

# SENATE OF PAKISTAN HOUSE OF THE FEDERATION

REPORT NO. 1 OF 2018



## REPORT OF THE STANDING COMMITTEE ON OVERSEAS PAKISTANIS AND HUMAN RESOURCE DEVELOPMENT

ON

“Companies Profits (Workers’ Participation Amendment) Bill, 2018”

ON

REFERRED BY THE HOUSE TO THE COMMITTEE IN ITS  
SITTING DATED 5<sup>TH</sup> MARCH, 2018.

PRESENTED BY

SENATOR HILAL-UR-REHMAN  
CHAIRMAN COMMITTEE

fx.

## SENATE SECRETARIAT

### **REPORT OF THE STANDING COMMITTEE ON OVERSEAS PAKISTANIS AND HUMAN RESOURCE DEVELOPMENT**

ON

#### **“Companies Profits (Workers’ Participation Amendment) Bill, 2018”**

1. Senator Hilal-ur-Rehman, Chairman Standing Committee on Overseas Pakistanis And Human Resource Development, have the honour to submit, on behalf of the Committee, this Report on “Companies Profits (Workers’ Participation Amendment) Bill, 2018” referred by the House, in its sitting dated 5-5-2018, to the House for further consideration and debate.

2. The composition of the Committee is as under :-

|     |   |          |
|-----|---|----------|
| 1.  | Senator Hilal-ur-Rehman                   | Chairman |
| 2.  | Senator Syed Mohammad Sabir Shah          | Member   |
| 3.  | Senator Mirza Mohammad Afridi             | Member   |
| 4.  | Senator Molvi Faiz Mohammad               | Member   |
| 5.  | Senator Nighat Mirza                      | Member   |
| 6.  | Senator Shaheen Khalid Butt               | Member   |
| 7.  | Senator Najma Hameed                      | Member   |
| 8.  | Senator Sardar Mohammad Yaqoob Khan Nasar | Member   |
| 9.  | Senator Sassui Palijo                     | Member   |
| 10. | Senator Syed Mohammad Ali Shah Jamot      | Member   |
| 11. | Senator Mohammad Ayub                     | Member   |
| 12. | Senator Samina Saeed                      | Member   |
| 13. | Senator Dr. Shahzad Waseem                | Member   |

3. The Committee considered the said Bill and formed a Sub-Committee in its meeting held on 9<sup>th</sup> August 2018 to discuss and made recommendations. The Sub-Committee’s composition is as under :-

|    |                                      |          |
|----|--------------------------------------|----------|
| 1. | Senator Shaheen Khalid Butt          | Convener |
| 2. | Senator Sassui Palijo                | Member   |
| 3. | Senator Syed Mohammad Ali Shah Jamot | Member   |

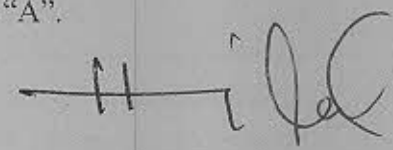

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4. The Sub-Committee in its meeting held on 18<sup>th</sup> September, 2018 discussed the said Bill and made the following recommendations.

- i) The Sub-Committee decided to pend further deliberations on the Companies Profits (Workers' Participations) (Amendment) Bill, 2018 as the matter of devolution of Workers Welfare Fund was on the agenda of the forthcoming meeting of the Council of Common Interests (CCI) to be held on 24<sup>th</sup> September, 2018. The Committee, however, directed that Ministry of OP&HRD and Law Division should also explore some legal options to resolve the matter.
- ii) The Sub-Committee recommended that the matter of devolution of Workers Welfare Fund (WWF) should be considered/decided by the CCI in its meeting to be held on 24<sup>th</sup> September, 2018, as the allied matters were pending since long.
- iii) The Committee directed the Secretary OP&HRD to give detailed presentation on the initiatives being taken for provision of facilitates of education, health and housing to the children / families of overseas Pakistanis. A demonstration of database of the Overseas Pakistanis being prepared in coordination with NADRA may also be made, in the next meeting of the Committee.

5. The Committee discussed the Sub-Committee's findings and proposed that "Companies Profits (Workers' Participation Amendment) Bill, 2018" may be referred back to the Upper House for further discussion and debate to accommodate views of all political parties / provinces / stakeholders. The Committee unanimously decided not to seek a 3<sup>rd</sup> time extension from the House regarding the said Bill. The said Bill is under consideration of the CCI's Committee which has not finalized its recommendation as yet. Details of proposed amendments and impact assessment of the Amendments and recommendations of fund secretariat on proposed Amendments are placed at Annex "A".

  
(FARZANA KHAN)  
Secretary Committee

  
(SENATOR HILAL-UR-REHMAN)  
Chairman  
  
19/12/2018



**CONSIDERATION OF "COMPANIES PROFITS (WORKERS' PARTICIPATION AMENDMENT) BILL, 2018" INTRODUCED BY SENATOR, GIACHAND AND SENATOR, SASSUI PALIJO IN THE SENATE SITTING HELD ON 5<sup>TH</sup> MARCH, 2018 ALONGWITH CONSIDERATION ON THE PROGRESS OF THE SUB-COMMITTEE CONSTITUTED ON THE MATTER.**

| Proposed Amendment Bill, 2018   | Impact of Amendments   | Recommendations of Fund Secretariat on Proposed Amendments   |
|---|--|--|
| <p>Further to amend the Companies Profits (Workers' Participation) Act, 1968 -</p> <p><b>Whereas</b> it is expedient further to amend the Companies Profits (Workers' Participation) Act, 1968, for the purpose hereinafter appearing;</p> <p>It is hereby enacted as follows:-</p> | <p>Since the amendments made in Companies Profits (Workers' Participation) Act, 1968 through Finance Act 2007 were declared unlawful and ultra vires of the Constitution by the Honourable Supreme Court of Pakistan vide judgment dated 10.11.16, therefore, the number of workers eligible to get share out of Workers' Participation Fund reduced drastically.</p> <p>The amendment in Companies Profits (Workers' Participation) Act, 1968 is proposed to cover more workers under the scheme.</p> | <p>Any amendment will be confined to Islamabad Capital Territory (ICT) only. Therefore presently it is not in the interest of fund and workers till its devolution fate is not decided.</p>  |
| <p><b>1. Short title, extent and commencement:</b></p> <p>(1) This Act may be called the Companies Profits (Workers' Participation) (Amendment) Act, 2018</p> <p>(2) It extends to the Islamabad Capital Territory.</p> <p>(3) It shall come into force at once.</p>                | <p>The national interest of Pakistan in relation to the achievement of uniformity within the meaning of clause (2) of Article 131 of the Constitution requires Central legislation in the matter.</p> <p>The extension of this Act only to Islamabad Capital Territory would result into disparity among the workers in different provinces with regard to their share in the Workers' Participation Fund.</p>   | <p>(1) and (2) Disagreed. Presently it extends to the whole of Pakistan. Since the devolution of WWF is yet to be decided by the Council of Common Interests (CCI), therefore amendment in Section 2 of the Companies Profits (Workers' Participation) Act, 1968 is not supported till the final decision of CCI.</p> <p>(3) As above.</p> |
| <p><b>2. Amendment of Section 2, Act XII OF 1968:-</b> In the Companies Profits (Workers' Participation) Act, 1968, hereinafter referred to as the said Act, in Section 2, for clause (f), the following shall be substituted, namely:-</p>   | <p>Since majority of the large-scale companies outsource their manufacturing activities, therefore such workers are deprived of getting benefits from the scheme. However, the proposed amendment covers even those workers who are employed by or through the contractors.</p>  | <p>May be pended till the fate of devolution is decided.</p>   |



|   |   |  |
|---|---|--|
| <p>(f) "Worker" in relation to a company means an employee of the company, including employed by or through the contractors, who falls within the definition of a worker as defined in clause (xxxiii) of Section 2 of the Industrial Relation <u>Act, 2012</u> (<u>Act X of 2012</u>) and has been working for or in the company for a period of not less than six months.</p>   |   |  |
| <p>3. <b>Amendment of Schedule, Act XII of 1968:-</b> In the said Act, in the Schedule for paragraph 4 the following shall be substituted, namely:-</p> <p>4. <b>Distribution of benefits to workers:-</b> The share of a worker in the annual allocation to the Fund shall be expressed in units or fractions of units (Worked out to two places of decimal) of the face value of Rs.10 determined in the following manner, namely:-</p> <p>(a) The number of available units shall be so divided into three parts for the three categories of workers mentioned below a worker in the first of those categories gets four units for each two units that a worker in the second of those categories gets or for each one unit that a worker in the last of those categories gets:-</p> <p style="text-align: center;"><b>CATEGORIES</b></p> <p>(i) Workers drawing average minimum monthly wages not exceeding the minimum wages fixed by Government under the Minimum Wages Ordinance, 1961 (Ordinance No.XXXIX of 1961) from time to time.</p> <p>(ii) Workers drawing average monthly wages exceeding the minimum wages as fixed by Government from time to time under the Minimum Wages Ordinance, 1961 (Ordinance No.XXXIX of 1961) but not exceeding two and one-half times of such wages.</p> <p>(iii) Workers drawing average monthly wages exceeding two and one-half times of minimum wages.</p> | <p>The categories of workers to determine their share in the annual allocation to the Fund are proposed to be revised in proportion to the minimum wages as fixed by Government from time to time under the Minimum Wages Ordinance, 1961.</p> <p>Through this amendment, maximum number of workers in a company would be eligible to get the share out of Workers' Participation Fund.</p> | <p>May be pended till the fate of devolution is decided.</p> |

(F) The average monthly shall be rounded up to the nearest Rs.10.

(c) The number of units available to each category of workers shall be divided equally among all the workers in that category to determine the share of each worker of that category:

4(d) Notwithstanding anything contained in this scheme, no worker shall, in any one year, be entitled out of the annual allocation to unit exceeding the amount of four times of the minimum wages for unskilled worker as fixed by Government under the Minimum Wages Ordinance, 1961 (Ordinance No. XXXIX of 1961) in value in so far as such allocation is relatable to clause (b) of sub-section (1) of section 3. Any amount left out of the annual allocation after the units have been so allocated shall be transferred to the Fund constituted under section 3 of the Workers Welfare Fund Ordinance, 1971 (XXXVI of 1971). No part of such amount shall be deemed to be included in the net asset value of the Fund established under this Act and no individual worker shall have any lien on this amount by virtue of holding any units.

**Explanation:-** In this paragraph, "average monthly wages" means total wages drawn during the year of account divided by 12, or by the number of months a worker actually worked during a year in respect which he is entitled to the benefit under the scheme, as the case may be, and "wages" has the same meaning as in clause (vi) of section 2 of the Payment of Wages Act, 1936 (IV of 1936); but does not include any overtime allowance or bonus.

#### STATEMENT OF OBJECT AND REASONS

The \*Blue-Chip companies are backbone of the economy of the country. They are paying huge taxes and profits to the Government of Pakistan, but the workers of said companies are not getting due dividends of progress these organizations are making day by day. The workers of the companies, as per law, are entitled of

May be pended till the fate of devolution is decided.

Agreed

5% of the profit which said companies earn from time to time. In this regard, a limit of Rs.10000/- of a worker's pay is fixed to make him eligible for the share from the said profit of 5% which limit, in 2007, was enhanced upto Rs.15000/- through Finance Bill of 2007. However, the Supreme Court of Pakistan held that amendments in the law including such enhancement through Finance Bill is illegal though the Act of enhancement itself is not objectionable.

2. It is important to note that due to above limit of Rs. 10000/- about 98% of the workers are kept deprived from receiving share out of profits. Resultantly, huge amounts from the profits are transferred to Workers Welfare Fund which is not too beneficial for the workers hence it causes desperation among workers.

2. Agreed to the extent that due to limit of Rs. 10000/- many workers get deprived from receiving share out of profits. As far as, transfer of huge amounts from the profits to WWF is concerned, the same is utilized for enhancing the welfare and living standards of industrial workers and their families by providing them residential accommodation in shape of flats/houses, free quality education upto Ph.D level to workers children and death/marriage grants. Workers Welfare Fund has constructed 65,728 housing units, disbursed 146,338 marriage grants amounting to Rs. 7,437 million and 18,405 death grants amounting to Rs. 5,581 million. Apart from this, Workers Welfare Fund provided free education to 194,354 workers' children costing Rs. 8,367 million. It is important to note that educating children of a worker is much more beneficial than giving him/her share out of profits in the shape of money. Education is an investment to ensure future well-being of workers in the country, as it reduces poverty, boosts economic growth and increases income. Investing in quality education brings the highest

|  |   |   |
|--|---|---|
| <p>3. By keeping the workers on priority, there is need to spend 80% of the above said 5% of the profits on workers who by their sweat and blood are making the companies profitable and the remaining amount must be deposited in the Workers Welfare Fund.</p> | <p>This amendment would lead to less receipts of Workers Welfare Fund. As a result, WWF would be unable to protect rights of workers belonging to industrial establishments which are either going in loss or earning less profits.</p> | <p>returns from individuals, society and country.</p> <p>3. Disagreed. In order to bring uniformity in socio-economic conditions of workers across the country, the Workers Welfare Fund extends benefits to all workers in a similar manner irrespective of the contribution made by their employer.</p> |
| <p>4. This Bill is designed to achieve objective.</p>  | <p>----</p>   | <p>----</p>   |

\* Blue chips are generally self-highquality widely accepted products and services. Blue Chips Companies are known to weather downturns and operate profitably in the face to adverse economic conditions, which helps to contribute to their long record of stable and reliable growth. Some of the Blue Chips following within the ambit of Federal Workers Welfare Fund Ordinance, 1971 / WPPF Act, 1968 are OGDCL, Hub Power Co., Pakistan Oil Fields, Engro Group of Companies, Attock Petroleum etc.



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BILL

*further to amend the Companies Profits (Workers' Participation) Act, 1968*

**WHEREAS** it is expedient further to amend the Companies Profits (Workers' Participation) Act, 1968, for the purposes hereinafter appearing;

It is hereby enacted as follows:-

**1. Short title, extent and commencement.-** (1) This Act may be called the Companies Profits (Workers' Participation) (Amendment) Act, 2018.

(2) It extends to the Islamabad Capital Territory.

(3) It shall come into force at once.

**2. Amendment of section 2, Act XII of 1968.-** In the Companies Profits (Workers' Participation) Act, 1968, hereinafter referred to as the said Act, in section 2, for clause (f), the following shall be substituted, namely:-

"(f) "Worker" in relation to a company means an employee of the company, including employed by or through the contractors, who falls within the definition of a worker as defined in clause (xxxiii) of section 2 of the Industrial Relation Act, 2012 (Act X of 2012) and has been working for or in the company for a period of not less than six months.

**3. Amendment of Schedule, Act XII of 1968.-** In the said Act, in the Schedule for paragraph 4 the following shall be substituted, namely:-

**"4. Distribution of benefits to workers.-** The share of a work in the annual allocation to the Fund shall be expressed in units or fractions of units (worked out to two places of decimal) of the face value of Rs. 10 determined in the following manner, namely:-

(a) The number of available units shall be so divided into three parts for the three categories of workers mentioned below a worker in the first of those categories gets four units for each two units that a worker in the second of those categories gets or for each one unit that a worker in the last of those categories gets:-

### ***Categories***

- (i) Workers drawing average minimum monthly wages not exceeding the minimum wages fixed by Government under the Minimum Wages Ordinance, 1961 (Ordinance No. XXXIX of 1961) from time to time.
  - (ii) Workers drawing average monthly wages exceeding the minimum wages as fixed by Government from time to time under the Minimum Wages Ordinance, 1961 (Ordinance No. XXXIX of 1961) but not exceeding two and one-half times of such wages.
  - (iii) Workers drawing average monthly wages exceeding two and one-half times of minimum wages.
- (b) The average monthly shall be rounded up to the nearest Rs. 10;
- (c) The number of unit available to each category of workers shall be divided equally among all the workers in that category to determine the share of each workers of that category;
- (d) Notwithstanding anything contained in this scheme, no worker shall, in any one year, be entitled out of the annual allocation to unit exceeding the amount of four times of the minimum wages for unskilled worker as fixed by Government under the Minimum Wages Ordinance, 1961 (Ordinance No. XXXIX of 1961) in value in so far as such allocation is relatable to clause (b) of sub-section (1) of section 3. Any amount left out of the annual allocation after the units have been so allocated shall be transferred to the Fund constituted under section 3 of the Workers Welfare Fund Ordinance, 1971 (XXXVI of 1971). No part of such amount shall be deemed to be included in the net asset value of the Fund established under this Act and no individual worker shall have any lien on this amount by virtue of holding any units.

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### **STATEMENT OF OBJECTS AND REASONS**

The Blue-Chip companies are backbone of the economy of the country. They are paying huge taxes and profits to the Government of Pakistan, but the workers of said companies are not getting due dividends of progress these organizations are making day by day. The workers of the companies, as per law, are entitled of 5 % of the profit which said companies will earn from time to time. In this regard, a limit of Rs. 10000/- of a worker's pay is fixed to make him eligible for the share from the said profit of 5% which limit, in 2007, was enhanced up to Rs. 15000/- through Finance Bill of 2007. However, the Supreme Court of Pakistan held that amendments in the law including such enhancement through Finance Bill is illegal though the Act of enhancement itself is not objectionable.

2. It is important to note that due to above limit of Rs. 10000/- about 98% of the workers are kept deprived from receiving share out of profits. Resultantly, huge amounts from the profits are transferred to Workers Welfare Fund which is not too beneficial for the workers hence it causes desperation among workers.

3. By keeping the workers on priority, there is need to spend 80% of the above said 5 % of the profits on workers who by their sweat and blood are making the companies profitable and the remaining amount must be deposited in the Workers Welfare Fund.

4. This Bill is designed to achieve objective.

**SENATOR MUKHTIAR AHMED DHAMRAH @ AAJIZ  
SENATOR GIANCHAND  
SENATOR SASSUI PALIJO  
MEMBERS-IN-CHARGE**

SENATE SECRETARIAT

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Subject:- MINUTES OF THE SUB-COMMITTEE OF THE SENATE  
STANDING COMMITTEE ON OVERSEAS PAKISTANIS AND  
HUMAN RESOURCE DEVELOPMENT

A meeting of the Sub-Committee of the Senate Standing Committee on Overseas Pakistanis and Human Resource Development was held under the Convenership of Senator Shaheen Khalid Butt on 18<sup>th</sup> September, 2018 at 03:00 p.m. in Committee Room No. 4, at Parliament House, Islamabad.

2. The agenda before the Committee was as under:-

- i) To consider the "Companies Profits (Workers' Participation) (Amendment) Bill, 2018" in consultation with the Law Division and submit recommendations.
- ii) To deliberate on the matter of establishment of religious institutions for emigrants' children by Overseas Pakistanis Foundation (OPF) and submit recommendations.

3. The following attended the meeting:-

|  |          |
|--|----------|
| i. Senator Shaheen Khalid Butt           | Convener |
| ii. Senator Syed Muhammad Ali Shah Jamot | Member   |
| iii. Senator Sassui Palijo               | Member   |
| iv. Senator Gianchand                    | Mover    |

4. The meeting commenced with recitation from the Holy Quran.

5. The Chairman while welcoming the participants to the meeting asked the officials of the Ministry of Overseas Pakistanis and Human Resource Development (OP&HRD) to introduce them, briefly. After introduction, the Chairman asked the Secretary, Ministry of OP & HRD to brief the Committee on item (i) of the agenda of the meeting.

6. The Secretary, OP & HRD informed the Committee that the Ministry in principle agrees to the proposed amendments in the "Companies Profits (Workers' Participation) Act, 1968 but at this point of time its approval could not be supported. He while explaining the reasons apprised that after 18<sup>th</sup> amendment the subject of labour was devolved and no related entry fall in the Federal Legislative List. At the time of devolution of subjects / institutions in 2011, the devolution of Workers Welfare Fund was not decided by the Implementation Commission which now has to be decided by the Council of Common Interests (CCI). The matter has been placed on the agenda of the forthcoming meeting of the CCI to be held on 24<sup>th</sup> September, 2018. The proposed amendments, if passed, would restrict the territorial jurisdiction





of the Fund to the extent of ICT only and the other provinces where the collection of Funds was low would suffer. He further informed that all contributions / collections made go to the Fund and that money was exclusively being spent for the welfare of the workers irrespective of their location anywhere in the country.

7. Senator Gianchand, the Mover of the Bill informed that the Supreme Court in its judgment in 2016 did not put any bar on legislation, in this regard. The governments of Sindh and the Punjab have already passed Bill/Ordinance respectively, for that purpose. As two provinces have already legislated then this matter need not to be placed before the CCI. He informed that funds were being collected but the benefits were not been given to the workers. He stressed that the amendments being for the welfare of the workers, may be passed.

8. The members pointed out that implementation of 18<sup>th</sup> amendment should be ensured as issues related to Workers Welfare Fund were observed during visits across the country. The workers were making contributions to the Fund but their share in profit was very low. It was stressed that share of workers should be increased through amendments in the law.

9. The Secretary, Ministry of OP & HRD on a point raised by the members informed that the Governments of Khyber Pakhtunkhwa and the Balochistan have passed resolutions to keep the departments of WWF and Employees Old Age Benefit Institution (EOBI) at the Federal level as disbursements were much higher than the collections in those provinces. The Government of Punjab has filed a case in the Supreme Court for devolution of both the departments while the Government of Sindh has decided their devolution and has legislated but that was not functional yet. He was of the view that once the decision on devolution of these institutions has been made by the CCI which was on the agenda of the forthcoming meeting of CCI, the proposed amendments may be considered, accordingly.

10. The representative of the Law Division informed that the matter of devolution of Workers Welfare Fund and EOBI were pending in Apex Court and the CCI, however, in legal terms, the legislation can be done.

11. Regarding the agenda item (ii), the Secretary, Ministry of OP & HRD informed the Committee that the matter was deliberated in the meeting of Board of Governors of Overseas Pakistanis Foundation (OPF) and it has been resolved to approve a new vision for the OPF to change its role from an operator to a facilitator. The OPF now instead of establishment of new educational / religious institutions would utilize the funds for the direct benefits of children of overseas Pakistanis by providing them financial assistance in terms of stipends / scholarships.



12. The Committee was apprised that in 24 educational institutions established across the country, OPF was spending an amount of Rs. 1300 million per year while only 3600 children of emigrants out of 60, 00,000 were getting benefits of those educational institutions. The families of overseas Pakistanis were scattered throughout the country and were not concentrated in selective areas where the educational institutions were established. In this regard, to identify the emigrants' children, data of overseas Pakistanis was being compiled by signing MoU with NADRA. The members were of the view that since the present Government has lot of hopes from overseas Pakistanis sending foreign exchange so there was need to provide maximum facilitation to emigrants. The Committee was also apprised about the initiatives of the Ministry for welfare of the overseas Pakistanis in health and housing sectors as well.

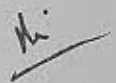
13. The Convenor pointed out that OPF was established with the prime objective to provide support and benefits to the overseas Pakistanis and their families but the focus of the previous management of the institution was mostly on welfare of the employees of OPF. Though, the present management since the last three years was taking initiatives to improve the system but there was dire need to involve overseas Pakistanis so that their actual issues, problems and requirements could be identified. He stated that OPF has lot of funds to spend on welfare of emigrants' families as it was being run on money of overseas Pakistanis.

14. The Convener appreciated the decision of OPF to play the role of facilitator instead of service provider by providing subsidy to the children of overseas Pakistanis as the families of overseas Pakistanis were scattered and most of them were not utilizing the facilities of OPF Schools. In the past, OPF established schools in areas where children of overseas Pakistanis were not residing in the nearby vicinity just to generate funds through other students. The children of overseas Pakistanis should be allowed to get admission in any educational institution by provision of subsidy / compensation, however, the whole system needs to be monitored properly. The Convener was of the view that this matter was of immense importance and need to be discussed on higher level i.e. in the Senate in order to resolve the problems of overseas Pakistanis in a better way, which was concern of the present Government as well.

### **RECOMMENDATIONS**

15. The following decisions / recommendations were made in the meeting:-

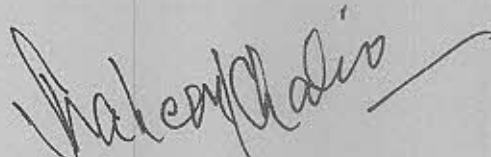
- i. The Sub-Committee decided to pend further deliberations on the Companies Profits (Workers' Participations) (Amendment) Bill, 2018 as the matter of devolution of Workers Welfare Fund was on the agenda of the forthcoming meeting of the Council of Common Interests (CCI) to be held on 24<sup>th</sup> September, 2018. The



Committee, however, directed that Ministry of OP&HRD and Law Division should also explore some legal options to resolve the matter.

- ii. The Sub-Committee recommended that the matter of devolution of Workers Welfare Fund (WWF) should be considered / decided by the CCI in its meeting to be held on 24<sup>th</sup> September, 2018, as the allied matters were pending since long.
  - iii. The Committee directed the Secretary OP&HRD to give detailed presentation on the initiatives being taken for provision of facilities of education, health and housing to the children / families of overseas Pakistanis. A demonstration of database of the Overseas Pakistanis being prepared in coordination with NADRA may also be made, in the next meeting of the Committee.
16. The meeting ended with a mutual vote of thanks.

  
(QURAT-UL-AIN)  
Secretary Committee

  
(SENATOR SHAHEEN KHALID BUTT)  
Convener

SENATE SECRETARIATMINUTES OF THE MEETING OF SENATE STANDING COMMITTEE ON OVERSEAS PAKISTANIS AND HUMAN RESOURCE DEVELOPMENT HELD ON 7<sup>TH</sup> DECEMBER, 2018 AT PARLIAMENT HOUSE, ISLAMABAD.

A meeting of the Senate Standing Committee on Overseas Pakistanis and Human Resource Development was held on 7<sup>th</sup> December, 2018 at 10:30 a.m. in Committee Room No. 4 at Parliament House, Islamabad with Senator Hilal-ur-Rehman in the Chair.

2. The following Members attended the meeting:-

|      |   |                   |
|------|---|-------------------|
| i    | Senator Hilal-ur-Rehman   | Chairman          |
| ii   | Senator Syed Muhammad Sabir Ali Shah  | Member            |
| iii  | Senator Mirza Mohammad Afridi   | Member            |
| iv   | Senator Molvi Faiz Mohammad   | Member            |
| v    | Senator Shaheen Khalid Butt   | Member            |
| vi   | Senator Sassui Palijo   | Member            |
| vii  | Senator Mohammad Ayub   | Member            |
| viii | Senator Dr. Shahzad Waseem  | Member            |
| ix   | Special Assistant to P.M. for Overseas Pakistanis and Human Resource Development. | Ex-officio Member |

3. The agenda before the Committee was as under:-

- i. Consideration of "Companies Profits (Workers' Participation Amendment) Bill, 2018" introduced by Senator Gianchand and Senator Sassui Palijo in the Senate sitting held on 5<sup>th</sup> March, 2018 alongwith consideration on the progress of the Sub-Committee constituted on the matter.
- ii. Briefing by Secretary Workers Welfare Fund on the Establishment of two High Schools and one Polytechnic Institute at District Zhob with provision of detailed PC-I of the scheme, approval status, rented building & land acquisition details, appointed staff & vacant positions and reasons for non-approval of PC-I. (This item was deferred in the meeting of 2<sup>nd</sup> November, 2018).
- iii. Details regarding Mr. Zahir Hussain s/o Zar Khan (Passport No. ME6897331, CNIC No. 21202-0101733-5, Iqama No. 2327912446) arrested/detained in Saudi Arabia in a road accident case since 2012 vide Case No. 36105362 dated 3<sup>rd</sup> December, 2012 alongwith details of steps taken by Pakistan's Government for his release.
- iv. Briefing by Managing Director OPF regarding degree verification process of the Officers/Officials of Overseas Pakistanis Foundation alongwith details of the action taken against the fake degree holders.
- v. Any other item with permission of the Chair.



4. The meeting started with recitation from the Holy Quran which was followed by introduction of the Committee Members and officers from Ministry of Overseas Pakistanis and Human Resource Development.
5. The Chairman of the Committee, Senator Hilal-ur-Rehman welcomed all participants of the meeting. Senator Sassui Palijo informed the Committee that Senator Gianchand would be joining the meeting soon. The Chairman decided to take up agenda item no. (iii) first.
6. The Chairman of the Committee stated that although there are limitations but a Mercy Petition has been filed w.r.t. case of Mr. Zahir Hussain who is in a jail in Saudi Arabia due to a road accident killing a Saudi couple and their 2 children. At diplomatic level, he said the issue needs to be actively taken up with the Saudi government.
7. The Committee was informed by Secretary of the said Ministry that as Zahir Hussain committed the accident so as per Saudi Law, it is now a Diyyat case according to which he must pay the full Diyyat amount of more than Rs. 3 crore to the family of the deceased persons. He said there was only one option and that was to file a Mercy Petition in Royal Court to King of Saudi Arabia. The said petition was filed and a reminder was also given but still there has been no response. The said person has not been pardoned by the family of the deceased. The Committee was further informed that even the Saudi King cannot pardon him and he can only release the said amount of Diyyat from Saudi Bait-ul-Maal. The Committee Members unanimously recommended that the said prisoner must be helped out and a solution be found for his case. However, the Secretary, Ministry stated that there is not much hope in this regard as Saudi laws are very stringent.
8. Senator Sassui Palijo emphasized upon the need for Pakistan's embassy to be alert to the situation regarding the said case. She stated that the embassy should have increased their efforts during month of Ramzan but it seems that no serious or persistent efforts were undertaken by our embassy there. She expressed disappointment over the fact that the Ministry does not even know full details of the case. She stated that the second option is that Government of Pakistan should help in this case as it has been taken up by Senate Standing Committee. She was informed that the Pakistan embassy undertakes 2 types of follow-ups :- firstly for illegal detainees whose cases are regularly followed by the embassy and secondly those who are behind bars in legal cases but for the latter type of cases, the embassy is literally helpless. The bottom line of the said case, he said is that the penalty fixed by Saudi Arabia, amounting to 1.3 m Riyals has to be paid for release of the said prisoner.
9. The Committee was further informed by the said Ministry that the last reminder regarding Mercy Petition was sent on 28-11-2018 but there has been no progress

in this case. The Saudi government listens only to their own Qazis/Courts. Senator Sassui Palijo recommended that a high-level delegation from Pakistan should plead the said prisoner's case there. She reiterated that the said prisoner is a family man and not a habitual criminal.

10. The Committee was informed that legal cases are approached through Ministry of Foreign Affairs but Qazi Courts there deal with every case as per its merits and Pakistan government is not even a party to the said case in the court there. The Chairman and Members of the Committee unanimously directed the Ministry to provide all specific details of the case and stated that the Committee will not leave that prisoner alone.

11. Senator Shaheen Khalid Butt highlighted that OPF has been built for Overseas Pakistanis' benefits and OPF Ministry uses its own funds as the government does not fund it. It is only due to bad luck that the said Pakistani is in this miserable plight- He strongly recommended that he should be saved if he is not corrupt/habitual.

12. The Secretary Ministry stated that there is a Pakistan Community Welfare Fund with the Pakistan Mission in Saudi Arabia - It can be asked for help but it has not released such a big amount ever earlier. Senator Sassui Palijo remarked that the Committee should not feel helpless and some relief should be given to the said person. The Committee was informed that the P.M. has also been informed about such cases by Foreign Office in a meeting. The P.M. has directed that all prisoners in jails abroad who are not involved in heinous crimes should be helped and the Foreign Office should get them released. The Secretary of the Ministry stated that details of the such cases will be provided to the Committee in its next meeting. He further stated that if the Ministry refers that one case taken up by the Senate Committee to Workers Welfare Board to provide the required fund, it will become a precedent for all in future. Therefore, he said that it has to be an across the board policy decision in such cases. The Chairman and the Members unanimously directed the Ministry to share complete and comprehensive data of all such cases pertaining to the Middle East during last 5 years, alongwith the follow-up policy of the Ministry.

13. The Chairman Committee stated that the Ministry could also approach for required amount from Pakistan's Bait-ul-Maal. He was informed that it is only a local component, for very poor people and not for foreign cases. The Secretary Ministry stated that efforts will be made to consider the payment of Diyyat by the Community Welfare Fund on compassionate grounds.

14. Senator Sassui Palijo remarked that it is regrettable that a very serious matter has come to Senate Standing Committee's notice but nothing has been done so far. In this way, she stated that Overseas Pakistanis will feel discouraged. There has to be a



solution to the said case, she asserted. The Chairman Committee while endorsing her views also stated that the case of Mr. Zahir Hussain is voice of many similar cases and must be addressed. Senator Sassui Palijo reiterated that the Committee should do something practically for the poor man and that follow-up should be done repeatedly.

15. Senator Shaheen Khalid Butt stated that if the said prisoner is not a criminal and is a clean gentleman, why cannot the required money be dispatched to him. He directed the Ministry to provide full details about career and conduct of the said person and stated that if he would be found innocent, money will be arranged for him by Overseas Pakistanis themselves.

16. Minister of Overseas Pakistanis stated that first and foremost is the law of the land. It remains to be seen as to whether the said case was of over speeding or not and how and where to well spend the required blood money – Does that single person deserve it or this amount should be spent on hundreds of other innocent Pakistanis lavishing abroad due to lack of funds. He stated that he will get back to the Committee with full details of the case in question. He mentioned that most of the prisoners abroad do not want to avail of extradition treaty as foreign jails are better than Pakistani jails.

17. Senator Sassui Palijo reiterated that as the matter has been discussed in the Senate Committee meeting, so it needs to be taken up very seriously and the issue should not be complicated. The Committee was informed by Secretary Ministry that Foreign Office also needs to be involved in this case and that it seems that the said prisoner will not be released through Mercy Petition \_\_\_\_ Pakistan's Community Welfare Fund will have to be approached in this regard, he said.

18. The Minister for Overseas Pakistanis stated that he does not agree to the assertion that as this case has been taken by the Standing Committee, the concerned Ministry should take action. He emphasized that first full details should be considered. There can be potentially more deserving cases than the said case, he said. Senator Sassui Palijo expressed her reservations at the statement made by the Minister and stated that the said issue is symbolic as it has come to the Parliament. This case can be made a precedent for such cases in future, she said. The Chairman Committee endorsed her views and stated that when a matter is under discussion in a Senate Committee, it becomes important. He directed that a representative from Foreign Office should be called in the next meeting and that there is a need to go through our own laws in this regard. He further stated that he wants full details of the said case as well as all such cases related to the Middle East. He directed the Ministry to come into action in such cases. Senator Dr. Shahzad Waseem also stated that Standing Committees are forums of public importance. Both Ministry of Overseas Pakistanis and a representative from the Foreign Office are a must to resolve the said issue, he said.

19. The Minister, Overseas Pakistanis and Human Resource Development clarified that he did not mean to say that the Standing Committee's agenda is not important but that he wants to decide the case as per its merit and law. Senator Sassui Palijo appreciated the clarification made by the Minister and stated that instead of going into conflict, the Committee should focus on solving people's issues. The Committee also directed the Ministry to give details as to which type of cases were provided relief by Pakistan embassy in a specified period of time.

20. Next, the Committee took up agenda item no. (i) regarding "Companies Profits (Workers' Participation Amendment Bill, 2018". Senator Sassui Palijo informed the Committee that Senator Gianchand could not make it to the meeting due to illness. The Committee was informed that the said Bill and its details have been taken up very actively by the CCI which will give its decision next month. The Chairman Committee stated that if the Committee goes for legislation now, it would send a wrong message as provincial governments and stakeholders have many objections on it. Senator Sassui Palijo added that a lot of serious issues are there in the said Bill and there is an inertia like situation in this regard. EOBI and WWF involve trans-provincial issues, she said.

21. The Secretary, Ministry informed the Committee in detail about devolution issues regarding EOBI and WWF which are two autonomous bodies of the said Ministry. He stated that a Sub-Committee was formed in the meeting of CCI that was held on 24-9-2018. The Sub-Committee, chaired by Ms. Fehmida Mirza was constituted to examine devolution of WWF and EOBI and included Secretary, Ministry Overseas Pakistanis and Human Resource Development, Special Assistant to the P.M. on Overseas Pakistanis, Secretary Law and Justice, Secretary Finance, Chairman EOBI, Secretary WWF, all 4 Labour Ministers of Provinces and all 4 Labour Secretaries of Provinces as its Members. The Sub-Committee had 4 meetings on 4-10-2018, 5-10-2018, 9-10-2018 and 17-10-2018. The Standing Committee was further informed that minutes/recommendations of the said Sub-Committee are being awaited.

22. Senator Syed Mohammad Sabir Shah remarked that there is strong opposition going on against the 18<sup>th</sup> Amendment. Senator Sassui Palijo strongly recommended that the Bill should be referred back to the House where a comprehensive debate by all political parties can result in solutions. All Committee Members endorsed her recommendation alongwith the Chairman Committee. The Chairman Committee decided not to seek any further extension and remarked that if the government wants to oppose the said Bill, it can do so in the Parliament. He said that the said Bill stands referred back to the Upper House as the matter is pending in the CCI.

23. After that, the Committee took up agenda item (ii) pertaining to briefing by Secretary WWF on establishment of 2 High Schools and one Polytechnic Institute at



District Zhob and its details. Senator Sabir Shah stated that the said work there is in initial stage. The Secretary WWF stated that the academic session will start in 3 months till March 2019. At that, Senator Sabir Shah stated that the said statement should be put on record.

24. Minister for Overseas Pakistanis and Human Resource Development informed the Committee that a meeting has taken place on the said issue a few days back but it must be put on record that he is at present not sure if the said schools are at the right place or not. He further stated that he will study all related details himself to decide about the feasibility of the Scheme. Senator Sassui Palijo added that she is clear about the need of the said schools there but Committee's Chairman can also ascertain the details. Senator Shaheen Khalid Butt expressed his reservations over lack of information regarding distance between the mine and the school. The Minister added that he needs time for a thorough study on the matter. The Chairman Committee, Senator Sassui Palijo and the Minister decided to see the situation on ground themselves by visiting the said area at Zhob. The said agenda item was deferred till next meeting by the Chairman as requested by the concerned Minister. Senator Syed Sabir Shah recommended that WWB, KPK, Haripur should also be called in the next meeting of the Committee. Senator Molvi Faiz Mohammad stated that he had earlier served as Labour Minister and asserted that there are numerous children of mine workers in the said area who will benefit from this initiative.

25. Thereafter, the Committee took up agenda no. 4 regarding degree verification process of officers of OPF. The Committee was informed by MD, OPF that there is a 3 tier process of verification of degrees in place in the OPF. Firstly, Degree verification through online portal, secondly Matric and F.Sc. verification by IBCC and thirdly degrees are manually sent back for cross verification by the HEC. Also, an affidavit is also taken from a prospective employee on applying for a job regarding credibility of his/her degrees. The Committee was further informed that issues of fake degrees are very less in OPF as compared to other institutions but OPF matters are reported in media. The MD, OPF stated that 8 fake degree holders' services were terminated by the OPF. 13 employees have yet to submit verification of their degrees. He said there are some cases in which status of the University is not clear due to litigation with the HEC. He said all degrees are verified in a 90 day period. Senator Shaheen Khalid Butt suggested formation of a Sub-Committee to ascertain issues/excesses done to and done by Overseas Pakistanis. The Chairman replied that the worthy Senator should first share in writing with him all his points for formation of a Sub-Committee. Senator Moulvi Faiz Mohammad stressed upon functioning of the said schools at the earliest.

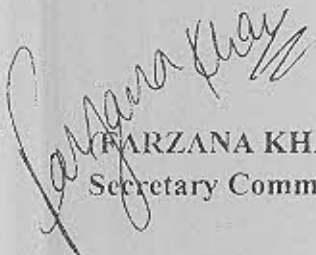
26. In his winding up remarks, the Chairman stated that agenda items will be welcomed from all Senators. He further said that there is no doubt regarding government's credibility in these matters. The Minister and his Ministry he said have a soft corner for

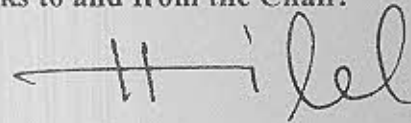
Overseas Pakistanis and so can analyse how to improve their performance to solve matters and facilitate people. He also remarked that whenever the P.M. goes abroad, a lot of Overseas Pakistanis surround him. The Committee's main objective, he stated, is to direct the Ministry's attention to relevant and pressing issues.

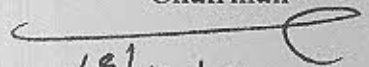
27. The Committee made the following unanimous recommendations:-

- i) The Committee unanimously and very strongly recommended that a way forward/solution must be found for getting an overseas Pakistani prisoner, Mr. Zahir Hussain released from Saudi jail after considering full details/merits of the said case in the next meeting of the Committee.
- ii) The Ministry of Overseas Pakistanis and Human Resource Development was directed by the Committee to provide full details and particulars of the case of Mr. Zahir Hussain and all such cases of overseas Pakistanis in the Middle East during past 5 years alongwith follow-up policy of the Ministry.
- iii) Pakistan's embassy in Saudi Arabia was directed by the Committee unanimously to continuously and vigorously pursue the follow-up of Mr. Zahir Hussain's case in Saudi Arabia. The Committee also directed that in the next meeting, a representative of Foreign Office should also be called for briefing on the said issue.
- iv) The Committee also directed the concerned Ministry to provide all details as to which type/category of cases were provided relief by Pakistan embassy in a specified period of time.
- v) The Committee referred back to the House, "Companies Profits (Workers' Participation Amendment) Bill, 2018" as the matter is pending before a Sub-Committee of the CCI at present and the House is the proper forum to decide all provincial matters related to the said Bill.
- vi) The Committee also recommended that WWB, KPK, Haripur should also be called in the next meeting of the Committee regarding agenda item (ii).

28. The meeting ended with a vote of thanks to and from the Chair.

  
(FARZANA KHAN)  
Secretary Committee

  
(SENATOR HILAL-UR-REHMAN)  
Chairman

  
19/12/2018.