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We are enclosing our paper "Governing the Labor Market: The Impossibility of Corporatist Reforms" for consideration for presentation at the 22nd PSDE Conference.

We would be grateful if it could be refereed by a political economy researcher, an industrial sociologist or a scholar with a multidisciplinary orientation.

I would be grateful if you inform me of the referee's decision at an early date.

With many regards,

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Governing the Labor Market: The Impossibility of Corporatist Reforms

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Abstract

The principle propose of labor market regulation is the production and sustenance of capitalist individuality—an individuality committed to the maximization of utility and profit. In the post war era two distinct regulatory regimes have been articulated to achieve this end. During the first phase (roughly 1945 to the early 1980s) ‘corporatism’ was institutionalized with an explicit recognition of labor’s collective rights in the appropriation of capitalist property. Since the early 1980s these regulatory regimes have been dismantled in many countries and capitalist individuation of labor is being promoted through the disempowerment of unions and the development of human resource management systems at the enterprise level. Labor’s collective participation in capitalist state decision making structures has been delegitimized.

This ‘post Fordist’ regulatory regime has been criticized by social democrats as it exacerbates income and power inequalities and alienates the worker from capitalist (civil) society. A partial resurrection of corporatist labor market governance structures is being contemplated in several Latin American countries—Venezuela, Bolivia, Brazil, Paraguay etc. Pakistani social democrats will also press a future populist government to modify “post Fordist” labor governance structures (e.g. repeal IRO 2002).

This paper argues that a return to corporatist governance structures is impossible in Pakistan. Sec 1 outlines labor market regulation rationalities presented by three neo classical economists. Section II compares and contrasts Fordist and post Fordist modes of labor market regulation and section III seeks to establish the impossibility of institutionalizing corporatist governance structures in the labor markets of Pakistan.

1: NEO CLASSICAL RATIONALITIES FOR LABOR MARKET GOVERNANCE

This paper argues that a return to corporatist governance structures is impossible in Pakistan. Sec 1 outlines neo classical labor market regulation rationalities presented by three economists (Hayek, Wieser and Sen). Section II compares and contrasts Fordist and Post Fordist modes of labor market regulation and section III seeks to establish the impossibility of institutionalizing corporatist governance structures in the labor markets of Pakistan.

Neo classical theory sees relations between labor and the representatives of capital ('managers') as relations created spontaneously by individuals in the pursuit of their rational self-interest. The capitalist individual, be he laborer or manager, defines 'maximization of utility' as his 'rational self interest', and order within the labor market requires a reconciliation of individual (the laborer's) and aggregate (the manager's) utility maximization (with aggregate utility maximization being represented by corporate profits or share holder value). Labor market order is thus impeded if:

- The worker is not committed to utility maximization—a normal characteristic of non capitalist societies¹
- The manager is not committed to the maximization of share holders value (the agency problem)
- Strategies for maximizing individual utility frustrate strategies for maximizing profits or vice versa

As Menger argues (1963: p. 17-44) the establishment of capitalist property² is expected to erode all three impediments and the regulatory role of the state in the labor market as elsewhere is focused on giving legal and political legitimacy to capitalist property rights—these rights being derived from the rationality of the market. This is the established neo classical position in contradistinction to the classical view that capitalist property may engender conflict between capital and labor.³

Neo classical economics presumes capitalist individuality in a way in which classical economics does not.⁴ In abstracting from the specific social and historical context within which economic activities take place, neo classical economics developed a pure or abstract theory of rational choice which presumes an asocial

rationality of utility maximization. It sought to show how the rational utility maximizing individual ought to behave and measured the behavior of all individuals within capitalist society on the basis of this ideal. The norms of neo classical theory thus formally circumscribe its positive analysis.

Almost all major neo classical pioneers recognize that the “rational” world as pictured in pure neo classical theory did not—and could not—exist and that the application of neo classical principles to real world problems necessarily involved the advocacy of reforms to correct the ‘distortions’⁵ which impede the achievement of the harmonious equilibrium defined by pure theory. Neo classical economics thus played a vital role in defeating the “new union” militancy of 1880–1900 especially in Britain, France⁶ and Austria [Cliff (1989), Chap. 7]. Neo classical economists within the national labor movements sought to demonstrate the necessity and possibility of reform as an alternative to the revolutionary overthrow of capitalist order. Neo classical economics offered a distinct theory of society in order to justify capitalist order.⁷ Neo classical economics is primarily concerned with understanding the need for and the limitations of state regulation of (utility and profit maximizing) commodity and factor markets.⁸ Above all neo classical economists within the European labor movements sought to identify the scope for state regulation of the capital labor relationship.

However neo classical economics is fundamentally handicapped in its quest for identifying the extent and form of legitimate state regulation of the labor management relations.⁹ “Relations of production” are formally outside the ambit of neo classical analysis because production is seen as purely a technical process in which “factors of production” are employed in technically determined proportions. Marginal productivity theory can identify the utility / profit maximizing wage rate within a general equilibrium price determination system—but identifying the conditions of work and the intra and inter market organizational processes which generate this “equilibrium” wage is quite another matter. Those among neo classical economists who studied the question of labor market regulation recognized that conditions in the labor market do not permit supply side decisions to be spontaneous and unconstrained expressions of individual (utility maximizing) rationality. Moreover forcing the individual laborer to accept a wage the opportunity cost of

which is starvation may be against the interests of capitalist order as a whole (as this may impede aggregate utility / profit maximization¹⁰).

Regulation of the labor markets is legitimate if it reduces the distortions that prevent equalization of wages with the marginal productivity of labor. The laborer must be enabled to participate in genuinely utility maximizing exchanges. The price he gets for his labor must be a genuinely freely chosen price, at least in the sense that the consumer in the goods market “chooses” the price for the good he purchases. In principle no neo classical economist could object to such regulation for all of them vehemently rejected the ‘wage fund’ theory according to which wages were shared out of a fixed sum [Schumpeter (1949): p. 343–344] as well as the view that profits are residual.¹¹ For wages to be a “natural”, i.e. legitimate category, it must be freely chosen by the laborer in quest for utility maximization. It must not be arbitrarily fixed or related to the prices of other factors of production. It must be labor’s own reward for the contribution it makes to aggregate utility maximization. If the labor market failed to generate such a wage then conditions of competitive equilibrium must be restored through state regulation. We now discuss the views of three economists regarding the justification and extent of such labor market regulation.

1.1: Hayek

Hayek’s labor regulation policy is based on his own ideal version of liberal order. He is critical of the neoclassical understanding of the free market economy in terms of ‘general equilibrium’. In Hayek’s view the ‘general equilibrium conception of liberal order ends up with an endorsement of expanded government intervention instead of advocating limitations on state powers’ [Hayek (1967a)]. This is so because ‘Walrasian’ neo classicals admit the possibility of centralization of knowledge in one mind or institution, and hence endorse the possibility of ‘central planning’. Hayek offers his own theory of liberal order which has two ingredients: (a) evolutionary interpretation of all phenomena of culture and mind¹² and (b) limits of the powers of human reasoning.¹³ According to this view, whatever knowledge an external observer has must be limited, and as a society grows more technical and complex, the proportion of knowledge available to the individual becomes smaller.¹⁴ Hayek recognizes the existence of a ‘division of knowledge’—the knowledge (of *time and space*) dispersed

among merchants and traders in decentralized markets which allows them to respond to events more efficiently than a centralized planner can [Barry (1979)].

To Hayek, capitalist markets, including labor markets, are formed by self-generating *spontaneous order* in social affairs based on abstract rules which leave the individual, whether he be consumers, employee or employer, free to use his own knowledge and skills for rational ends. He contrasts this spontaneous order with what he calls *organization* or *arrangement* based on commands. He proposes the use of the term ‘*catallaxy*’ for an order which is independent of socially determined ends emerging spontaneously from the voluntary transactions of individuals.¹⁵ One area where he applies this idea of catallaxy is in the field of ‘*distributive justice*’ related to input markets. Since catallaxy does not serve any social purpose, therefore the ‘just-remuneration’ or ‘just distribution of income’ would be one which forms itself spontaneously in the labor market in the absence of fraud, violence and privileges. According to Hayek, rights based conceptions of justice (e.g. Rawlsian) make sense only within an ‘organization’ whose members act under command in the service of socially determined ends. It has no meaning in catallaxy or spontaneous order.¹⁶ Within catallaxy, distribution of income is not designed by any single individual’s intentions and no single individual can foresee what each participant will get, therefore any distribution of income cannot be regarded as just or unjust unless proved that it was created by fraud, violence or privilege. It is for this reason that Hayek proposes the term ‘dispersion’ rather than ‘distribution’ of income because no one distributes income in a spontaneous market order¹⁷ [Hayek (1967a)]. Thus, ‘all endeavors to secure a regime based just distribution must be directed towards turning the spontaneous order into an organization’ [Hayek (1967a): p. 171].

It is for this reason that Hayek rejects *trade unions*, which he calls labor monopolies. He believes that trade unions are a greater threat to the smooth functioning of competitive market order than monopoly firms [Hayek (1960)]. Trade unions are usually given special privileges—privileges not enjoyed by any other association or individual in capitalist societies—in the form of complex discriminatory laws which are used mainly against the workers themselves by denying them the right of free association and free movement. Labor market distortions are also enhanced by faulty monetary policy [Hayek (1967b)]. The idea

that it is the responsibility of the state to create additional spending power to mop up unemployment, hands over to the unions massive economic power that would not have emerged from the voluntary transactions of individuals in a *catallaxy* [Hayek (1960): p. 327-328]. Hayek feels that such powers of unions are not a result of anything *they* can do, but a result of the general acceptance in the field of labor policy of the view that ‘ends justify means’. This is further enhanced by the fact that ‘public policy is guided by the belief that it was in the public interest that labor should be as comprehensively and completely organized as possible, and that in the pursuit of this aim the unions should be as little restricted as possible’ [Hayek (1967b): p. 281].

Another labor market tendency that Hayek believes is a serious threat to spontaneous capitalist market prosperity is the compliant about the injustice of results generated by market order. The most important of these complaints is not against the extent of inequality of the rewards, ‘but the demand for protection against an undeserved descent from an already achieved position. More than by anything else the market order has been distorted by efforts to protect groups from a decline from their former position...in the name of social justice’ [Hayek (1967a): p. 171-172]. New privileges have been created.¹⁸ In a competitive market, the fact that a group of people have reached a certain relative position cannot be used to make a justice claim for maintaining this position because it is not possible to defend this rule by applying it to all. ‘The aim of economic policy’, according to Hayek, ‘of a free society can therefore never be to assure particular results to particular people’ [Hayek (1967a): p. 172]. Thus state financed unemployment benefits, health insurance services, downward wage rigidities etc. do not fit into the Hayekian scheme of labor market regulation. Such policies augment wage rigidities and create inflation [Hayek (1967c)]. For Hayek, ‘government actions must not be made to serve particular ends’ [Barry (1979): p. 109]. Incomes policy by fixing the price of labor differently from its market price must lead to the direction of labor to ends considered desirable by government. According to Hayek, an ideal spontaneous order is guaranteed only when the enforcement of the rules of ‘just conduct’ is strictly observed and the coercive powers of government are restrained by the *rule of law*.¹⁹

There are some labor market interventions that Hayek regards as desirable. One interesting example comes from a much debated question of *licensure*—the

practice of permitting only those with the prescribed qualifications to enter into certain professions [Hayek (1960): p. 227]. This may seem to imply discrimination in law between individuals, but Hayek believes that licensure is consistent with the rule of law if conditions required are laid down in the form of general rules and if everyone possessing those necessary skills has the right to practice the trade in question.

1.2: Wieser

Wieser was among the neo classical pioneers who spelt out most clearly the regulatory requirements for sustaining equilibrium in the labor markets.²⁰ His neo classical credentials are impeccable. He termed the values derived by neo classical pure theory “as natural values for the value of a good depended only on its scarcity relative to human desires. In the same way the theoretical values of wages, rent and profit depend solely on the scarcity and productivity of the factors of production to which they correspond” [Weiser (1951): p. 184]. According to Wieser, “the general price (identified on standard neo classical principles) is found to be the just or equitable price where the general conditions are considered satisfactory and morally and legally correct” [Wieser (1951): p. 181].

However Wieser did not find “the general conditions” prevalent in the twilight years of Habsburg Austria to be “satisfactory and morally and legally correct”. He therefore developed the sub discipline of “social economics”²¹ to study the social framework of capitalist economic activity. Wieser studied the distribution of income and wealth, labour market conditions, causes of unemployment, problems associated with the growth of poverty and the conditions of the sick. He sought to study the capitalist social infrastructure on the basis of the neo classical analysis of capitalist markets. Essentially this is an elaboration of Menger’s²² effort to trace the origins of capitalist institutions—exchange, the division of labour, money etc—to individual behavior. For Wieser—as for Weber as well to a lesser extent for Schumpeter²³—the imperfections of capitalism’s institutional structure arise from the fact that the capitalist economic order is based on the pursuit of personal interests but this makes it possible for individuals to use their power to over ride the general interest (maximization of total utility / profit) of capitalist order. The central task of theory is

thus to identify conditions in which individual power ought to be curbed because it was in opposition to the general interest of capitalist order—a problem at least partially recognized by several neo classical economists²⁴ in their discussion on monopoly.²⁵

Curbing individual power required reforms centered on the labor market for according to Wieser “almost everywhere in Europe the proletariat has come forward with such strength that must be considered and a counter reform of the economic order should be proposed” [Wieser (1951): p. XVII]. The purpose of this “counter reform” is “to “refute the socialist reform of the prevailing order” [Wieser (1951): p. 411]. Wieser develops a theory of the “simple economy” where all individuals adopt a “rationalistically utilitarian point of view” [Wieser (1951): p. 11]. It is only in this “simple economy” that the optimum allocation of resources is achieved spontaneously through the equalization of relative marginal utilities. Capitalist property is absent from the “simple economy”. Capitalist property confers power on its owners and controllers and neo classical theory fails to take account of this fact.²⁶ Hence “an economic theory that should suffice for our times is in-conceivable without a social theory that is consistent with the fact of power” [Wieser (1951): p. 144].

Power according to Wieser bestows a favorable market position on its holder—the owner and manager of capitalist property.²⁷ The isolated abstract individual is not present in the typical capitalist market where “the individual’s needs, impulses and egoism are dominated by social forces” [Wieser (1951): p. 154]. Economic rationality is embedded in the norms of capitalist society and through education and organizational discipline “individual egoism (can be) transformed into social egoism” [Wieser (1951): p. 160]. This “social egoism” can subordinate individual egoism in normal times and in the absence of “crises and panics”.²⁸

However Wieser argued that polarization of power in the labor market is too great for such normative restraint to be effective. He believed that “over competition” among the poor forced down wages and “over competition” among capitalists led to over production. Regulatory control of both product and factor markets was therefore necessary. Moreover regulation of competition is also necessary because the typical outcome of competitive straggles is increased monopoly—this leads to a proletarianisation of the middle classes and de skilling of labor. The capitalist

employment contract also erodes labor's willingness to work as proletarian misery becomes too glaring [Wieser (1951): p. 383, 384, 391, 405 and passim]. Thus extremes of wealth and poverty, class polarization, over work and unemployment, centralization and concentration of capital, overproduction and cultural deprivation are characteristic of mature capitalist society. These are described in graphic detail in the later chapters of his book *The Social Economy*.²⁹

Reforms are needed to eliminate the abuse of power from capitalist society. Unlike von Mises and Hayek, Wieser did not see this abuse of power emerging from state intervention, union power, ignorance and monopolization. It arises in Wieser's view from intensified competition within capitalist markets³⁰ from under regulation of the market by the state. He argued strongly for an extension of the legal and administrative regulation of the labor market. A brief list of labor market related reforms advocated by Wieser would include [Wieser (1951): p. 391, 410, 415, 462–464, 474–79, XII–XIV and passim]:

- Promotion of trade unions and recognition of the right to strike
- Employment and income protective legislation
- Factory legislation for regulating the conditions of work
- Compulsory social insurance for all employees
- A state housing policy covering the working class
- Establishment of municipal enterprises
- Establishment of state enterprise in key economic sectors
- Control of land speculation and associated tenurial reforms
- Rigorous state regulation of financial markets

These reforms would eliminate the abuse of power in capitalist labor markets without impeding the flourishing of capitalist individuality, capitalist property and associated transaction forms. In Wieser's view expanding the boundaries of state regulation of the labor market would strengthen capitalist order for the deficiencies that lead to the abuse of power were not inherent in capitalist order. According to Wieser the capitalist economy alone is able to allocate resources efficiently so that production is maximized. However capitalism "is a system of rules which distributes very unequally the enormous gains to which it is instrumental. (Nevertheless) it is much more beneficial to the mass of the citizens than another (economic system) doling out

its much smaller proceeds” [Wieser (1995): p. 385]. Wieser’s thought thus represents something of a bridge between orthodox liberal and social democrat thinkers.³¹ An advocacy of competition restrictive reforms (typical of Social Democracy) does not require a rejection of the neo classical paradigm. It can be grafted onto this paradigm as we will also see in our discussion of A. K Sen’s views.

1.3: Amartya Sen:

Sen’s neo classical roots are reflected in his acceptance of the view that the market economy is the most effective means for allocating resources and attaining development. Sen identifies state neglect as a principle cause of social deprivation [Sen (2001: p. 127)]. The core of Sen’s conception of justice is ‘to favor the creation of conditions in which people have real opportunities of judging the kind of lives they would like to lead’ and to focus ‘particularly on people’s capability to choose the lives they have reason to value’ (Sen, 2001: p. 63).³² Sen’s conception of justice, thus, endorses state intervention in the labor market to enhance capabilities.

Sen seeks labour market intervention for eliminating unemployment because the unemployed suffer not only loss of income, but also psychological distress, loss of motivation, skill and self-confidence, disruption of family relations and social life etc. [Sen (2001): p. 94]. Unemployment leads to the social exclusion of the unemployed. Sen argues that the ideal of a free market in which a large number of buyers and sellers interact with none having significant influence is no longer an accurate description of capitalist markets (Cole, Cameron and Edward, 1983). Therefore, decisions about ‘who is to be employed’ and ‘at what wage’ are not the outcomes of anonymous market forces. These decisions are the products also of power struggles where people are discriminated against. Sen points to the existence of *interest groups* reflecting the fact that market outcomes depend not only on what markets do, but also on what they are allowed to do by those whose established interests are hurt by the smooth functioning of markets [Sen (2001): p. 120]. Sen’s multi-sided approach to development provides justification, for state intervention beyond state-financed income-support policies. The protection of jobs through expansion of labor’s collective rights is legitimated. Restricting ‘employment at will’ management practices is also justified [Sen (1997)].

The task of identifying the marginalized individuals and groups in capitalist societies is a central theme in Sen's discourse. Labor market practices specially in developing countries can lead to major deprivation and denial of human rights [Sen (2001): p. 112-116]. Bondage labor exists in many countries in Asia and Africa as does child labor. Both are regarded as 'virtual slavery' by Sen who argues that it is not sufficient to abolish these forms of labour exploitation. The state must provide resources to ensure that existing and potential victims have the resources to refuse such labor contracts. The freedom of women to seek employment away from the family is another major concern for Sen. For him 'the denial of the right to work outside the home is a momentous violation of women's liberty' and the state must devise effective policies to change the prevailing public conceptions of 'normality' and 'appropriateness' related to social responsibilities of women so as to ensure their effective participation in labor markets.

Many of these policies could be interpreted by Hayekian policy makers as means for eliminating 'fraud, violence and privilege' and therefore not requiring expansion of labor's collective rights. However Sen's clear emphasis on expansion of the state's responsibilities in determining labor's income and condition of work reflect his acceptance of the view that in capitalist markets the individual laborer is relatively un-free and the law and state practice must provide resources for mitigating his relative deprivation of power.

3: FORDIST AND POST-FORDIST REGIMES OF LABOR MARKET REGULATIONS

Both Fordist and post Fordist labor market regulatory regimes accept the rationality of capitalist order but they reflect different interpretations of neo classical theory with regard to labor market governance. The term 'Fordism' first appears in the writings on Antonio Gramsci (1971) and Fordist regulation was widely practiced (in different variants in most Western European and North American countries during 1935 – 1980).³³ The main features of the Fordist regulatory order are.

- Increased regulation of financial, labor and (to a lesser extent) of commodities markets by the state

- Development of complex managerial hierarchies and the bureaucratization of decision making within the firm
- The growth of nationally organized trade union federations also organized in a bureaucratic manner
- Emergence of nationally organized federation of employers' associations
- The recognition of trade unions as legitimate participants in national governance and the emergence of a corporatist state
- Institutionalization of collective bargaining at the firm and the industry level
- The dominance of the economy by the manufacturing sector, which concentrates a disproportionately large section of workers within a small number of manufacturing industries
- Agglomeration of major industries within distinct regions of the national economy
- A rapid and sustained increase in the economically viable size of the firm, in terms of both employees and fixed assets in the leading industries
- Dominance of the national economy by monopolies
- State policy is legitimated by modernization and nationalistic references. This usually results in the creation of the structures of a social democratic welfare state.
- The pursuit of a high wage policy by both the state and the firm

In the early 1980s the Fordist regulatory order was rapidly dismantled by Thatcher and Reagan. In Europe this process of dismantling began with the collapse of Mitterand's original policies and despite trade union resistance labor's collective rights have been significantly eroded in subsequent decades.³⁴ A new form of labor market regulation has emerged described as 'flexible specialization' or 'Post Fordism'.³⁵ The main features of the Post Fordist mode of regulation may be summarized as follows.

- Growth in the relative importance of world markets, multinational companies and international financial institutions in national decision making impacting on labor market outcomes
- Decline in the authority of national governments in economic policy making

- Decline in the share of the manufacturing and extractive sectors in production and employment in all metropolitan capitalist countries
- The rise of service sector workers and large scale decline in union density³⁶ rates
- The decline in labor's collective consciousness especially in the service sector and decline in the political significance of the labor movement
- The emergence of alternative single issue movement which do not focus on the capitalist employment contract but on issues such as environmental depletion, poverty, women's 'exploitation' etc none of which are central to the capitalist organization of production and exchange
- The consolidation of an education based stratification system which fosters individual achievement and mobility and reduces collectivistic (especially class) solidarities
- Decline in the share of manual workers in total employment
- Decline in the salience of national level collective bargaining systems and the emergence of company and plant level negotiation procedures and processes. This is the essence of the shift from "Taylorist" forms of production organization to "flexible specialization"—from IR to HRM
- Spread of privatization of state monopolies and associated dismantling of collective bargaining procedures and processes. General withdrawal of the government from wage and conditions of work determination processes
- Significant reduction in the provision of welfare services by the state
- Multinational control of major industries located in underdeveloped capitalist countries. These industries include banking, coal, petroleum and petrochemical, electricity, telecommunication, iron and steel³⁷
- Americanization of governance forms and regulatory procedures governing accounting, trade, quality standards, labor and capital market regulation etc
- Reduction of plant size and increased contracting out of non core activities by major firms³⁸
- Increased use of contract labor

Industrial relations systems typically combine features of Fordist and post Fordist modes of regulation, with one set of characteristics (Fordist or post Fordist)

dominating the other. A classical Fordist regulatory regime has not existed in any phase of Pakistan's history but labor's collective rights were significantly enhanced during Bhutto's rule (1972 – 1977) and a future populist regime may seek a modification of the IR system to consolidate its social base and to counter mass movements³⁹ which seek to foster anti capitalist identity consciousness in Pakistan. The next section argues that significantly expanding labor's collective rights is not possible due to the global commitments of a modernizing state in Pakistan.

3: LABOR MARKET REGULATION IN PAKISTAN: the impossibility of corporatist governance

The section begins with a brief description of changes in labour market regulation as a prelude to outlining the arguments against the possibility of instituting a Fordist regulatory regime in Pakistan.

3.1: Labor Market Regulation in Pakistan from 1947-2006

In 1947 Pakistan inherited only 9 percent of the industrial establishments of the subcontinent [Ansari (1999): p. 52] and workers covered by industrial legislation totaled about 480,000 (about 65 out of 10,000) in both East and West Pakistan [Amjad (2001): p. 67].⁴⁰ Trade union density was low and the trade union movement was also extremely weak, especially, in West Pakistan.⁴¹ Civilian governments during 1947–1958 enacted labor legislation mainly as minor amendments to British India laws promulgated during the 1940s.⁴² During 1850 to 1926 British labour legislation had mainly been concerned with legitimating indentured and slave labour in British tea plantations and collieries.⁴³ State intervention during 1850 to 1926 took the form of imposing slave like conditions on laborer⁴⁴. During the 1920s amendments to the Factory Act, the Workman's Compensation Act and to laws on trade unions (which had been legalized since 1926) initiated the process of labour protective legislation and the piece meal recognition of labor's collective rights.

Legislation during the 1947-58 period carried on the British emphasis on minimal state interference in determining employment conditions and strong discouragement of and control over strikes specially in the utility services sectors. The

state did not seek to determine through statute wages or working conditions but set up an adjudicatory process to resolve disputes. During 1958-68 the adjudicatory process became an effective replacement of collective bargaining and Industrial Courts subordinated union activism. They became a permanent feature of the judicial system and terms and condition of employment were determined by these Industrial Courts⁴⁵ when disputes arose. Large scale labour unrest during the dying days of Ayub Khan's dictatorship lead to a spate of legislation involving statutory determination of wages and conditions of employment.⁴⁶

The Industrial Relations Ordinance 1969 (IRO 1969) represents something of a legislative watershed. The underlying spirit of this Act was to determine more and more disputes through statutory provisions and leave as little as possible scope for collective bargaining and resolution of disputes through strike action. IRO (69) presented itself as a radical departure from the Industrial Disputes Ordinance 1960 which severely restricted union and collective bargaining rights. IRO 69 formally recognized the negotiating role of a popularly elected Collective Bargaining Unit (CBU).⁴⁷ IRO (69) however excluded from it's ambit workers in civil administration and services 'connected' with defense. Categories of workers banned from forming unions was wider under IRO (69) than in any previous legislation. The Bhutto regime—the only one in Pakistan's history claiming widespread union support⁴⁸—amended IRO (69) on several occasions. These amendments widened the scope for adjudication, increased restrictiveness of CBU recognition and made conditions for union registration⁴⁹ more stringent [Hussaini (1976)]. The powers of the Registrar of Trade Unions were enhanced by the Bhutto regime. Under IRO (69) registered unions enjoyed limited legal immunity against tort cases during strikes although only CBUs had the right to raise industrial disputes and serve strike notices. According to a 1997 judgment of the Supreme Court the right to strike cannot be recognized as a fundamental right under Section 17(1) of the Constitution and in the opinion of the Supreme Court several legal anomalies have been created by IRO (69)'s amalgamation of the law governing trade disputes and the law regulating trade unions [PLD (1997), SC 781].⁵⁰

IRO (69) legitimized state interference in the election of union officials and the determination of the CBU. It also institutionalized CBU dependence on

management by the introduction of a “check off” system.⁵¹ All non CBU unions were effectively incapacitated under IRO (69)—they had no functions except to challenge the CBU at the end of its tenure.⁵² IRO (69) did not recognize the right of the unions to set up political funds or to nominate candidates in national or local elections. Collective bargaining authority of the CBU was annulled by the award of Wage Commissions set up under the law. IRO (69) recognized no rights of unions to directly participate in cases of unfair dismissal.⁵³ The CBU did not have the right to raise disputes about enforcements of rights and claims under law.

IRO (69) may thus be seen as an attempt at an institutionalization of collective bargaining within a diminishing proportion of the non agricultural formal large scale sector workforce.⁵⁴ There was no recognition of labor’s collective rights in the appropriation of capitalist property at the level of the state. Bhutto’s regime was socialist in rhetoric and enjoyed considerable worker support during its rise to power—but it did not envisage formal trade union participation in its governance structures [Jones (2003), Chap 6] or in the governance structure of the state it ruled.⁵⁵ Moreover even before the Industrial Relations Ordinance 2002 (IRO 2002) was implemented one of the most senior trade union leaders, Muhammad Sharif President Pakistan National Federation of Free Trade Union (PNFTU)⁵⁶ went on record saying “collective bargaining for determining wages and working conditions has never really been practiced in Pakistan because the law does not provide for it. The CBU does not in practice have the right to strike—since on the service of strike notice the dispute is taken over by the Labour Department conciliator (and) on failure of conciliation the union is obliged to file a case for adjudication. The dispute proceeds for years. This is collective begging” [Sharif (2003): p. 68].

IRO (2002) has been widely criticized among social democratic circles as a retrogressive step [Ansari and Arshad (2006): p. 210–211]. Worker representation in plant level management has been reduced and the Management Committee and the Joint Management Board in which workers had fifty percent representation have been abolished. Even within the Joint Works, council workers have only a forty percent presence. The head of the Works Council must be from management. The Joint Works Council, with minority workers representation monopolizes all worker related decision making including dispute settlement. The adjudication process has been

restructured to reduce the authority of the Labour Courts established under IRO (69). IRO (2002) has been seen as a major instrument for union disempowerment and the institutionalization of human resource management systems, at the expense of collective bargaining. IRO 2002 has not significantly reduced the level of state regulation of industrial relations as far as statutory and mandatory requirements for union recognition, collective bargaining, dispute settlement and labour participation in plant organization is concerned. It has been accompanied by accelerated exclusion of segments of the workforce from the ambit of labour legislation.⁵⁷ It has made collective bargaining a farce and legal strike action virtually impossible. On the other hand IRO (2002) provides a framework for accelerating liberalisation and privatization and for reducing employee obligations for providing social security coverage and acceptable working conditions and guaranteed employment tenure.⁵⁸ Reduction of overtime pay, increase in working hours specially for women, abolishing of annual leave and legalization of contract labour have all been made possible by the two pronged policy of (a) restricting trade union rights and (b) freeing management to unilaterally determine wages and conditions of work and institutionalize an “employment at will”⁵⁹ policy [Ansari and Arshad (2006): p. 207–222].

3.2: Is Corporatism Feasible in Pakistan?

Corporatism⁶⁰ played a key role in the production of capitalist individuality throughout Europe [Lash and Urry (1989), Chap 1] and in India [Beaan (1996): p. 73–84]. Extending labor’s collective rights increases the working class commitment to the functionality of capitalist order and (in countries such as Pakistan) counters the growth of anti capitalist identities, which may seek the overthrow of capitalist order rather than appropriation of a larger share of gains through participation in the control of capitalist property. Mass mobilization for transforming religious society into civil society and for the delegitimation of religious values has often required capitalist acceptance of expanded collective rights for labour as a containment strategy.⁶¹ Expanding labor’s collective rights is likely to be an important element on the agenda of populist modernizing movements in Pakistan.

We argue that a significant expansion in labor’s collective rights and a fundamental reorganization of the labour market regulatory regime⁶² is not feasible

primarily due to the global commitments of the Pakistan state. Several authors have noted the “post colonial” character of the Pakistan state [Sobhan (2002), Racene (2002), Ahmad (2004)] and its dependence on foreign (both military and economic) aid. It was the availability of foreign support which guaranteed the relative autonomy of praetorian and quasi praetorian⁶³ regimes that have ruled Pakistan since 1953 and allowed these regimes to sponsor a business class through patronage (including subsidies and strategic policy intervention not least in the labour market). Foreign donors strengthened the autonomy of the military bureaucratic state which they saw—and continue to see—as a key player in the social modernization process.⁶⁴ This encouragement of state autonomy is at odds with the liberalization of the global trade and investment regime which calls for a reduction of state subsidization of domestic business. The post WTO trade and investment regime partially disempowers the post colonial state and reduces its capacity to effect market outcomes specially in weak civil societies [Migdal (1995)].⁶⁵ Regulating the supply side of the labour market through a recognition and enforcement of labor’s collective right is not a viable policy option for a (partially) disempowered post colonial state ⁶⁶ given the structural weakness and the configuration of social power to which such states are typically subject (Etienne 2002). Except in the early 1970s labour has never been a major contender in the struggle for power in Pakistan.⁶⁷ Thus Asad Sayeed in his wide ranging review of the changing social sources of state power during 1947–2000 does not mention labour (not even in his discussion of the Bhutto period) (2002: p. 211–241).

There are thus no domestic social pressures for the expansion of labor’s collective rights and strong global systemic restraints on the adoption of such policies. The labour market cannot be insulated from globalisation⁶⁸ and regulating third world labour markets will remain a major concern for international economic policy. As evident in the case of the core EU countries globalisation pressures induce a major reduction in labor’s social entitlements, exacerbate the trend towards long term unemployment, reduce state control over the labour practices of both national and multinational firms and significantly weaken the trade union movement.⁶⁹ Labor’s power in the national economy is weakened as financialisation⁷⁰ increases systemic volatility and financial market prices develop weaker anchorages with prices in product markets.⁷¹ Eichengreen notes that macroeconomic management becomes increasingly difficult as the share of foreign assets in M2 rises (2002: p. 36–38).

This “disorganization” of third world states is an essential element of globalisation. Making claims of justice—expanded labor collective rights for example—in a state which has partially ceded economic sovereignty to the WTO, the IMF, the global financial rating agencies and international product quality and accountancy standard setters is an exercise in futility. In a globalized world the forces determining wages and conditions of work routinely overflow national borders and the post colonial state has neither the power nor the intention to resist this globalisation of civil society. Nancy Fraser argues that the provision of social justice in the globalized world requires an abandoning of the “Keynesian Westphalian state form”⁷² and developing a policy frame which can allow labour to effectively participate at the global level in decisions which affect labour market outcomes—a utopian proposal on no one’s agenda [Fraser (2004): p. 13–15]. Global agencies determining labour market outcomes—multinationals, multilateral agencies and private international standard setters⁷³—regard national legislation institutionalizing labor’s collective rights as “the principle obstacle to full employment (which) should be dismantled to improve competitiveness” [Supiot (2006): p. 119]. “Globalized” labor legislation legitimates decollectivization of labour. Globalized state and multilateral regulatory and advocacy agencies have become partisans of management whose externalization of social costs is increasingly tolerated. Wilkinson (2005) argues that flexible labour markets and their governance rights undermine labor’s capacity to exercise (its formally recognized) collective rights and Alston (2005: p. 173–181) shows that these collective rights are usually denied to the most vulnerable sections of labour, the contract workers and those subject to the Personal Employment Contract.

Supiot has argued that at the heart of globalized labour legislation is International Trade Law which takes the restriction-less cross border flow of goods and capital as a fact decreed by nature. The legal configuration of markets sanctioned by International Trade Law has “an infinitely greater impact upon employment than (domestic) labour legislation” (2006: p. 112). National labour legislative systems are forced into competing with each other on a global market of norms established by global capital. Dismantling of tariff and non tariff barriers at the behest of the WTO are likely to have much greater impact on employment in a particular industry than changes in labour contracts.⁷⁴ Compliance with WTO and ISO regulations determines

wage rates and terms of employment. A recognition of labor's collective rights simply cannot be afforded if WTO and ISO rules, premised as they are on conventional neo liberal norms, construct (and not merely constrain) national regulatory systems. International Trade Law decrees an international division of labour based on the Heckscher-Ohlm model within which there is no room for recognition of labor's collective rights. The globalized international trade regulatory regime necessarily reverses the juridical principles established by Keynesian social democracy. In the globalized world terms and conditions of employment do not depend on labour legislation and regulation. Quite the contrary, labour legislation is dependent on International Trade Law and on the international division of labour it sanctions. The spirit of International Trade Law is reflected in its fundamental premise that while the legal framework of commerce is sacrosanct, workers right are a variable subject to adjustment in line with the requirements of competition and accumulation. In global order expanding the market is the *Grandnorm* of every national regulatory system. Law is simply one instrument among many for regulating global competition and normative. Darwinism is expected to ensure the destruction of inefficient regulatory regimes [Freidman (2000): p. 73–81]. This view is supported by the World Bank whose annual *Doing Business* reports rate labour legislative systems in terms of their “rigidity”⁷⁵ and have developed a bench marking system for ranking national labour regulatory regimes from the perspective of global capital. The World Bank exhorts every country to use labour law for disciplining its workforce to adapt to the requirements of global financial markets (www.doingbusiness.org).⁷⁶ Attempts to reform company law so that non shareholder stakeholders—employees, suppliers, community representatives—play a role in corporate decision making have been defeated in almost all OECD countries and are not under consideration in any client state.⁷⁷

4: CONCLUSION

Expanding labor's collective rights is not feasible primarily due to Pakistani's commitments to the global trade and investment regime. No government—praetorian or populist—which seeks to avoid marginalization from global product and finance systems can significantly expand labor's collective rights in Pakistan.⁷⁸ Social democratic advocacy of labor's collective rights appears to be an aspect of elite

politics (as is the women's "movement", consumer rights advocacy, environmentalism etc) which is incapable of implementation.

This creates a serious dilemma for modernizing policy makers. Capitalist individuality has been engineered in Europe and Japan through adversarial struggles between organized labour and management over appropriation of capitalist property.⁷⁹ Alternatively, as in America [Moore (1969)] and China [Han (2005)], the emergence of capitalist individuality is a response to an explosive growth of mass consumption sustained over several decades and sufficiently high to ameliorate the increase in income inequality which such growth typically engenders. We have argued that subordinate integration within global capitalist order effectively closes the corporatist route for creating mass capitalist individuality. A future populist regime will have to adopt the same growth acceleration strategy that has been articulated by the present praetorian regime. Will subordinate incorporation within global capitalist order facilitate or impede sustainable mass consumption growth in Pakistan? Or will the pursuit of this strategy strengthen anti capitalist religious identity consciousness to the extent that a distancing from global capitalist order becomes unavoidable.⁸⁰ These are some ponderables for Pakistan's enlightened moderate modernizers manning both praetorian and successor populist regimes.

Appendix

**Table A1: Union Membership by Industry 1995 & 2002
(Top Ten Industries)**

S.No	1995		2002	
	Industry	No. of union members	Industry	No. of union members
1	Textiles	63658	Textiles	46710
2	Food	33677	Transport	20642
3	Banks	29951	Docks	14766
4	Muniplaties	28733	Mining	8730
5	Transport	19327	Banks	7424
6	Irrigation	18750	Muniplaties	6760
7	Docks	16658	Tobbaco	5590
8	Mining	16235	Commerce	4520
9	Electricity	11202	Insurance	4503
10	Engineering	11107	Chemical	3307
	Total of Top Ten Industries	249298		122952
	Participation in all industries	340569		138456
	Participation rate of top ten industries in total union membership	73.20%		88.80%

Source Pakistan Economic Survey 2005-2006

Table A2: Decline in Union Membership 2002 over 1995

Industry	Decline in union membership 1995 over 2002 (in percent)
Textile	-26.6
Transport	+6.8
Docks	-11.4
Mining	-46.2
Banks	-75.2
Municipalities	-76.5
Electricity	-69.5
Tobbaco	-1.0
Commerce	-10.2
Chemicals	-65.4
Food	-86.6
Total	-59.3

Source Appendix Table A-1 and Pakistan Economic Survey 2005-2006

Table A.3: Industrial Disputes

Year	Mandays loss	Main Industries involved
1995	63626	Transport
1996	203323	Textile, Transport, Construction
1997	262342	Textile, Beverages
1998	122519	Textiles
1999	182151	Tea, Beverages
2000	N.A ^a	
2001	667	
2002	7076	Textiles, Chemical
2003	12160	

Note: (a) FBS reports exactly the same number of mandays loss for 1999 and 2000 which is unbelievable

Source FBS Statistical yearbook 2005-2006 p. 252

Notes

¹ In pre capitalist societies the fundamental unit of production and consumption is the extended household. Neither is the worker within the household committed to utility maximization nor are duties and entitlements within the household and among households distributed on the basis of the profit maximization principle. In the first half of the seventeenth century economics was described as the science of household management and distinguished from “chrematistics”, the study of monetary wealth (Schumpeter 1949).

² Capitalist property is property (a) dedicated to accumulation (b) subject to valuation by financial markets on the basis of its contribution to capital accumulation and (c) controlled by a technocratic elite which specializes in accumulative skills (managers). Normally capitalist property takes the form of corporate property [Meszaros (1995): p. 66–69].

³ Nevertheless classical economists such as Ricardo argued that this conflict concealed an underlying harmony of interest between laborer and capitalist and it was an important concern of the classical theory of distribution to reveal this harmony [Dobb (1976): p. 36–39]. The classical consensus was that distributive conflicts of interests could be harmonized within capitalist society through growth. Thus in the classical model it was “the hidden hand” of the market and not regulation by the state which ensured the harmony of interest of capital and labor within capitalist society. The classical economists laid particular stress on education as a tool for promoting capitalist rationality. The real harmony behind the apparent conflict of interest could be appreciated only by a rational capitalist individual.

⁴ One striking illustration of this is the near absence of any major discussion of the role of education in sustaining capitalist order in the writings of Jevons and Walras.

⁵ The question, where did these “distortions” come from, was addressed by the sister discipline of sociology which developed roughly in the same historical epoch as neo classical economics (roughly 1870 to 1925). Sociology explores the social causes determining “irrational” (non utility / profit maximizing) social behavior, neo classical economics does not do this, nor does it study “deviance” which is the domain of psychology.

⁶ Where Walras despite his Swiss origins was extraordinarily influential

⁷ It is therefore simplistic and naive to accept neo classical economics’ claims that it is merely a method of technical analysis devoid of any metaphysical and socio-political assumptions.

⁸ Joseph Stiglitz may be seen as inspired by the pioneer neo classical marginalists in his concern to legitimate the role of state intervention within the context of a neo classical policy paradigm (2002 chap 1 and 3 passim). A more “political” version of this same argument is presented by Gray (1999).

⁹ That is the sort of state regulation of the labour management relationship which can promote utility / profit maximization.

¹⁰ Keynes made much the same point in his discussion of under full employment equilibrium and deficient consumption (1967: p. 311–317).

¹¹ Jevons wrote “I conceive that the returns to capital and labor are independently determined” (1970: p. 177)

¹² The central idea behind this version of liberalism is that ‘under the enforcement of universal rules of just conduct, protecting a recognizable private domain of individuals, a spontaneous order of human activities of much greater complexity will form itself than could ever be produced by deliberate arrangements’ [Hayek (1967a): p. 162].

¹³ The justification of such a liberal social order is largely based on Hayek's theory of knowledge which emphasizes man's *ignorance* [Hayek (1946)]. His thesis of man's limited knowledge is not merely an empirical one. It is not a contingent fact about men which may be altered by some technological advancement. It is a philosophical thesis about the form in which knowledge exists in the world and about the way in which the mind becomes aware of this knowledge. The sum total of knowledge, to Hayek, existing in any society will be fragmented and dispersed throughout the members of that society which cannot be centralized in a single mind or institution.

¹⁴ Hayek frequently uses this argument to refute the possibility of socialist central planning

¹⁵ Hayek stresses that such a 'multi-objective' spontaneous order should be called '*catallaxy*' and not '*economy*' because the later term carries with it a sense of deliberate organization of a stock of resources in the service of a single order of ends, while the defining feature of a catallaxy is that it neither seeks to enforce a unitary scale of concrete ends nor attempts to secure some particular view to govern society on the principle of 'what is important and what is less important' [Hayek (1967a): p. 165]. To Hayek, catallaxy is a network of many households, firms, many small economies, but it has no specific common purpose itself and is not a deliberately made organization, it a product of spontaneous growth. In a sense, Hayek believes that such an order does not have an 'end' at all, beyond the maintenance of the apparatus itself [Barry (1979)].

¹⁶ Hayek gives two empirical arguments to justify his conception of liberal social order: (a) since a spontaneous order created by the process of voluntary exchange of goods and services by individuals pursuing their own benefits, is independent of any preconceived or designed purpose, it will assist in the pursuit of many different, divergent and even conflicting individual purposes. Such a social order is characterized by market order which does not rest on any particular common objective, but on the principle of reciprocity—reconciliation of different purposes for mutual benefits of all; (b) the other important aspect, for Hayek, of such a spontaneous market order is that it allows the possibility of peaceful co-existence of men having different objectives for their mutual benefits. Hayek calls such a society a 'law-governed' as against an unfree 'purpose-governed' society [Hayek (1967a): p. 162].

¹⁷ The term 'distribution', according to Hayek, is misleading because it carries the sense that something is the result of deliberate action which is in fact the result of spontaneous order.

¹⁸ According to Hayek, 'the position(s) thus protected were the result of the same sort of forces as those which now reduce the relative position of the same people, that their position for which they now demand protection was no more deserved or earned than the diminished position now in prospect for them, and that their former position could in the changed position be secured to them only by denying to others the same chances of ascent to which they owed their former position' [Hayek (1967a): 172].

¹⁹ Hayek uses his 'rule of law' thesis to describe limits of state actions in capitalist spontaneous order

²⁰ He was a contemporary of the early Fabians frightened by the heightened labor militancy in the twilight years of the Habsburg empire. His most famous book *Social Economics* was published in 1914.

²¹ "Social Economics" has now largely collapsed into mainstream sociology which is perhaps natural for Wieser's writings had a greater impact on Max. Weber's thought than the work of any other single author.

²² Wieser was a student and a follower of Menger as is clear from his treatise *Law of Power* originally published in 1926.

²³ It is interesting to note that Wieser's *Social Economics* was part of a series of books edited by Max Weber which was subsequently to include both Weber's *Economy and Society* and an earlier German version of Schumpeter's *History of Economic Analysis*.

²⁴ Specially Marshall. See his *Principles* (1953: p. 382–390).

²⁵ Wieser's neo classical orientation is also reflected in his belief that his theory of economic policy was identifying "those general elements of management and value which have always existed and will always exist" (Wieser 1951 p 24).

²⁶ Wieser calls attention to the dangers of pure neo classical economics. "It has supplied the most important elements of the (socialist) argument ... (by) vindicating capitalist dominance" [Wieser (1951): p. 411].

²⁷ Wieser recognized several sources of market power arguing that in capitalist order power was multidimensional. This strongly influenced Weber.

²⁸ Wieser writes "the normative regulation of egoism means that ... (in) .. a (social) economy... production values are unified and concentrated and their individual apportionment to the individual branches of production takes place as (if) by a social plan. The spirit of a social economy is complied with ... (thus) where the general conditions are considered satisfactory... the general price is found also to be the just or equitable price" (1951: p. 206, 184).

²⁹ Some of these descriptions are repeated almost verbatim by Rudolf Hilferding in his seminal *Finance Capital*.

³⁰ Wieser's criticism of monopoly is essentially a critique of monopolistic competition and oligopolistic collusion.

³¹ Foreshadowed by J.S. Mill and T.H. Green in the nineteenth century and currently represented by authors such as Jeffery Sachs and Joseph Stiglitz.

³² Sen calls it the '*Capability Approach to Justice*' as opposed to the utilitarian approach. Sen tries to articulate Mehboob-ul-Haq's idea of the 'Human Development Index' into his system of justice (See Sen, 2001, chap # 3). Sen equates capabilities of a person with his opportunities to make use of alternative choices.

³³ Fordism of course has implications wider than the regulation of the labor market. These are described in detail in Lash and Urry (1987 p1 – 17) and Rupert (1995).

³⁴ Several studies on the causes of the disintegration of the Fordist mode of regulation have been produced during the 1990s—the most important by the French neo-Marxist Regulation theorists [Agleitta (2000)]. These studies have been evaluated in Ansari (2001).

³⁵ Forces sustaining and accounting for the emergence of the post Fordist regulatory regime are reviewed in the Amin (1999) anthology.

³⁶ Union density is measured as union membership divided by total employment in sectors which can legally establish unions.

³⁷ The erosion of labor's collective rights in both China and India is principally due to the increased economic and political salience of multinational firms and banks.

³⁸ A particularly apt description of Post Fordist order is provided by the Neo Schumpeterian school. The Neo-Schumpeterian approach to post-Fordism is based on the theory of Kondratiev waves. John Schumpeter modernized this concept. The theory holds that a "techno-economic paradigm" characterizes each long wave. Fordism was the techno-economic paradigm of the fourth Kondratiev Wave, and post-Fordism is the techno-economic paradigm of the fifth, which is dominated by

Information and Communication Technology (ICT). Carlota Perez and Christopher Freeman are notable ‘Schumpeterian’ thinkers.

Compared to the Keynesian welfare state the Neo Schumpeterian workfare state is ready to cut back domestic employment to boost international competitiveness. The productivist reordering of social policy is prioritized over redistributive welfare rights. Though political power still remains within the state, its capacity to project its power is weakened. This is due to the risks emerging from the global environment. Some state capacities are transferred to regional, multinational, or international bodies with a widening range of powers. Some powers are moved to restructured local or regional levels of horizontal networks of power.

³⁹ The experience of the PPP during the anti Ayub movement of November 1968 to March 1969 shows that organized labor plays a major role in overthrowing a praetorian order. Union density rose dramatically from January and the rate of unofficial strikes and gherao jaloa operations during January to March 1969 played a major role in destabilizing the Ayub regime. Both Bhutto and Bhashani endorsed the demands of the most militant unionists [Jones (2004), chapter 3] although Bhutto started retracting from his commitments almost as soon as he came to power [Hussaini (1976): p. 14–27]. Organized labor may be mobilized—and expansion of collective rights may be used as an effective tactic for gaining its support—by modernizing populist forces for achieving and retaining state power in Pakistan.

⁴⁰ Units covered by Factory Act legislation employed 181,752 workers, mines 9413, railways 135,000; dockyards 15,000, non factory industrial (distributive) establishments 16,000 and shipping 125,000 (Amjad 2001 p 67).

⁴¹ Although strong unions existed in the Karachi Electric Supply Corporation, the Karachi Port Trust and several cement plants in Karachi. Those excluded from labour legislations were agricultural laborers, workers in cottage industries, inland water transport and small commercial establishments.

⁴² British labour legislation originates in the law of contract (‘the law of master and servant’) and all industrial relations regulations are considered by orthodox jurists (and by the World Bank which has a strong preference for Common Law) as deviations from common law (Jenks 2000) and violation of the principles of ‘laissez-faire’. State regulation of wages and working condition were legitimated in the wake of European revolutionary upheavels of the 1840s and the rights to form unions and to strike were legally recognized during this period (Engels 1976). The first British large scale enterprise in India—the Fort Gloucester Mill was set up in 1813 and the first industrial strike action against British employers was taken by transport workers (palki bearers) in Kolkota in 1827. The first piece of industrial legislation dates from 1850 (The Apprenticeship Act (Act IV of 1850) (Cole 1952).

⁴³ Slave labour camps were set up by the British even during the Second World War in Bihar (Jharia and Dhanbad) and in Orisa (Asamsol) (Amjad 2001 p 165).

⁴⁴ This was the purpose of the following legislation (a) Apprenticeship Act 1850 (b) Merchant Shipping Act 1859 (c) Workers Breach of Contract Act 1859 (d) Dispute Act 1860 (e) Indian Factories Act 1881 (f) Transport of Native Laborers Act 1873 amendment.

⁴⁵ There was no effective statutory determination of wages or terms of employment during 1958-68.

⁴⁶ Minimum wages for unskilled workers was determined for the first time by the Minimum Wage Ordinance 1969. Social security entitlement, compulsory gratuity, and profit participation were recognized by statute during this period.

⁴⁷ From among the unions present in an enterprise, the CBU was to be elected through a secret ballot. Recognition of trade unions by employers as stipulated in the Trade Unions Ordinance of 1966 was rejected.

⁴⁸ Though this claim was never actually put to a political test.

⁴⁹ According to the amended IRO (1969) only those unions can be registered whose members consist solely of employees at the plant where it is registered, although a quarter of the officials can be outsiders.

⁵⁰ The anomaly is that the Supreme Court recognizes collective bargaining as a fundamental right but does not recognize the use of labor's main collective bargaining instrument, the right to strike, as a fundamental right.

⁵¹ Under the check off system union dues from members are deducted directly from their salary and transferred to CBU accounts. Other powers of the Registrar with respect to CBUs under IRO 69 are described by Amjad (2001: p. 87–88).

⁵² Because of this forced inactivity non CBUs rarely have the power to challenge the CBU in fresh elections.

⁵³ A worker may however authorize his CBU to represent him in such proceedings under Article 25A of IRO 69.

⁵⁴ In 2001 Amjad estimated that only about 50 percent of the formal large scale workers were covered by industrial legislation [Amjad (2001): p. 171].

⁵⁵ This is true not just of Bhutto's rule but even more so of Benazir's governments.

⁵⁶ PNFTU is the main social democratic union federation in Pakistan recognized by the International Confederation of Free Trade Unions (IFCTU).

⁵⁷ Particularly employees of companies both national and multi national located in Export Processing Zones who enjoy no rights at all.

⁵⁸ IRO 2002 is part of the overall strategy to reduce resistance to privatization by removing disputes regarding labour retrenchment from the ambit of the jurisdiction of the Labour Courts (which have been subordinated to the Provincial High Courts under IRO 2002). Through a deeming clause in the Federal Service Tribunal Act workers of state enterprises have been designated as 'civil servants' whose terms and condition of employment become the exclusive jurisdiction of the Civil Services Tribunal by virtue of Section 2A in the Federal Services Tribunal Act. Similarly amendments in banking laws were made to severely restrict employees' rights prior to the privatization of United Bank and Habib Bank.

⁵⁹ That is recognizing employers' right to hire and fire at will and denying that labour has any tenurial rights in capitalist property.

⁶⁰ Corporatism is embedded in two phenomenon (a) labor participation at the level of the state or at the apex of the economic system in the co-determination of wages and conditions of employment and (b) trade union immunity from tort action against damages caused by strikes. Lash and Urry (1989 p 6).

⁶¹ This has specially been the case in France, Italy and other South European countries where the influence of the Catholic Church had been strong (Heberle 1971).

⁶² As Section 2.1 has shown this regulatory regime involves (a) increased state control over union recognition and functioning and the resolution of industrial disputes and associated action and (b) dismantling of controls on wages and conditions of work leading to a deconstruction of collective bargaining and unilateral determination of wages and virtually all terms of the employment contract by management.

⁶³ i.e. formally democratic regimes constrained and sustained by military power such as those which followed the dismissal of Khawaja Nazimudin's government during 1953 – 58 and the Benazir Bhutto and Nawaz Sharif governments of the 1990s.

⁶⁴ i.e. in the process of the deconstruction of religious society and the establishment and sustenance of civil society in Pakistan.

⁶⁵ A disempowerment of the state often leads to a breakdown of the social and economic infrastructure.

⁶⁶ Specially for the Pakistan state which is (a) partially disempowered (b) post colonial and (c) a front line state in America's war in the Middle East.

⁶⁷ In 2005–2006 the civilian labour force totaled about 51 million of which 47.6 million were employed. Self employed and domestic employees were about 31.1 million so that those in employment equaled about 38 percent (about 19.4 million) of the labour force. The share of the sectors in which labour organization and trade union presence is focused—manufacturing, transport, utilities and banking—was estimated at about 21 percent of all employed persons. This share showed stability and there was little fluctuation during 1990–2002. The share of manufacturing employed persons as a percent of total employed persons fell consistently from 13.91 percent in 2002 to 13.80 percent in 2006 (GOP 2006 A. Statistical App p 108 and GOP 2006 B). As Sayeed notes “the employment generation capacity of the (manufacturing) sector has lagged far behind its share of GDP and investment”. (2002: p. 206). There were in 2002 (the last year for which FBS provides statistics in its latest Annual Year book) 1201 registered unions with a membership of 1.38 lacs. Unions numbered 1635 with a membership of 3.41 lacs in 1995—union membership has thus fallen by about 60 percent during these seven years where as union numbers fell by a little over 25 percent. Thus unions are now much smaller Official strikes have virtually disappeared and man days lost due to “wildcat” industrial action have fallen from 63626 in 1995 to 12160 in 2002—a fall of over 80 percent. Excluding the self employed and domestic workers the employees totaled a little over 18.5 million, so that the union density rate (union members to total employed minus self employed and domestic workers) was extremely low in 2002. (See Appendix Tables 1 and 2). Most observers believe that the decline in union membership has continued during 2002–2005 [Hussain (2005)].

⁶⁸ Since the mid 1990s more than 50 percent of world GDP has consistently been produced outside Western Europe and North America and the growth in developing countries seriously effects employment in the United States and Europe. In the USA for every job created in high skill manufacturing by additional exports to the South as many as six jobs were lost by the same money value of low tech manufactured imports from LDCs [Rowthorn (2004): p. 337].

⁶⁹ The collapse of Western Europe's “social model” is documented in detail by Blackburn (2005) who notes however that the national social insurance systems in the EU are being “commodified” rather than abandoned. Nevertheless, this represents a major reduction in labor's entitlement. Such privatization has led to a vast expansion of the scope for criminalization of Europe's financial system and the embezzlement of pension funds [Blackburn (2005): p. 90–92].

⁷⁰ Financialisation reflects a rise in the ratio of financial assets to real assets in GDP and a concomitant rise in the political power of financial interests relative to real economy interests including labour.

⁷¹ Wade (2006) presents data to show that financial market volatility has been significantly higher during 1973–97. It has been much higher in developing countries than in advanced capitalist countries (p. 121–123).

⁷² Since the Treaty of Westphalia the nation state was seen as the arena within which effective participation resulted in a fair distribution of resources of all effective participants.

⁷³ ISO, IAS and the rating agencies.

⁷⁴ The collapse of the Sub Saharan poultry industry during 2000 – 2002 following the withdrawal of protection granted by the Lome Accord in a case in point. These protective barriers were removed to comply with WTO regulations.

⁷⁵ The 2005 *Doing Business Report* ranks 155 countries in terms of difficulties and costs of hiring and firing and restrictions on increasing working hours. A “rigidity index” downgrades countries that recognize ‘too many’ collective rights, have social insurance for part time workers and minimum wage legislation “Rigid” systems also limit the working week to less than 66 hours and require employers to give notice of the dismissal of a worker to his union (World Bank 2005).

⁷⁶ The World Bank has a strong preference for common law systems and stigmatizes industrial legislative “deviance” from common law [www doing business org](http://www.doingbusiness.org).

⁷⁷ In this respect the most spectacular defeats during the 1995 – 2005 period have been suffered by LO in Sweden and trade union confederations in the Netherlands.

⁷⁸ Nor is there any significant domestic political pressure exerted by organized labour on incumbent or viable successor regimes. Privatization defeats, cataclysmic decline in union density, the erosion of effective industrial action capability at the level of the plant and the inability to organize contract labour illustrate labor’s systemic weaknesses.

The crucial difference between Pakistani social democracy and Latin American social democratic movements lies in the essentially elitist character of the formers. Morales, Lula and Chavez have emerged from mass labor struggles (Gott 2005, Gonzalez 2005, Trinidad 2005) and therefore distancing themselves from global markets and policy regimes is a viable policy option for these leaders. The acceptance of subordination to Bhutto by labor leaders deserting NAP (Bhashani) and the old Azad Pakistan Party in 1968 and 1969 fundamentally eroded the mass proletarian character of Pakistani social democracy. Pakistani social democracy cannot therefore afford to break its links with global governance structures.

⁷⁹ As we have seen in Section 1 both Fredrich Von Wieser and Max. Weber advocated social democratic reforms as a necessary means for creating capitalist individuality and incorporating labor’s interest within capitalist order.

⁸⁰ Global capital and the system hegemon—America—will of course not be passive by standers. They may seek the deconstruction of the Pakistani state to thwart its dissociation from global capitalist order. Such a strategy may or may not succeed.

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