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# The Effectiveness of the Trade-Labour Nexus: Pakistan in the European Union's GSP+

Lucas Fernandez-Corredor



DEPARTMENT OF EU INTERNATIONAL  
RELATIONS AND DIPLOMACY STUDIES

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# **The Effectiveness of the Trade-Labour Nexus: Pakistan in the European Union's GSP+**

**Lucas Fernandez-Corredor**

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Dijver 11 | BE-8000 Bruges, Belgium | Tel. +32 (0)50 477 251 | Fax +32 (0)50 477 250 |  
E-mail [info.ird@coleurope.eu](mailto:info.ird@coleurope.eu) | [www.coleurope.eu/ird](http://www.coleurope.eu/ird)

## About the Author

Lucas Fernandez-Corredor is an alumnus of the College of Europe, having graduated with an MA in EU International Relations and Diplomacy Studies (2023). He previously obtained a BA in History and International Relations from the University of Exeter (2022). He was an intern at GEOS Atlas in Malta, specialising in conflict monitoring and surveillance in the MENA region, and he is currently a trainee at the UN/UNDP Office in Brussels. His main fields of interest are sustainable development, international labour rights and the post-Soviet republics. This paper is based on his Master's thesis at the College of Europe (David Sassoli Promotion).

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Dijver 11 | BE-8000 Bruges, Belgium | Tel. +32 (0)50 477 251 | Fax +32 (0)50 477 250 |  
E-mail [ird.info@coleurop.be](mailto:ird.info@coleurop.be) | [www.coleurope.eu/ird](http://www.coleurope.eu/ird)

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## **Abstract**

The Generalised Scheme of Preferences Plus (GSP+) is the most normative preferential trading tool of the European Union (EU), comprising 27 international Conventions. These range from United Nations human rights Conventions to labour rights Conventions of the International Labour Organisation (ILO), with good governance and environmental Conventions present too. Among these, labour rights stand out because the promotion of export-oriented growth that the GSP+ aims at may impinge on workers' rights and labour standards. This paper studies the effectiveness of the GSP+ vis-à-vis the ILO Conventions in the case of Pakistan. Pakistan is the largest GSP+ beneficiary. The paper draws on the four-step approach to study the effectiveness of the EU's external action developed by Schunz, complemented by an own typology. It will be applied consistently to each of the ILO Conventions. The paper finds that the GSP+ is overall moderately 'effective' in its promotion of labour rights in Pakistan, with some nuances and exceptions, most notably regarding forced labour. A set of policy recommendations can be drawn from the findings.

## Introduction

The 2016 Global Strategy of the European Union (EU) posited the intertwining and indivisibility of the Union's values and interests in its external action.<sup>1</sup> As such, labour rights form an integral part of this equation. The aim of this paper is to study the EU's effectiveness in upholding and promoting labour rights on the global stage, via the Generalised Scheme of Preferences Plus (GSP+), or special incentive arrangement for sustainable development and good governance. The GSP+ has an explicit normative dimension, being partly based on the Conventions of the International Labour Organisation (ILO), and it also allows to study the wider dynamics between labour rights and EU external action. The upcoming new GSP Regulation for the period 2024-2033 (respectively later since the duration of the current Regulation was extended) warrants in-depth study of whether the current conditionality is effective. Furthermore, the EU's GSP is considered to be among the most normative of the existing GSP schemes at the global level.

Due to its status as the largest beneficiary under the scheme and its shortcomings regarding the protection of labour rights, Pakistan serves as a case study. Hence, to what extent has the GSP+ been effective regarding the promotion of labour standards in Pakistan since its entry into the scheme in 2014?

The paper argues that the GSP+ has been moderately effective in ensuring labour rights and their compliance in Pakistan. However, there is some nuance in this categorisation of the GSP+ as relatively effective, as some flaws remain, most notably around Pakistani implementation of the Conventions.

The next section introduces the framework of analysis which will then be applied to each of the four pairs of Conventions in order to produce an in-depth picture of the effectiveness of the scheme regarding the protection of labour rights. A comparative assessment section will follow, providing a more comprehensive overview. The conclusion, containing a number of policy recommendations, will close the paper.

## Analytical framework

This paper uses the four-step approach developed by Schunz to analyse the effectiveness of the EU's external action.<sup>2</sup> Firstly, the EU's 'real objectives' in the given

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<sup>1</sup> European Union, "A Global Strategy for the European Union's Foreign and Security Policy", Brussels, June 2016, 8.

<sup>2</sup> Simon Schunz, "Analysing the Effectiveness of European Union External Action", in *The External Action of the European Union: Concepts, Approaches, Theories*, eds. Sieglinde Gstöhl and Simon Schunz, 134-148 (London: Macmillan Education, 2021).

international context need to be identified, which can be done through analysing Council conclusions or regulations from the Commission. These objectives are then subsequently matched to outcomes in the external environment, in the process tracing EU action to those outcomes to check for any causation between the EU's external objectives and the external outcomes in the international sphere. It is in this second step where the approach is complemented by a typology comprising four sets of criteria (ratification of Conventions, fulfilment of reporting obligations, transposition into legislation, and state of implementation) and a scale of 'low-medium-high'. The typology and the scale will then help with the third step of the approach, which is to determine the degree of external effectiveness. The fourth and final step, which involves explaining the degree of EU external effectiveness, will look at both endogenous and exogenous causes.

This approach will be applied to each of the ILO Conventions, eight of them clustered into four groups of two: i) the Freedom of Association Convention and the Collective Bargaining Convention, ii) the Forced Labour Convention and the Abolition of Forced Labour Convention, iii) the Convention for Minimum Age of Employment and the Worst Forms of Child Labour Convention, and iv) the Equal Remuneration Convention and the Discrimination Convention. They are clustered in this way because of their similarity with one another, feasibility of narrowing down the study from eight to four pairs of Conventions, and to follow Commission practice in its GSP+ evaluation processes.<sup>3</sup>

In this way, the objectives of the EU vis-à-vis the Conventions shall be identified, before matching and tracing them to the outcomes with the help of my own typology. The third step shall be establishing the degree of effectiveness by the EU, in this case the effectiveness of the GSP+ in improving labour rights in Pakistan. The final section shall put forward explanations for the findings, looking at both internal and external factors unrelated to the EU scheme.

## **Freedom of Association and Collective Bargaining Conventions**

### *Identifying the objectives*

In terms of the EU's objectives vis-à-vis these two ILO Conventions, the EU does not depart significantly from their stated objectives as defined by the ILO. This is because in its 2012 Regulation, the Commission does not go beyond the definition of the Conventions and does not add anything of its own. This can be seen in article 9 of the

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<sup>3</sup> For further details, see Lucas Fernandez-Corredor, *Labour Rights and GSP+: Assessment of the effectiveness of the GSP+ vis-à-vis the ILO Conventions*, Master's thesis, Bruges: College of Europe, 2023.

GSP Regulation, which only refers to Annex VIII for the list of Conventions to be complied with.<sup>4</sup> Thus, in order to ascertain the objectives of the EU, we must turn to the ILO Conventions, and argue that compliance with what is written there is the EU's ultimate objective. In this way, the Freedom of Association Convention centres around the "right of workers and employers to establish and to join organisations of their own choosing without previous authorisation".<sup>5</sup> The Collective Bargaining Convention refers to workers' "adequate protection against acts of anti-union discrimination or interference", while adding that "the establishment of workers' organisations under the domination of employers ... shall be deemed to constitute acts of interference".<sup>6</sup> These provisions in the Conventions can be taken as the EU's objective. The ILO is the internationally recognised labour organisation, thus has demonstrable expertise and legitimacy in the field, which the EU lacks to the same extent; furthermore, if the EU were to add its own labour standards, accusations of neo-colonialism and double standards could surface. The same method of examining the provisions in the ILO Conventions to discover the EU's objectives shall be applied.

#### *Matching objectives to outcomes and tracing EU action to those outcomes*

In terms of the ratification of Conventions C087 (freedom of association) and C 098 (collective bargaining), Pakistan has ratified both, having done so in 1951 and 1952 respectively.<sup>7</sup> For its reporting obligations to the ILO under the terms of the Conventions, Pakistan has kept up to date with these, with no outstanding requested reports or replies.<sup>8</sup> In this respect, Pakistan meets the first two criteria of the typology. Moving onto transposition of the Conventions into legislation, it must first be noted that the devolution of labour matters to the provinces in 2010 resulted in each of the four provinces, together with the federal government, adopting Industrial Relations Acts (IRAs) in 2012, preceding admission into the GSP+. This effectively rules out establishing causality from the EU scheme. Yet these IRAs are essential when discussing freedom of association and collective bargaining, given that these acts regulate the formation of trade unions and collective bargaining,<sup>9</sup> and thus embody the objectives of the two Conventions. Though seemingly positive developments on paper, the IRAs exclude numerous categories of workers from their scope, thus not extending the rights of

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<sup>4</sup> European Commission, "Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008", *Official Journal of the European Union*, Brussels, 31 October 2012, 7.

<sup>5</sup> ILO, "Labour Standards: Normlex: C087".

<sup>6</sup> ILO, "Labour Standards: Normlex: C098".

<sup>7</sup> ILO, "Ratifications for Pakistan".

<sup>8</sup> ILO, "Requested reports and replies to CEACR comments: Pakistan".

<sup>9</sup> European Commission, "Joint Staff Working Document: The EU Special Incentive Arrangement for Sustainable Development and Good Governance assessment of Pakistan covering the period 2018-2019", SWD (2020) 22, Brussels, 10 February 2020, 18.

freedom of association and collective bargaining to workers in the informal economy, in fishing and agriculture, and in Export-Processing Zones and Special Economic Zones, economic hubs designed to stimulate Pakistan's export base.<sup>10</sup> This problematic transposition of legislation is all the graver given that the overwhelming majority of Pakistanis (75% of the rural workforce and 68% of the urban one<sup>11</sup>) are employed in the informal sector, effectively leaving the majority of the population without a legal right to form a union or join one. Additionally, there is a 20% threshold that new unions must comply with upon their formation, meaning that they must represent one-fifth of the workforce in their given workplace as a precondition for registration.<sup>12</sup> Setting such a high threshold evidently compromises the chances of forming new unions, imposing severe constraints and contravening the right to freedom of association.

Yet the fact that Pakistan's provinces are responsible for labour affairs gives rise to variation in terms of the transposition of legislation, meaning that some positive developments can be gleaned. For instance, the Sindh IRA has been amended to include the agricultural and fisheries sector within its scope, thus enshrining the rights of workers in these sectors (which concentrate the majority of the workforce in the country, at 39%<sup>13</sup>) and paving the way for the formation of the first-ever Sindh Agriculture and Fishing Workers Union.<sup>14</sup> Baluchistan similarly widened the scope of its IRA to include informal workers, as noted in the 2016-17 report.<sup>15</sup> This positive trend can be observed too in Punjab's labour legislation, which was amended to allow for the formation of unions in workplaces with fewer than 50 workers, the first-ever domestic workers' union was established in Punjab as early as 2016, a mere two years following GSP+ admission. The fact that three out of four provinces extended legal rights to the informal sector, a hitherto unregulated and unprotected yet overwhelmingly predominant sector in Pakistan, within only three years of admission into the scheme, suggests indeed that GSP+ conditionality was instrumental in nudging the authorities to take into account informal workers, a milestone in Pakistani history. The coincidental timeline certainly reinforces this notion.

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<sup>10</sup> *Ibid.*, 17-18; ILO, "Direct Request CEACR – adopted 2022, published 111st ILC session (2023)".

<sup>11</sup> Pakistan Today, "The informal sector: A significant contributor to Pakistan's economy", 14 March 2023.

<sup>12</sup> European Commission, "Joint Staff Working Document: The EU Special Incentive Arrangement for Sustainable Development and Good Governance assessment of Pakistan covering the period 2016-2017", SWD (2018) 29, Brussels, 19 January 2018. 14.

<sup>13</sup> Food and Agriculture Organisation of the United Nations, "FAO in Pakistan – Pakistan at a glance".

<sup>14</sup> European Commission, "Joint Staff Working Document: The EU Special Incentive Arrangement for Sustainable Development and Good Governance assessment of Pakistan covering the period 2016-2017", *op. cit.*, 14.

<sup>15</sup> *Ibid.*



The final set of criteria in my typology, the state of implementation, is needed given the ubiquitous gap between legislation and the reality on the ground. Despite the existence of IRAs allowing for the formation and registration of unions, the meagre rate of unionisation (at around 1%<sup>16</sup>) highlights how the existing legislation is failing in its stated purpose. Finding statistics on the rate of unionisation in Pakistan is a challenge, due to the lack of available data and the fact that trade unions do not submit information to the authorities<sup>17</sup>; the most reliable data, from a 2016 ILO study, indicates the rate of unionisation to be at 2.35%.<sup>18</sup> Among the major reasons why continued violence and intimidation towards those wishing to form unions, together with the widespread practice of not giving workers formal contracts – effectively preventing them from joining a union and stripping them of any of their rights under the respective IRAs – feature prominently.<sup>19</sup> This reality on the ground contrasts with the active institutional pace at the top, with the Treaty Implementation Cells (TICs) deserving special attention. Having been established in 2016, the TICs are responsible for overseeing and liaising between the federal and provincial levels regarding the ratified Conventions' implementation<sup>20</sup>; as such, they hold significant influence, and contrary to what might have been expected, the TICs are organised according to a bottom-up framework, with the added involvement of civil society.

Furthermore, in order to facilitate the implementation of the ILO Conventions, Tripartite Consultative Committees have been created at the federal and provincial level, integrating the authorities, workers and employers and tasked with discussing labour affairs.<sup>21</sup> These Committees are legally bound to meet twice a year, which, though welcome, raises questions about their utility given that such a reduced number of meetings cannot possibly address the plethora of labour issues in Pakistan in a satisfactory manner. These are of course positive developments coinciding with, and more likely arising from, Pakistan's admission into the GSP+, yet however welcome these new bodies and institutions might be, they fail to plug the gap and translate the newly developed legislation into reality on the ground. Continued violence and nefarious practices which preclude a deeper penetration of unions are a testament to this failure by Pakistan. It is worth bearing in mind that the formation of unions and unionisation are a basic prerequisite for complying with the Freedom of Association

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<sup>16</sup> Pakistan Institute of Labour Education and Research, *Briefing Paper on GSP+* (Karachi: PILER, 2018), 3.

<sup>17</sup> Friedrich Ebert Stiftung, "Mapping Labour Unions in Pakistan", Islamabad, December 2021, 9.

<sup>18</sup> Zakauallah Khan Khalil, "A Profile of Trade Unionism and Industrial Relations in Pakistan", ILO, Islamabad, 2018, 7.

<sup>19</sup> Pakistan Workers Confederation, "GSP Plus and Labour Standards in Pakistan: The Chasm between Conditions and Compliance", *Executive Summary*, Islamabad, October 2017, 4.

<sup>20</sup> Pakistan Institute of Labour Education and Research, *op. cit.*, 15.

<sup>21</sup> European Commission, "Joint Staff Working Document: The EU Special Incentive Arrangement for Sustainable Development and Good Governance assessment of Pakistan covering the period 2018-2019", *op. cit.*, 19.

and Collective Bargaining Conventions, without which implementation is virtually impossible.

### *Assessing the degree of effectiveness*

Having gone through the set of criteria in the typology, the effectiveness of the GSP+ in fulfilling the Freedom of Association and Collective Bargaining Conventions can best be described as 'medium'. Despite landmark pieces of legislation extending the coverage of labour rights to the informal sector, comprising the bulk of the Pakistani workforce, this protection appears nominal at best. This is reflected in the paltry level of unionisation, which embodies the spirit of the two Conventions. More specifically, the Collective Bargaining Convention rests on a healthy state of unionisation, given that the spirit of collective bargaining precisely entails having strong and well-organised unions to negotiate and uphold labour rights with the given employer. In the absence of such unions, it is difficult for the workforce as a whole to tackle outstanding labour issues, such as the lack of formal contracts or the continued atmosphere of intimidation and violence towards union formation and registration discussed above. Naturally of course, having the legislation in place is the first step towards improving labour affairs, and in this the GSP+ has contributed enormously, with positive amendments to the provincial IRAs taking place shortly after admission into the EU scheme. Furthermore, and however limited their activities may be, the establishment of tripartite dialogue structures must also be welcomed, as they provide the platform for discussion and compromise, essential ingredients for labour improvements.

### *Explaining the degree of effectiveness*

In order to explain the 'medium' effectiveness of the GSP+ in fulfilling the two Conventions, we must turn to Pakistan's socio-economic composition. Accounting for the traditionally weak presence of trade unions in Pakistan has been the country's limited industrial base, as it inherited only 9% of British India's total industry.<sup>22</sup> Moreover, it is the predominance of agriculture that impedes the growth of unionisation. This is because of the distinct labourer-employer ties in the agrarian sector, a relationship which is based on kinship and community ties, and which is ill-suited to the industrial, Western conception of the employer-worker relationship, trade unions and collective bargaining.<sup>23</sup> This distinct cultural trait effectively stifles the growth of trade unions and other such associations, taking into account how agriculture is the single-largest

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<sup>22</sup> Friedrich Ebert Stiftung, *op. cit.*, 4.

<sup>23</sup> Interview with Pakistani official, Pakistan Ministry of Commerce, Embassy of Pakistan: Brussels, 16 March 2023.

employer in the country. In this discussion one must also bring in the blight of bonded labour, which is a feature of Pakistan's agricultural sector (this will be discussed in the section on the Forced Labour Conventions). The short timeframe of accession to the GSP+ must also be considered when explaining 'medium' effectiveness, as Pakistan has been in the scheme for less than a decade, managing to enact far-ranging and innovative legislation in that time period.<sup>24</sup> Furthermore, it is always the implementation of legislation that is much tougher than the legislating itself, and thus some gap between the two is to be expected. Yet it is precisely this gulf between legislation and implementation that accounts for the 'medium' effectiveness of the GSP+ in ensuring Pakistan's compliance with the two Conventions.

## **Forced Labour Convention and Abolition of Forced Labour Convention**

### *Identifying the objectives*

In terms of the two Forced Labour Conventions, the EU's objective is self-explanatory, in wishing to abolish forced labour as per article 1 of the Forced Labour Convention (C029) – “each member of the ILO which ratifies this convention undertakes to suppress the use of forced or compulsory labour in all its forms”.<sup>25</sup> Forced labour is defined as “all work or service ... exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.<sup>26</sup> The Abolition of Forced Labour Convention (C105), introduced in 1957, seeks to reinforce the spirit of the Forced Labour Convention, by introducing greater clarity and closing any loopholes that C029 contained vis-à-vis what constitutes forced labour. For instance, article 1 outlaws forced labour as a political punishment, as a means of any form of discrimination, and as a means of labour discipline, yet essentially its objective remains the same.<sup>27</sup> Thus, the EU's objective with these two Conventions is the elimination of forced labour in all its forms. For the sake of clarifying, forced labour in Pakistan takes the form of 'bonded labour', whereby workers repay a debt (often for lodgings, marriage or sickness) through their labour, a status that may never end given the extremely high interest rates (often above 50%<sup>28</sup>), effectively trapping them in a cycle of slavery and violence should workers attempt to leave. The high interest also means that bonded labour is often passed down from generation to generation.

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<sup>24</sup> Pakistan Workers Confederation, *op. cit.*, 2.

<sup>25</sup> ILO, “Labour Standards: Normlex: C029”.

<sup>26</sup> *Ibid.*

<sup>27</sup> ILO, “Labour Standards: Normlex: C105”.

<sup>28</sup> David K. Androff, “The Problem of Contemporary Slavery: An International Human Rights Challenge for Social Work”, *International Social Work* 54, no. 2 (2010), 214.

Around three million Pakistanis are estimated to be bonded labourers, concentrated in the agriculture, brick-making and carpet-weaving sectors.<sup>29</sup>

*Matching objectives to outcomes and tracing EU action to those outcomes*

For ratification, Pakistan has ratified both Conventions, having done so in 1957 and 1960, respectively.<sup>30</sup> In terms of its reporting obligations, Pakistan has largely complied with the submission of reports, yet with some outstanding gaps; under Convention 029 however, the ILO has repeatedly requested further information on the application of two pieces of legislation, the Prevention of Trafficking in Persons Act (PTPA) and the Prevention of Smuggling of Migrants Act (PSMA), designed to curb human trafficking, often the main provider of forced labourers.<sup>31</sup> Regarding C105, the ILO has requested information on amendments to two federal laws, the Pakistan Merchant Shipping Ordinance and the Pakistan Essential Services Act, that allow for compulsory labour as a form of punishment.<sup>32</sup> Therefore, it is evident that transposition of the Forced Labour Conventions into Pakistani legislation has not been complete, despite its nominal abolition through the 1992 Federal Bonded Labour Abolition Act, as the Merchant Shipping Ordinance and the Essential Services Act authorise forced labour as a punishment for striking, leaving employment without the employer's consent, or disobedience, in contravention of the Conventions.

At the provincial level, transposition has on paper been satisfactory, as since 2015 all four provinces have adopted Bonded Labour Abolition Acts. The intricate relationship between bonded and child labour, with the latter often being a product of the former given how bonded labour is often passed down to the next generation, means that parallel pieces of legislation aimed at child labour have also touched on bonded labour. This is the case with the Punjab Brick Kilns Act and several of its provisions.<sup>33</sup> Legislation such as this must be welcomed of course, given how the brick kiln industry and the province of Punjab both account for a large proportion of bonded labour.<sup>34</sup>

Once again, progress in terms of transposition can be noted, as all of Pakistan's territory – both at the federal and national level – had been covered by bonded

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<sup>29</sup> Shahzeb Jillani, "Life of slavery – bonded labor in Pakistan", *Deutsche Welle*, 25 December 2019.

<sup>30</sup> ILO, "Ratifications for Pakistan".

<sup>31</sup> ILO, "Direct Request CEACR – adopted 2020, published 109<sup>th</sup> ILC session (2021)".

<sup>32</sup> ILO, "Direct Request CEACR – adopted 2020, published 109<sup>th</sup> ILC session (2021), Abolition of Forced Labour Convention, 1957 (No. 105)".

<sup>33</sup> European Commission, "Joint Staff Working Document: The EU Special Incentive Arrangement for Sustainable Development and Good Governance assessment of Pakistan covering the period 2016-2017", *op. cit.*, 15.

<sup>34</sup> Nadeem Malik, "Bonded Labour in Pakistan", *Advances in Anthropology* 6 (2016), 128.

labour abolition acts within a year of GSP+ admission. Nonetheless, implementation may substantially deviate from existing legislation and its objectives. Implementation of the bonded labour abolition acts depends overwhelmingly on a strong labour inspectorate system, as the fields and kilns where bonded labour takes place are often in far-flung locations away from urban areas. Pakistan at current lacks such a system, counting 337 labour inspectors, translating into an inspector-worker ratio of 1:25,000.<sup>35</sup> The devolvement of labour matters, including forced labour, may have exacerbated the situation, given the provincial governments' much weaker administrative capacity and resources. Some minor improvements have, however, been noted; the 2016-17 report by the Commission had highlighted the lack of penalties and enforcement,<sup>36</sup> whereas the next biennial report of 2018-19 has noted more than 12,000 labour inspections and thirty arrests.<sup>37</sup> Yet the mismatch here between the number of inspections and of arrests is glaringly obvious. Telling of deficient implementation of the forced labour Conventions is the lack of official surveys or data produced by the Pakistani authorities, despite it being a prevalent and well-known phenomenon – current data on the numbers of bonded labourers vary enormously, from the 3 million provided by the Global Slavery Index<sup>38</sup> to the 1.8 to 6.8 million in agriculture alone estimated by PILER.<sup>39</sup> All these statistics are provided by non-state actors, be they international or Pakistani. Implementation of the forced labour Conventions is therefore far from ideal, rooted in a lack of inspectors, non-enforcement and authorities' wilful ignorance of the subject.

### *Assessing the degree of effectiveness*

Having gone through the four sets of criteria in the typology, the effectiveness of the GSP+ in fulfilling the Forced Labour and the Abolition of Forced Labour Conventions can best be described as 'low'. This is because the GSP+ has failed in making Pakistan take the issue of forced labour abolition seriously, reflected in ongoing silence by the authorities, as demonstrated by the lack of official data. Despite the four provinces adopting forced labour abolition acts within a year of GSP+ admission, this legislation remains of limited use due to its non-implementation, itself a product of a lack of political will and mediocre labour inspectorates. Whenever there is some implementation, it remains superficial, as evidenced by the reduced number of arrests

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<sup>35</sup> Pakistan Institute of Labour Education and Research, *op. cit.*, 3.

<sup>36</sup> European Commission, "Joint Staff Working Document: The EU Special Incentive Arrangement for Sustainable Development and Good Governance assessment of Pakistan covering the period 2016-2017", *op. cit.*, 15.

<sup>37</sup> European Commission, "Joint Staff Working Document: The EU Special Incentive Arrangement for Sustainable Development and Good Governance assessment of Pakistan covering the period 2018-2019", *op. cit.*, 19.

<sup>38</sup> Global Slavery Index, "Pakistan Country Data", 2018.

<sup>39</sup> Pakistan Institute of Labour Education and Research, *Briefing Paper on GSP+*, *op. cit.*

made in connection with bonded labour in Punjab. The categorisation of 'low' effectiveness is also a product of the incomplete transposition of the two Conventions into Pakistani law, as there are still two pieces of legislation that provide for forced labour, in flagrant violation of C029 and C105.

### *Explaining the degree of effectiveness*

Any explanation of the GSP+ and its limited impact on the abolition of forced labour must take into account Pakistan's system of land tenure, given that agriculture is one of the sectors where it is most prevalent. The country's lack of effective land reform in its post-independence era has resulted in extreme land inequality, engendering a powerful class of absentee landlords and of landless tenant farmers.<sup>40</sup> Successive land reforms in 1959, 1972 and 1977 either failed in their stated purpose of redistributing land, or were not implemented at all. In fact, land inequality has grown over time – the share of farms smaller than 5 acres has grown from 19% of all farms in 1960, to 65% in 2010, with their average size dropping from 2.2 to 1.9 acres.<sup>41</sup> Conversely, holdings over 25 acres in size represent only 3.4% of farms, yet account for more than a third of Pakistan's farms.<sup>42</sup> These disparities have stifled rural development, creating a large class of poor tenants dependent on landlords for access to land, agricultural inputs and loans to finance them<sup>43</sup>; due to their inability to pay the interest on their loans, partly linked as well to the inherent fluctuations of agricultural prices and the vulnerabilities in the sector, labourers become 'bonded' to the landlord, offering their labour as the only medium to pay back the original debts incurred.

The predominance of landlords in rural Pakistan also explains the lack of political will to tackle bonded labour, itself a mainstay of Pakistan's rural economy; at present, 75% of the legislative branch is comprised of landowners,<sup>44</sup> and their stranglehold on nearly all aspects of provincial life, from politics to education and development, means that the devolution of labour affairs may have inadvertently exacerbated Pakistani authorities' ignorance towards bonded labour, or their complicity even, by giving landlords an even greater voice and influence in the daily implementation of labour legislation in the provinces. It is not coincidental that the regions where bonded labour is most prevalent, Punjab and Sindh, are the most agriculturally-developed.<sup>45</sup> Beyond agriculture, there is in addition a certain degree of social acceptance of bonded

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<sup>40</sup> David J. Spielman *et al.*, "Food, Agriculture, and Rural Development in Pakistan", in *Agriculture and the Rural Economy in Pakistan: Issues, Outlooks, and Policy Priorities*, eds. David J. Spielman *et al.*, (Philadelphia: University of Pennsylvania Press, 2017), 7-8.

<sup>41</sup> *Ibid.*, 16.

<sup>42</sup> *Ibid.*

<sup>43</sup> Malik, *op. cit.*, 130.

<sup>44</sup> Ali Mustafa, "Pakistan's fight against feudalism", *Al Jazeera*, 21 August 2014.

<sup>45</sup> Malik, *op. cit.*, 130.

labour in Pakistani society, as noted by Pakistani scholars, serving to explain its longevity and stubborn prevalence, together with the lack of significant action to tackle it.<sup>46</sup>

Additionally, and focusing on the GSP+ now, it can be argued that the scheme is better at effecting change in urban, industrial workplaces such as mills and factories, than in remote, poorly regulated and informal sectors such as agriculture, brick kilns and carpet-weaving, where bonded labour is most common. This accounts for the relative effectiveness of the GSP+ with the Freedom of Association and Collective Bargaining Conventions relative to the Forced Labour Conventions; the former Conventions are well-suited to urban, industrial and regulated environments conducive to trade union creation, whereas bonded labour is harder to track down due to complex, informal structures inherent to local society and ties that may escape the Commission's and the ILO's understandings of labour matters and worker-employer relationship, forged in a much more Eurocentric setting. In sum, the 'low' effectiveness of the GSP+ vis-à-vis the Forced Labour Conventions can be explained by the intricacies of Pakistan's land ownership system, which in turn account for the lack of political will in tackling the issue. However, a certain degree of social acceptance must be factored into this discussion, together with the sheer difficulty of the GSP+ in reaching out to the most isolated and marginalised segments of Pakistani society currently trapped in bonded labour, away from well-regulated and easily understood employment dynamics under which the GSP+ works best.

## **The Convention for Minimum Age of Employment and the Worst Forms of Child Labour Convention**

### *Identifying the objectives*

The objectives of the EU vis-à-vis the Convention for Minimum Age of Employment (C138) is conveyed by its article 1: "Each Member ... undertakes to pursue a national policy designed to ensure the effective abolition of child labour, and to raise progressively the minimum age for admission to employment".<sup>47</sup> This Convention from 1973 was supplemented by the Worst Forms of Child Labour Convention (C182) of 1999, which banned "all forms of slavery, prostitution, illicit activities (in particular, for the production and trafficking of drugs), and work which by its nature or circumstances it is carried out, is likely to harm the health, safety and morals of children".<sup>48</sup> It can be seen here how intertwined the Child Labour Conventions are with the Forced Labour

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<sup>46</sup> *Ibid.*

<sup>47</sup> ILO, "Labour Standards: Normlex: C138".

<sup>48</sup> ILO, "Labour Standards: Normlex: C182".

ones, as the “all forms of slavery” provision in C182 includes “debt bondage and forced or compulsory labour”.<sup>49</sup> This intertwining most obviously means the EU has the objective to incorporate bonded labour when tackling child labour.

#### *Matching objectives to outcomes and tracing EU action to those outcomes*

Pakistan ratified both Conventions rather late, C138 in 2006 and C182 in 2001.<sup>50</sup> Surprisingly, Pakistan first adopted the latest Convention, the Worst Forms of Child Labour, before adopting its ‘parent’ Convention, the Minimum Age for Employment. This conveys the problematic impression that the country was comfortable with a moderate degree of child labour, accounting for why it took Pakistan over thirty years to ratify C138, while on the other hand it rushed within two years to adopt the much graver C182, which is much more explicit in its language regarding child labour abolition. Furthermore, the C138 ratification coincides with the establishment of the modern-day GSP+ and the integration of the EU’s separate incentive arrangements, suggesting the scheme’s influence in making Pakistan adopt the Minimum Age Convention. In terms of its reporting obligations, Pakistan has complied, yet there are outstanding requests by the ILO; regarding the Minimum Age Convention, the ILO has requested the government solve the discrepancy between the minimum age of employment (14 years) with that of compulsory education (16), while also requesting the government to inform about the provincial legislation on light work and its regulation, among others the minimum age.<sup>51</sup>

These requests are not as substantial for the Worst Forms of Child Labour Convention, as the legislation adopted has been wide-ranging and positive. In fact, for both Conventions transposition in Pakistan has been satisfactory. All four provinces have Compulsory Education Acts up to the age of 16, with Khyber-Pakhtunkhwa province scrapping its 1996 legislation that provided education until the age of 10, in favour of the Free Compulsory Primary and Secondary Education Act raising the age to 16.<sup>52</sup> The adoption of this Act in 2017 and the fact that no previous legislation had been enacted since 1996, suggests the key role of the GSP+ conditionality in pushing the provincial government to abide by the Conventions.

Despite these Acts being about compulsory education, they are relevant to the elimination of child labour because children are legally obliged to be at school up to the age of 16, and thus cannot enter into employment as their main daily activity,

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<sup>49</sup> *Ibid.*

<sup>50</sup> ILO, “Ratifications for Pakistan”.

<sup>51</sup> ILO, “Direct Request CEACR – adopted 2020, published 109<sup>th</sup> ILC session (2021), Minimum Age Convention, 1973 (No. 138)”.

<sup>52</sup> *Ibid.*



thereby preventing child labour (in some instances, limited employment such as in family-run establishments occurs and is allowed under the Conventions). Furthermore, all provinces have now instituted a minimum age for employment, ranging from 14 in Baluchistan and Khyber-Pakhtunkhwa, to 15 for Punjab and Sindh.<sup>53</sup> Continuing with this positive trend of transposition, the 2019 Punjab Domestic Workers Act stands out.<sup>54</sup> This landmark piece of legislation bans under-15-year-olds from working in any form of domestic service and should be welcomed given that it is the first of its kind in Pakistan, covering a hitherto hidden sector notorious for its normative shortcomings. Despite the problematic fact that it is the only province to have such legislation, it is nonetheless significant because Punjab accounts for more than half of Pakistan's population. Furthermore, given that Punjab is the most advanced province in terms of its social rights provisions, there is the possibility of the rest of the country imitating its Domestic Workers Act.<sup>55</sup>

All provinces, with the exception of Baluchistan, have strategies in place designed to eradicate child labour, indicating a political willingness across the whole of Pakistan to address the issue.<sup>56</sup> The final piece of legislation worth mentioning is the 2016 Punjab Brick Kilns Act, aimed at prohibiting child labour in the sector. Implementation of the Brick Kiln Act has been impressive, as according to official statistics, 9,065 inspections took place, leading to a reduction in child labour in brick kilns from 25% to 3%.<sup>57</sup> The children are then enrolled in education, with the provinces funding their school fees. In Khyber-Pakhtunkhwa, under the Prohibition of Employment of Children Act, more than 8,000 inspections took place in 2018, with 213 court prosecutions.<sup>58</sup> The considerable gulf in economic development and social provision between Punjab and Khyber-Pakhtunkhwa (the former being the most prosperous province, while the latter remaining the poorest) proves that rather than resting on the level of economic and political maturity, crackdown on child labour rests more on political will to legislate and enforce said legislation.

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<sup>53</sup> European Commission, "Joint Staff Working Document: The EU Special Incentive Arrangement for Sustainable Development and Good Governance assessment of Pakistan covering the period 2018-2019", *op. cit.*, 21.

<sup>54</sup> US Department of Labor, "2019 Findings on the Worst Forms of Child Labour: Pakistan", *Bureau of International Labor Affairs*, 1.

<sup>55</sup> European Commission, "Joint Staff Working Document: The EU Special Incentive Arrangement for Sustainable Development and Good Governance assessment of Pakistan covering the period 2018-2019", *op. cit.*, 19.

<sup>56</sup> US Department of Labor, *op. cit.*, 12.

<sup>57</sup> European Commission, "Joint Staff Working Document: The EU Special Incentive Arrangement for Sustainable Development and Good Governance assessment of Pakistan covering the period 2016-2017", *op. cit.*, 16.

<sup>58</sup> *Ibid.*, 20.

These developments are undoubtedly positive ones, for the incidence of child labour in Pakistan is considerably high – according to UNICEF, 3.3 million children.<sup>59</sup> The scale of the problem naturally means full eradication will take some time. Another initiative showcasing progress in implementation is the federal National Strategy to Eliminate Child and Bonded Labour, drawing together the central government and the provinces, and centred around 18 recommendations of actions.<sup>60</sup> The linkage between child and bonded labour is necessary, given how 70% of bonded labourers are estimated to be children.<sup>61</sup> The fact that it is the federal government that is displaying initiative in implementation, in spite of the devolution of labour matters, indicates serious political will and intent to clamp down on child labour. Despite the linkages between child and bonded labour, it is evident that implementation is more extensive and deep with regards to child labour.

### *Assessing the degree of effectiveness*

Based on the criteria discussed, the effectiveness of the GSP+ in fulfilling the Minimum Age of Employment Convention and the Worst Forms of Child Labour Convention can be described as 'high'. This is evident with the breadth of legislation and initiatives adopted across the country, together with their actual implementation on the ground. This is in stark contrast to the bonded labour legislation. Yet clamping down on child labour invariably means tackling bonded labour too, given how both are interconnected; and in this sense, initiatives such as the Punjab Brick Kilns Act may contribute to breaking the cyclical dynamics that entrap generations in forced labour, by removing children from work and placing them in education. This 'high' effectiveness of the GSP+ is palpable with the 2017 Khyber-Pakhtunkhwa Education Act, and Punjab's Domestic Workers Act and Brick Kilns Act. The fact that they were all adopted within a short period of GSP+ admission underscores the scheme's effectiveness in swaying Pakistan's domestic developments regarding child labour.

### *Explaining the degree of effectiveness*

Among the explanations for this high effectiveness is child labour's distinctive visual and psychological impact, arguably stronger than in the case of bonded labour. This translates into a web of high-profile international donors and organisations such as UNICEF, which is in the process of helping the provinces in carrying out child labour

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<sup>59</sup> UNICEF, "Child Protection: Protecting all children in Pakistan from all forms of violence, neglect and exploitation".

<sup>60</sup> ILO, "Direct Request CEACR – adopted 2020, published 109<sup>th</sup> ILC session (2021), Worst Forms of Child Labour Convention, 1999 (No. 182)".

<sup>61</sup> US Department of Labor, *op. cit.*, 2.

surveys,<sup>62</sup> or the ILO-FAO CLEAR Cotton Project, which aims at eliminating child labour from the cotton and textiles supply chain.<sup>63</sup> This heightened awareness and publicity of the issue in Pakistan has certainly contributed to a greater political will to tackle the issue. It also makes sense for Pakistani authorities to pay greater attention to child labour, as by solving it, authorities are directly contributing to the fight against bonded labour too. Another reason is linked to the wider economic picture; Pakistan's desire to continue economic growth, which has hovered around an annual rate of 5%, partly hinges on a skilled and literate workforce, and in this regard education is key. This explains the country's relatively high proportion of children enrolled in primary and secondary education, currently at 86.9%.<sup>64</sup>

## **Equal Remuneration Convention and the Discrimination Convention**

### *Identifying the objectives*

The objectives of the EU vis-à-vis the Equal Remuneration Convention (C100) is conveyed by its article 2: "Each Member shall ... promote and ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value".<sup>65</sup> For the Discrimination Convention (C111) the objective is to "pursue a national policy designed to promote ... equality of opportunity and treatment in respect of employment, with a view to eliminating any discrimination in respect thereof".<sup>66</sup> Thus, the Discrimination Convention adopts a wider perspective regarding labour rights, covering all forms of discrimination, be it ethnic, religious or national origin, with C100 meanwhile narrowed down to equal remuneration between the sexes. Yet these two Conventions are complementary in nature, because they both serve to reinforce the egalitarian nature of labour rights, but also due to the fact that equal remuneration is built upon the principle of non-discrimination. This is the reason why the Discrimination Convention came a few years after the Equal Remuneration one.

### *Matching objectives to outcomes and tracing EU action to those outcomes*

Pakistan ratified the Discrimination Convention a few years after adoption by the ILO, in 1961, while the Equal Remuneration Convention was not ratified by Pakistan until

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<sup>62</sup> European Commission, "Joint Staff Working Document: The EU Special Incentive Arrangement for Sustainable Development and Good Governance assessment of Pakistan covering the period 2018-2019", *op. cit.*, 20.

<sup>63</sup> ILO, "CLEAR Cotton: Eliminating child labour and forced labour in the cotton, textile and garment value chains: An integrated approach".

<sup>64</sup> KPMG, "Pakistan Economic Brief 2022", June 2022, 8.

<sup>65</sup> ILO, "Labour Standards: Normlex: C100".

<sup>66</sup> ILO, "Labour Standards: Normlex: C111".

2001, despite it being adopted in 1951.<sup>67</sup> This is partly due to the fact that the Equal Remuneration Convention places more stringent and immediate demands on signatories – i.e. applying equal pay between men and women – than the Discrimination Convention, which demands members to pursue a national policy to ensure non-discrimination, which gives members more leeway and time. In terms of its reporting obligations, Pakistan has complied better than with the Forced or Child Labour Conventions, as it has submitted its reports on time, with few requests by the ILO focusing mostly on providing further information on legislative developments of existing legislation. The transposition of the Conventions into Pakistani law has been extensive. This is reflected in the Minimum Wages Acts adopted by the four provinces, starting with Khyber-Pakhtunkhwa in 2013 and ending with Baluchistan in 2021.<sup>68</sup> These Acts also comprise the principles of equal remuneration and non-discrimination because women in Pakistan occupy most forms of low-wage employment. By establishing a minimum wage, these Acts directly contribute to closing the gender pay gap and improving the situation of women. The ILO Global Wage Report 2018-19 sheds light on the extent of disparity: the mean hourly gender pay gap stands at 34%,<sup>69</sup> meaning men earn more than a third more than women per hour, while the 90% of the bottom 1% wage earners in the country are women.<sup>70</sup> The Minimum Wage Acts were borne out of tripartite consultation boards, pointing at the increased relevance of worker-employer dialogues in the country, and reflecting the institutionalisation of the principles of freedom of association and collective bargaining. It also shows the spillover of one area of labour rights into another, given that partial success in ensuring one area of labour rights – in this case the freedom of association and collective bargaining Conventions – has positive knock-on effects for another area of labour rights, in this case legislation aiming at equal remuneration. This can also be seen with Punjab's Domestic Workers Act, which extended labour rights' coverage to domestic workers, a sizeable proportion of which are women.

This notion of progress in transposition is further evidenced by the draft Employment and Conditions Services Act, a piece of umbrella federal legislation containing a provision on equal remuneration. Again, this law has been produced by tripartite boards. Yet some nuances must be added in order to have a more complete picture of transposition; for instance, three out of the four provinces' Minimum Wages Acts contain limited interpretations of 'remuneration', as they restrict the latter to basic

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<sup>67</sup> ILO, "Ratifications for Pakistan".

<sup>68</sup> ILO, "Direct Request CEACR – adopted 2022, published 111st ILC session (2023), Equal Remuneration Convention, 1951 (No. 100)".

<sup>69</sup> ILO, "Global Wage Report 2018/19: What lies behind gender pay gaps", *Executive Summary*, XV.

<sup>70</sup> *Ibid.*, 49.

wages, excluding from the legislation other emoluments such as travel allowances, cost-of-living allowances or vacation.<sup>71</sup>

This issue of lack of specificity in provisions is also applicable to the transposition of the Discrimination Convention, as the provincial legislation does not ban discrimination on grounds of nationality and social origin, yet nonetheless discrimination on grounds of caste, religion, ethnic background and colour is accounted for.<sup>72</sup> In addition to this broad scope of non-discrimination legislation, article 25 of the Pakistani Constitution outlaws discrimination on the basis of sex and in respect of access to public spaces.<sup>73</sup> Furthermore, quotas for women have been installed in public administration, yet when moving onto genuine implementation, some of these positions remain unfilled. And when looking at recent statistics, the problematic state of women's employment becomes clear – according to the Labour Force Survey of 2020-21, the participant rate of women in the labour market stands at 15.34%, compared to 51.91% for men across the country.<sup>74</sup>

A minor improvement that can be gleaned from the Labour Force Survey is the modest rise in women's participation rate, climbing from 14.70% in 2018-19, to the 15.34% in 2020-21, though it still remains a sluggish growth rate. Some further mildly positive steps are the gender focal officials designated within the provincial labour departments, charged with implementing and coordinating gender matters within labour-related affairs.<sup>75</sup> This has been complemented by gender-sensitive trainings for journalists and university students, with the aim of raising awareness and improving media coverage of discrimination at the workplace.<sup>76</sup>

Despite there not being follow-up data on these initiatives, the fact that they took place at all, and have been instituted following admission into GSP+, testifies to a degree of improvement in Pakistan regarding women's employment, at least at the elite level of policymakers and officials. This increased awareness of the issue and the need for action, even if the official statistics portray entrenched discrimination, are a positive development since the country's entry into the GSP+, whose influence was

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<sup>71</sup> ILO, "Observation CEACR – adopted 2022, published 111st ILC session (2023), Equal Remuneration Convention, 1951 (No. 100)".

<sup>72</sup> *Ibid.*

<sup>73</sup> National Assembly of Pakistan, "The Constitution of the Islamic Republic of Pakistan", 28 February 2021, 15.

<sup>74</sup> Pakistan Bureau of Statistics, "Pakistan Labour Force Survey 2020-21", *Government of Pakistan: Ministry of Planning, Development and Special Initiatives*, March 2022, 12.

<sup>75</sup> European Commission, "Joint Staff Working Document: The EU Special Incentive Arrangement for Sustainable Development and Good Governance covering the period 2014-15", *op. cit.*, 202.

<sup>76</sup> *Ibid.*

instrumental taking into account that these initiatives have entered into force since 2014.

### *Assessing the degree of effectiveness*

Overall, the effectiveness of the GSP+ in fulfilling the Equal Remuneration and Discrimination Conventions can be described as 'medium'. This assessment takes into account Pakistan's seamless ratification and compliance with its reporting obligations, and contrasts it with a mostly positive transposition, yet with evident shortcomings in implementation. Transposition of legislation has been extensive, in part aided by GSP+ conditionality and the improvement of other labour rights, such as with the freedom of association and collective bargaining Conventions and the establishment of unions in the domestic sector in Punjab. There are some gaps in the transposition of legislation, for instance the omission of certain categories of discrimination as highlighted by the ILO's Committee of Experts,<sup>77</sup> or the ambiguity in some texts, yet these gaps are to be expected given the devolved nature of labour legislation in Pakistan and the ensuing legal fragmentation that inevitably arises. When it comes to implementation, the official statistics from both Pakistani and international bodies portray the persistence of women's low participation rate in employment. Minor improvements in implementation, such as gender focal points or awareness-raising campaigns, cannot conceal the basic fact of the substantial disparity between the sexes when it comes to employment.

### *Explaining the degree of effectiveness*

This 'medium' effectiveness regarding the GSP+ and the Equal Remuneration and Discrimination Conventions can be explained, firstly, by the predominance of Pakistan's informal sector, where a significant proportion of women work. Taking into account that nearly three-quarters of employment in Pakistan is in the informal sector (excluding agriculture), and that two-thirds of women who work are employed in the informal economy,<sup>78</sup> the inherent opacity of the sector prevents the penetration of positive legislation, such as the Minimum Wage Acts or article 25 of the Pakistani Constitution. This underground nature also makes it difficult to track the gender pay gap and enforce relevant legislation given the absence of formal contracts, contributing enormously to the 34% hourly gap indicated by the ILO. The weight of the informal economy compromises the success of legislation even when it is adopted, such as Punjab's Domestic Workers Act, again on grounds of the particularities of the shadow economy. Without tackling the informal economy and its clandestine nature,

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<sup>77</sup> ILO, "Committee of Experts on the Application of Conventions and Recommendations".

<sup>78</sup> Pakistan Bureau of Statistics, *op. cit.*, vii.

it will remain difficult for Pakistan to truly comply with the spirit of the letter of the two Conventions, simply because the majority of women (as indeed, the majority of men too) work there.

Additionally, a contributing factor to gender discrimination in the workplace is its intricate relationship with other forms of discrimination, notably with ethnic or religious discrimination. UN Women has highlighted the role of sectarian and ethnic divisions in exacerbating gender discrimination, as women from minority backgrounds – such as Hindus, Christians, or Ahmadis – predominate in low-paid employment, increasing their vulnerability.<sup>79</sup> This means that any clampdown on gender discrimination in the workplace must be part of a broader effort to root out other, intertwined forms of prejudice, otherwise efforts by the authorities run the risk of falling short or being undermined.

Finally, another explanatory factor of the 'medium' effectiveness of the GSP+ vis-à-vis equal remuneration and discrimination is the reality of entrenched patriarchal attitudes in some corners of Pakistan, as conceded by Pakistani interviewees.<sup>80</sup> UN Women complements this picture of gender discrimination, ranking the country 145 out of 156 for economic participation and opportunity, and 135 out of 156 for educational attainment.<sup>81</sup> The issue with these two Conventions relative to the others already discussed is their sheer scope and universality, given that the Equal Remuneration and Discrimination Conventions apply to half of the population.<sup>82</sup> This scale, coupled with Pakistan's inherent vastness and diversity, inevitably complicates full compliance. The limitations of the GSP+ must also be considered, as the scheme is not purely a normative one, for it is concerned with trade preferences, plus an extensive list of other international treaties and conventions it must monitor adherence to. The inherent complexity of the Equal Remuneration and Discrimination Conventions is rooted in their more intangible nature relative to the other ILO Conventions, given the cross-cutting objective of gender equality in the workplace, and the fact that these two Conventions overlap with the UN Convention on the Elimination of All Forms of Discrimination against Women, but also with the two International Covenants on Civil and Political Rights, and on Economic, Social and Cultural Rights. This is in contrast with the relatively well-defined and narrow objective of the Child Labour Conventions or the Bonded Labour ones.

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<sup>79</sup> UN Women, "UN Women Pakistan: About UN Women Pakistan"; European Commission, "Joint Staff Working Document: The EU Special Incentive Arrangement for Sustainable Development and Good Governance assessment of Pakistan covering the period 2016-2017", *op. cit.*, 17.

<sup>80</sup> Interview with Pakistani official, *op. cit.*

<sup>81</sup> UN Women, *op. cit.*

<sup>82</sup> Statistics Times, "Demographics of Pakistan", 4 November 2021.

The next section assesses the effectiveness of the EU's GSP+ vis-à-vis each of the four clusters of ILO Conventions.

## **Comparative assessment**

The EU scored a 'medium' effectiveness vis-à-vis two clusters, those of the Freedom of Association and Collective Bargaining Conventions, and the Equal Remuneration and Discrimination Conventions. On the other hand, the EU displayed 'low' effectiveness vis-à-vis the Forced Labour and Abolition of Forced Labour Conventions. 'High' effectiveness was achieved vis-à-vis the Minimum Age and Child Labour Conventions. Thus, the overall picture is one of 'medium' effectiveness. There appears to be a paradox when observing the findings: effectiveness vis-à-vis the Forced Labour Conventions was 'low', whereas for the Child Labour ones it was 'high', when in reality the latter is often a product of the former, as bonded labour is passed down from generation to generation, effectively resulting in children being unlawfully employed. Yet when observing the raft of legislation designed to curb child labour, together with its actual implementation, it is palpable that progress is being made, explaining the EU's effectiveness through the GSP+ in ensuring compliance with the ILO's Child Labour Conventions. In contrast, effectiveness with the Forced Labour Conventions has been much more limited, due to gaps in transposition, lacklustre political will to tackle the issue – reflected in a lack of official statistics – and ill-equipped labour inspectorates. It can therefore be argued that these two clusters of Conventions, and the EU's degree of effectiveness vis-à-vis each, converge only insofar as tackling forced labour in the context of child labour is concerned, in the process neglecting adult-age workers who are in situations of forced labour themselves.

The two Conventions that present the best opportunity for the EU to increase its effectiveness are the Freedom of Association and Collective Bargaining ones. Given the wide-ranging implications of these Conventions for the rights of the Pakistani workforce, including those of the majority in the informal sector, this is an area where the EU can leave a lasting, tangible impact on Pakistanis' working conditions because of the central role of unions in addressing grievances and channelling improvements in terms of labour rights. In this sense, the low growth rate of unionisation, together with the recently established Tripartite Consultative Committees, present ample room for expansion, an opportunity that the EU should decidedly seize upon in order to improve and expand the state of labour rights in Pakistan, potentially informing steps taken in the same direction vis-à-vis other GSP+ beneficiaries.

In contrast, the Equal Remuneration and Discrimination Conventions are where progress is most likely to be difficult for the EU. This is because of the inherent scope of



these Conventions, applying to half of the Pakistani population, and their cross-cutting nature with human rights, in stark comparison to the much narrower and well-defined ILO Conventions discussed above, rendering its upholding and promotion much more difficult. This is in spite of the 'medium' effectiveness achieved by the EU vis-à-vis these Conventions, a degree of effectiveness which should be appreciated in light of the difficulties discussed.

## **Conclusion**

This paper has sought to understand and explain the effectiveness of the EU's GSP+ vis-à-vis the ILO Conventions in the case of Pakistan, the largest beneficiary under the scheme. As such, the paper has analysed each cluster of the ILO Conventions, applying the same structure for the sake of comparability. The paper finds that the GSP+ is overall moderately effective in ensuring the ILO Conventions are abided by in Pakistan, with two 'medium' effectiveness ratings (for the Freedom of Association and Collective Bargaining Conventions, and the Equal Remuneration and Discrimination Conventions), one 'high' effectiveness (for the Minimum Age of Employment and Child Labour Conventions), and a 'low' one (for the Forced Labour and Abolition of Forced Labour Conventions).

Most clusters of Conventions successfully met the criteria of ratification, reporting obligations and transposition of legislation. In fact, it was in this criterion where success was most evident, as Pakistan enacted far-ranging and historic legislation shortly after admission into the scheme in 2014. This indicates the success of the conditionality at the heart of the GSP+, as otherwise this legislation would most likely not have been adopted. Yet the picture is not one of complete effectiveness, given the problematic state of implementation, the last criterion used to assess GSP+ effectiveness. In here, Pakistan presented numerous shortcomings, evident across all four clusters, which seriously impaired its ability to carry out the objectives of the ILO Conventions. Nonetheless, given the still short period of time since Pakistan's admission into the GSP+, and the obvious fact that legislation must come before implementation one can hope that implementation will follow. The devolved governance of labour affairs to Pakistan's provinces further complicates matters, as this inevitably leads to fragmentation and disparities in terms of legislation and implementation. The policy recommendations discussed below could serve to improve implementation on the ground.

In terms of the methodological limitations of my study, the subjective nature of the 'low-medium-high' scale to assess EU effectiveness in the promotion of labour rights within the GSP+ needs to be mentioned. Future research could further improve this.

Another avenue for potential follow-up research would be an analysis of labour rights in other GSP+ beneficiaries, particularly large countries like the Philippines or new entrants like Uzbekistan. Another interesting avenue for further research would be a comparative assessment, from a normative standpoint, of the EU's GSP+ with that of other countries, be it the United States, Canada or the United Kingdom.

The Commission's proposal for the upcoming GSP+ foresees extending the list of international Conventions from the current 27 to 32 (including two additional ILO Conventions), with a concomitant two-year transition period to facilitate adoption and compliance.<sup>83</sup> Additionally, the monitoring cycle would be prolonged by one year – if adopted it would take place every three years – with a new socio-economic impact assessment added to the withdrawal procedure to prevent inefficacy.<sup>84</sup> Portela suggests a targeted sanctions-based mechanism within the GSP+, in order to strengthen beneficiaries' compliance with labour rights.<sup>85</sup> Yet this approach would be a red line for both the Commission and Council for political reasons. This is because the GSP+ is built on incentives rather than coercion, with suspension of preferences or outright withdrawal seen as the last resort, as the Commission recognises that continuous support to beneficiaries is the most appropriate method due to the significant burden of compliance with onerous Conventions. Placing sanctions on beneficiaries' authorities would compromise the success of the continuous dialogue and contact, bedrocks of the GSP+. This certainly accounts for the fact that there has only been one suspension from the GSP+ in its entire history, that of Sri Lanka in 2004. In the case of Pakistan, this sanctions-based approach would be a chimera, due to the country's geopolitical importance to the EU – as the author herself concedes.<sup>86</sup>

My policy recommendations to increase the effectiveness of the scheme vis-à-vis labour rights are threefold. Firstly, there should be greater involvement and investment by member states. True, it is DG TRADE that oversees the GSP+, yet greater participation from member states could be useful, in particular with the more sensitive aspects of the scheme such as conditionality. The leverage and diplomatic networks national capitals could bring in would be of considerable help in reminding beneficiaries of their commitments under the Conventions and nudge them towards implementation. This involvement of member states would have to be nuanced, for risk of damaging important bilateral relationships as in the case of Pakistan.

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<sup>83</sup> GSP Hub, "A new GSP framework".

<sup>84</sup> European Commission, "Proposal for a Regulation of the European Parliament and of the Council on applying a generalised scheme of tariff preferences and repealing Regulation (EU) No 978/2012", *Official Journal of the European Union*, COM (2021), Brussels, 22 September 2021, 12.

<sup>85</sup> Clara Portela, "Enforcing Respect for Labour Standards with Targeted Sanctions", *Friedrich Ebert Stiftung*, September 2018, 14-15.

<sup>86</sup> *Ibid.*, 7.

Secondly, the introduction of greater flexibility to the GSP+ could serve to increase its normative effectiveness; by flexibility, I refer to creating bespoke arrangements for each beneficiary, instead of having a monolithic, uniform list of Conventions. Thus, if a beneficiary were to struggle to implement a certain number of Conventions, the Commission could remove the obligation to comply with other Conventions, in order to facilitate compliance with the most challenging ones, such as the human or labour rights ones. This could be in the form of temporary suspension or outright elimination of compliance with the less important Conventions, depending on the difficulty of the beneficiary. Naturally, this proposal would entail an element of discrimination between Conventions, yet it is my conviction that making beneficiaries abide by 27 or more Conventions inevitably compromises their chances of successfully implementing all of them. In this way, the Commission could remove the obligation to comply with the Good Governance Conventions and a number of environmental ones, to focus on the core UN and ILO treaties. This proposal presents a number of risks, notably that the GSP+ becomes a piecemeal, fragmented scheme, leading to a confusing and unwieldy Regulation; it also raises the question of the criteria on which the discrimination between Conventions would be decided, or the criteria to decide which beneficiaries would be relieved of which Conventions to help them implement the other ones.

Thirdly, the involvement of non-state actors in the GSP+, particularly in its monitoring process, should be increased. These non-state actors, comprising local and international trade unions, non-governmental and other organisations, would have access to the scorecards and to the official dialogue between the Commission and beneficiaries' authorities. This involvement would reinforce GSP+ effectiveness as these organisations have extensive insight into the state of labour rights, and can help in the implementation of legislation. Naturally, this heightened presence would be dependent on the beneficiary's consent, and not amount to an imposition by the EU, consent which is not always easy to obtain due to domestic political considerations and the fact that not all GSP+ beneficiaries have a pluralistic political scene.

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