

## LABOR CONDITIONS AND RESISTANCE UNDER CHINESE INVESTMENT IN PAKISTAN

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Pakistan is currently host to large-scale transformations of capital and changes in workforce under China's massive USD 60 billion investment, known as the China-Pakistan Economic Corridor (CPEC). As the flagship project of China's Belt and Road Initiative (BRI), CPEC encompasses infrastructure, energy, Special Economic Zones (SEZs) and agriculture.<sup>1</sup>

This article is an empirical study of labor conditions, resistance, and the use of labor law by workers under recent Chinese investment, including CPEC, in Pakistan. These labor practices are situated within an existing and long-established labor regime in Pakistan, one that has evolved over time under the influence of both Western and local investment, and which is dependent on foreign investment and International Financial Institutions (IFIs). Despite abysmal work conditions under this Western investment regime,<sup>2</sup> labor struggles as well as the influence of international institutions like ILO (International Labor Organization) have dialectically shaped these practices, thereby creating a democratic, legal, and constitutional space for workers. CPEC, however, carries the influences of domestic Chinese labor practices and of its outbound global investment in Africa and Latin America. This gives us an opportunity for comparative labor law analysis.

This article argues that while the “nature of capital”—i.e., private or public/national, its strategic concerns, development model, and entrepreneur tradition—is important to understanding labor practices of an investment regime, what matters for workers is the history of labor resistance and

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1. Government of Pakistan Ministry of Planning, Development and Reform, *Long Term Plan for China–Pakistan Economic Corridor (2017-2030)*, CPEC, <https://www.pc.gov.pk/uploads/cpec/LTP.pdf> (last visited Feb. 13, 2021).

2. “Investment regime” refers not only to investment policy of a country, regional taxes, and trade restrictions, but also how an investment regime addresses the question of sustainability, environmental impact, and labor welfare. See KONRAD VON MOLTKE, INTERNATIONAL INSTITUTE OF SUSTAINABLE DEVELOPMENT, AN INTERNATIONAL INVESTMENT REGIME? ISSUES OF SUSTAINABILITY 2 (2000).

organizing.<sup>3</sup> These factors shape labor practices in an investment regime. In Pakistan, Chinese investors first try to avoid constitutional and statutory labor law protections altogether, and exploit their loopholes. Secondly, Chinese investors use informal coercive measures like security concerns and CPEC's geostrategic importance to curb any dissent by workers. Globally, Chinese investors also cherry-pick the most flexible legal regimes offered overall by new global trends of Western investment, i.e., the promotional approach to core labor standards and voluntary codes of Multinational Corporations in their Global Value Chains (GVCs). Details of these recent changes in labor practices by Western investment regimes will follow.

We undertook primary research between winter 2017 and early 2019 at seven CPEC sites: Port Qasim Coal-Fired Power Project (referred to here as "PQPP"),<sup>4</sup> Port Qasim Berth 3 and 4, Sahiwal Coal Power Project ("SCPP"),<sup>5</sup> Orange Line Metro Project in Lahore ("OLL"),<sup>6</sup> Gharo-Jhimpir Wind Corridor at Jhimpir ("JWPP"),<sup>7</sup> and Neelum Jhelum Hydel Power Project ("NJPP").<sup>8</sup> In addition, through discussions with trade union leaders in these projects we were able to get a detailed picture of labor relations in four other hydropower projects being undertaken by Chinese contractors, namely, Tarbela Dam Terminal IV extension ("TT4")<sup>9</sup> and three smaller dams<sup>10</sup> being

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3. We are avoiding the loose use of the words "capital" and "colonialism," given the complex nature of these debates. See CHING KWAN LEE, *THE SPECTER OF GLOBAL CHINA: POLITICS, LABOR, AND FOREIGN INVESTMENT IN AFRICA* (2017) (comparing Chinese capital with its own "particularities" with Western (Global) capital). In contrast, Hung (2016) describes Chinese capital in its "uniqueness," while being embedded in and tied to world capital. Hung posits that Chinese development is dependent on global capital and free trade, hence it should not be taken as an alternative to the global neocolonial order. See HO FUNG HUNG, *THE CHINA BOOM: WHY CHINA WILL NOT RULE THE WORLD 10* (2015); Ho Fung Hung, *Rise of China and the Global Overaccumulation Crisis*, 15 REV. INT'L. POL. ECON. 149 (2008).

4. PQPP was jointly developed by Power China Resources Limited and Al-Mirqab Capital for a total cost of about USD 2.085 billion. It consists of a plant, jetty, and channel, and has a gross capacity of 2660 MW.

5. SCPP consists of two 660MW capacity power plants, jointly invested in and constructed by China Huaneng Shandong Power Generation Co. Ltd. and Shandong Ruyi Technology Group Ltd, with a total investment of USD 1.8 billion.

6. OLL is a twenty-seven-kilometer metro train in the city of Lahore costing over USD 920 million and being developed by CR-NORINCO, a joint venture of China Railway Corporation and China North Industry Corporation.

7. JWPP consists of two wind farms: UEP 100 MW Wind Farm Project and Sachal 50MW Wind Farm Project. UEP is developed by UEP Wind Power (Pvt.) Limited, a joint venture of Orient Group Investment Holdings Co., Ltd. and United Energy Group Co., Ltd. The contractor is China Gezhouba Group Company Limited. Sachal is financed by Sachal Energy Development (Pvt.) Ltd., whose equity is owned by Arif Habib Corporation Limited. Hydro China International Engineering Co., Ltd. is the engineering procurement construction contractor.

8. NJPP is a USD 3.68 billion joint project of the China Gezhouba Group Co. Ltd. (CGGC), the main builder of the Three Gorges project, and China Machinery Engineering Corporation. CGCC is currently engaged for hydro projects in Angola and Argentina as well.

9. An extension to one of Pakistan's existing hydropower dams, this project is financed by the World Bank and contracted with Sinohydro Limited for USD 347 million. Completed in 2018, it added 1410 MW of electricity to the dam's capacity.

10. Details of the Chinese companies involved in these smaller dams are given in Part III of this article.

developed by the China Gezhouba Group Company: Karot Hydel Power Project (“KHPP”), Sukhi Kinari Hydro Power Project (“SKHPP”), and Dasu Hydro Power Project (“DHPP”).

CPEC from its beginning has been kept under heavy secrecy in the name of its “strategic importance” to avoid criticism from within Pakistan.<sup>11</sup> Very little information is publicly available, and the information that is available is outdated and has been severely vetted and sanitized.<sup>12</sup> In addition, there is a crowd of think-tanks with opaque funding sources producing non-peer reviewed “academic work” in favor of CPEC projects, adding to the noise surrounding CPEC.<sup>13</sup> In a context of weak unions and the security state narrative around CPEC, workers were very scared to speak to us.<sup>14</sup> They often assumed that we were informants or journalists and that speaking to us could jeopardize their jobs and security. Since worksites are surrounded by up to three layers of security—police, military, and Chinese security—we approached workers directly at tea stalls, and bus stops and village squares near project sites. In addition, we used snowballing to reach workers and trade union leaders at those sites where unions were active.

In total, we spoke to approximately 200 workers and ten trade union leaders. We also interviewed approximately twenty other CPEC stakeholders including engineers, lawyers involved in labor-related cases, politicians, journalists, and contractors. The researchers conducted semi-structured interviews, focus group discussions, and participant observation of workers’ protests. After the initial research period, in 2020 we undertook another round of primary and secondary research with the ILO and trade union federations. By this time the original hype of CPEC had died down and we were able to obtain some original correspondence between unions and ILO, charter of demands of the unions to the Chinese companies and related agreements.<sup>15</sup>

To set a context for analysis and as a review of related literature, Part I of the article provides a brief description of the genesis of labor law in Pakistan as it evolved over time under Western investment, and the tradition of Chinese investors’ labor practices in China and in its global expansion in Africa and Latin America. Part II details concrete descriptions of labor

11. See ANDREW SMALL, *THE CHINA PAKISTAN AXIS: ASIA’S NEW GEOPOLITICS* (2015).

12. Interview with Khurram Husain, Reporter, Dawn (newspaper) (Feb. 9, 2018).

13. See, e.g., PAK-CHINA INST., <https://www.pakistan-china.com/> (last visited Oct. 25, 2023); CTR. EXCELLENCE CHINA-PAKISTAN ECON. CORRIDOR, <https://cpec-centre.pk/> (last visited Oct. 25, 2023); and CTR. CHINA PAKISTAN ECON. CORRIDOR, <https://cpec.gov.pk/> (last visited Oct. 25, 2023).

14. The list of literature in this regard is very long. For economic dominance of military, see AYESHA SIDDIQA, *MILITARY INC.: INSIDE PAKISTAN’S MILITARY ECONOMY* (2007); for political dominance of military, see STEPHEN P. COHEN, *THE PAKISTAN ARMY* (1984).

15. Daniel Markey, *How the United States Should Deal With China in Pakistan*, CARNEGIE-TSINGHUA CTR. GLOB. POL’Y (Apr. 8, 2020), <https://carnegietsinghua.org/2020/04/08/how-united-states-should-deal-with-china-in-pakistan-pub-81456>.

conditions while Part III describes examples of resistance of unorganized and organized labor in the above mentioned CPEC projects. Part IV of the article concludes that for workers of the Global South employed by Chinese investment projects, strengthening constitutional and statutory guarantees in the national labor law regime, particularly expanding freedom of association and collective bargaining, is the best safeguard of workers' welfare and guarantee against grave exploitation. International institutions and related labor law developments should endeavor to create a conducive environment for strengthening these guarantees.

#### PART I: GENESIS OF LABOR LAW IN PAKISTAN

Starting primarily in the 1950s–70s, labor law in Pakistan evolved as welfare legislation. Currently, Pakistan has ratified thirty-six ILO conventions and, under its Constitution, has secured labor rights, like the right to unionize and collective bargaining.<sup>16</sup> However, the bulk of the literature on labor in Pakistan are reports by the ILO and labor NGOs working on foreign funded projects. This literature mostly focuses on labor rights,<sup>17</sup> the nature of industrial relations,<sup>18</sup> labor issues,<sup>19</sup> and the review of labor laws with suggestions for amendments.<sup>20</sup> The academic literature also documents deplorable labor conditions despite the existence of sound labor laws.<sup>21</sup> These statutory and constitutional labor rights will be discussed along with descriptions of labor conditions and struggles under Chinese investment in Pakistan in parts II and III of this article.

Recent changes in labor law at the international level have a significant impact on the social welfare gains of the labor laws introduced during the

16. NORMLEX, *Information System on International Labor Standards*, ILO, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200\\_COUNTRY\\_ID:103166](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103166) (last visited Feb. 20, 2021).

17. See, e.g., ZEENAT HISHAM, PILER, DENIAL AND DISCRIMINATION: LABOUR RIGHTS IN PAKISTAN (2007), <http://piler.org.pk/wp-content/uploads/2017/02/Denial-Discrimination-Labour-Rights-in-Pakistan.pdf>.

18. See SABAR GHAYUR, PILDAT, INTERIM INDUSTRIAL RELATIONS ACT, 2008: A REVIEW (2010); RASHID AMJAD & KHALID MAHMOOD, ILO, INDUSTRIAL RELATIONS AND THE POLITICAL PROCESS IN PAKISTAN, RESEARCH SERIES NO. 73 (1982).

19. See SABAR GHAYUR, PILDAT, EMPLOYMENT AND LABOR MARKET ISSUES IN PUNJAB: CURRENT SITUATION (2014); MALIHA LARI, PILER, GENDER REVIEW OF LABOR LAWS (2010); TAZEEN JAVED, PILDAT, UNDERSTANDING LABOR ISSUES IN PAKISTAN (2009).

20. See BABAR SATTAR, PILDAT, NEED FOR FEDERAL MANDATE IN INDUSTRIAL LAWS (2012).

21. See, e.g., Furqan Mohammed, *Protecting Pakistani Laborers Post-Eighteenth Amendment: Recognizing Rights After the Devolution of Power*, 9 LOY. U. CHI. INT'L L. REV. 265 (2012); Kamal Munir et al., *The Abject Condition of Labor in Pakistan*, 87 INT'L LAB. WORKING CLASS HIST. 174 (2015); Anushay Malik, *Alternative Politics and Dominant Narratives: Communists and the Pakistani State in the Early 1950s*, 4 S. ASIAN HIST. & CULTURE 520 (2013); Asna Afzal, *Pakistan, The WTO, and Labor Reforms*, 29 B.C. INT'L & COMP. L. REV. 107 (2006); Badiuddin A. Khan, *The Myth of Labour Policy*, 9 INDUS. REL. J. 29 (1992); Muhammad Irfan, *Wages, Employment and Trade Union in Pakistan*, 21 PAKISTAN DEV. REV. 49 (1982).

1950s–70s in Pakistan. During the neoliberal reforms of the 1990s, the International Monetary Fund (IMF), the World Bank and the Organization for Economic Co-operation and Development (OECD) pushed for “flexibility of labor.” ILO acted as a social mediator in this neoliberal globalization in order to uphold a rights-based approach in labor law. This resulted in a shift in the labor law regime from a Convention-based approach with core standards that emphasize ratification, government responsibility, sanctions and enforcement mechanisms, to a declaration-based regime without ratification and focused on promotion of labor rights.<sup>22</sup> Its aim is to motivate stakeholders without binding sanctions. This shifts the regulatory burden from governments to corporations and consumers. This approach, with some differences, appeared in the ILO’s Social Declaration of 1998, and the EU’s Charter of Fundamental Rights in 2000.<sup>23</sup> This approach is soft law,<sup>24</sup> as opposed to “hard,” binding statutory labor law. One of its newest forms includes multinational corporation (MNC) labor codes, corporate social responsibility (CSR) policies, and the use of private tort law to seek damages for violations.<sup>25</sup> Its basis is private law’s “corrective justice,” as opposed to labor law’s distributive justice.<sup>26</sup>

A detailed engagement with the merits and demerits of these debates within Western labor law context is beyond the scope of this article. But the overall shift of this focus of labor law has serious implications for workers of the Global South where most of the investment of Belt Road Initiative (BRI) is located. One of the writers of this article has dealt with this issue elsewhere.<sup>27</sup> What is relevant here is that this “flexibility of labor regimes” is letting Chinese investors selectively play on the weakening of the national labor regimes in place. Secondly, other than the traditional tripartite stakeholders of employees, employer, government, and sometimes the ILO;

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22. This is based on debates between Phillip Alston and Brian Langille, and theoretical interventions by Judy Fudge. See Philip Alston, “Core Labour Standards” and the Transformation of The International Labour Rights Regime, 15 EUR. J. INT’L L. 457 (2004); Brian Langille, *Core Labour Rights—The True Story (Reply to Alston)*, 16 EUR. J. INT’L L. 409 (2005); Judy Fudge, *The New Discourse of Labor Rights: From Social to Fundamental Rights?*, 29 COMP. LAB. L. & POL’Y J. 29 (2007).

23. Fudge, *supra* note 22, at 29–66.

24. Alston, *supra* note 22, at 457.

25. We use the term “MNC labour codes” to mean certain labour conditions MNCs adopt in their GVCs, including: private compliance initiatives such as codes of conduct, and multi-stakeholder initiatives (MSIs) such as social auditing and certificate initiatives. The source of these codes are provisions that MNCs must follow, mandated by the EU and ILO. See EU Parliamentary Resolution of 27 April 2017 on the *EU Flagship Initiative on the Garment Sector 2016/2140 (INI)* (2017).

26. For distributive justice as one the core values of labor law, see Guy Davidov, *Distributive Justice and Labour Law*, in PHILOSOPHICAL FOUNDATIONS OF LABOUR LAW ch. 8 (Hugh Collins et al. eds., 2018).

27. Muhammad Azeem, *The KiK Case: A Critical Perspective from the South*, in TRANSNATIONAL LEGAL ACTIVISM IN GLOBAL VALUE CHAINS: THE ALI ENTERPRISES FACTORY FIRE AND THE STRUGGLE FOR JUSTICE (Miriam Saage-Maaß et al. eds., Springer International Publishing, 2021).

now IFIs, corporations, and labor NGOs have also emerged as important stakeholders.

The practices of Chinese investors in Pakistan follow similar trends as in Latin America, Africa and China.<sup>28</sup> China's rise as an economic power occurs simultaneously with the exploitation of cheap labor in China,<sup>29</sup> despite a tireless struggle of Chinese workers to secure better labor conditions in China, as well as in Africa and Latin America.<sup>30</sup> What makes labor practices of Chinese investors in Pakistan unique is the military presence on CPEC projects, which makes labor organizing and struggles very challenging. Generally, the literature on BRI in Pakistan is concerned with CPEC's economic benefits and strategic concerns. Any criticism and support for workers, on the other hand, is silenced. CPEC is often presented as a "game changer,"<sup>31</sup> "fate changer"<sup>32</sup> and "crucial part" of OBOR, now BRI; it is seen as a geostrategic asset for China which allows it to bypass the Strait of Malacca<sup>33</sup> or a way to challenge US hegemony in the region.<sup>34</sup> This paper, however, goes beyond these common narratives to look at the place of the marginalized in this project and to analyze concrete, on the ground conditions.

## PART II: CONCRETE LABOR CONDITIONS UNDER CPEC

Starting with minimum wage and work hours, this section will describe work conditions on CPEC sites, that is, occupational safety, social security and pensions, hygiene and food as well as personal interaction between Pakistani and Chinese workers. It discusses three classes of workers of

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28. For labor conditions and struggles in China, see generally CHRIS KING-CHI CHAN, *THE CHALLENGE OF LABOUR IN CHINA: STRIKES AND THE CHANGING LABOUR REGIME IN GLOBAL FACTORIES* (2010); Chris King-Chi Chan & Elaine Sio-Ieng Hui, *The Development of Collective Bargaining in China: From "Collective Bargaining by Riot" to "Party State-led Wage Bargaining*, 217 CHINA Q. 221 (2014); Chloé Froissart, *Negotiating Authoritarianism and its Limits: Worker-led Collective Bargaining in Guangdong Province*, 32 CHINA INFO. 23 (2018); PUN NGAI, *MADE IN CHINA: WOMEN FACTORY WORKERS IN A GLOBAL WORKPLACE* (2005).

29. HAO REN ET AL., *CHINA ON STRIKE: NARRATIVES OF WORKERS' RESISTANCE* 8, 82 (2016).

30. See CHING KWAN LEE, *THE SPECTER OF GLOBAL CHINA: POLITICS, LABOR, AND FOREIGN INVESTMENT IN AFRICA* (2017).

31. List of such literature is long. For academically and empirically rich literature, see SHAHID JAVED BURKI INSTITUTE OF PUBLIC POLICY, *THE STATE OF THE ECONOMY: CHINA-PAKISTAN ECONOMIC CORRIDOR REVIEW AND ANALYSES* (2018).

32. Lian Tong, *CPEC Industrial Zones and China-Pakistan Capacity Cooperation*, 35 INST. STRATEGIC STUD. 174, 174 (2015), [http://issi.org.pk/wp-content/uploads/2015/12/Liang-Tong\\_3435\\_SS\\_41\\_20142015.pdf](http://issi.org.pk/wp-content/uploads/2015/12/Liang-Tong_3435_SS_41_20142015.pdf).

33. UWE HOERING, *VSA, CHINESE LONG MARCH 2.0: THE BELT AND ROAD INITIATIVE AND DEVELOPMENT MODEL* 38 (2018).

34. See ALOK RANJAN, *THE CHINA-PAKISTAN ECONOMIC CORRIDOR: INDIA'S OPTIONS* (2015) (Institute of Chinese Studies Occasional Paper No. 10).

increasing precarity: permanent, sub-contracted or limited-term contract workers, and migrant workers.

*Long Work Hours to Earn Minimum Wage*

Statutory minimum wage in Pakistan is currently around Rs. 17,500 (USD 104) per month, with some provincial variations.<sup>35</sup> A majority of the workforce in Pakistan, however, is on contract with daily wage arrangements and workers earn different wages depending on their days and hours spent on work. So, we compare this earned wage every month with statutory minimum wage. According to one union's own surveys, this minimum wage, which is far below "living wage"<sup>36</sup> is available to only two-thirds of the families; 40% male and 72% female workers are earning wages lower than the minimum wage.<sup>37</sup> We found that most workers in Chinese projects were paid daily wages, with those in cities earning more than at projects located in rural settings. Daily wages ranged from Rs 500 to Rs 600 in rural projects like SCPP.<sup>38</sup> While the presence of unions only improved earned wages slightly, unionization was able to strengthen workers' bargaining position. Particularly at Port Qasim Berth 3 and 4, union leaders felt Chinese employers were directly responsible for lowering wages on this project.<sup>39</sup>

However, on non-unionized sites, workers have to spend longer hours at work than legally prescribed under the *Factories Act* (1934).<sup>40</sup> While Chinese workers are able to rest for three hours in the afternoon in air-conditioned rooms, their Pakistani colleagues at SCPP, PQPP, and JWPP, do not have any designated place to rest so they end up sitting outside in the heat.<sup>41</sup> This is in clear breach of Pakistani law, which mandates that such workers be given ventilated and uncrowded shelters for rest.<sup>42</sup> A long break for rest is part of Chinese work culture yet Pakistani workers are not paid for these idle hours. This adds up to a working day of eleven hours—or thirteen hours including travel time—despite legislation prohibiting workdays in

35. The Minimum Wages Ordinance (1961), West Pakistan Minimum Wages for Unskilled Workers Ordinance (1969), and Payment of Wages Act (1936) cover procedures for the decisions of minimum wage and for the redressal of grievance in this regard.

36. *Living Wage Series - Pakistan - September 2019 - In Pakistan Rupee, per Month*, WAGE INDICATOR FOUND., <https://wageindicator.org/salary/living-wage/pakistan-living-wage-series-september-2019> (last visited Feb. 27, 2021).

37. MUHAMMAD YAKUB & SHAUKAT CHAUDHRY, PAKISTAN WORKERS CONFEDERATION AND FRIEDRICH-EBERT-STIFTUNG, GSP+ SCHEME AND CHALLENGES FOR IMPLEMENTATION OF LABOR STANDARDS IN PAKISTAN 9 (2015).

38. Interview with Worker Two at SCPP (Sept. 2018).

39. Interview with trade union leader at TT4 (Mar. 2018); interview with dock Workers One to Ten of Port Qasim berths 3 and 4 (Nov. 2018).

40. The Factories Act No. 25 (1934), § 36–38.

41. Interview with Worker Two at SCPP. An engineer working there also confirmed this in his interview. Interview with six workers at JWPP and Kohistan Bachao Action Committee (Nov. 2018).

42. The Factories Act No. 25 (1934), § 33.

excess of nine hours.<sup>43</sup> With these long hours, we found workers to be fatigued and visibly overworked.<sup>44</sup>

Workers also complained about delayed wages,<sup>45</sup> deductions and “gate stops” (not letting a worker enter a factory without furnishing any reason).<sup>46</sup> One worker, a boiler technician at SCPP, said “We do not know how wages are made or how deductions are made. First the Chinese managers make deductions on spurious excuses, and then their local contractor. Workers are only given a *parchi* (receipt) to sign when receiving wages and they do not know its purpose. They sign it but are not given any copy.”<sup>47</sup> Across projects, unionized and otherwise, workers complained about delays in the payment of wages for twenty to twenty-five days every month. There are continuous protests over this. One subcontractor died by suicide in JWPP over unpaid dues.<sup>48</sup> In unionized projects like TT4 and Port Qasim Berth 3 and 4, there was a proper wage structure, however, Chinese employers still pushed for flexible contract labor with no permanent workers.<sup>49</sup> According to a letter to ILO about the minimum wage across all the hydel power projects under Chinese investment “All workers, unskilled, semi-skilled and skilled are being paid the same minimum wage that has been announced for the unskilled laborers by the government of KP [province].”<sup>50</sup>

Subcontracting is at the heart of job insecurity as well as delayed and less-than-minimum wages. One worker at SCPP summarized this succinctly: “Even those who built the walls of the power plant are not permanent. Security guard Pappu worked for four years and one fine day they told him to leave.”<sup>51</sup> In Pakistan, industries usually hire workers for less than three months at a time, because Pakistani legislation mandates that workers be made permanent employees after three months.<sup>52</sup> Contract labor in Pakistan flourished under the neoliberal economic turn of the early 1990s. Currently in the private sector, according to one estimate, there are fifty permanent

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43. *Id.* § 34.

44. Interview with a migrant contract worker at PQPP (Nov. 2018).

45. Interview with Workers Eight and Nine at JWPP (Nov. 2018).

46. Many workers complained that the army stopped them at the gate, and they could never talk about wages. Interview with Worker Nine at SCPP.

47. Interview conducted on September 2018. Workers Eight and Nine at JWPP echoed similar complaints (Nov. 2018).

48. Interview with a local lawyer who met the Chinese managers with a contractor at JWPP (Nov. 2019).

49. Permanent workers are entitled to health, social security, and notice periods before termination per Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance (1968) [hereinafter Standing Orders (1968)].

50. Letter from Pakistan Federation of Building & Wood Workers (PFBWW) to ILO Desk Officer, Asia Pacific Region, Bureau for Workers Activities-Geneva, *CPEC and Chinese MNCs Working in Pakistan, Workers Problems etc.* 1, 9 (Mar. 7, 2020) [hereinafter “Union letter to ILO”].

51. Interview with Worker Three to Twenty-Three at SCPP (Sept. 2018).

52. Standing Orders § 1(b) (1968).



workers for every 500 on a contract basis.<sup>53</sup> This situation has not improved despite a recent judgment by the Supreme Court of Pakistan which declared subcontracted workers are employees of the principal employer.<sup>54</sup>

### *Limited Workplace Safety and Social Security*

In Pakistan, rampant contractual employment, lack of appointment letters and the virtual absence of trade unions also lead to the abdication of responsibility for other important protections, including safety equipment, medical expenses, compensation for injuries and old age benefits. Safety measures assured in *Factories Act, 1934* and related statutory provisions are rarely implemented in Pakistan. In 2012's Ali Enterprise fire in Karachi, more than 265 workers died due to lack of fire exits and poor ventilation at the factory. Because of the emphasis on Occupational Health and Safety in GVCs, provincial legislatures enacted *Sindh Occupational Safety and Health Act, 2017* and *Punjab Occupational Health and Safety Act, 2019*. However, these laws have had limited effect in practice. The bodies required to implement the laws, provincial labor departments, are underfunded, incompetent, and inefficient. For example, there were only 337 inspectors in the country in 2012, one for every 250,000 workers.<sup>55</sup> Within this context of workplace safety and security, CPEC projects have even worse conditions.

Chinese managers follow safety measures to some extent in SCPP, a non-unionized site, but the Pakistani contractors employed by them do not bother with such measures at all. According to one worker, "safety is strict, lectures are given, lots of talks, but we are not given safety equipment according to the standards."<sup>56</sup> One boiler technician said: "I got boots after six months of asking and I never wore the uniform because it was a very old one."<sup>57</sup> Orange Line construction in Lahore (OLL), a non-unionized site run entirely by local contractors, has no safety measures to speak of. In the first six to seven months of the construction of OLL, the activist Maryam Hussain, an art professor turned heritage and labor activist who worked extensively on OLL, saw that 90% of workers were in ordinary clothes and casual sandals, only wearing construction vests in order to be identified as construction workers.<sup>58</sup> Injuries were frequent; workers did not receive compensation and the labor department was not notified. Despite being in the heart of urban Lahore, there were repeated workplace deaths on the OLL project site in 2015, including falling cranes, electric shocks, collapse of a wall on workers

53. YAKUB & CHAUDHRY, *supra* note 37, at 4.

54. Fauji Fertilizers Company v. National Industrial Relations Commission, (2013) 2013 SCMR 1253.

55. YAKUB & CHAUDHRY, *supra* note 37, at 54.

56. Interview with Workers Three to Twenty-two at SCPP (Sept. 2018).

57. Interview with a boiler technician at SCPP (Sept. 2018).

58. Interview with Maryam Hussain (Feb. 2019).

sleeping in tents and fires at their living quarters.<sup>59</sup> Yet, government bodies in charge of the OLL claimed that the deaths were only ancillary to the construction work. After a court order, which took notice of these hazardous work conditions,<sup>60</sup> however, Maryam began to see limited safety equipment on site. She did not see workers wearing boots, and although she saw hard hats, workers were only wearing them at the track site. Workers demolishing buildings to make way for the tracks were still not considered part of OLL, so were not entitled to safety equipment. A Pakistani contractor we spoke to offered a convenient excuse: Pakistani workers do not wear safety equipment. They usually come in rough *chappal* (sandals) and prefer to use their helmet to eat in.<sup>61</sup> Yet if an employer can compel workers to accept wages lower than the minimum wage, they should be able to ensure that workers wear basic safety equipment.

The situation at unionized sites is still dire, but better. Union leaders at TT4, a dam project in the mountainous north of Pakistan, complained that it is very difficult to get safety equipment from Chinese contractors, even when it is of cheap quality. Employers at TT4 notified workers that they would be deducting Rs 2000 from every pay cheque for safety equipment although this is not stipulated in the contract.<sup>62</sup> Safety inspectors are present, but they do nothing.<sup>63</sup> They are hired by WAPDA (Water and Power Development Authority), the energy provision and regulatory body in Pakistan, and are *sifarshies* (nepotistic appointments), incompetent and untrained. According to the union leader at TT4, one day workers were made to work in the freezing cold river wearing only cotton Shalwar Kameez (local cotton dress). As a result, three workers got severe pneumonia. After the union's intervention, workers started receiving proper clothing to work in the river.<sup>64</sup> According to one small contractor from NJPP, although these safety outfits should be used all over the construction site, these are only limited to critical sites. Workers are also not provided name cards used in case of accident to identify workers, nor are they given whistles to prevent accidents.<sup>65</sup> Details of such union struggles to secure better work conditions are discussed below in Part III.

The question of workmen's compensation in case of disability comes up only when someone has a proper contract letter and falls within the definition of workmen under the *Workmen's Compensation Act* (1923).<sup>66</sup> During our

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59. *25 Killed Since Launch of Train Project: Four Orange Line Workers Injured*, DAWN (June 21, 2017), <https://www.dawn.com/news/1340798>.

60. This case was primarily concerned with the impact of OLL on heritage sites in the city.

61. Interview with a contractor at OLL (Oct. 2018).

62. *Id.*

63. Interview with one of the union leaders at TT4 (Mar. 2018).

64. *Id.*

65. Interview with a supervisor from NJPP (Mar. 2018).

66. *See Workmen's Compensation Act* No. 8 (1923), § 2(n).

fieldwork, when we asked about this, the answer was as expected: “we are not even given wages and you’re talking about compensation for injuries?”<sup>67</sup> Pakistani contractors do not even offer this medical cover.<sup>68</sup> When it comes to non-unionized projects like SCPP, PQPP, JWPP and OLL, workers were only given first aid, and that too was rarely provided. Most of the workers frankly told us that there is no system of medical compensation, and they tend to their own injuries.<sup>69</sup> Moreover, employers deducted wages for the days they rested after the injuries. Some of the workers were also dismissed when they came back after recuperating.<sup>70</sup> One JWPP worker sought lump sum compensation for his brother’s death onsite but was told by the Chinese employer that his brother was not an employee at the plant—but was employed through a contractor—so they are not responsible for paying compensation.<sup>71</sup>

In this context, one cannot be optimistic about social security and long-term employment benefits for workers. According to the social security laws in Pakistan, all employees, irrespective of rank, in an establishment of five or above are required to be registered with the EOBI (Employees Old Age Benefit Institution).<sup>72</sup> All employees have to be registered with the provincial Employees Social Security Institute (PESSO, 1965) for health benefits.<sup>73</sup> However workers are either not registered, or are contractual workers and therefore not registered in contravention of the 2013 Supreme Court decision.<sup>74</sup> This practice is so deep-rooted that even unions struggled to secure old-age benefits.

For the CPEC workforce, social security seems like an alien concept. But Pakistani contractors casually observed that “social security will take time to come in this country—it is appropriate only for developed countries.”<sup>75</sup> Even at unionized project sites under CPEC, old age and pension benefits are absent. One director of EOBI told a trade union leader that, according to their records, there are only 200 workers at the site in TT4, when in actuality there were approximately 2200 Pakistani and 600 Chinese

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67. Interview with ten dock workers of a Chinese company and an office bearer of the union working at Port Qasim berths 3 and 4 (Nov. 2018).

68. Interview with TT4 union leader; interview with NJPP supervisor.

69. Interview with workers on the construction site of Chauburji station at the OLL project (Oct. 2018); interview with five workers outside of PQPP (Nov. 2018).

70. Interview with a junk loader at PQPP; interview with six workers and leaders of the Kohistan Bachao Action Committee; interview with Worker Six of the Coal Department in SCPP (Nov. 2018).

71. Interview with workers at a tea stall near JWPP (Nov. 2018).

72. Employees’ Old-Age Benefits Act No. 14 (1976), § 1(4).

73. Section 20 of the Employees’ Old-Age Benefits Act directs employers to register their employees.

74. *Fauji Fertilizers Company v. National Industrial Relations Commission*, (2013) 2013 SCMR 1253.

75. Interview with a contractor at OLL (Oct. 2018).

workers.<sup>76</sup> No wonder then that one Chinese contractor at JWPP, while hiring Pakistani workers for projects in the Gulf, said to a local lawyer that when it comes to labor insurance, Pakistani labor is the cheapest in the world.<sup>77</sup>

*Discrimination in Hiring for Skilled Work and Gender Parity*

The ratio of Chinese to Pakistani workers and female to male workers changes from project to project. Across projects there is a consensus in interviews that Chinese workers do most of the skilled work of the projects while Pakistanis provide mere labor. In interviewing workers in different departments under different contractors at SCPP, we calculated a rough estimate of skilled work and gender parity. In one department, out of total fifty workers, twenty-five were Chinese, including twelve women.<sup>78</sup> Chinese women were crane operators, lift operators as well as office workers. Whereas there were only a few Pakistani women working in the main office.<sup>79</sup> Similarly, in the electrical department (maintenance), most of the workers are Chinese.<sup>80</sup> SEPCO (Shandong Electric Power Corporation), running the SCPP project, has 150 workers where 100 are Chinese, of which twenty-five are women working as technicians, and not a single Pakistani woman.<sup>81</sup> One Pakistani worker cleverly observed: "All supervisors and cashiers are Chinese. They do not give money handling to Pakistanis you see."<sup>82</sup>

In PQPP, Chinese workers do most of the skilled work. At Port Qasim Berth 3 and 4, all the manual labor is done by Pakistanis while twenty to twenty-five Chinese workers mostly do office work and skilled work. In NJPP, Chinese workers work in top supervision, project management, finance and human resource management. Similarly, 90–95% of the people working at the powerhouse, tunnel, and with equipment, including all purely technical labor, are Chinese.<sup>83</sup> Based on this situation, trade union leaders of many dam projects (discussed in Part II of the article), complain that while 2000 Pakistani and 800 Chinese workers are employed at TT4, the Chinese workers are concentrated in skilled positions like crane operators, welders, and steel fixers while the Pakistani workers are concentrated in unskilled jobs.

A recent WB report cites Chinese investors as saying that while Pakistan government wants to see local workers hired, Pakistani workers generally

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76. Interview with TT4 union leader at TT4 (Mar. 2018).

77. Interview with local lawyer in Thatta, near JWPP (Nov. 2018).

78. Interview with Worker Two at SCPP (Sept. 2018).

79. *Id.*

80. Interview with Worker Four at SCPP (Sept. 2018).

81. Interview with Worker Seven at SCPP (Sept. 2018).

82. Interview with TT4 union leader at TT4 (Mar. 2018).

83. Interview with a small contractor in NJPP (Apr. 2018).

lack adequate skills to meet those positions.<sup>84</sup> Part of this is because skilled Pakistani workers have migrated to other countries and thus there is a shortage of skills and talent in Pakistan.<sup>85</sup> However, workers themselves feel their skills are adequate, as will be discussed under subsection on personal interactions at the workplace below. Even otherwise skilled Pakistani workers are hired for unskilled jobs at minimum wage. As one senior trade union leader at the site states, “We have lots of skilled workers who have previously built dams with Western companies. Yet we are pushed out by these Chinese workers.”<sup>86</sup>

### *Food, Water, and Shelter*

The *Factories Act* (1934), requires employers to provide basic facilities at the workplace like a canteen, water, washrooms, transportation and housing.<sup>87</sup> However, access to these facilities is limited. For example, canteens are subject to worker hierarchy: most non-unionized worksites only provide canteens and cafeterias to white-collar Pakistani or Chinese employees. As a result, according to a gardener at PQPP, “we (workers) are not allowed to go in. They say that the canteen is clean and we are not.”<sup>88</sup> While most of the workers bring their own food, it goes bad because there are no arrangements for storing it.<sup>89</sup> If subcontractors employ a large number of workers for over ten hours,<sup>90</sup> they will hire a manager to run a canteen for workers. Yet they overcharge for food, deducting Rs 1500 (USD Nine) every

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84. *The China-Pakistan Economic Corridor and the Growth of Trade (English)*, Report No. 146741, WORLD BANK 1, 18 (2020), <http://documents.worldbank.org/curated/en/674251583850888285/The-China-Pakistan-Economic-Corridor-and-the-Growth-of-Trade>.

85. *Assessment of Special Economic Zones in Pakistan: Suggesting Steps Towards Improved Performance*, Report No. 146743, WORLD BANK (Mar. 2020), <http://documents.worldbank.org/curated/en/585181583852150750/Assessment-of-Special-Economic-Zones-in-Pakistan-Suggesting-Steps-Towards-Improved-Performance>.

86. Interview with trade union leader of TT4 (Mar. 2018).

87. Section 20 requires provision of clean, fresh, and cooled drinking water and § 21 requires that latrines in adequate numbers be provided to the workers; Section 24 of the Factories Act (1934) read with West Pakistan Factories Canteen Rules (1959) provide that any factory employing 250 or more workers should have an on-site canteen with seating capacity for 30% of the workers employed at any one time. Rates for the food served at this canteen are monitored by a Managing Committee (r6 and 8); Section 33(Q) of the Factories Act (1934) provides that provincial governments may make rules for shelters for use by workers during periods of rest.

88. Interview with Worker Four at SCPP; interview with engineer at PQPP; interview with a worker at PQ berths 3 and 4 (Nov. 2018).

89. Interview Workers Twenty-Three and Two at SCPP (Oct. 2018); interview with Workers Eight and Nine at JWPP; interview with three workers at PQPP (Nov. 2018).

90. Interview with two workers at PQPP, Asian Construction.

month from workers' meager salaries to serve thin *rotis* and lentils overrun with water.<sup>91</sup>

There exists a similar hierarchy in access to washrooms and drinking water. Functioning toilets are only accessible to white-collar employees, who are predominantly Chinese. Washrooms designated for the military and police who provide security to the worksites are also relatively cleaner. One worker told us that he has to beg the police to use their washrooms.<sup>92</sup> At PQPP, workers instead have to relieve themselves outdoors, behind trees and in the open.<sup>93</sup> While the law requires employers to provide chilled, clean, fresh drinking water for workers at accessible places in hot and semi-arid Pakistan,<sup>94</sup> most workers told us that water coolers with clean water are either in restricted areas designated for Chinese officers, or placed far from worksites. At SCPP, this water was hot, per Chinese cultural practice, while Pakistanis drink cool water.<sup>95</sup> Workers thus rely on tap water, which is saline in some areas, making workers ill.

#### *Precarity of Migrant Workers*

These basic working conditions are even worse for migrant workers, who form the majority of workers on CPEC projects. They are brought from other provinces because they do not have access to local power networks, making them more vulnerable to exploitation and harder for them to unionize. "I always found new workers on the same site. Old workers knew me and would have said hi, but that was rare," Maryam recalled.<sup>96</sup> A Habib Construction contractor working on this project explained: "We cannot afford Lahori (local) labor because they ask for more wages and frequent vacations."<sup>97</sup> Other than lack of minimum wages, safety, and social security for all workers, what distinguishes migrant workers, is bad housing and transportation to the work site. Near Port Qasim, we saw a makeshift dormitory where ten to fifteen empty beds were squeezed into a single small room of thirty by twenty feet. Each floor had only four to five washrooms for up to 200 workers. Outside, private *Hamam* (baths) charged Rs 50 for bath and Rs 10 for using washroom, steep rates which workers cannot afford. Therefore, workers reported bathing near the railway track by a leaking

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91. Interview with five workers outside PQPP; interview with a cook of one of these canteens (Jan. 2019).

92. Interview with a junk loader at PQPP (Jan. 2019).

93. Interview with a cook at JWPP; Workers Eight and Nine at JWPP; five workers at PQPP; junk loader at PQPP (Nov. 2018).

94. The Factories Act No. 25 (1934), § 20.

95. Interview with five workers of PQPP at their residence (Jan. 2019).

96. Interview with Maryam Hussain (Feb. 2019).

97. Interview with contractors of Habib Construction Company (Oct. 2018).

pipeline.<sup>98</sup> At OLL in Lahore, migrant construction workers cannot afford private housing, so they live in tents onsite. One such tent site near MAO College Lahore had only three washrooms for 100 workers.<sup>99</sup> For some OLL workers, there is no washroom at all.<sup>100</sup> When asked about these conditions, a contractor of OLL gave us simple and straightforward explanation: “businessmen never make a loss. If they make a loss, they are not businessmen! We have to save the money and we cannot give every facility to workers. Businessmen know how to make profit.”<sup>101</sup>

Due to this lack of dignity for Pakistani workers, one sentiment was echoed continuously in our interviews: that Chinese workers have everything—canteen, housing facilities, transport, wage structure, job security—while Pakistanis have none of these.<sup>102</sup> This stark inequality is proving to be a fertile ground for religious and xenophobic biases to take root.

### *Personal and Cultural Interaction at the Workplace*

Before CPEC, Pakistanis harbored very warm feelings about the Chinese as “all weather friends,” fostering a “friendship higher than the Himalayas.”<sup>103</sup> But the workers we interviewed no longer feel this way about Chinese investors or even Chinese workers. The frustration, ranging from disappointment to anger, was unexpected. Writing this part of the paper was a challenge for us for its racist undertones. We try to include reasons explaining what gave birth to these misunderstandings between workers, but have not attempted to excuse these intolerant beliefs.

Pakistani workers find Chinese workers friendly but culturally different.<sup>104</sup> In addition to the hierarchical employment structure of the workplace described earlier, language keeps the two from interacting.<sup>105</sup> Chinese workers mostly interact with workers through Pakistani managers. In NJPP, there are few Pakistanis who speak Chinese, but they usually only translate between the Chinese and Pakistanis. Otherwise, there is no real interaction between Chinese workers and Pakistanis and stereotypes abound. Pakistani workers say they do not eat with the Chinese because the Chinese eat turtles, frogs, and insects. There are stories that Pakistani workers hide

98. Interview with ten workers at PQPP (Jan. 2019) (twenty workers at the construction site of Gulshan Ravi station of a local contractor live in a house of four rooms with one washroom).

99. Interview with Worker Three at the construction site of GPO station of OLL (Oct. 2018).

100. Interview with three workers at OLL (Oct. 2018).

101. Interview with supervisor of contractor of OLL (Oct. 2018).

102. Interview with Worker Two at SCPP; interview with gardener and five workers outside PQPP (Jan. 2019).

103. *Pak-China Friendship is Higher than Mountains, Deeper than Ocean and Sweeter than Honey*; PM, NATION (Dec. 19, 2010), <https://nation.com.pk/19-Dec-2010/pakchina-friendship-is-higher-than-mountains-deeper-than-ocean-and-sweeter-than-honey-pm>.

104. Interview with Workers Three to Twenty-Two at SCPP (Aug. 2018).

105. Interview with Worker Three at SCPP.

turtles in their tiffin to sell to the Chinese workers.<sup>106</sup> According to workers across the projects studied, “We do not eat with Chinese. We are Muslims, that’s why. They do not eat with us either. They never offer us anything.”<sup>107</sup> Another Pakistani worker alleged that the Chinese workers would be fired if they touched Pakistani workers’ food.<sup>108</sup> The lack of common cafeterias also exacerbates this divide.

Social interaction is more common at the engineer and executive levels. According to one account of a small contractor at NJPP, there is even exchange of “gifts” at the higher level.<sup>109</sup> Pakistanis are not invited to Chinese worker’s parties either. One worker alleged: “We are made to stand outside the gate of these parties. We are a security risk for the Chinese premises so no point of invitation.”<sup>110</sup> In rare instances when Pakistanis are invited, they are unwilling to join because of the alcohol being served, since liquor is forbidden in Islam and banned in Pakistan.

In this charged environment, religious sentiment is easily used to express discontent, feeding a sense of victimization. If the workers are not given time for prayers, they feel that the Chinese managers are trying to convert their religion.<sup>111</sup> As workers at SCPP said, “If we say that we want to pray, they cut our wages [over the absence]. One Friday prayer costs us Rs 1500!”<sup>112</sup> At JWPP, workers who had gone for daily prayers were terminated.<sup>113</sup> In Port Qasim Berth 3 and 4, workers complained that they are not given a break to pray and they have to rush for prayers. Even then, the Chinese management cordoned off their shorter path to the mosque. Moreover, workers at Port Qasim complained that they are not given religious holidays like Eid and Ashura, even when notified by the Government of Pakistan. Out of spite, workers thus labeled the Chinese “*juj majuj ki qaum*” (people of Gog and Magog).<sup>114</sup>

Those engineers and workers who have worked with Western companies and NGOs frequently compared the differences of culture of the Western and Chinese managers. Across all the sites, most of the workers found Chinese supervisors rude as compared to management of Western companies. Pakistani workers also did not find Chinese hardworking. According to workers at SCPP, “We hear that Chinese are hardworking but

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106. Interview with Worker Twenty-Three in SCPP and a cook for Chinese managers at JWPP.

107. Interview with three workers at PQPP and ten workers at PQPP (Jan. 2019).

108. Interview with a cleaner at PQPP.

109. Interview of a small contractor at NJPP (Mar. 2018).

110. Interview with Workers Eight and Nine at a dhaba near JWPP (Nov. 2018); Worker Seven in a group of twenty at SCPP (Aug. 2018).

111. Interview with ten dock workers at PQ berths 3 and 4 (Jan. 2019).

112. Interview with Worker Six at SCPP (Aug. 2018).

113. Interview with six workers at JWPP (Nov. 2018).

114. Interview with ten dock workers at PQ berths 3 and 4 under Chinese supervision (Jan. 2019).



they just waste time, only grabbing tools when the supervisor is in sight.”<sup>115</sup> These observations are obviously xenophobic. The simple reason for this impression seems to be that Chinese are in supervisory positions or doing skilled work, which are less physically rigorous than the hard labor done by the Pakistanis. However, despite this bile, throughout our interviews, Pakistani workers sympathized with Chinese workers for being away from their families, and only being able to connect with their children during breaks on internet apps.<sup>116</sup>

These are gravely concerning impressions. The Pakistan government strives hard to manage news around CPEC, but their efforts are unraveling at these worksites. Particularly, this animosity between the Chinese and Pakistanis thwarts labor solidarity and ability to resist exploitation, as discussed below.

### PART III: WORKERS' PROTESTS AND CONSEQUENTIAL CHANGE IN LABOR PRACTICES

#### *Non-Unionized Labor: Exploitation and Resistance in the Shadow of the “Security State”*

Unions are dismally weak in Pakistan. Out of 61 million workers in Pakistan only 2.32% are unionized.<sup>117</sup> Most of this organized labor is employed in public enterprises and in the formal sector. There are 7,096 unions out of which 1,390 are Collective Bargaining Agents (CBA).<sup>118</sup> At the broadest level, Pakistan's trade unions are hampered in their operations by laws barring them from protesting in entire industries designated as “essential services.”<sup>119</sup> For example, union activities are prohibited in Export Processing Zones<sup>120</sup> and for the staff of banks.<sup>121</sup> Additionally, many employers are able to significantly hinder the registration of unions by having dummy unions registered, and threatening and firing employees who try to form unions. This discourages workers from organizing.<sup>122</sup> In addition to these factors thwarting unionization in Pakistan generally, there are two additional factors at play in CPEC projects: one, the curbing of labor dissent

115. Interview with Workers Three to Twenty-Two, SCPP (Aug. 2018).

116. Telephone interview with Zahoor Awan, ILO Governing Body member from Pakistan (Apr. 2020).

117. ZAKAULLAH KHAN KHALIL, ILO, A PROFILE OF TRADE UNIONISM AND INDUSTRIAL RELATIONS IN PAKISTAN 6 (2018).

118. *Id.* at 7.

119. The Essential Services (Maintenance) Act No. 53 (1952).

120. The Export Processing Zones Ordinance (1980).

121. The Banking Companies Ordinance § 27-B (1962).

122. SAROOP IJAZ, HUMAN RIGHTS WATCH, “NO ROOM TO BARGAIN:” UNFAIR AND ABUSIVE LABOR PRACTICES IN PAKISTAN 47 (2019)

by local military security apparatus and, secondly, a tradition of suppression of labor solidarity in China itself.

Military personnel have been deputed to protect CPEC sites and Chinese workers,<sup>123</sup> but they actively work to quell workers' agitation. Most of the protests on CPEC worksites occurred around wages. Chinese managers usually avoided these disputes by handing them over to local management. Yet some workers felt that local management "are even worse than the Chinese—they are strict and exploit us."<sup>124</sup> When workers protest outside worksites, military security shoo protestors away. If workers go to the same security personnel to complain about abuse at the hands of Chinese managers, they are told that the military is unable to help. Once, Chinese workers protested at SCPP over wages and were making videos of the protest on their phones. By chance, Pakistani workers were also protesting about their wages. While the military told Pakistani workers not to go anywhere near Chinese workers, they let the Chinese workers continue their protest.<sup>125</sup> In the presence of the military, communication with Chinese managers thus becomes very difficult.<sup>126</sup>

The "security" hype around CPEC is heightened when projects are situated in marginalized provinces, like JWPP in Sindh. This presence of military at workplace intimidates workers and allows Chinese managers all types of immunity under the guise of "strategic importance of CPEC" and "friendship with China." In instances of protests by Sindhis at JWPP narrated to us, the military physically beat them, opened fire on them, and workers were injured.<sup>127</sup> According to multiple workers, "Even if the Chinese are mistaken, the burden falls on Pakistanis. Yesterday, they physically kicked a Pakistani worker. Chinese are confident that the Army will not say anything to them. They are fearless!"<sup>128</sup> At JWPP and SCPP, both non-unionized and in distant rural locations, stories of physical abuse by Chinese employers, often in conjunction with security and police, were common. One local worker from the same project said that once local management, security, and police detained three workers in a container and tortured them over allegations of theft. When other laborers complained about it, local police did nothing. When news media highlighted this case, the Superintendent of

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123. Raza Khan, *15000 Troops of Special Security Division to Protect CPEC Projects, Chinese Nationals*, DAWN (Aug. 12, 2016), <https://www.dawn.com/news/1277182>.

124. Interview with workers Two and Seven at SCPP (Oct. 2018).

125. Worker Four from electrical department with 600 workers at SCPP (Oct. 2018).

126. Interview with workers Four and Twenty-Three; interview with a gardener at JWPP; interview with five workers at PQPP (Nov. 2018).

127. Interview with Workers Eight and Nine at JWPP (Nov. 2018).

128. Interview with Workers Eight and Two at SCPP (Oct. 2018); cook at JWPP; six workers at JWPP (Nov. 2018).

Police charged the project administration with minimal criminal charges and still did not register cases against the Chinese.<sup>129</sup>

In addition, the military also helped Chinese entrepreneurs acquire land for power projects (JWPP) in Jhimpir (Sindh) in 2007.<sup>130</sup> No procedure of land acquisition (marking, notices, advertisement required by law) was followed. Kohistan Bachao Committee, a local Maoists-led united front, organized residents and resisted. Local stakeholders and landholding classes also jumped in, but compromised both with the military and Chinese entrepreneurs for their own benefit. One local Sindhi worker exclaimed, “The army does not consider us Pakistanis. They hate us. And we hate them! The Army likes the Chinese more than us.”<sup>131</sup>

### *Unionized Workers—Victories Despite The Odds*

As mentioned earlier, Pakistani unions are concentrated in public sector corporations. This section will contrast union efforts at six hydropower projects under Chinese companies, and at the Port Qasim Berths 3 and 4 in Karachi. CPEC workers in projects working with public sector unionized workers, unlike unorganized workers discussed in the preceding section, were able to obstruct unfair labor practices by the Chinese management and form a CBA union.

Dock workers of Port Qasim Berth 3 and 4, have a history and tradition of workers’ struggle and trade union formation that they built upon. These workers have been struggling for the implementation of *Dock Workers Act* (1974), on newly built Port Qasim since 1984. In 1996 they fought against the privatization of Berths 6 and 7 when an Australian company attempted to lay off permanent workers and replace them with temporary ones. This was averted, but in 2001 dock workers confronted the Pakistan military-owned “Fauji Foundation” which took over the newly-built berths. These struggles were militant and the cases against the trade union’s leadership are still pending adjudication in superior courts.<sup>132</sup>

In 2016, Huaneng Fuyun Port and Shipping (Pvt) Ltd were given Berth 3 and 4; they started hiring their own Chinese workers and non-unionized dock workers.<sup>133</sup> Pakistani workers protested for twenty-five days and finally forced the company to reach an agreement. As a trade union leader notes, however, “This was a very weak agreement for workers, but we tolerated it

129. Interview with six workers and Kohistan Bachao Action Committee leadership in JWPP (Nov. 2018).

130. *Id.*

131. *Id.*

132. Interview with union leader at Port Qasim (Nov. 2018).

133. *Dock Workers’ Demand PQA, Chinese Company to Guarantee Their Rights*, EXPRESS TRIB. (Oct. 20, 2018), <https://tribune.com.pk/story/1829722/1-dock-workers-demand-pqa-chinese-company-guarantee-rights>.

because of our friendship with China.”<sup>134</sup> While the Chinese company wanted to hire only seventy workers, the CBA union has 1700 members. Finally, the Chinese employers stopped paying wages for eight months and insisted on exclusively hiring temporary workers. According to workers, “The Chinese do not accept our union. They promised to give us a canteen, safety equipment but they did not give anything. They are really greedy.”<sup>135</sup> In 2018 at the time of our fieldwork, after a continuous three-month sit-in and strike in front of Karachi Press Club, the union once again reached an agreement with the Chinese. Its tenure as CBA, however, was expiring. The Sindh High Court is now deliberating how an expired CBA can enter into an agreement with the management.<sup>136</sup> These dock workers remain in limbo. Cut off from international solidarity networks, this union faced far more challenges than unions at CPEC energy projects discussed below.

Workers at energy projects, on the other hand, have had better luck. In 2010, WAPDA, Pakistan’s energy regulator with a history of strong unions, contracted the SOEs, China Gezhouba Group Company Limited (CGGC) and China Machinery Engineering Corporation (CMEC) to construct the Neelum-Jhelum Power Plant, a hydropower project. Workers immediately formed a union, the Awami Labor Union-NJPP (ALU-NJPP) and got a CBA status. This union put forward a Charter of Demand which Chinese management agreed to and signed, but later refused to implement.<sup>137</sup> Subsequently, employers illegally terminated workers and as a result, cases for their reinstatement have been pending adjudication for the last nine years. The Pakistan Federation of Building and Wood Workers, a local union federation that ALU-NJPP is part of, filed a case with the ILO through Building and Wood Workers International (BWWI) for the violation of ILO Conventions 87 and 98 by the Chinese companies. ILO decided in favor of the workers, but the government of Pakistan has done nothing so far.<sup>138</sup>

Awami Labor Union also showed its presence at another Chinese energy project unaffiliated with CPEC. Pakistan constructed Tarbela Dam in the 1960s under the auspices of the World Bank. In 2013, WB funded an extension (Terminal 4) of this dam and hired Sino Hydro Group Ltd. (renamed as China Construction Corporation Ltd or PCCL). It employed 1650 Pakistani and 700 Chinese workers. Initially, there was no union on the new worksite. The Minimum wage that was paid was Rs 240 per day whereas the official rate was Rs 350. There were no appointment letters,

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134. Interview, *supra* note 129.

135. Interview with Workers One to Ten and an officer bearer of the Port Qasim Workers Union (Nov. 2018).

136. Interview, *supra* note 129.

137. Charter of demand and agreement signed between the CGGC-CPEC and Awami Labor Union on February 20, 2017 (copy with the authors).

138. Union letter to ILO, *supra* note 50, at 3–4.

transportation or allowances. Safety conditions were also insufficient—workers, for example, wore their own sandals at the worksite.<sup>139</sup> In 2014, workers formed the union, Awami Labor Union, with CBA status, however, managers refused to negotiate with the union. As a pressure tactic, the union invited workers for Labor Day celebrations, but the Chinese managers forbade it, threatening and bribing workers. More than 2000 workers still turned up for the celebrations, which forced the company to start negotiations with the union.<sup>140</sup>

As a WB project, an important feature of this project was access to the “Grievance Redress Committee” (GRC) comprising representatives from WB, WAPDA, T4 project consultants, PCCL and the union. Through this committee, workers were able to resolve their issues. Union leaders, however, still felt, as noted by one leader, that “Chinese management did not truly accept the union and Chinese officials at the site victimize union office bearers repeatedly.”<sup>141</sup>

Similarly, at the Karot Hydropower Project (KHPP) in 2016, WAPDA hired Karot Power Company (KPCL), a special-purpose vehicle in which China Three Gorges Corporation is the controlling shareholder.<sup>142</sup> Almost 3000 workers are employed on this project, and they formed a union: Awami Labor Union-KHPP. The Registrar of Industrial Relations Commission not only refused to register the trade union, but later also ignored orders of the Labor Court in this regard.<sup>143</sup> Again BWVI, through its informal contacts, influenced the International Finance Corporation of the WB group, in Washington.<sup>144</sup> After tireless efforts of the workers, a union with 1,200 members was registered, but not given CBA status. Rather, Chinese management formed a yellow union which is delaying referendum. Meanwhile, workers have continuously been victimized. The union pointed to the deputation of the army for providing security as the main problem at the project. The military does not allow outsider members of union executives<sup>145</sup> on the premises of the dam. This security is so tight that even the labor department cannot visit the site.<sup>146</sup> This, as a result, has made union work very difficult.

The story of labor conditions in Sukhi Kinari Hydropower Project (SKHPP) is similar. The project is being constructed by CGGC with 3000

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139. Interview with TT4 Union leader (Mar. 2018).

140. *Id.*

141. Union letter to ILO, *supra* note 50, at 3.

142. *Karot Hydropower Project, Jhelum River*, POWER TECH., <https://www.power-technology.com/projects/karot-hydropower-project-jhelum-river/> (last visited July 20, 2020).

143. Union letter to ILO at 6.

144. Letter from the Awami Labor Union to IFC and WB for violation at KHPP in a meeting in Islamabad on February 15, 2019 (“The Karot Power Project as Travesty of Workers Rights”).

145. Industrial Relations Act No. 10 (2012).

146. Union letter to ILO, *supra* note 50, at 7–8.

workers.<sup>147</sup> Workers formed the Shaheen Labor Union-SKHPP, secured CBA status and put forward a charter of demand;<sup>148</sup> however, management started terminating office bearers of the union, so the parties could not reach a collective agreement. In response, workers went on strike for twelve days and management agreed to their demands as long as the president of the union resigned. The union complied, yet the demands of the workers were not met.<sup>149</sup> The General Secretary of the union is a mason but is deputed as a watchman to coerce him to resign from union work. Work conditions remain horrible.<sup>150</sup>

CGGC is also a contractor at Dasu Hydro Power Project (DHPP),<sup>151</sup> and the Mohmand Hydro Power Project (MHPP).<sup>152</sup> According to the union leaders, labor law is “totally violated” in these projects as well and “workers are working under threat of termination all the time.”<sup>153</sup> Frontier Constabulary is deputed around the project for the security of the Chinese and nonetheless workers are trying their best to organize against the suppression.<sup>154</sup>

Union leaders feel that Chinese companies submit the lowest bid when bidding for the project, and then transfer this loss onto the workers. So great is the fear of losing investment, that governments direct labor departments to not interfere in Chinese projects.<sup>155</sup> According to a union leader at TT4, “Social security’s office [EOBI] is only one km from TT4 but [the] labor department cannot come in dam areas without permits.” For the union leader, even the ILO is absent: a recent letter by the union to ILO reveals “CPEC workers are working in very bad condition, it has been heard that the ILO Pakistan office has formed a desk to look after the CPEC workers but they didn’t communicate with labor leaders due to unknown reason.”<sup>156</sup>

The crackdown on NGOs by the government of Pakistan, detailed below, and CPEC’s security hype, it seems, deterred the ILO from proactively intervening as well. Even a mildly proactive initiative, a report

147. A USD 1707 million hydel project started in 2018 to add 870 MW to the national grid by 2023. *Suki Kinari Hydropower Station, Naran, Khyber Pakhtunkhwa*, CPEC, <http://cpec.gov.pk/project-details/15> (last visited June 23, 2020).

148. Charter of Demand given by Shaheen Labor Union (CBA) to CGGC under § 37–38 of Khyber Pakhtunkhwa Industrial Relations Act, 2010, (July 24, 2018) (on file with author).

149. Union letter to ILO, *supra* note 50, at 8.

150. *Id.* at 9.

151. Construction on this 4320MW dam began in June 2017 USD 4.3 billion. *Dasu Hydropower Project*, POWER TECH., <https://www.power-technology.com/projects/dasu-hydropower-project/> (last visited June 2, 2020).

152. Construction on this 800 MW dam began in March 2019 and is projected to cost USD 2.1 billion. *Mohmand Hydropower Project*, POWER TECH., <https://www.power-technology.com/projects/mohmand-hydropower-project/> (last visited June 2, 2020).

153. *Id.*

154. *Id.*

155. Interview with TT4 union leader (Mar. 2019).

156. Union letter to ILO, *supra* note 50, at 5.

on job creation alone, in partnership with the Planning and Development Ministry was shelved by the latter, even after a public consultation was held regarding this.<sup>157</sup> In this milieu, the ILO still tried to address the issue of CPEC indirectly through raising concerns about construction industry as a whole.<sup>158</sup> Despite not taking any clear stance on freedom of association in CPEC projects, the ILO still facilitated labor welfare issues once workers organized themselves and formed unions. As a result, when we approached the ILO for this paper, we were sincerely guided to seek information from trade unions themselves.

Why is there a contempt for trade unions and labor rights in Chinese enterprises? Union leaders feel that unlike in China, there is a strong trade union tradition in European countries.<sup>159</sup> Although European companies also try to exploit workers, they respect agreements once they are struck. These companies also pay wages to trade union leaders according to their skill so that they can sustainably spend time on union activities, whereas Chinese companies hire union leaders for low skill work. One worker at another project had observed, “I think there is no concept of union in China.”<sup>160</sup> Success or failure of collective bargaining, however, is a complex question of not just history of labor struggle and organizing but, more importantly, constitutional and statutory guarantees under national law. Labor solidarity and international networks help to solidify this through a proper, conducive environment. This is discussed in detail in the following section.

#### PART IV: ANALYZING A LABOR REGIME UNDER CHINESE INVESTMENT

Our study demonstrates that organized labor struggles, and local and international labor solidarity together played a decisive role in shaping labor practices of the Chinese investment regime in Pakistan. Constitutional and statutory labor law guarantees upholding the freedom of association and collective bargaining, along with involvement of international institutions provide a conducive environment for this to take place. Based on this, this section presents an outline for the analysis of labor law practices and theory under Chinese investment.

Scholars have divergent opinions on the overall Chinese approach to law in its outbound global investment. For Erie, China does not impose its own law on host countries, but selectively uses existing international

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157. ILO in Pakistan, *Consultation on “Estimates of Employment from CPEC,”* ILO, [https://www.ilo.org/islamabad/whatwedo/eventsandmeetings/WCMS\\_532412/lang--en/index.htm](https://www.ilo.org/islamabad/whatwedo/eventsandmeetings/WCMS_532412/lang--en/index.htm) (last visited July 12, 2020).

158. Emails with ILO Pakistan (June-July 2020) (on file with author).

159. *Mazdoor ki Awaz (Voice of the Worker), Aslam Adil Part I*, YOUTUBE (Mar. 14, 2019), <https://www.youtube.com/watch?v=NxpNpu32LdY>.

160. Interview with a contractor and few workers in NJPP (Mar. 2018).

organizations, and in this process, actively shapes it.<sup>161</sup> As Erie notes, however, other scholars observe that China uses informal means like bureaucratic channels or even corruption to meet its investment goals.<sup>162</sup> In this way, the Chinese approach to law is characterized by flexibility, pragmatism, use of soft law over hard law, bilateral over multilateral agreements, and dispute resolution rather than local courts.<sup>163</sup> This analysis pertains to economics, investment, intellectual property and environmental law. Is this also true for labor law?

Our study shows that firstly, Chinese investors exploit loopholes in the national labor law regime at all levels—legislation, implementation and adjudication—by mostly hiring contract labor, ignoring safety and social security, and discouraging and undermining trade unions. Pakistan gives exceptional status to CPEC under cover of security concerns, which makes intervention by Pakistani courts even more difficult. For example, after repeated requests from China, the National Judicial Policy Making Committee headed by the Chief Justice of Pakistan asked the judiciary to stop granting *ex parte* interlocutory orders in CPEC-related projects in 2018.<sup>164</sup> At the 8th National Judicial Conference, the Chief Justice of Pakistan not only praised CPEC but also highlighted the need to tackle hindrances in the flow of FDI.<sup>165</sup> With labor being the last priority in Pakistan's legal system, it seems that workers in CPEC are deprived of even minimal court relief.<sup>166</sup> When asked why unions did not go to labor courts to address labor law violations in CPEC projects, one union leader said that “labor courts are an endless game of appeals and reviews and we laborers cannot afford it.”<sup>167</sup> This national labor regime is not only weak but is increasingly being weakened under the emphasis of “flexibility,” typical of neoliberal trade and investment policies introduced in Pakistan since the 1990s. It is not only Chinese investors who think that Pakistan's labor regime is rigid. The WB's World Competitiveness Report 2017–18, for example, ranked Pakistan 115th

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161. Matthew Erie, *Chinese Law and Development*, 62 HARV. INT'L L. J. 51 (Winter 2021).

162. *Id.* at 8–9.

163. *Id.* at 16.

164. Khaleeq Kiani, *Judicial Body Tells Courts Not to Issue Stay Orders on CPEC*, DAWN (May 7, 2018), <https://www.dawn.com/news/1406124>.

165. Haseeb Bhatti, *CJP Praises CPEC, Highlights Need to Tackle Hindrances in Flow of Foreign Direct Investment*, DAWN (May 5, 2018), <https://www.dawn.com/news/1405605>; Khudayar Mohla, *CPEC litigations: There Must Be No Complacency: CJ Tells Judges*, BUS. RECORDER (Feb. 4, 2018), <https://fp.brecorder.com/2018/02/20180204341068/>.

166. Based on 100 files analyzed under the supervision of the writers in labor courts, labor appellate tribunal and the National Industrial Relations Commission in Lahore by students of the course, “Labor Law,” in 2018.

167. Union letter to ILO, *supra* note 50, at 5.



out of 137 with one of the reasons being the country's restrictive labor regime.<sup>168</sup>

Secondly, another feature of China's approach to law overseas is to bypass "inefficient" and lengthy court procedures of host countries. Chinese investors prefer Alternate Dispute Resolution (ADR) mechanisms. There are serious concerns about uncertainty and conflicts of laws around CPEC investment.<sup>169</sup> Some lawyers are pushing for separate courts for dispute settlement under CPEC based on arbitration.<sup>170</sup> Western investors and IFIs had for years been pushing ADR as a panacea for Pakistan's case load woes.<sup>171</sup> CPEC has accelerated this drive. ADR legislation that was stuck in the pipeline for years has now been passed,<sup>172</sup> and ADR is a necessary step for resolution under the *Special Economic Zones Act (2012)*, since SEZs are the main vehicle for CPEC's second phase. ADR, where records are not made public, can exacerbate the inequality of employers and employees in labor matters. This inequality can be coercive when companies investing in CPEC are mostly SOEs. Private Chinese investors are merely at the stage of expression of interest so far.<sup>173</sup> This therefore casts doubt on the neutrality of any arbitration process.

Fourthly, the dominant approach adopted by China is the use of informal and diplomatic links and the hype of "geostrategic security" to secure guarantees from the Pakistan government. This naturally makes Pakistan's military even stronger, to the detriment of democracy in the country.<sup>174</sup> Apart from the presence of military at the projects which deters workers from organizing, local labor NGOs that are very active on other fronts were told to back off by secret agencies when they tried to raise issues about CPEC.<sup>175</sup> NGOs have already had to roll back operations in the face of strict

168. *The China-Pakistan Economic Corridor and the Growth of Trade*, supra note 84, at 3–4.

169. See Rohimi Shapiee & Rao Qasim Idrees, *China Pakistan Economic Corridor (CPEC): Most Valuable Dream for Pakistan through Economic Integration in the Region but May Not Become True without Upgradation of Physical Infrastructure and Legal System*, 8 BEIJING L. REV. 481 (2017).

170. Rao Qasim Ali Khan, *CPEC Investment Courts: An Investment Protection and Dispute Resolution Mechanism for the China-Pakistan Economic Corridor*, CORP. L. DECISIONS, no. 17, 2018, at 1.

171. *Pakistan: Alternative Dispute Resolution Project (English)*, Report No. 58769, WORLD BANK (2011), <http://documents.worldbank.org/curated/en/533101468146960682/Pakistan-Alternative-Dispute-Resolution-Project>.

172. See, e.g., The Punjab Alternate Dispute Resolution Act No. 17 (2019) and Code of Civil Procedure (Sindh Amendment) Act No. 4 (2018).

173. Interview with Zulfikar Ali, Director, Board of Investment, Lahore (Dec. 2017).

174. SIEGFRIED O. WOLF, *Development Versus Democracy? The CPEC and Civil-Military Relations in Pakistan*, in THE CHINA PAKISTAN ECONOMIC CORRIDOR OF THE BELT AND ROAD INITIATIVE 281, 281 (2020); Ayesha Siddiqa, *Pakistan's Hybrid "Civil-Military" Government Weakens Democracy*, E. ASIA F. (Jan. 21 2020), <https://www.eastasiaforum.org/2020/01/21/pakistans-hybrid-civilian-military-government-weakens-democracy/>.

175. Interview with an office bearer of a labor NGO (Jan. 2018).

government control,<sup>176</sup> and have also been deterred by the crackdown on labor NGOs in China itself.<sup>177</sup> For example, at the CPEC project OLL in Lahore, NGOs, with UNESCO backing, campaigned against the impact of the OLL project on heritage sites, but not for the rights of the construction workers.<sup>178</sup> Other CPEC projects in remote rural areas are no go areas for NGOs.<sup>179</sup> Workers in JWPP in Sindh, for example, told us that no trade union ever contracted them. When NGOs did come they only met with company officers, asking workers to fill out fancy forms on the environmental impact of projects.<sup>180</sup>

Globally, Chinese companies are trying to use the non-binding and promotional trends of international labor law, specifically, CSR (Corporate Social Responsibility) and voluntary labor codes. In China, voluntary CSR<sup>181</sup> and some core ILO standards<sup>182</sup> are in their nascent stages of adoption by SOEs. Still, the status of implementation remains questionable.<sup>183</sup> Chinese offshore investment has long ago outpaced the development of domestic commercial legal system.<sup>184</sup> These codes being adopted are voluntary, and the devil remains in the detail: they are recommended guidelines with little to no enforcement mechanisms, nor any room for independent international monitoring. A plethora of literature points to how China invests in countries with dismal governance and human rights records.<sup>185</sup> In its overseas policies,

176. Saeed Sayeed, *Pakistan closes 27 NGOs in What Activists See as Widening Crackdown*, REUTERS (Dec. 27 2017), <https://www.reuters.com/article/us-pakistan-rights/pakistan-closes-27-ngos-in-what-activists-see-as-widening-crackdown-idUSKBN1EG0SJ>.

177. See Anita Chan, *The Relationship between Labor NGOs and Chinese Workers in an Authoritarian Regime*, 9 *GLOB. L. J.* 1, 1–18 (2018); Chris King-Chi China, *Class or Citizenship? Debating Workplace Conflict in China*, 42 *J. CONTEMP. ASIA* 308 (2012).

178. Interview, *supra* note 58.

179. Zeenia Shaukat, *NoGO Areas*, NEWS INT'L (Jan. 29, 2017), <https://www.thenews.com.pk/tns/detail/562586-nogo-areas>.

180. Interview with workers at JWPP (Nov. 2018).

181. *Guidelines to the State-Owned Enterprises Directly Under the Central Government on Fulfilling Corporate Social Responsibilities*, SASAC (Dec. 12, 2011), [http://en.sasac.gov.cn/2011/12/06/c\\_313.htm](http://en.sasac.gov.cn/2011/12/06/c_313.htm); *China's Green Credit Guidelines*, GREEN FIN. PLATFORM, (2012), <http://www.cbrc.gov.cn/EngdocView.do?docID=3CE646AB629B46B9B533B1D8D9FF8C4A>.

182. CHINA CHAMBER OF COMMERCE OF METALS, MINERALS AND CHEMICALS IMPORTERS AND EXPORTERS, *GUIDELINES FOR SOCIAL RESPONSIBILITY IN OUTBOUND MINING INVESTMENTS (GSRM)*, (2014), Article 3.1, <http://www.cccmc.org.cn/docs/2017-08/20170804141709355235.pdf>.

183. Sophie Richardson, *China: Quashing Criticism at Home and Abroad*, HUM. RTS. WATCH (May 2014), <https://www.hrw.org/news/2014/05/27/china-quashing-criticism-home-and-abroad>.

184. Chris Alden & Martyn Davies, *A Profile of the operations of Chinese multi-nationals in Africa*, 13 *SOUTH-AFRICAN J. INT'L AFFS.* 83 (2006).

185. For example, when Angola and Sudan were under Western sanctions, China offered them support in exchange for energy. *Id.* at 91. See also Rhys Jenkins, et. al., *The Impact of China on Latin America and the Caribbean*, 36 *WORLD DEV.* 235 (2008); KEVIN GALLAGHER & ROBERTO PORZECANSKI, *THE DRAGON IN THE ROOM: CHINA AND THE FUTURE OF LATIN AMERICAN INDUSTRIALIZATION* (2010).

therefore, China is cherry-picking the most flexible and beneficial trends of international labor law.

To counter this, strengthening and expanding the national labor law regime and its guarantees for freedom of association and collective bargaining are crucial for labor organizing. For workers of the Global South with no social security and little representation in the legislature, the core value of labor law is redistribution and representation. These are best assured through freedom of association and collective bargaining. While the intentions of the labor codes of MNCs are laudable, labor codes and soft law approach in international labor law cannot be a substitute for the constitutional and statutory guarantees in national labor law regime. International labor law should ensure this.

Alongside this, international labor solidarity and the role of internal institutions is vital. This is particularly true for Chinese investment. All the union leaders that we interviewed in CPEC projects also felt that the China Federation of Trade Unions is interested in protecting Chinese companies rather than workers.<sup>186</sup> As this paper describes, ILO and WB provided mechanisms for labor grievance and redressal, but their role depends on organized labor being able to invoke their jurisdiction effectively, ILO and WB overcoming their own bureaucratic inertia, and effectively undoing the powerful influence of corporations and countries. Instead, a clearer commitment from the ILO and WB for the freedom of association and collective bargaining is needed.

#### *Recent Developments Under Covid-19*

In 2020, in the face of fierce criticism by the US<sup>187</sup> and to appease WB and IMF,<sup>188</sup> analysts pointed out how CPEC is going slow.<sup>189</sup> But under COVID-19, economic vulnerability drove Pakistan back to CPEC. Within a week of lockdown, Government of Pakistan gave its first lucrative relief package to the construction industry, which construction sector unions quickly described as aimed at Chinese companies.<sup>190</sup> This was followed by a series of agreements of new dam construction under CPEC with Chinese SOEs: USD 1.5 billion Azaz Pattan with China Gezhouba Group; USD 2.4

186. Telephone interview, *supra* note 116.

187. *A conversation with Alice Wells on the China-Pakistan Economic Corridor*, U.S. DEP'T ST. (Nov. 21, 2019), <https://2017-2021.state.gov/a-conversation-with-ambassador-alice-wells-on-the-china-pakistan-economic-corridor/index.html>.

188. "CPEC Kept in Cold Storage due to Influence From West," DAWN (June 15, 2020), <https://www.dawn.com/news/1563576>.

189. Daniel Markey, *How the United States Should Deal with China in Pakistan*, CTR. FOR GLOB. POL'Y (Apr. 8, 2020), <https://carnegietsinghua.org/2020/04/08/how-united-states-should-deal-with-china-in-pakistan-pub-81456>.

190. Union letter to ILO, *supra* note 50, at 5.

billion Kohala and Mahal hydropower projects with China Three Gorges Corporation; and agreement to build Pakistan's biggest dam, Diamer-Basha Dam, with China Power.<sup>191</sup> Moreover, Metrological Construction Company of China (MCC) was awarded mining rights of Saindak Gold and Copper mines for another fifteen years,<sup>192</sup> and Shanghai Electric Power has renewed its intention to buy a majority share in Karachi Electric.<sup>193</sup> Construction work on the USD 8.172 billion ML-1 train track by China Railway Engineering Corporation has been kick started.<sup>194</sup> The pandemic has accelerated the pace of CPEC, and with it, the severity of labor exploitation as well.

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191. *Three Chinese hydel projects get ECC Approval After a One Year Wait*, DAWN (June 26, 2020), <https://www.dawn.com/news/1565257>.

192. *Chinese Company Allowed Exploration in Saindak Area*, DAWN (July 1, 2020), <https://www.dawn.com/news/1566257>.

193. *Shanghai Electric Renews Intention to Buy KE*, DAWN (July 1, 2020), <https://www.dawn.com/news/1566265>.

194. *Work on CPEC Projects Going On*, NEW INT'L (July 21, 2020), <https://www.thenews.com.pk/print/689755-work-on-cpec-projects-going-on>.