Pakhtunkhwa. There were also more Multan respondents consistently reporting a limited awareness of benefit schemes than Lahore respondents (Figures 31–35).

For the workers’ welfare fund, 129 respondents in Lahore and 156 respondents in Peshawar were unaware of the scheme, while 36 in Multan reported the same; for medical grants, 135 in Lahore and 156 in Peshawar were unaware, while 43 in Multan reported the same; for marriage grants, 159 in Lahore and 193 in Peshawar were unaware, while 79 in Multan reported the same; for housing schemes, 155 in Lahore and 196 in Peshawar were unaware, while 91 in Multan reported the same; and for hajj/umrah schemes, 160 in Lahore and 195 in Peshawar were unaware, while 62 in Multan reported the same. Across these schemes, the lowest level of awareness pertained to marriage grants, followed by housing grants and hajj/umrah schemes, whereas respondents reported the highest level of awareness with respect to medical grants.

Figure 31: Awareness of workers’ welfare schemes

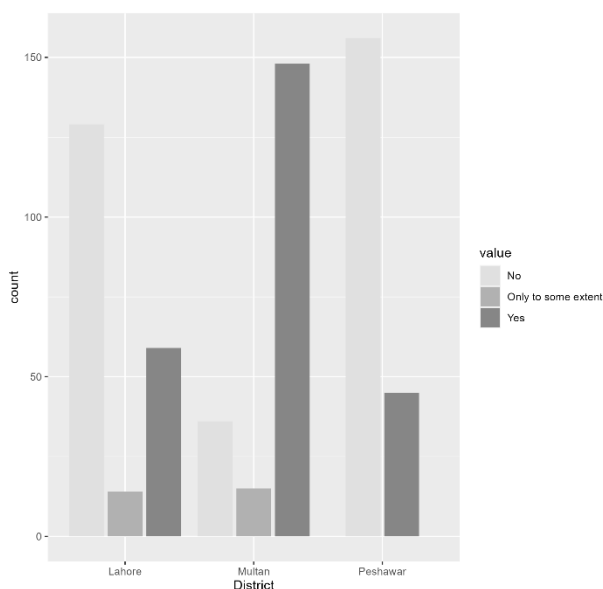


Figure 32: Awareness of medical grants

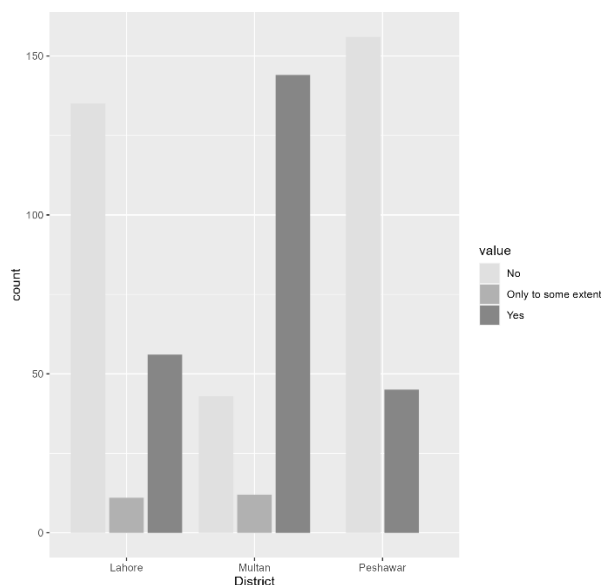


Figure 33: Awareness of workers' housing schemes

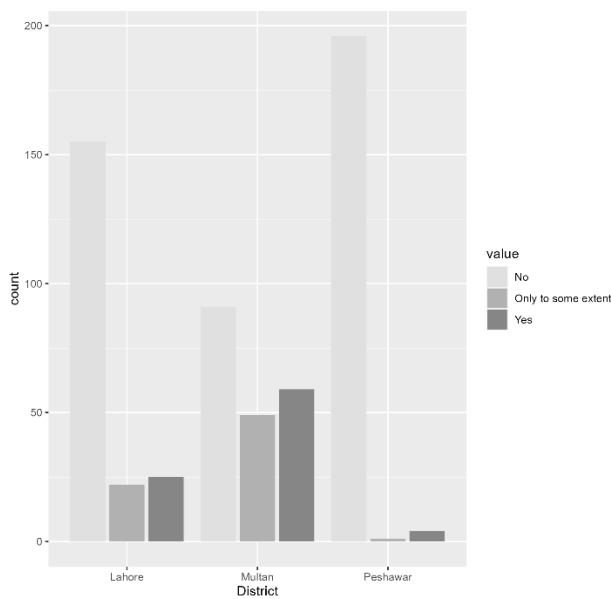


Figure 34: Awareness of marriage grants

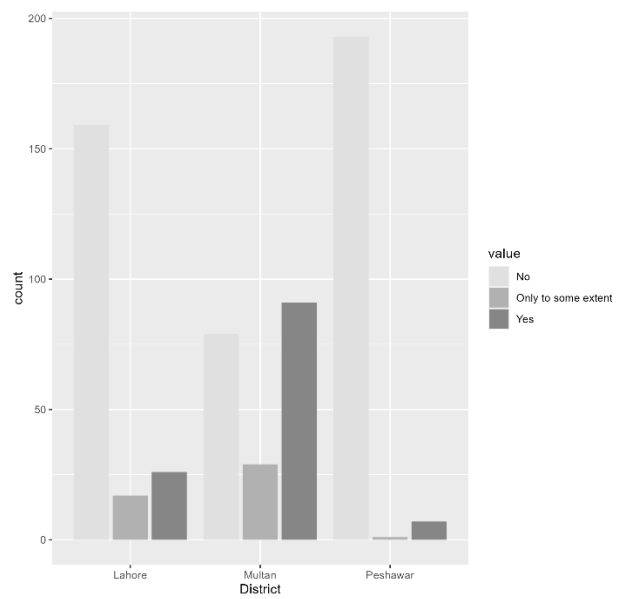
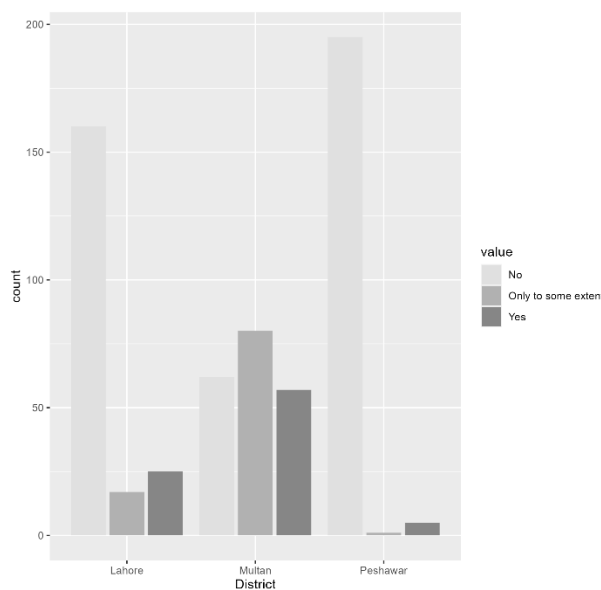


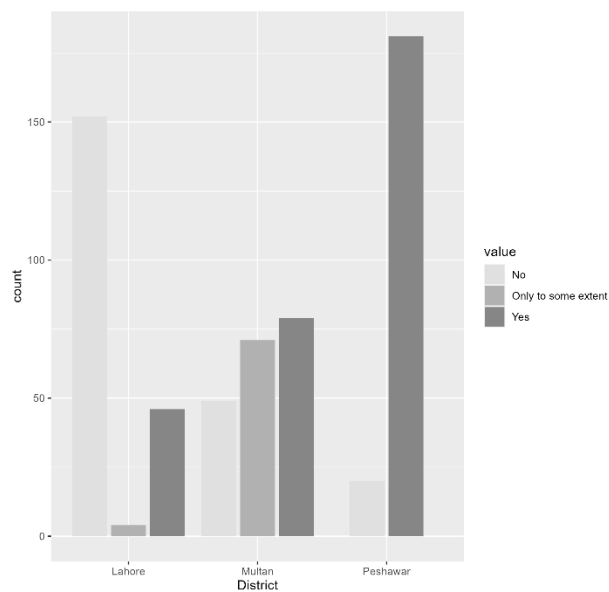
Figure 35: Awareness of hajj/umrah schemes



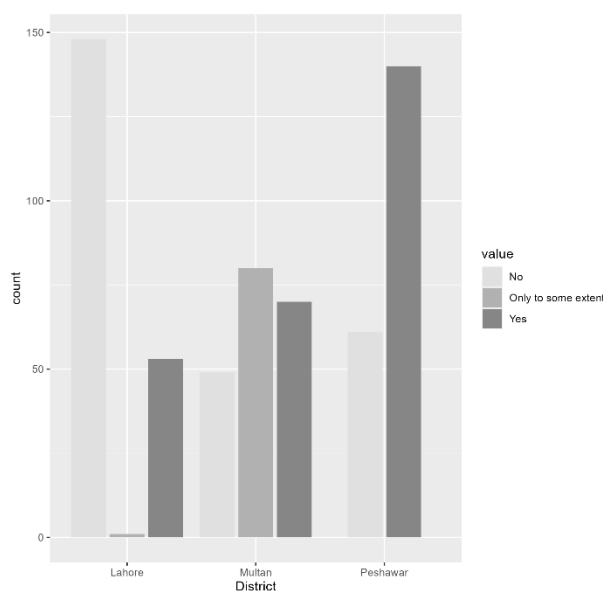
The survey asked respondents about the availability of information regarding leave and working hours to gauge the level of important information employers made available to employees. Once again, there was a stark difference between the districts surveyed: in Lahore, 152 respondents reported that such information was not available at their workplace, while in Multan and Peshawar, 49 and 20 respondents, respectively, reported the same. The number of respondents reporting limited information on the subject were four in Lahore and 71 in Multan. Regarding complete information made available, the number of corresponding respondents was 46 in Lahore, 79 in Multan and 181 in Peshawar (Figure 36).

Additionally, 53 respondents in Lahore, 70 in Multan and 140 in Peshawar reported that they obtained this information from another source, not their workplace (Figure 37). Of these, a total of 65 respondents across both provinces obtained this information from the Internet or television programmes, 10 from newspapers, and 129 from union representatives (out of which 124 were Peshawar respondents). Notably, 108 respondents in Multan obtained this information from a labour training programme or NGO, compared to only 17 in Lahore, indicating more frequent labour training programmes being held by NGOs in Multan (Figure 38).

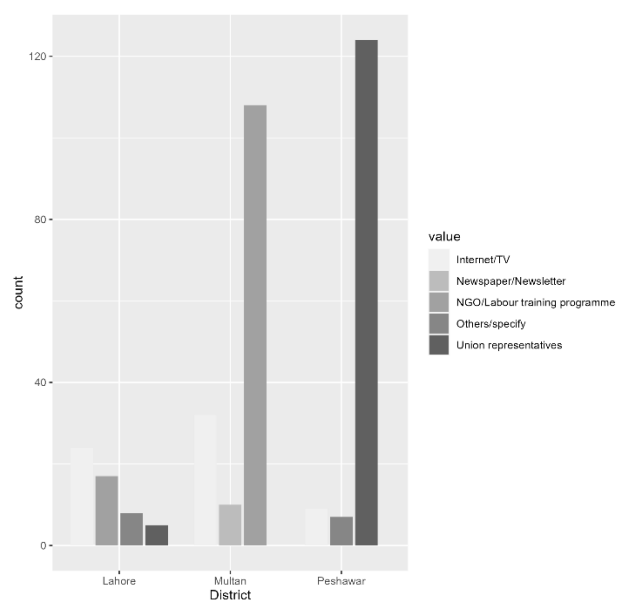
**Figure 36: Information made available regarding working hours and leave**



**Figure 37: Information regarding working hours and leave availed from alternative source**

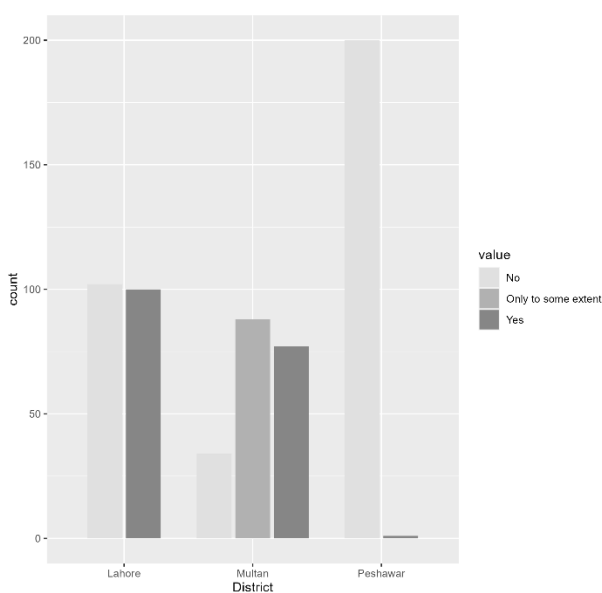


**Figure 38: Source of information regarding working hours and leave**

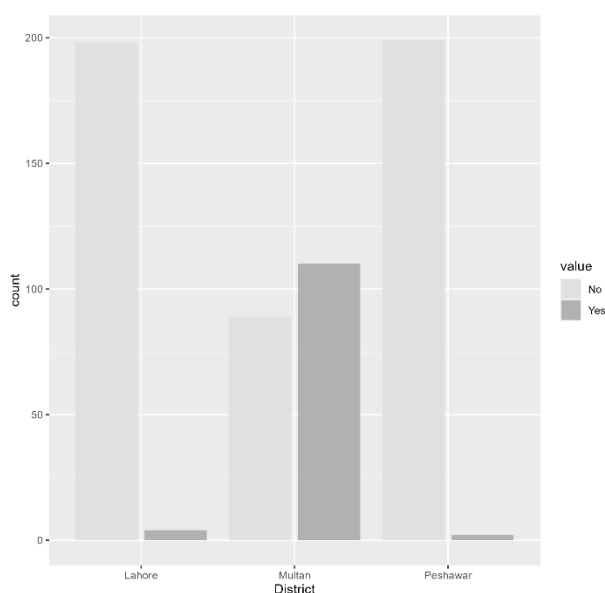


The survey also assessed whether respondents were aware of workplace anti-harassment laws, which contribute directly to safer workplaces for both men and women. A total of 178 respondents across both provinces – 100 in Lahore, 77 in Multan and only one in Peshawar – were aware of the law, while another 88 in Multan reported that they had limited information on the subject (Figure 39). Those that reported not being aware of the law at all included 102 respondents from Lahore, 34 from Multan and 200 from Peshawar. Thus, the level of awareness of this law was lower in every district, especially Peshawar. Given that the law was passed several years ago, this is not ideal. The number of respondents who had either themselves filed a complaint under the law or knew of someone who had, was significantly higher in Multan at 110, while in Lahore and Peshawar, only four and two respondents, respectively, answered in the affirmative (Figure 40).

**Figure 39: Awareness of law against workplace sexual harassment**



**Figure 40: Exercise of rights under law against workplace sexual harassment**



Female respondents said that harassment at the workplace remained a persistent issue affecting their right to dignified work. Corroborating the findings of the survey, FGD participants reported having personally witnessed a number of such cases, which commonly included passing indecent remarks or sharing sexist jokes in front of female co-workers and sometimes sharing such content in telephonic communications. Women workers said that in most cases, the offenders – male coworkers – lived in the same locality as they did. Thus, complaining about their behaviour could have led the women’s families to restrict their going to work. However, they expressed more worry about harassment by their supervisors, saying that supervisors would tease or ridicule women workers on the pretext that their instructions were not being followed. One woman at an FGD in Lahore said:

Most of these boys are from the same neighbourhood, so whom do we complain to? Even if we did, there is a high probability that the matter would reach our homes, and our families would then certainly ask us to stop going to work. Ignoring them has been the best coping strategy so far.

In line with the findings of the survey, the FGDs and KIIs (discussed later in this report) suggest that an awareness of what constitutes sexual harassment does exist among workers, especially women workers, even if they are not aware of the intricacies of the anti-harassment law itself. In

both districts of Punjab, particularly Multan, female participants recounted stories of women they knew who had taken a stand and lodged complaints of harassment. The consequences that the perpetrators in these stories had to face are encouraging and underscore that remedies are available to the aggrieved person and how important it is to report such crimes.

### **Case study: Holding perpetrators of sexual harassment accountable**

Sughra has worked at a local hosiery factory for the past three years. She married her cousin five years ago and has a daughter who was born a year after their marriage. With her daughter's birth and increasing inflation, Sughra felt financial pressure to make ends meet as her husband's income alone was not enough. She decided to work and was employed at a factory in August 2020 as a packing operator.

The first year at her new job passed comfortably enough, though she had to work eight to ten hours a day. Later, the shift in-charge increased her workload by assigning her more tasks and asked her to stay after hours. 'The staff was generally very good,' she says, 'but there were rumours that the shift in-charge would invite women workers out to dinner and spend time with them. Some would talk about sexual advances that he would make, but I wasn't sure about it.'

When Sughra asked the shift in-charge about the additional work assigned, he told her that he cared about her financial circumstances and wanted to support her through overtime compensation. She put that money into a savings committee but did not tell her husband. After a few months, the shift in-charge called her to his cabin and started making vulgar remarks. When Sughra objected, he claimed that she had taken a loan from him and needed to do whatever he asked. She was shocked and denied his claim, but he mentioned the amount paid to her as overtime compensation. When she checked with the factory's accounts department, she was told that there was no record of overtime compensation or increase in her salary. Sughra returned home that day distressed and fearful for her future.

The next day, she was called in again by the shift in-charge, who told her to go out to dinner with him after work, forcing her to agree by demanding an immediate payment of PKR 10,000 if she dared refuse. Sughra reluctantly conceded, but then decided to bring her daughter with her to the restaurant. The shift in-charge threw a fit on seeing the daughter and angrily told Sughra to take the child back home. When she refused to do so, Sughra was harassed there and then, but somehow managed to escape. 'At the restaurant, he sat with me and started touching me. I objected and stood up. I told him to stop, otherwise I would yell and make a scene. I drew his attention to the cameras installed at the restaurant and threatened him with consequences, but he continued his advances,' she said, adding, 'He told me to sit down and do whatever he wanted, otherwise I would have to repay the 'loan' in full. This was too much for me and I fled the restaurant with my daughter.'

Following this episode, Sughra immediately contacted the factory's administration staff and told them the entire story. They shifted her to another department and informed her that the factory's harassment inquiry committee had taken notice. After ten days, the committee started its proceedings and Sughra was interviewed four times. The restaurant staff was also called, but they did not cooperate. The other factory workers distanced themselves from her. However, Sughra told her husband about the incident, and he supported her throughout.

After several more meetings of the committee took place, the shift in-charge contacted Sughra to offer a settlement, but she refused. He then started threatening her, using other tactics, but she remained resolute. Finally, after five months, the committee decided in Sughra's favour and recommended that the perpetrator be removed from his position. Unfortunately, the shift in-charge used his network to influence the administration and was transferred instead to another city. To this day, he threatens her with promises of revenge. 'I wish I had known about the anti-harassment law or that the factory had such a committee earlier,' she said. 'Most people don't know about these mechanisms. Even if they are just made to meet legal requirements, they can still be useful. Workers need to be aware and know that they have options. This is the only way they can help each other and show solidarity,' she added.

## **Unionization and inspections**

An indispensable aspect of labour rights is unionization as such bodies provide employees with enough leverage to negotiate fair wages, ensure workplace safety and advocate for equitable

treatment. This collective bargaining is key to balancing power dynamics between employers and employees; it also fosters a more just and dignified working environment.

In the surveys carried out for this study, only one respondent reported having a workers' union at their workplace in Lahore, whereas all 201 respondents from Peshawar and 57 respondents from Multan reported the existence of a union (Figure 41). While none of the respondents were union members in Lahore, 21 of the 57 respondents in Multan that reported the existence of a union were members. The corresponding number for Peshawar was only 13 – a surprising figure given the dominant presence of unions in the district (Figure 42).

Figure 41: Existence of union at workplace

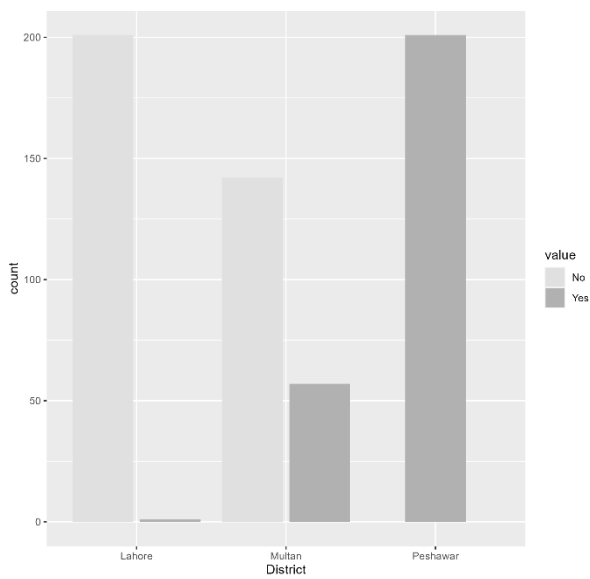


Figure 42: Membership of union at workplace

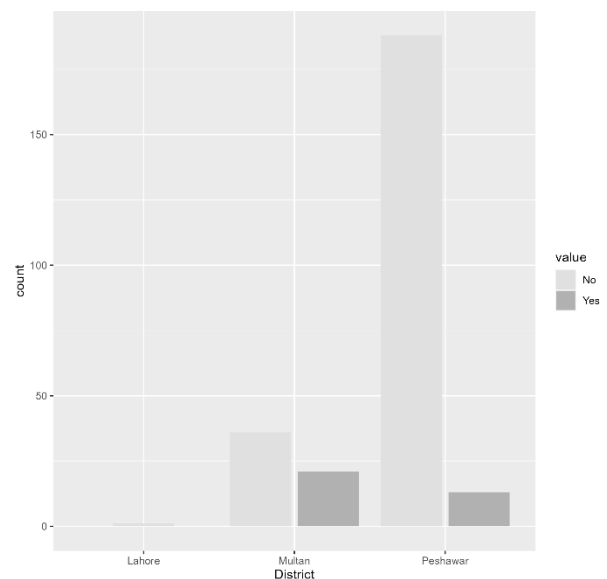


Figure 43: Role played by union in collective bargaining

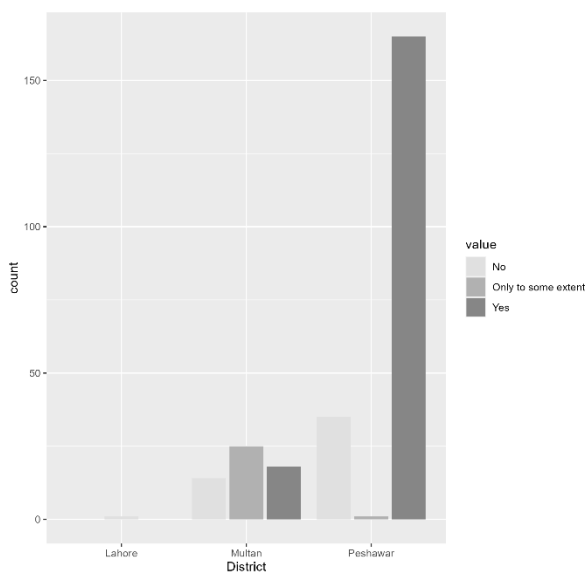
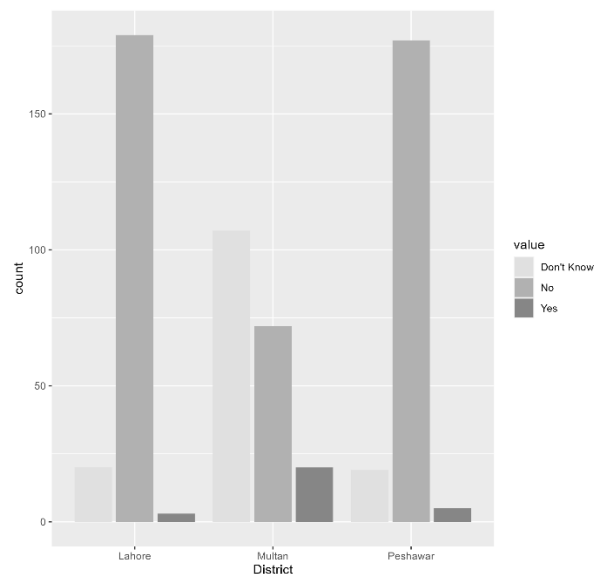


Figure 44: Membership of any workers' federation

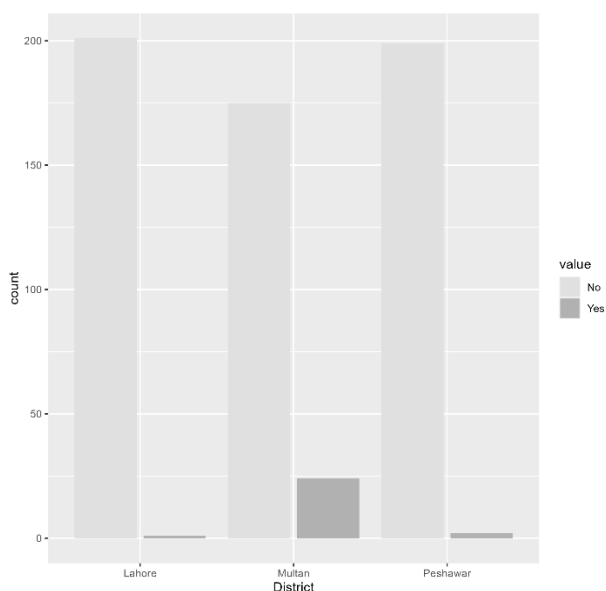




Out of these 57 respondents in Multan, 18 claimed that the union acted as a bargaining agent for workers, while 25 considered their union acted only to a limited extent. The corresponding numbers for Peshawar were 165 and 1, respectively (Figure 43). One can conclude that the labour unions that existed in Multan and Peshawar had a reasonable reputation among their members. These district-based trends also spilled over to unions or respondents being members of workers' federations in Punjab: in Lahore, only three respondents reported themselves or their unions as being members of workers' federations, while the same for Multan numbered 20. In Peshawar, however, the corresponding number was only five respondents (Figure 44).

Respondents were also asked if they had any association with the national labour movement. Similar to the results obtained regarding the existence and membership of labour unions, only 24 respondents in Multan reported being associated with the movement, while only two respondents in Peshawar and a single respondent in Lahore reported the same (Figure 45).

**Figure 45: Association with national labour movement**



Labour inspections are another key facet of labour rights as they are necessary to ensure compliance through rigorous monitoring and enforcement. The survey results showed that such inspections were rare in both districts of Punjab, particularly Lahore where 138 respondents said that no labour inspections took place at their workplaces (Figure 46). Another 48 people in Lahore reported that inspections occurred only occasionally, while only 16 reported regular labour inspections. In Multan, 26 respondents reported that regular labour inspections took place and another 135 reported that these took place only occasionally. Only 38 reported that no labour inspections took place at all at their workplaces. In comparison, almost 153 respondents from Peshawar reported that labour inspections took place frequently, and another 36 said that these took place once in six months (Figure 47).

When asked if any inspections had taken place in the past year, 193 respondents from Lahore reported that no inspections had taken place, while in Multan 65 respondents said the same. On the other hand, in Peshawar, only 24 reported that no inspections had taken place in the past year and 156 reported in the affirmative. Those that reported a single inspection in the past year included five respondents from Lahore and 29 from Multan. Respondents reporting multiple

inspections in the past year were highest in Multan at 105 respondents, while four respondents said the same in Lahore as did 18 in Peshawar (Figure 48).

Figure 46: Labour inspections at workplace

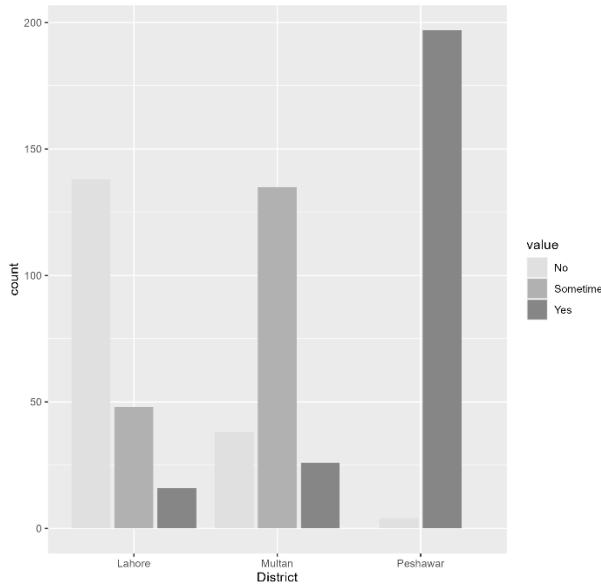


Figure 47: Frequency of labour inspections

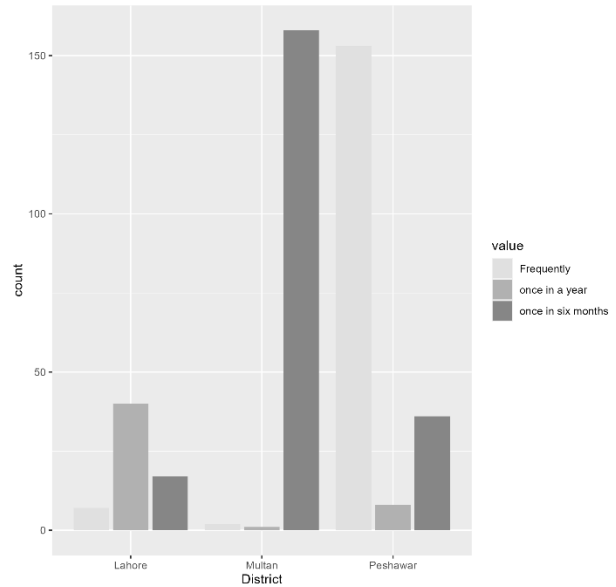
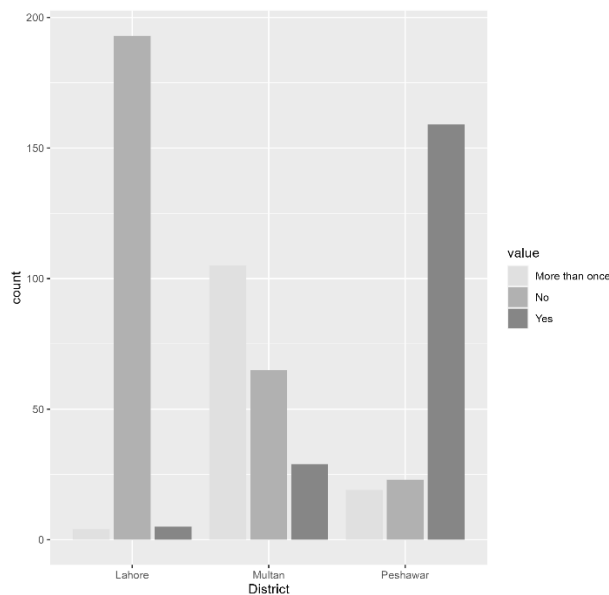


Figure 48: Labour inspectors' visits in the last year

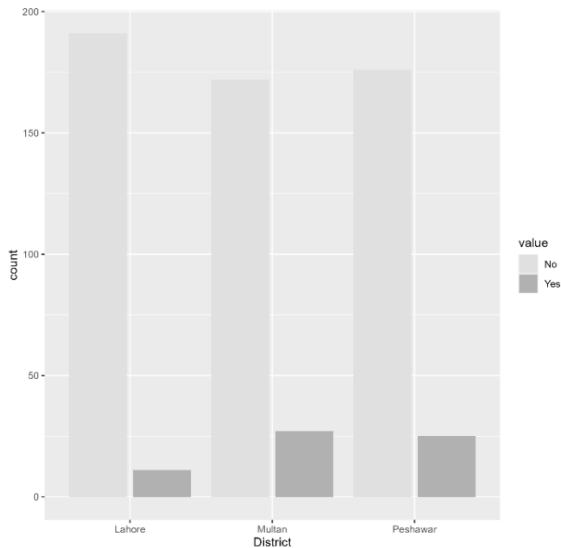


## Legal action and implications

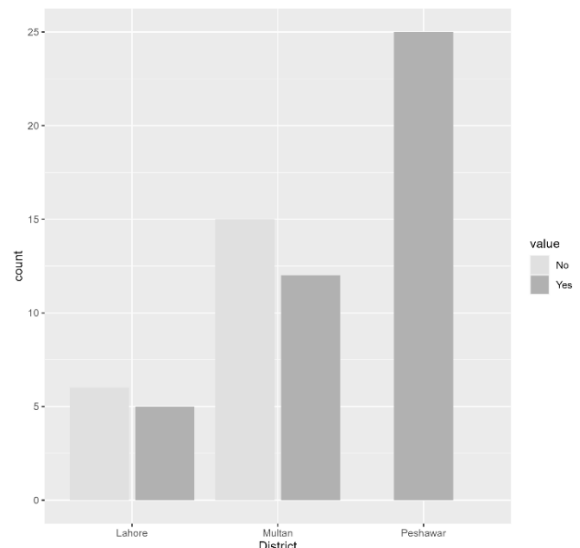
The survey also collected information regarding respondents' experience of and interactions with the labour department and legal mechanisms when faced with labour rights problems. Very few respondents reported approaching the labour department for redressal: these included 11 respondents from Lahore, 27 from Multan and 25 from Peshawar (Figure 49). Out of these total 63 respondents, 42 respondents – five in Lahore, 12 in Multan and all 25 in Peshawar – said that

they were able to access the department’s services unhindered (Figure 50). Of the 63 above, 27 reported receiving respite from the department, while another 12 reported limited respite; a total of 24 respondents across both provinces said that they were unable to resolve their problems even after contacting the department (Figure 51).

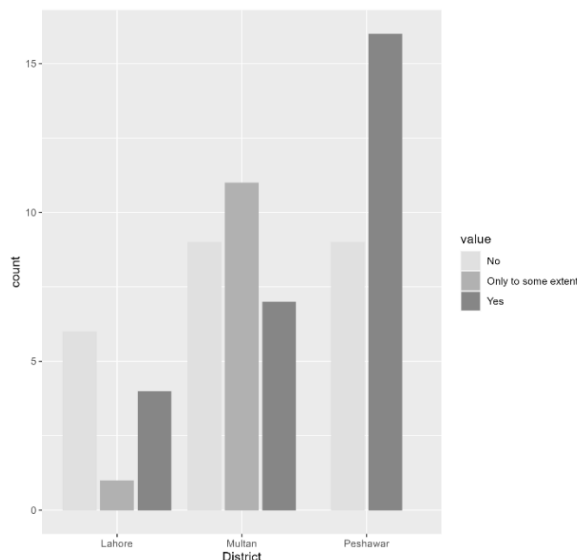
**Figure 49: Labour department approached for redressal**



**Figure 50: Labour department services accessed without hindrance**



**Figure 51: Redressal achieved after approaching labour department**



Respondents reported significant hurdles in their attempts to access the labour department. These included officials demanding bribes, incomplete documents, lack of awareness regarding protocols, unreceptive officials, and the need for assistance from third parties such as unions or federations. There was also a significant difference in hurdles reported across the districts: in Lahore, lack of awareness concerning protocols was the most common hurdle (reported by 170 respondents), followed by payment of bribes to officials (reported by 77 respondents),

incomplete documents (reported by 60 respondents), unreceptive department officials (reported by 44 respondents) and the need for federation or union assistance (reported by 16 respondents).

In Multan, the payment of bribes was the most common hurdle (reported by 158 respondents), followed by unreceptive department officials (reported by 129 respondents), lack of awareness regarding protocols (reported by 27 respondents), incomplete documents (reported by 27 respondents) and need for federation or union assistance (reported by 13 respondents). In Peshawar, the need for federation or union assistance was reported as the most common hurdle (by 144 respondents), followed by not knowing protocols (reported by 70 respondents), unreceptive department officials (reported by four respondents) and incomplete documents (reported by another four respondents).

Only three respondents in the entire sample – one from Lahore and two from Multan – reported that they – or someone they knew – had accessed the courts for redressal; all three said that the issue related to the reinstatement of employment (Figure 52). There were 63 respondents in Lahore and 165 in Multan who reported being unable to recall whether they or someone they knew had gone to court. The one respondent from Lahore reported spending PKR 50,000 in costs related to the court, while one in Multan reported paying PKR 50,000 and another in the same district reported paying PKR 250,000 in costs. The biggest expenses incurred from pursuing cases in labour courts were reported to be court fees, lawyer fees, documentation and transport. Only the two cases in Multan were reportedly resolved in court – that too, in the respondents’ favour, while the one in Lahore has its decision pending in court (Figure 53).

Figure 52: Respondents who have accessed labour courts or know someone who has

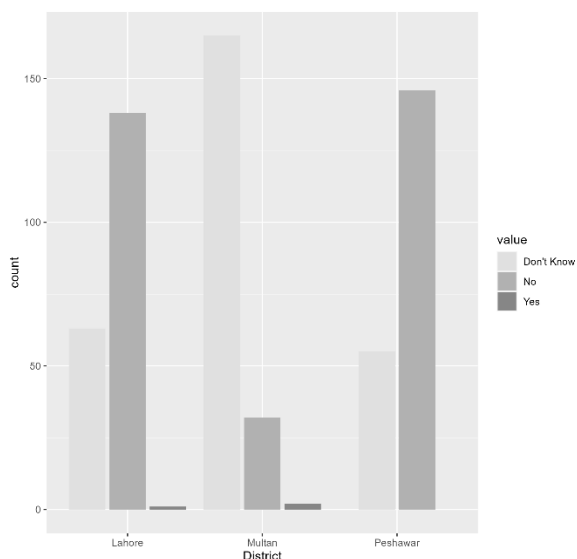
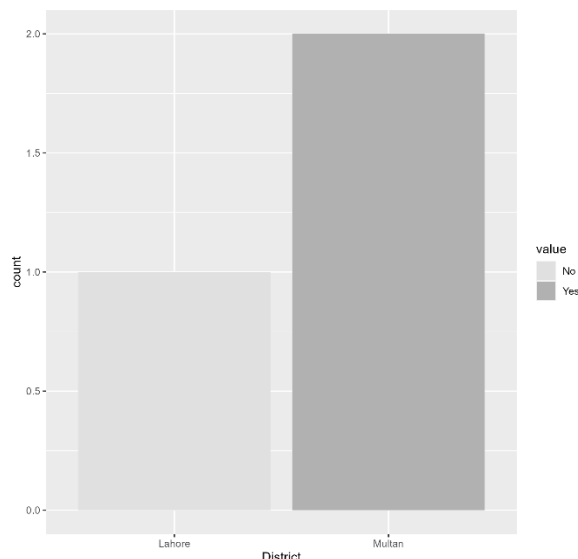


Figure 53: Labour court cases decided in workers’ favour



However, most workers – both formal and informal – reportedly had little to no awareness of their rights or what redressal mechanisms they could avail. Those associated with unions had some knowledge of labour laws and redressal mechanisms, but also reported feeling disillusioned. Lack of awareness in this regard is the first obstacle to access to justice, especially for informal and home-based workers. The KIIs and FGDs suggest that even if workers know what rights they are entitled to and are ready to take legal recourse, the process and costs incurred, coupled with the assumption that court verdicts are unlikely to go in their favour, make them sceptical of the system.

### **Case study: No hope from labour courts?**

Zafar used to work for a company as a generator operator. One day, without any notice, he and his co-workers were informed that the company did not need generator operators any longer; they were told not to come to work from the next day. They learnt, however, that their co-workers in the electrical department had been assigned the task of operating the company's generators.

Zafar and his co-workers then went to their union representatives to seek help, stating that they worked as daily-wage workers for PKR 900 a day. The union assured them of its support and helped them pursue their case in a labour court. Despite their efforts, however, no decision was handed down for two years. During this period, the company closed its operations in Multan and offered Zafar and his colleagues some money through the union to clear their court cases. 'We had no choice but to agree,' says Zafar, 'as there was no hope from the court and the union representatives were on the employer's side. The union had engaged a lawyer for us as we did not have the resources to pay the legal fees.'

Zafar and his co-workers accepted the offer and withdrew their case. However, they could not pay their lawyer's fee as the court fees, travel costs and documentation alone had cost them around PKR 50,000–60,000 and had to be paid immediately. Appearing in court on every occasion had also meant forgoing their wages for that day. They lamented that they had had to pay their lawyer around PKR 100,000 more since the union was no longer helping them. Zafar now works at a different company for PKR 1,100 a day. He is still a daily-wage worker with no job security.

'I have to work here because unemployment is rampant,' he says. 'I have also seen that no one cares about labourers, be it the labour department or labour courts. They prefer to side with the industrialists and employers instead. Unions have their own limitations and go to a certain extent. But who will take a stand for workers like us who are daily-wage workers?' he adds.

Workers associated with the public sector, where unions are especially active, also expressed their dissatisfaction over the treatment meted out by the labour department and labour courts. According to them, the labour department was often cooperative, while the unions tried to pursue workers' cases, but both were helpless when it came to court cases. In such circumstances, it was considered more appropriate for workers to reach an agreement with their employers – using their union as an arbiter – rather than to get caught up in 'useless' court proceedings.

Another step in the justice chain where workers face challenges relates to engaging lawyers, appearing in court proceedings and paying legal fees. All these incur significant costs, and most lawyers refuse to pursue such cases on a pro bono basis. According to a labour rights leader interviewed in Punjab:

It is unpredictable whom the unions support or do not support in court cases. Even if the unions engage lawyers, workers have to bear the expenses of court fees and invest precious time in pursuing cases. Where will already jobless workers (in most cases) find the money? The time they might have spent looking for another job is also wasted in court cases. It is not only that they do not know about their rights and laws, but also that the law does not necessarily recognize them as formal workers if they work part-time or at more than one place. Courts and employers use such ambiguities against workers to keep them in their place—always uncertain, always deprived.

The FGDs with workers and KIIs with labour rights leaders suggest that levels of awareness of labour rights, benefit schemes and redressal mechanisms have declined among workers over the years. One of the main reasons for this trend is the downsizing in the public sector and closure of big businesses that used to employ a majority of workers on a formal contractual basis. This arrangement spiked union activity across the country; unions were considered responsible for training workers and informing them of their rights so that the latter could support the unions

in collective bargaining. However, this has decreased over the years, for the aforementioned reasons, weakening unions and the overall labour rights movement.

**Case study: Does union activism backfire against workers?**

Ayub had worked for WAPDA in Lahore for the past 15 years as a line superintendent and served as the zonal chairman of the Pakistan WAPDA Hydro Electric Union for the past three years. As per Section 14 of the Labour Relations Act, he was working as a shop steward in a non-transferable position, owing to his status as a union office bearer. Despite this, he was transferred to another district when his union became more active. Ayub was not happy with this decision and decided to challenge it.

'I come from a lower middle-class family and have two daughters studying in college. I cannot move to another city—that too, when I hold a non-transferable position. I feel I am being targeted for my union activism. But I cannot betray the employees who elected me or stay silent for selfish motives,' he said.

He filed a petition in the labour court, challenging the management's decision and requesting a stay order. Anticipating a verdict in his favour, he did not move to his new duty station in the meantime. The management, on the other hand, turned a deaf ear to his pleas and told him there was no choice but for him to take up his new post. The court ultimately fixed his petition for a hearing instead of issuing a stay order. Ayub was then suspended by the WAPDA management for not joining his new duty station in time. In his opinion, this was a classic case of the nexus between employers and labour courts that rarely side with workers.

'My only fault,' he said, 'was that I trusted in due process and expected the labour court to protect my right. However, the court sided with the management—as it has always done. I sit at home now and attend my hearings in court. Everybody knows that I was targeted because of my union activism. I feel helpless.'

The continuously deteriorating state of the economy has also pushed skilled and unskilled workers to accept whatever terms and conditions are offered to them. Engaging informal workers has become the new norm, reducing employers' liability, with workers facing the continuous threat of losing their jobs. This uncertainty compels them to conform to exploitative work arrangements. Legal ambiguities regarding part-time or informal workers exacerbates their situation and discourages them from pursuing redressal to begin with.

The FGD participants also reported that their local NGOs and private sector organizations did not offer any workers' rights education programmes. Government departments, such as the Industrial Relations Institute whose mandate includes workers' education, also seem inactive, with workers in Lahore and Multan unable to reach out to them. With hampered union activity and limited training programmes available, as well as government institutions falling short of their mandates, it is hard to believe that workers caught in such precarious labour arrangements will seek information on legal recourse on their own and fight for their rights.

## 4 Labour courts and labour departments: Avenues of access to justice?

Following the Industrial Relations Ordinance 2002 and subsequent provincial industrial relations acts (Punjab 2010, Khyber Pakhtunkhwa 2010 and Balochistan 2022), labour courts deal primarily with labour disputes and other rights guaranteed to and secured for workers or employers under these acts and other labour laws. The forum of appeal to challenge verdicts passed by labour courts are labour appellate tribunals, whereas inter-provincial labour issues are decided in the National Industrial Relations Commission (NIRC). In case either party has reservations over a judgement passed by the NIRC, an appeal is presented before a larger bench of the NIRC. Since litigation is a lengthy process, the labour laws mandate the labour departments to assume the powers of compensation courts which, using the alternative dispute resolution model, mediate between the employer and worker to decide cases of outstanding dues.

According to KIIs conducted with labour rights leaders, lawyers and representatives of labour departments, workers usually approach labour courts if they are retrenched from their jobs or have the labour department's support in claiming compensation against their dues. However, the findings suggest that the labour department and labour courts face various challenges that hinder their role in ensuring the timely dispensation of justice to labourers.

### Staff shortages

The foremost issue that surfaced in interviews was staff shortages in labour departments. While this claim can be substantiated through a rapid quantitative assessment, the interviews suggest that at least 50 percent of the sanctioned posts within labour departments are lying vacant. According to the department representatives interviewed, this has been the case since the beginning of their tenure. According to a Punjab Labour Department representative:

This is not a new or old issue. I have been serving in the department for 17 years now. Staff strength has always been a challenge as it has never crossed 50 percent. It is also not limited to one district and one province; it remains the same everywhere.

Vacant sanctioned posts and insufficient staff capacity aside, roadblocks in recruitment were also discussed. According to interviewees, the labour department faces retention issues, with officers frequently leaving their positions to continue their careers elsewhere, while those recruited display a lack of understanding or willingness to learn about labour rights issues. However, interviewees also said that this trend had changed recently for the better, with officers recruited in the past few years demonstrating not only an inclination towards ensuring workers' welfare, but also being well versed in labour laws and workers' rights.

The interviewees highlighted vacant positions in labour courts as a recurring issue. Labour courts are notified mostly at the divisional level or in areas with a higher scale of industrial work. However, since there is no separate cadre of the judiciary to serve as presiding officers in labour courts, these courts act as special courts with district, additional and sessions judges presiding. According to government records and corroborated by the KIIs, there are eight labour courts in Sindh (five in Karachi and one each in Hyderabad, Sukkur and Larkana), five courts in Khyber Pakhtunkhwa (one each in Peshawar, Haripur, Swat, Dera Ismail Khan and Mardan), 11 in Punjab (two in Lahore and one each in Sheikhpura, Faisalabad, Sargodha, Rawalpindi, Gujranwala, Bahawalpur, Multan, Sahiwal and Dera Ghazi Khan) and three in Balochistan.

However, the judges who preside over these courts struggle to allocate time from their already busy schedule and workload. Given the limited number of available judges and judicial staff, cases in labour courts then too remain pending beyond a reasonable timeframe, consequently affecting labourers' access to justice adversely.

## Lack of training and political will

Ensuring the availability of judges and judicial staff does not resolve the problem, however. According to interviewees, the judges who preside in labour courts display a limited capacity to adjudicate in disputes between employers and workers. Not only is there a lack of training for judges on this type of adjudication, but they also view this responsibility as a 'special task', given that the cases they hear are mostly civil or criminal in nature.

Many interviewees, including labour department officials who approach the courts as a party or respondent to cases, recounted instances of labour courts judges who had been appointed to the position for the first time, lacking the necessary knowledge of labour laws. Without casting any doubts on the judges' capabilities, they reported that the latter often took time to understand the intricacies of the lawsuit, especially the employer-employee relationship and the nature of the evidence. Unfortunately, by the time the labour court judges gain enough experience or knowledge, they are released from their duties or transferred. While no judge was contacted during the study, various lawyers and labour department representatives reported that judicial academies do facilitate a week-long workshop on labour laws for judges, but such a capacity-building initiative is subject to the availability of financial resources from the ILO.

Judges' prior commitments and continuous hearing of civil and criminal cases also reportedly impedes their ability to adjudicate effectively in labour courts. With most of their time allocated to such cases, they are naturally inclined to apply the same measures in labour courts, especially while fixing and adjourning hearings, or when demanding and examining the evidence. In such scenarios, workers find that their cases significantly weaken as a result. As a Sindh Labour Department representative pointed out:

Lawyers representing companies or employers use delaying tactics by emphasizing 'evidence' and thus get hearings adjourned. Workers, who usually do not have good legal representation and already bear the consequences in cases of termination, become doubly disadvantaged. These are not murder cases, where collecting evidence and preparing for arguments take weeks, but judges often fail to understand that these cases have to be dealt with differently under labour laws and that the nature of the evidence varies. Even if they are sympathetic towards the labourer—which they often are—adjourning cases or demanding evidence is in their default setting. The rest is taken care of by the company's lawyers.

The labour department representatives interviewed also complained about a lack of training for newly hired employees, who would instead learn about labour rights and related laws through their daily work or from well-versed colleagues in the department. A lack of seriousness is further evident when the department approaches labour courts, with cases not given due importance. Finally, they noted a lack of labour law enforcement, stating that in many cases where action against labour rights violations was required, people with political influence interfered. On the other hand, the labour inspectors interviewed admitted facing pressure not from political or local elite, but from senior colleagues within their own departments who frequently advised them to abandon cases. Similarly, if fines are issued to employers or a company's management for violations observed during inspections, they are not taken up seriously in front of the duty magistrate in most cases. The fine is either dropped by bribing the



magistrate's staff or paltry penalties imposed. A labour inspector from Khyber Pakhtunkhwa said that,

When we approach labour courts, we will not hear anything for months—sometimes for seven to eight months. No one updates us. When hearings are finally fixed, we may also not remember the finer details by then that could have been brought up if these cases were heard in time.

## Weak legal representation and lengthy litigation process

There was a consensus among interviewees that representation for workers in courts was rarely up to the mark. With most workers unable to afford the services of professional, reputable lawyers, they are instead represented by union leaders, or pro bono lawyers at most. This lack of adequate legal representation means that workers find their cases adjourned on demands for substantive evidence. On the other hand, lawyers representing employers are usually well-paid and aware of the legalities involved that help them win their case, or at least postpone hearings to their benefit. Labour court judges who are not privy or sensitive to such imbalances then tend to decide in favour of employers.

Litigation in labour courts is also often long-drawn-out. While there were mixed opinions on the outcomes of the litigation process, with most interviewees stating that cases were decided in favour of employers, they agreed that the time and resources spent in such litigation certainly discouraged workers, exhausting them both financially and emotionally. Even when cases are decided in favour of workers, the time spent and expenses incurred affect them significantly. The circumstances, however, often compel most workers to withdraw their cases without any guarantee of severance pay. As a labour rights lawyer from Sindh explained:

These are usually straightforward cases, but courts rarely realize that the worker cannot afford to be out of work for weeks and months just to wait for the next hearing. The evidence in such cases—appointment letters and terms and conditions—are also straightforward. The list of charges can be decided accordingly, but adjournments and the imposition of the burden of evidence on labourers make things worse.

Similar to the survey respondents, however, the role of unions was criticized across the board. Interviewees claimed that labour unions were disorganized, ineffective and sometimes found to compromise on labour rights. Some labour rights leaders even suggested that unions were not truly representative of workers and cut deals with employers and labour departments. A labour rights leader from Balochistan said that,

Collective bargaining agent unions are rare these days. Pocket unions operate in the guise of representative unions. They mint money in the name of workers. In the labour or compensation courts, they portray themselves as pursuing workers' interests, but it's their own interests that take precedence. Interestingly, in some areas they also raise funds for legal representation, but when the time comes, they either engage useless lawyers or come themselves.

It is unfortunate that labour departments and courts, with their own set of challenges, often find it convenient to rule in favour of employers who tend to have better and more effective legal representation. Combined with weak legal representation for workers in courts, the outcomes of the litigation process frequently go against workers' rights. A Khyber Pakhtunkhwa labour department representative lamented that

The quality of representation for labourers in court is pathetic. Union leaders are good at shouting in court, which may please workers for the time being, but does not help the case. Judges are rightfully offended at such behaviour and adjourn cases or find themselves convinced by arguments from the opposing party. The loss of time and money as well as the mental stress that workers go through remain constant challenges, but nobody seems to care about it.

A labour rights lawyer from Punjab pointed out that

Sometimes, employers bribe judicial staff members to influence court decisions in their favour. I pleaded a case in Multan where workers were retrenched. The court dismissed our case at the first hearing without letting us complete our arguments. Our case is now with the appellate tribunal, but the damage has been done.

The existing labour laws also mandate labour departments to act as a compensation court to mediate disputes related to unpaid dues, unfair deductions and delayed salaries and benefits. All the interviewees were of the view that workers were able to acquire some measure of relief from these courts. Representatives of labour departments also reported that they found it easier to avoid unnecessary political influence from senior officials within their department in this dispute resolution mechanism, and that workers ultimately benefitted. However, some lawyers felt that labour departments prefer cases to be directed to them, suggesting that the departments also benefit in such settlements. A labour rights lawyer from Islamabad explained that

Compensation courts are definitely the forum where workers get some relief. There's a more balanced atmosphere and employers agree to a settlement—not usually as per the worker's claim, but still a reasonable amount. However, it seems that labour departments want such cases to come to them so that they can exercise their authority and benefit too. Whatever the case may be, this mechanism helps workers to some extent.

## Normative and implementation gaps

Other than the factors mentioned above, normative and implementation gaps in labour laws and policies are other areas that hinder workers' access to justice. Normative gaps include discrepancies within existing laws that lead to their ineffectiveness, barring workers from claiming their rights. Such gaps require urgent reforms. Implementation gaps consist of technical, individual or societal hurdles that prevent the law from being enforced in spirit. Such gaps require monitoring mechanisms to ensure that laws are enforced as well as accountability mechanisms to penalise those who evade or violate the law.

Some of the normative gaps identified through the KIIs were an absence of a special cadre of judges for labour courts and lack of comprehensive training programmes in labour laws for judges. While the interviewees were fully cognizant of the justice system and its barriers, they agreed that there was still a need to introduce a special cadre of the judiciary to sit and adjudicate in labour courts. They also said that regular comprehensive training programmes for judges in labour laws and dispensation of justice in labour courts were badly needed. Until these gaps are bridged, it seems implausible to expect positive outcomes from litigation for workers.

Another area that requires normative reforms is labour inspection. The KIIs highlighted that labour inspectors have very limited authority to propose sanctions and penalties against violators of labour rights and laws. With an already compromised labour inspection function, this further restrains labour inspectors from performing their duties properly or taking strict action. Interviewees also said that the challans that labour inspectors issue to impose fines are

either struck down or reduced to nominal penalties when presented before the duty magistrate. As a labour inspector from Khyber Pakhtunkhwa pointed out,

Everybody complains that labour inspectors do not perform their duties, but nobody knows what we can or cannot do. We issue a challan and the employers have it struck down or pay very minimal amounts and get away with it. We are doubly embarrassed when we visit their workplace again as our work is not taken seriously and we are told that we cannot do anything to them.

Another problem identified during the KIIs was the lack of adequate infrastructure and facilities for labour inspectors. Labour inspection is a field job that requires consistent travelling, but labour inspectors across provinces are not provided any vehicles or travel allowance. Instead, they use their personal conveyance – primarily motorbikes – or public transport to perform their duties. They are also not provided any training opportunities or benefits to keep them motivated in their line of work. A labour inspector from Punjab commented:

We live in a classist society. People at big industrial units or factory owners look down on us when we visit them using our personal vehicles. The management also treats us very casually because they know they can get away with anything. Sometimes they remind us of what happened the last time we conducted an inspection. Given the situation, some labour inspectors start colluding with them as they believe they cannot hold employers accountable, so why risk losing their reputation?

Undue pressure from professional associations was also cited as a major reason for weak law enforcement. These associations tend to obstruct legal proceedings whenever action is taken against the labour department for rights violations. Some associations, such as the private schools' association in Khyber Pakhtunkhwa, have challenged the jurisdiction of labour departments to intervene in their matters in apex courts. Likewise, there were many examples of associations of shopkeepers and owners of pharmacies, restaurants and furniture shops who have resisted any actions taken by labour inspectors and labour departments, and evaded penalties for violating labour laws. A labour inspector from Sindh observed:

Teachers in private schools work hard and earn well below the minimum wage, but we would not be allowed to hold even an orientation session there. Employers simply dismiss any problems that may arise by laying off employees whose complaints have been taken up. Workers, on the other hand, hold us responsible for losing their jobs.

A major factor behind the weak enforcement of labour laws is also the loose definition of the minimum wage. More often than not, employers take advantage of loopholes in the law by fixing wages to the worker's daily output, shifting the responsibility onto workers to maintain a fixed output to earn their wages. Employers are barely penalized for such a brazen violation of the law. Similar to the survey findings, most labourers interviewed reported working without any formal contract or appointment letter, thereby limiting their ability to complain against such harmful practices. If they do file a complaint, they are usually laid off without any trail of evidence for the labour department to pursue their case.

Finally, the lack of inter-departmental coordination is yet another obstacle to ensuring legal compliance and labour rights. Referring to the Prevention of Trafficking in Persons Act 2018, some interviewees claimed that forced or bonded labour was not even recognized as a rights violation by the Federal Investigation Agency (FIA), which is mandated to take action but rarely does so when informed about such cases by the labour department. Similarly, interviewees recounted cases of weak enforcement or inaction from the police and social welfare department

regarding cases of child labour. As a result, such violations of labour rights continue with impunity, with victims being fired as 'punishment' for lodging a complaint in the first place.

With such hurdles in every institution, the realization of labour rights and enforcement of labour laws are often compromised, and workers' access to justice remains limited. Issues pertaining to institutional resources, capacity and mandate as well as unwarranted pressure from different quarters must be addressed if labour departments and labour courts are to be successful in providing relief to workers.

## 5 Conclusions and recommendations

Based on this study's findings, HRCP recommends the following steps be taken to ensure workers' access to justice in Pakistan:

### Stringent compliance with labour laws

Despite an established body of evidence regarding the lack of registration of workers, the situation does not seem to be changing. A vast majority of workers, even in the formal sector, do not have formal contracts and are thus not entitled to crucial benefits provided under labour laws, such as social security. Those registered with the EOBI make up a fraction of Pakistan's workforce, and complaints continue to surface of a reduction in years of employment on registration. More stringent compliance with labour laws is thus required to ensure that workers are formally contracted and registered, with timely and definitive sanctions and penalties against employers violating these rights.

### Comprehensive training of workers to build their capacity

Workers across provinces, particularly Khyber Pakhtunkhwa, lack awareness of their rights, applicable labour laws and the legal minimum wage. There is also a lack of understanding of complaint and redressal mechanisms. Given the limited resources of labour unions, the labour department and civil society organizations must take the lead and deliver comprehensive training programmes for workers, utilizing social media and modern technologies to design and deliver these programmes for increased cost-efficiency and sustainability.

### Redressal for workplace harassment

While cases of workplace harassment are increasingly being reported and redressed, civil society organizations, labour departments and other relevant government institutions must continuously engage with women workers to inform them of their right to work free from harassment, which laws protect these rights and what complaint mechanisms they can access. Women workers must also be assisted through complaint registration and litigation processes wherever possible to ensure they have the necessary emotional and technical support.

### Avenues for legal aid for workers

Legal aid for workers must be enhanced to increase their access to justice. In many instances, workers lose motivation or become overwhelmed by the litigation processes and associated expenses. They do not receive adequate support and are assigned poor legal representation—lawyers offering their services pro bono are often also short of time or not well-versed in labour laws to pursue such cases effectively. The state must strengthen the district legal empowerment committees and the newly established Legal Aid and Justice Authority to assist workers and provide legal aid.<sup>8</sup>

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<sup>8</sup> District legal empowerment committees are formed by the Law and Justice Commission of Pakistan to provide legal aid to litigants who might otherwise be unable to obtain legal aid or assistance to protect their genuine legal rights or interests on account of limited financial resources. The Legal Aid and Justice Authority was formed under

## Model labour courts with trained judges

The judges appointed to labour courts are not dedicated to labour rights alone. Moreover, judicial academies are often unable to conduct training workshops in this area regularly as they rely on resources from the ILO for this purpose. Civil society organizations and UN agencies must ensure these training sessions are held regularly and provide technical and financial resources wherever possible. The judiciary must institute regular and comprehensive training of judges in labour laws and policies to effectively preside over cases in labour courts. Moreover, model labour courts must be established wherever possible with dedicated judges and judicial staff trained in labour rights and laws. This will help fast-track labour cases and showcase how effective a special cadre of labour judges can be in adjudicating labour-related cases.

## Inter-departmental coordination on labour issues

Inter-departmental coordination between the labour and social welfare departments, and the police and FIA should be enhanced to curb violations of labour laws, especially in cases of bonded labour, child labour and human trafficking. These institutions must coordinate and cooperate in cases of harassment of workers as well. Staff officers with specialized knowledge in labour rights and laws must also be recruited in these institutions, especially labour departments, to increase institutional efficiency pertaining to labour rights violations.

## Frequency and quality of labour inspections

Labour inspections are crucial to the enforcement and implementation of labour laws. However, labour inspectors currently lack the mandate and resources to perform their role efficiently and reprimand employers found guilty of violating labour rights. Unless these discrepancies are resolved, blaming labour inspectors for corruption or neglecting their duties will not improve the situation. Legislative and policy changes to revisit their role and mandate need to be introduced, and infrastructure facilities should be improved to empower labour inspectors and increase the frequency and effectiveness of their work.

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the Ministry of Human Rights to provide legal, financial and other assistance for access to justice to poor and vulnerable segments of society in criminal cases.