



GOVERNMENT OF PAKISTAN



POLICY BRIEF

THE LEGAL FRAMEWORK FOR CHILD DOMESTIC LABOUR IN PAKISTAN

ISSUED BY

NATIONAL COMMISSION ON THE RIGHTS OF CHILD

Author



National Commission on the Rights of Child (NCRC) was established by the Government of Pakistan under National Commission on the Rights of Child Act- 2017. The mandate of the National Commission on the Rights of Child in section 15 is to examine, review laws, policies, inquire into violation of child rights, examine international instruments and undertake periodical review of existing policies and programmes on child rights and make recommendations for their effective implementation in the best interest of children; advice the Federal Government to sign, ratify or accede to any proposed International Treaties, Protocols, etc.

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Preface

Child labour in domestic work is a common form of child labour in Pakistan. Children working as domestic workers is a serious and insidious problem in Pakistan because these children work behind closed doors in the privacy of people's homes, and this lack of visibility greatly increases the potential for violence, exploitation and abuse.



In Pakistan, there is also a general perception that children working in households are usually cared for and not necessarily seen as exploitative employment for children. This ignores the fact that there are no set hours or tasks for majority of children employed in domestic work. They do whatever their employer asks them to do at any time of the day or night. They are subjected to physical and sexual abuse and work in hazardous conditions leading to worst form of child labour. There are major gaps in knowledge and understanding of the many forms and conditions under which children work, particularly the worst forms of child labour, which by their very nature are often hidden from public view.

Given the potential for child exploitation and abuse that domestic work entails, and the actual abuses and rights violations that have already been documented, it is imperative for Pakistan to address the issue of child domestic labour with urgency and importance. Pakistan is a state party to both the UNCRC and ILO Conventions, which also provide standards for working children, particularly the minimum age for admission to employment. It is therefore incumbent on the Government of Pakistan to enshrine these standards in its national and provincial laws and to establish mechanisms for their implementation and enforcement.

Since the establishment of the National Commission on the Rights of Child (NCRC) in February 2020, the Commission has recognised the importance of protecting children's rights through legislative reforms. It has taken a number of initiatives and published policy briefs on important children's rights issues.. The Policy Brief on Child Domestic Labour examines the problem from a legal perspective, focusing primarily on existing labour laws and the enforcement mechanisms available to address this problem and other related issues. The report makes recommendations aimed primarily at legislators, policy makers and government agencies to prevent further increases in the number of children working as domestic workers and to protect them from abuse and exploitation related to this work, as well as to respond to and rehabilitate children who work as domestic workers.

Afshan Tehseen

Chairperson

National Commission on the Rights of Child



Context

Child Domestic Labour (hereinafter called as 'CDL') refers to situations when children perform domestic tasks in the home of a third party or employer. Millions of children around the world work in households other than their own, cleaning, washing, cooking, and doing other domestic chores, taking care of children, tending the garden, and running errands, among other tasks.

Child domestic labour is an important category of child labour in Pakistan. According to the 1996 Pakistan Child Labour Survey, 3.3 million children (aged 5 to 14) were child labourers, of whom 8% were engaged in child domestic labour. Estimates from the 2004 ILO report suggest that 264,000 children were employed as CDLs in Pakistan.¹ There are no latest figures indicating the number of child domestic labour in Pakistan, but there is ample anecdotal evidence that children employed in households are widespread in all provinces of Pakistan, with a greater proportion of girls than boys. In addition, child domestic labour is more prevalent in urban areas than in rural areas, and come from poor families.²

Difference between Child Work and Child Labour

The term child work is often confused with child labour. It should be noted that not all work performed by children under the age of eighteen is child labour. The International Labour Organization (ILO) defines child labour as "work that deprives children of their childhood, their potential and their dignity and that is harmful to their physical and mental development". This means that any work performed by a child that is mentally, physically, socially or morally hazardous and harmful should be classified as child labour, not exempting work that interferes with the child's schooling.

Child work, on the other hand, refers to work that children do to help their families in ways that are neither harmful nor exploitative. This includes activities such as helping in the parents' household, assisting in a family business or earning pocket money outside school hours and during school holidays. The idea behind this is that child work within the family can be a positive experience that enhances their knowledge, skills and social adaptation.

¹ Shakeeb Asrar, "Are We Not Humans?' Pakistan's Domestic Workers Confront Abuse", in Christian Science Monitor, 31st August 2021

² Ibid

Pakistan launched a new survey on child labour in all provinces and Azad Jammu Kashmir in 2019 to get updated estimates on child labour and also to study the causes, circumstances, impact on education, health, mental health and violence against children. Gilgit-Baltistan (GB) was the first province to release its report on child labour on 27 October 2021. Punjab will publish its report in the near future, while the implementation of the survey in the other provinces and AJK is at various stages of completion.

The type of work children do varies from household to household and depends on their gender, physical strength and cognitive abilities. Children who work as domestic workers may be compensated for their work in cash or in kind. CDLs often work for a fraction of the minimum wage, if they are paid at all. Those who live with their employers may be “on call” 24 hours a day. The situation of these children living with their employers is particularly worrying. There are no fixed working hours and these children are often discriminated against because of their ethnicity, social status and poverty. They suffer from social isolation, have limited or no access to formal education or skills training, and are dependent on adults who are not primarily concerned with their welfare.

Households usually employ underage children at low wages and, in some cases, as forced/bonded labourers, providing remuneration to their parents or families in advance. In extreme cases, the conditions and circumstances of child domestic labour can amount to forced labour. The isolation of the children makes it difficult for them to seek help and makes it difficult for outsiders to identify the cases. It is a modern form of slavery that is socially and culturally accepted in Pakistan.

Child labour has very detrimental effects on children’s physical health, mental well-being and long-term prospects. Child labourers are often exposed to hazardous conditions; they are deprived of leisure time; they are highly vulnerable to physical and, in many cases, sexual abuse. Their right to equality, respect and dignity is ignored and, above all, their right to protection from violence, exploitation, abuse and neglect is not fulfilled.

Child labour typically deprives children of their basic right to access education. Several studies show that children are engaged in domestic work in certain areas of Pakistan at very young age, and are therefore unable to go to school. Lack of education means lack of skills, which in turn means that they continue to do low-paid work in the informal economy and remain vulnerable to exploitation, which in turn leads to persistent poverty. Child labour thus keeps the affected families trapped in intergenerational poverty.

Child Labour in Domestic Work in Pakistan

A Scoping Study by ILO (2022)

The scoping study conducted by ILO on child domestic work in Pakistan found that most children were over 10 years old, i.e. between 10 and 15 years old, when they first engaged in child domestic labour to support their families. Girls usually do this work from the age of 6 or 8 together with their parents, typically the mother, before they start working independently around the age of 10. Boys usually work as children in car repair shops or garages, while girls are employed as domestic servants. In some cases, girls are forced by their parents and families to do child domestic labour to support household expenses and, in some cases, their brother's education.

The study also found differences in earnings. Children who are employed part-time or as day labourers are paid according to the tasks they perform and the hours they work, and are usually paid between 500 and 3500 rupees. Children who work full time on live-in basis earn between 3,000 and 15,000 rupees. Payments are particularly low in KP, Balochistan and rural areas. The study also uncovered another trend that is particularly prevalent among landlords in rural areas of Punjab: girls are hired to work in the employer's house and are not paid monthly. Instead, the employer pays the girl's parents the entire amount earned when she marries.

Many of the parents interviewed seem to deny the risks associated with child domestic labour and have accepted it as a normal part of their time. However, some consider it healthier than getting hooked on drugs on the streets and others consider it a compromise to meet household expenses. The study found that most children do not want to be employed in domestic work.

The hidden nature of domestic work means it often escapes the reach of the law and heightens the risk of children being abused at the hands of their employer. The lack of visibility increases the risk of exploitation and abuse of children because of their young age, lack of awareness of their rights, separation from their family, dependence on their employer, and also because they are working in people's homes without being recognised as workers. There is also a lack

of accountability for the problem of child domestic labour in Pakistan. These cases only come to light when they are extreme, when a child is killed or cruelly tortured, and are thus picked up by the media and brought to the fore.

In Pakistan, there are two major factors i.e. demand and supply that may influence child domestic labour. The demand factors, which may include increasing disparities in social and economic status, debt bondage, payment below the minimum wage, younger girls' need for domestic help for cultural reasons, etc.

On the other hand, on the supply side, factors that influence child domestic labour may include poverty, social exclusion, lack of awareness, poor knowledge and education of parents who place low value to their children's education, as well as gender and ethnic discrimination, lack of family planning, rural-urban migration and broken families. Most often, young workers are preferred because they have a minimum level of understanding and ability to respond to abusive or exploitative situations on the part of the employer.

Furthermore, the absence of institutional arrangements and monitoring mechanisms of working conditions, wage rates, diminished role of the labour or trade unions towards domestic labourers and non-existence of social security increases the vulnerability of the domestic workers in general, particularly for child labourers.

Child domestic labour is a complex problem. It requires a coordinated policy response focusing on education, social protection, child protection, labour markets and legal standards and regulations.

This policy brief aims to help policymakers and development practitioners understand the legal framework, analyse gaps, and recommend actions to address and eliminate child domestic labour in Pakistan.

Study on Knowledge, Attitudes and Practices related to Child Labour in Pakistan

This study conducted by UNICEF (2022) is one of the few studies within the sphere of child protection in Pakistan that collects insights from both adults and children, and seeks to establish a clear baseline knowledge, attitudes, and practices about children's protection in Pakistan. UNICEF conducted a survey of both adults and children (14-17 years) to specifically measure understanding, misconceptions and behaviours related to child labour, taking into account psychological, sociological and environmental factors, in order to establish a baseline for future assessments and measuring the effectiveness of programme activities.



KEY FINDINGS

Adult Responses

1. Most adults have limited knowledge and awareness about the harmful consequences of child labour.
2. Most adults do not know whether it is legal for children to work.
3. Most adults do not think it is acceptable for a child to work whereas some respondents reported that it was acceptable for a child under 18 years to work unless had they completed some level of education or 16 years of education.
4. Adults do not think that child labour should be reported because it is a family's private matter.
5. Most adults think that child labour is necessary for the survival of some families.
6. Women in the household have a limited role in deciding whether a child works and fathers are the main decision makers within the family for children to work.

Children's Responses

1. Most children do not know whether child labour is legal.
2. Children consider child labour to most negatively affect their education.
3. Most children do not believe that child labour should be reported because it is a private matter.
4. Most children justify child labour if it helps to support their family.
5. Most children who worked were working for pay or money.
6. Of the children who have worked, about half are working in hazardous environments.



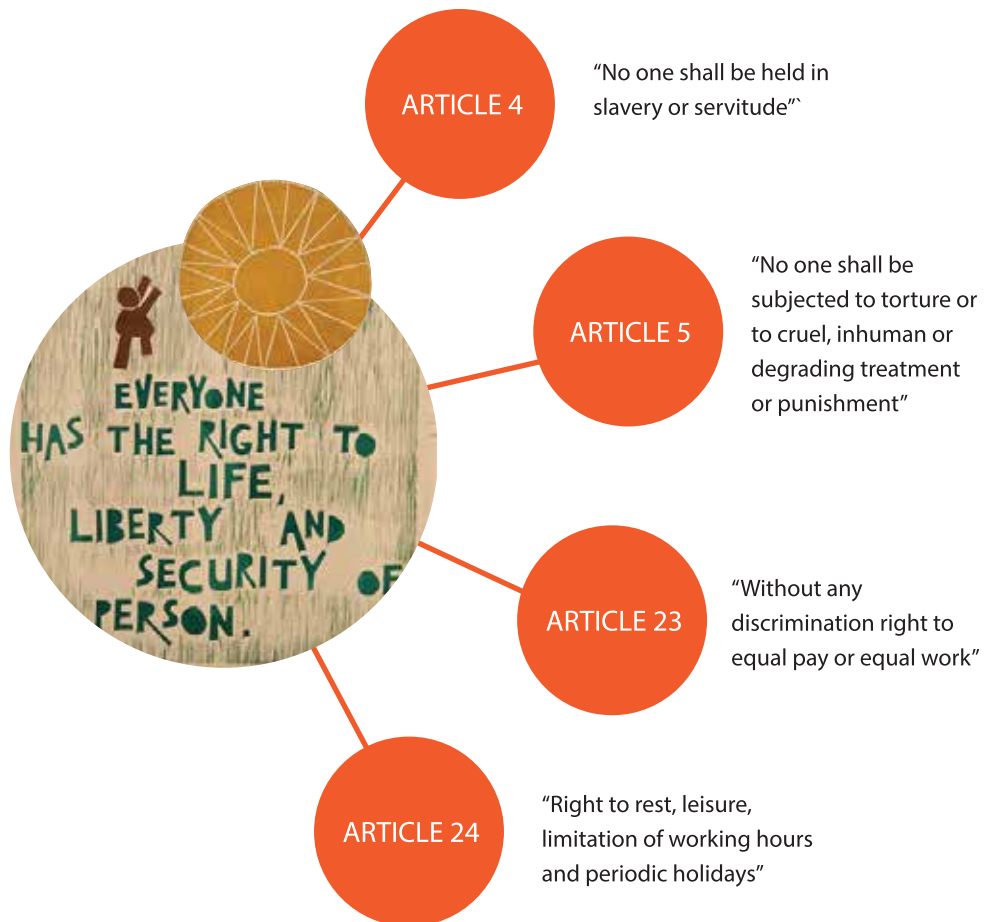
**International Human
Rights Regime for
Child Domestic Labour**

International conventions establish an international legal framework for the protection of children from child labour, including child domestic labour.

Universal Declaration of Human Rights (UDHR)

Universal Declaration of Human Rights does not specifically address child labour, but prohibits slavery and servitude and provides right to protection from all forms of violence, abuse and exploitation.

Child domestic labourers usually spend their lives in slavery-like practises, in violation of Article 4, and are subjected to brutal, cruel, degrading and inhumane treatment, in violation of Article 5. Child domestic labourers are discriminated against at work. In most cases, they are denied the right to rest, leisure, limitation of working hours or leave, in violation of Articles 23 and 24.



Universal Declaration of Human Rights

Convention on the Rights of the Child (CRC)

Pakistan is a party to the UN Convention on the Rights of the Child. It ratified the Convention on 12 November 1990. Article 32 of CRC emphasises that Parties must protect children from economic exploitation and from work that may be hazardous to the child's health, physical or mental development. The same article emphasises that any work that interferes with a child's education should not be permitted. It states that the state should set a minimum age for allowing children to work, certain working hours and conditions, and appropriate penalties and other sanctions for effective enforcement.

Other relevant provisions include Article 3, which defines the best interests of the child; Article 6, which ensures the survival and development of children; Article 18, which identifies parents as key responsible for bringing up a child and governments should help them; Article 19, which declares the right to protection from all forms of violence, abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse; Article 20, which describes the child's family environment; Article 26, which provides the right to benefit from social security; Article 27, which declares an adequate standard of living; Article 28, which provides for free primary education; Article 31, which establishes the right of children to leisure and play; Article 35, which provides prevention and trafficking of children; Article 36, which provides protection from all other kinds of exploitation even if these are not covered in CRC; and Article 37, which prohibits corporal punishment.

Concluding Observations of the Committee on the Rights of the Child

UN Committee on the Rights of the Child, in its concluding observations on Pakistan's 5th periodic report in 2016, expressed concern about child labour victims in informal sectors. The Committee urges the state party to:

“Develop programmes and mechanisms to identify and protect child victims of forced labour, particularly bonded labour as well as child labour in informal sectors, including domestic work.”

“Conduct a survey or study to assess the prevalence of child labour, including the worst forms of child labour such as bonded and forced labour.”

“Expedite the harmonization of the labour laws in order to establish minimum ages for employment in accordance with international standards.”

DENIED !

Article 3

Best interest of the child

Article 28

Access to education

Article 4

Safeguard of all rights of children

Article 31

Leisure, play and culture opportunities

Article 6

Survival and development

Article 32

Protection from economic exploitation

Article 19

Protection from violence

Article 35

Not to be abducted, sold or trafficked

Article 20

Recovery and reintegration of child victims

Article 36

Protection from any kind of exploitation

Article 26

Right to benefit from social security

Article 37

No corporal Punishment

Article 27

An adequate standard of living

International Covenant on Civil and Political Rights (ICCPR)

The ICCPR is an international human rights treaty adopted by the UN in 1966. Pakistan signed the ICCPR in 2008 and ratified it in 2010.

Article 8 of ICCPR prohibits slavery, slavery like practices, and enforced servitude in all situations. It also prohibits forced labour.

The Human Rights Committee, the body of independent experts that monitors the implementation of the International Covenant on Civil and Political Rights by States Parties, made the following observations in its Concluding Observation on Pakistan's periodic report in August 2017;

43. The Committee is concerned, despite the efforts made by the State party, by the low level of birth registration, which has adverse consequences for children. It is also concerned by the high number of children engaged in labour under hazardous and slavery-like conditions, particularly in the brick kiln industry and domestic settings, and the insufficient labour inspections of child labour. It is also concerned that perpetrators are rarely brought to justice and victims do not receive adequate assistance and rehabilitation services.

44. The State party should intensify its efforts to ensure that all children are registered at birth; identify children whose birth has not been registered and children without identity documents and register them; and raise awareness about the importance of birth registration. It should also take all measures necessary to put an end to child labour by rigorously enforcing the laws on child labour and strengthening labour inspection mechanisms.

International Covenant on Economic, Social and Cultural Rights (ICESCR)

Pakistan signed the ICESCR in 2004 and ratified it in 2008. The Committee on Economic, Social and Cultural Rights made the following observations on the economic exploitation of children in its Concluding Observations on Pakistan's periodic report in July 2017;

63. The Committee is concerned that the minimum age for labour is set at 14 years while the Constitution guarantees free compulsory education up to 16 years of age. It is also concerned that, according to official data, over 2 million children aged between 10 and 14 years are working and that 28 per cent of

them are engaged in hazardous work. Moreover, most of these children are out of schools. It is further concerned at the working conditions of children, most of whom work in agriculture, with brick kilns, in coal mining, in the street and in domestic settings, and at the high risk faced by these children of exposure to sexual and economic exploitation.

64. The Committee recommends that the State party:

(a) Strengthen its legislation prohibiting child labour and the enforcement of such legislation, including by enhancing labour inspections of child labour;

(b) Ensure that those persons who exploit children for labour are prosecuted and punished;

(c) Adopt all appropriate measures to facilitate the recovery of working children and their access to educational opportunities and provide adequate support to their families;

(d) Undertake a national survey on the nature and extent of child labour.

Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

Pakistan is a state party to the Convention against Torture (hereinafter referred to as UNCAT). The Committee against Torture (CAT) reviewed the initial report of Pakistan (CAT /C/PAK/1) at its 1506th and 1508th meetings on 18 and 19 April 2017 and adopted the following Concluding Observations at its 1530th meeting, held on 4 May 2017;

32. The Committee is concerned that, despite the efforts made by the Government, consistent reports refer to high levels of trafficking in persons for sexual exploitation and forced or bonded labour, including exploitation of children as domestic workers in slave-like conditions (arts. 2, 12, 14 and 16 of CAT).

33. The Committee urges the State party to:

(a) Take measures to eradicate and combat human trafficking and forced labour, investigating all allegations of trafficking and forced labour and ensuring that perpetrators are prosecuted and convicted with sentences commensurate with the gravity of the crime;

(b) Establish mechanisms for the systematic and regular monitoring of workplaces in the formal and informal sectors, including domestic work, in order to prevent forced and bonded labour and other forms of ill-treatment, abuse and exploitation;

International Labour Organization Conventions

The International Labour Organization (ILO) has three conventions that apply directly in the context of child domestic labour.

Minimum Age Convention, 1973 (No. 138)

The ILO Minimum Age Convention, 1973 requires ratifying States to adopt national policies aimed at ensuring the effective abolition of child labour and progressively raising the minimum age for admission to employment or work. Pakistan has ratified this Convention on 06 July 2006.

The following sections are relevant in relation to child domestic workers.

Article 2(1) of the Convention states that each ratifying state shall specify the minimum age for admission to employment or work.

Article 2(3) specifies the age of entry to work should not be less than the age of completion of compulsory schooling and in any case, shall not be less than 15 years.

Article 2(4) gives relaxation of 1 year to countries with insufficient economic and educational developments and countries can specify an initial minimum age of 14 years. Article 3 sets 18 years as age if the work is like to jeopardize the health, safety, or morals of young persons.

Worst forms of Child Labour Convention, 1999 (No. 182)

Pakistan ratified the ILO Worst forms of Child Labour Convention, 1999 on 11 October 2001. Article 3 of the Worst Forms of Child Labour Convention explains that if any of the below mentioned conditions or situations exist, it will be considered as the worst form of child labour.

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;*
- (b) the use, procuring, or offering of a child for prostitution, for the production of pornography or pornographic performances;*
- (c) the use, procuring, or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;*
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children.*

The Committee of Experts on the Application of Conventions and Recommendations (CEACR) examines the compliance of ILO conventions ratified by state parties. The Committee noted that child domestic labourers were susceptible to becoming involved in the worst forms of child labour, as their work was difficult to monitor or regulate. The Committee requests the Government of Pakistan to strengthen its efforts to protect and withdraw child domestic workers from exploitative and hazardous work (Direct Request on the Worst Forms of Child Labour Convention - adopted 2020, published at the 109th ILO Session 2021).

The ILO's international normative framework on child domestic labour has gradually evolved from a blunt age-based prohibition (as in ILO Convention on Minimum Age, 1973 No. 138) to a more nuanced notion of the key characteristics of child domestic work that can make it a "worst form" of child labour (as in ILO Convention on Worst Forms of Child Labour, 1999 No. 182). For example, paragraph 3(e) of Recommendation 190, which accompanies the Worst Forms of Child Labour Convention (C.182), 1999, states that in determining hazardous work situations, consideration should be given to "work under particularly difficult conditions, such as work for long hours or during the night, or work where the child is unreasonably confined to the employer's premises of the employer."

Domestic Workers Convention, 2011 (No. 189)

Article 3(1) of the Domestic Workers Convention, 2011 (No. 189) ensures the effective promotion and protection of the human rights of all domestic workers. Article 3(2) (c) speaks of the abolition of child labour in domestic settings. Article 4 emphasises that countries must abide by the principles and provisions of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182).

Pakistan has not ratified this convention. Without any legal protection, the vulnerability of domestic workers increases and makes it difficult for them to seek adequate remedies.

Lahore High Court in a reported judgment cited as "Subay Khan v. Federation of Pakistan through Secretary and Ministry of Law and 2 others" (PLJ 2018 Lahore 224) has held that Pakistan is not a signatory to the Domestic Workers Convention, 2011 but any such convention carries persuasive value". It has further been held that equal work must carry equal pay, this principle rests on Article 3.

The sector-specific approach of the ILO Decent Work for Domestic Workers Convention and Recommendation (C.189, 2011) is further evidence of a shift in policy thinking. These standards are based on the belief that domestic workers are workers and therefore entitled to respect for their rights and dignity (ILO, 2012). The specific provisions for young workers are a recognition of the particular situation of those who have passed the minimum age for admission to employment but are not yet 18, and who need special protection and attention to continue their education. This more pragmatic approach promises to ensure visibility and respect for domestic workers of all ages.

Convention on Forced Labour, 1930 (No.29)

The ILO Convention on Forced Labour, 1930 requires the suppression of forced or compulsory labour in all its forms (Article 1(1)). It also requires ratifying States to ensure that the use of forced labour is punishable as a criminal offence and that penalties are “really adequate and strictly enforced” (Article 25). The Convention is relevant because children are forced to do domestic work without their consent. Pakistan ratified this Convention on 23 December 1957.

Abolition of Forced Labour Convention, 1957 (No. 105)

The Abolition of Forced Labour Convention primarily concerns forced labour imposed by state authorities and specifically prohibits the use of any form of forced or compulsory labour. Pakistan ratified this Convention on 15 February 1960.

Sustainable Development Goals

Sustainable Development Goal #8.7 specifically addresses the elimination of forced labour, ending modern slavery and human trafficking, and ensuring the prohibition and elimination of the worst forms of child labour by 2025. Goal 16.2 emphasises ending abuse, exploitation, trafficking and all forms of violence and torture against children by 2030.

Pakistan has prioritised the Sustainable Development Goals. At the federal level, a dedicated section for the SDGs has been established in the Ministry of Planning, Development and Special Initiatives (MoP& SI) to coordinate and monitor the progress. In 2018, the government drafted and adopted a national SDG framework, which provides a national vision for localising the SDGs. Treaty Implementation Cells and SDG Support Units have been established in provincial planning

development departments to lead the implementation of the SDGs, focusing on mainstreaming the SDGs into planning processes, monitoring and reporting on the SDGs, aligning public financial allocations with the SDGs and alternative financing modalities, and using technology to accelerate progress on the SDGs.

Generalised Scheme of Preferences Plus (GSP+)

The Generalised Scheme of Preferences Plus (GSP+) is the European Union's strategy to promote sustainable development in developing countries by making it easier for developing countries to export their products to the European Union. It can be defined as an instrument to promote trade, sustainable development and the protection of labour rights. GSP+ status grants countries duty-free access to various goods to European Union countries. The European Union (EU) granted GSP+ status to Pakistan in January 2014.

The EU Special Incentive Arrangement for Sustainable Development and Good Governance ('GSP+') assessment of Pakistan covering the period 2018 – 2019 has discussed the issue of child labour. It says that despite of the concrete efforts of federal and provincial governments, the European Union is concerned about the delay of child labour surveys, decreased number of labour inspectors as well as the inefficiency of labour inspection systems etc. In September 2021, Pakistan's GSP+ status, set to expire in 2022, was extended by the European Union, for 2 years with six new conventions introduced including child labour.³ All recipient countries, including Pakistan, will have to apply for renewal of GSP Plus status for the period after December 2023.

The Directorate General Trade of the European Commission (GSP+ 4th Biennial Review of 2022) proposed the following priority areas for action, including child labour:

1. Publication of child Labour surveys which have been completed and acceleration of the work on remaining surveys.
2. Development of action plans based on finalized child labour surveys.
3. Improve the capacity of labour inspectorates to carry out inspections without prior notice, in particular by significantly increasing the number of inspectors (including women) and providing the necessary equipment and trainings.

There are various laws to combat child labour at the national and provincial levels. As labour is a provincial matter, the provinces and the Islamabad Capital Territory have enacted their own laws.

³ <https://dailytimes.com.pk/819803/pakistans-gsp-plus-status-to-continue-with-six-new-clauses-added/>



**National and Provincial
Legal Framework for
Child Domestic Labour**

Constitution of the Islamic Republic of Pakistan, 1973

Article 3 of the Constitution of Pakistan ensure the elimination of all forms of exploitation and the gradual fulfilment of the fundamental principle, from each according to his ability, to each according to his work.

Article 11 of the Constitution of Pakistan prohibits all forms of slavery, forced labour, human trafficking, employment of children younger than 14 years, and working of children in hazardous places.

Article 25 states that all citizens are entitled to equal protection of the law and empowers states to make special provisions to protect women and children.

Article 25-A provides that the state shall provide free and compulsory education to all children of five to sixteen years.

Article 35 provides that the state shall protect the family and the child.

Article 37(e) secures just and humane work conditions and ensures that children and women are not employed in vocations unsuited to their age or sex.

Under Article 25-A of the Constitution of Pakistan, ICT and all provinces (Punjab, KP, Sindh, Balochistan) have enacted laws for free and compulsory education for children up to sixteen years i.e. The Right to Free and Compulsory Education Act, 2012 (ICT), The Punjab Free and Compulsory Education Act, 2014, The Sindh Right of Children to Free and Compulsory Education Act, 2013, The Balochistan Compulsory Education Act, 2014, and The Khyber Pakhtunkhwa Right of Children to Free and Compulsory Education Act 2014. However, these laws are poorly enforced due to lack of rules and the necessary enforcement notifications. In addition, there are problems related to the education system, such as insufficient budget, poor physical facilities, poor administration and poor quality of teachers, and lack of policy implementation. Strict enforcement of education laws will help address the problems of children not enrolled in school, low enrolment and attendance rates, etc., thereby reducing the incidence of child domestic labour in Pakistan.

Constitution of Pakistan, 1973

Article 3: Elimination of all forms of exploitation.

Article 11: All forms of slavery and prohibition of child labour.

Article 11 (3): Prohibits the employment of children below 14 years in any factory, mine or other hazardous employment.

Article 17 (1): Every citizen shall have the right to form associations or unions.

Article 25: Equal protection of the law.

Article 25 (3): Empowers states to make special provisions for the protection of women and children.

Article 25-A: Free and compulsory education to all children of the age of five to sixteen years.

Article 35: Provides that the state shall protect the family and the child.

Article 37 (e): Just humane conditions of work ensuring that children and women are not employed in vocations unsuited to their age, etc.

Pakistan Penal Code, 1860

The Pakistan Penal Code, 1860 (PPC, 1860) is a comprehensive code designed to cover all substantive aspects of criminal law throughout Pakistan. In 2016, a new section 328A was added to the Pakistan Penal Code. Section 328-A deals with the offence of cruelty to a child. It provides that the sentence should not be less than one year and may be extended to three years if someone wilfully assaults, mistreats, neglects, abandons or carries out an act of omission or commission that has the potential to harm or injure a child by causing physical or psychological injury to the child. In the Tayyaba Torture case (a child domestic worker), the perpetrators were convicted for committing an offence punishable under Section 328-A of the PPC, 1860.

Prevention of Trafficking in Persons Act, 2018

The Prevention of Trafficking in Persons Act, 2018 was introduced with the aim of combating trafficking in persons, particularly women and children. The Act defines a child as a person who has not attained the age of 18 years. Section 3 defines **“Trafficking in Persons”** which also includes forced labour as, *“Any person who recruits, harbours, transports, provides or obtains another person, or attempts to do so, for compelled labour or commercial sex acts through the use of force, fraud or coercion, commits an offence of trafficking in persons and shall be punished with imprisonment which may extend to seven years or with fine which may extend to one million rupees or with both”*. The punishment may enhance up to ten years if crime is against a woman or a child.

The Federal Investigation Agency (FIA) is the lead agency for combating human trafficking and smuggling of migrants in Pakistan. The role of the agency is immigration, control smuggling and external human trafficking. Police has been given the responsibility to address and respond to internal trafficking.

Bonded Labour Abolition Laws in Pakistan

The laws abolishing bonded labour are relevant to child domestic labour. The Bonded Labour System (Abolition) Act was enacted in 1992. It abolishes the bonded labour system in Pakistan and exempts all bonded labourers from any obligation to perform such labour. All property forcibly seized from creditors for debt bond collection must be returned and debts related to debt bonds are no longer valid. The law provides for vigilance committees to be formed at the district level, composed of representatives of the government, social services, lawyers and

journalists, to monitor the implementation of the law, assist in the rehabilitation of the freed bonded labourers and help them achieve the objectives of the law.

After the 18th Constitutional Amendment, the issue of labour was transferred to the provinces. Therefore, the Bonded Labour System (Abolition) Act, 1992 is enforced in the ICT region, while the provincial governments have enacted the following bonded labour laws:

- Punjab Bonded Labour System (Abolition) Act, 1992 (Amendment Act, 2012)
- Khyber Pakhtunkhwa Bonded Labour System (Abolition) Act, 2015
- Sindh Bonded Labour System (Abolition) Act, 2015
- Abolition of Forced and Compulsory Labour in Balochistan Act, 2021

Several cases of child domestic labour can be termed bonded labour under these laws, which could empower the police to take action against employers as it is a violation of the bonded labour laws. However, weak implementation and lack of functioning institutional mechanisms at the district level impede progress

Another relevant law is the Children (Pledging of Labour) Act, 1933, to prohibit arrangements for the pledging of children's labour and the employment of children whose labour has been pledged. It imposes a penalty on parents or guardians who enter into an agreement to pledge the labour of a child, and also on employers for employing a child whose labour has been pledged.

The provinces of Punjab, Khyber Paktunkhwa and Sindh have enacted laws regulating home-based work to ensure the protection of domestic workers, including children, but these laws primarily focus only on adult workers..

Islamabad Capital Territory (ICT)

Child domestic labour is governed by the Employment of Children Act, 1991 (ECA, 1991) in ICT. Child domestic labour is prohibited in ICT and declared as hazardous occupation in Schedule of ECA 1991.

The Employment of Children Act, 1991, as the preamble of the Act says, is an Act to prohibit the employment of children in certain occupations and to regulate the conditions of working children. However, the law does not contain the definition of child domestic labour or domestic work etc. Furthermore, section 2(iii)

defines a child as a person who has not completed his fourteenth year of age. The definition of the word 'establishment' under section 2(v) does not include domestic setting.

The Islamabad Capital Territory Child Protection Act, 2018 was passed with a broader mandate to protect children from all forms of physical or mental violence, injury, neglect, maltreatment, exploitation, abuse, and any matters ancillary thereto. This law defines "child", as a person who has not attained 18 years of age. "Sexual abuse and exploitation" include the inducement or coercion of a child to engage in any unlawful sexual activity, including the use of children in audio or visual images for child pornography, child prostitution, trafficking within and between countries for sexual exploitation, and sale of children for sexual purposes.

According to Section 5 (b) (Child in need of care), a child in need of protection and care shall include a child who-

(b) is unattended, victim of an offence, child, domestic and such other workers, found begging, imprisoned with the mother or lives in an immoral environment.

Islamabad – Child Protection Facilities

- Child Protection Institute in Humak established for boys under ICT Child Protection Act, 2018 provides protection to vulnerable and at risk children. The Centre maintains child protection and care management data, develop child care plan, and if required provides rescue, shelter, counseling, family tracing and rehabilitation services to children in need of care and protection.
- The Advisory Board is mandated to ensure effective coordination and implementation of the child protection and care mechanism, as well as to maintain an information system for the protection and care of children, and to recognize, regularly review and inspect all caregiver organisations.
- Helpline 1099 is a helpline for all human rights cases, can also be used to report complaints about child protection. The helpline, operated by the Ministry of Human Rights, provides free legal advice, counselling, legal assistance and referral services to resolve complaints.

The Act establishes a 'Child Protection Advisory Board' and 'Child Protection Institutions' to protect children from abuse, maltreatment, exploitation, neglect, and mental violence with the Federal Secretary Ministry of Human Rights as its Chairperson. The Child Protection Advisory Board will advise the Government on matters relating to policy, legislation, and implementation of rights of child to protection and care as contained in international laws and obligations.

Islamabad Capital Territory Domestic Workers Bill, 2021

The Bill provides for a legal regime for the employment of domestic workers in the Islamabad Capital Territory (ICT) and the protection of their rights. It also provides for improvement of working and employment conditions for domestic workers. The proposed legislation contains provisions for the social protection and welfare of domestic workers, including working hours, minimum wages, leave entitlement, security and medical care, etc. The minimum age for employment of domestic workers is "eighteen" years in all sections of the Bill, making the minimum age for employment of domestic workers as 18 years. *The Bill is awaiting enactment.*

Punjab

The 18th Amendment to the Constitution gave the provincial government the power to legislate on the subject of children. Punjab adopted the Employment of Children Act, 1991 but only replaced the word Pakistan with Punjab and the federal government with the provincial government and did not improve the law. Later in 2016, Punjab province introduced The Punjab Restriction on Employment of Children Act, 2016. One good thing was that the list of hazardous occupations was expanded from 34 to 38 with some details and considerations, but again it failed to ban child domestic labour in Punjab till the Punjab Domestic Workers Act, 2019 came into force.

In Punjab, the Punjab Destitute and Neglected Children Act, 2004 is considered the primary child protection law in the province. The law empowers the Child Protection Officer to recover and place the child in the institution established under this act and a Child Protection Court can take the cognizance of these matters. However, the response is very limited, especially in the case of children who are domestic workers.

Punjab – Child Protection Facilities

- The Child Protection Helpline in Punjab is 1121, can be accessed to report if a child is destitute or neglected in Punjab.
- The Child Protection & Welfare Bureau rescues destitute children from roads, streets and other vulnerable places who are abused, exploited, used for commercial sexual exploitation, without parental care or trafficked, kidnapped and sold.
- The Child Protection Officer may take into custody a destitute and neglected child and produce him before the Court within twenty-four hours of taking the child into such custody.
- The Child Protection & Welfare Bureau has established standardised alternative care institutions for rescued children who cannot be placed in a safe family environment. These Child Protection Institutions provide shelter, food, education, medical care, psychological counselling and recreation facilities to the children upon admission until the children are reunited with their families.

It is important to note that child domestic work is not covered by this law, but only if a child is destitute and neglected or is at risk owing to disability or child labour".⁴

The Child Protection and Welfare Bureau may establish Child Protection Units and Institutes. It can recognise any other institution as a Child Protection Unit. Children's homes or residential facilities already established and functioning under the repealed Punjab Supervision and Control of Children Homes Act, 1976 are considered as child protection institutions under the Punjab Destitute and Neglected Children Act, 2004 for housing destitute and neglected children. There is a dedicated helpline 1121 in the province operated by the Child Protection and Welfare Bureau to receive complaints regarding child protection.

The Punjab Domestic Workers Act, 2019

The Punjab Domestic Workers Act, 2019 (PDWA, 2019) is a major piece of legislation that prohibits the employment of children as domestic workers. The Act, 2019 prohibits employment of children below the age of 15 years in a household in any form and allows children below the age of 18 years to do light work in the domestic setting. Light work is defined in section 3 of the Act as "domestic work which is part-time and and is not likely to harm health, safety and education of a domestic worker".

The Act complies with Article 4 of ILO Convention 189 and the minimum age for domestic workers is in line with the age provisions of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), however, it does not contain provisions on the education of children under the age of 18 who work as domestic workers.

ILO Convention No. 189 on Domestic Workers requires that domestic workers be protected from all forms of abuse, harassment and violence, but the PDWA, 2019 is silent on abuse, harassment and violence against children and adults working as domestic workers.

Section 5 of the PDWA, 2019 states that a contract of employment must be issued for all employment, setting out the terms and conditions of employment, including the nature of the work and the amount of wages. The law also does not address the issue of paying wages to children.

⁴. Sec.3k, The Punjab Destitute and Neglected Children Act, 2004

Article 17 of the Domestic Workers Convention, 2011 requires the State to establish effective and accessible grievance mechanisms to address protection issues. Section 25 of the PDWA, 2019 provides for a Dispute Resolution Committee for any dispute or complaint arising out of and in connection with the enforcement of the Act, and inspection of households by labour officers can only be carried out after receipt of a complaint and on the direction of the Dispute Resolution Committee. Firstly, the government has not yet appointed or notified either a committee or a labour inspector under the Act and secondly, even if and when notified, it would be a difficult task for domestic workers to follow the procedure laid down in the Act to raise their grievances and one can only imagine how difficult and practically impossible it would be for a child to get justice under the current provisions of the Act. With limited inspections by labour inspectors and no direct grievance mechanism for affected persons to report violations of the Act, the vision of protecting the rights of child domestic workers will remain a dream. During the meeting with the Punjab Labour Department, it emerged that not a single complaint has been registered by the department so far, despite cases being reported in the media.

Most of the children who work in the homes of the big cities come from rural areas or slums around the big cities. Usually these children are trafficked by middlemen who exploit them financially with the complicity of their parents. Internal trafficking is a crime in Pakistan under the Prevention of Trafficking in Persons Act, 2018, but the PDWA, 2019 completely ignores this critical aspect of the domestic labour sector.

A review of this only detailed law (relating to domestic workers) from a child protection perspective shows that the recovery, rehabilitation and referral aspects are missing. The PDWA, 2019 may be a good start for adults engaged in the domestic work industry, but for children, the law unfortunately offers little protection. The perpetrator who employs a child as a domestic helper may be punished after a long complaint process and a cumbersome conviction process. However, the law does not provide for rescue and reparation measures for children employed below the minimum age. Even if the child is somehow rescued and recovered, there are no provisions for rehabilitation of the child.

Light work must be defined in the context of child labour in domestic work. Details of domestic work and the hours of work that are or are not considered light work should also be explicitly stated in the laws or regulations. The Punjab government should raise the minimum age for light work to 16 years to comply

with Article 25(A) of Pakistan's Constitution and the Punjab Free and Compulsory Education Act, 2014. This anomaly should also be reflected in the rules and regulations for the implementation of the Act.

Punjab Domestic Workers Act, 2019

WHAT IS NEEDED?

- The rules of "The Punjab Domestic Workers Act 2019" must be devised as soon as possible and bring about all possible administrative actions to ensure the effective implementation of this law.
- The law should be revised from a child protection perspective, as the law does not provide an enforceable mechanism for child labour in domestic work.
- Light work must be defined in the context of child labour in domestic work.
- Concrete measures to abolish child domestic labour needs to be incorporated.
- Consideration on right to education also needs to be given under the law.
- Regulations and mechanisms to prohibit abuse, harassment and violence against child domestic workers needs to be devised.
- An efficient and strong complaint mechanism is required, and a coordinated child protection case management system needs to be established.
- The aspects of recovery, rehabilitation and referral are missing in the Act, and should be addressed.
- The issue of internal trafficking of children for domestic work needs to be addressed.

Sindh

The Sindh Prohibition of Employment of Children Act, 2017 defines “child” as a person who is not yet 14 years of age, and “adolescent” who has completed his fourteenth but has not completed eighteenth year of his age. Children are not allowed and permitted to work in any establishment whereas law defines conditions of work for adolescents such as hours and period of work, weekly holidays, notice to inspector, maintenance of register, etc. No adolescent is allowed to work in any hazardous work included in the Schedule of the Act. The Act provides for harsher penalties if a child is involved in hazardous work, forced labour or slave-like situations. The law does not apply to child domestic labour.

The Sindh Child Protection Authority Act, 2011 was enacted to develop the systems for children in need of special protection measures and regulates related matters. Section 2 defines the child in need of special protection measures as a “child who is forced into the worst forms of child labour, exploitative labour, or beggary”. Section 15 of the said Act establishes a link between the police and the district level child protection units to provide assistance. Section 15(3)A provides for a station house official to provide adequate police assistance to the child protection officer, if required.

One of the functions of this authority is to initiate prosecution of offenders through the competent authorities. When children are victims of crime, the law provides for protective measures.

Sindh – Child Protection Facilities

The Sindh Child Protection Authority coordinates and monitors child protection at the provincial and district levels:

- The Child Protection Helpline in Sindh is 1121 and is operated by the Sindh Child Protection Authority. It can be used to report when a child is in need of protection in the province.
- A Child Protection Officer appointed under the Sindh Child Protection Authority Act can request the relevant authorities to take appropriate action in the case of a child in need of special protection measures.
- The Child Protection Officer may, if necessary, take custody of a child and present the child to the Child Protection Court.

In April 2021, the Sindh Provincial Assembly amended the Act to define 'abuse' as follows: *"means the child abuse and includes physical, psychological or sexual violence, exploitation, comprising economic exploitation and sexual exploitation, including child marriage, child trafficking or exploitive, domestic or commercial child labour, corporal punishment, injury and maltreatment"*. This amendment broadened the scope of the Sindh Child Protection Authority, as child domestic labour is clearly an exploitative economic activity and labour.

The same amendment has also restructured the Child Protection Authority and empowered the Child Protection Officers. The Child Protection Officer may take cognizance and is empowered, for reasons to be recorded in writing, is authorised to *"interrogate any person in such premises where he has reasons to believe that children are being kept for the purpose of child abuse, illegal adoption or for any other unlawful purpose."*

An official visit found that the Child Protection Authority already has a strong referral system in place. The authority is aware of its new mandate, but the infrastructural and administrative capacity of the 30 Child Protection Units still needs to be strengthened. The 1121 helpline receives calls and the helpline staff coordinate with the district police, but a stronger follow-up mechanism needs to be developed.

Khyber Pakhtunkhwa (KP)

The Khyber Pakhtunkhwa Prohibition of Employment of Children Act was passed in 2015. The Act prohibits the employment of children below the age of 14 years, but children between the ages of 12 and 13 years are allowed to do light work with a family member for a maximum of two hours. Violation of KP Prohibition of Employment of Children Act, 2015, where a child is employed as a labourer can be punished with imprisonment for 6 months or a fine of 50,000 rupees, but employing a child in hazardous work can result in imprisonment for up to 3 years and a fine. However, the list of hazardous labour does not include child domestic labour. The law has classified 4 occupations and 35 processes as hazardous.

The Government of KP has notified rules for implementation of KP Prohibition of Employment of Children Act in 2022.

The KP Provincial Assembly has passed the Khyber Pakhtunkhwa Home Based Workers (Welfare and Protection) Act, 2021, which regulates the rights, duties and problems of home-based workers. The Act vaguely prohibits the employment

of children below 14 years of age as home-based workers as prohibited in the KP Prohibition of Employment of Children Act, 2015. It is important to note that the KP Prohibition of Employment of Children Act, 2015 does not include child domestic labour in prohibited occupations or processes.

The Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010 deals with vulnerable children and provides for the protection of children at risk and in need of care. In section 2(e), it provides a definition of child at risk. In an interview with the head of the Child Protection Commission in KP, it was stated that a child who is in slave-like conditions or in domestic servitude can be rescued. Although this is not categorically defined in the law. Under the law, Zaumung Kor is a child protection facility available for vulnerable children in Peshawar. Child Protection Commission operates a helpline 1121.

The KP government has reiterated its commitment to address this menace, specifically mentioning in the KP Child Labour Policy 2018⁵ that *“The existing labour laws do not apply to the domestic child labour and child home-based work.*In order

5. <http://directoratelabour.kpdata.gov.pk/img/kp-child-labour-policy-2018/KP-Child-Labour-Policy-2018.pdf>

Khyber Pakhtunkhwa – Child Protection Facilities

- The Child Protection Helpline in KP is 1121 and can be used to report if a child is at risk in the province.
- Provincial Commission has a number of responsibilities to protect children’s rights in the province, including acting as a focal point for effective supervision and coordination of child rights issues at provincial and local levels, and developing and coordinating activities, programmes and plans for the development, protection, survival, participation and rehabilitation of children at risk.
- Child Protection Unit (CPU) has multiple functions including receiving and registering children at risk and their families, assessing needs of individual children, planning and coordination of services, developing community structures, provision of preventive and protective services, etc.
- Child Protection Officer has powers to inspect child protection institutes, enter and search buildings and premises (with police assistance), seize materials as evidence of an offence punishable under the Act, call any person to be present as witness in the course of search, etc.

to combat child exploitation in these sub-sectors, the policy proposes to conduct studies and explore ways to include these practices within the scope of existing or new labour laws.

Balochistan

The Balochistan Employment of Children (Prohibition and Regulation) Act, 2021 was enacted to regulate and prohibit child labour in Balochistan. The Act defines a child as a person who has not completed 14 years of age and prohibits employment of children in 4 occupations and about 38 processes, including child domestic labour. Any person, police officer or inspector can file a complaint for an offence under this Act. Employing a child as a domestic worker is an offence under this law: "Whoever employs any child or permits any child, adolescent or young person to work in contravention of the provisions of section 3 and section 9 shall be punishable with imprisonment for a term which may extend to one year or with a fine which may extend to one hundred thousand rupees or with both."

The Balochistan Child Protection Act was promulgated in 2016 to provide for the protection of children from all forms of violence, exploitation, abuse and neglect. Section 5 of the said Act covers children working as domestic workers who are neglected, abused or exploited. Under this Act, the Government of Balochistan established the first ever Child Protection Unit in the city of Quetta. The unit has developed a model of child protection case management and referral system to respond to child protection cases and has its own staff to deal with cases of abuse.

The current legal framework in Pakistan does not address the unique circumstances of child domestic labour, the special conditions under which the work is performed, and the particular vulnerability to abuse and exploitation that may result for children.

Pakistan also lacks strong, integrated mechanisms to enforce the legal and policy framework on child labour. The government has tasked several agencies at the federal, provincial and district levels to take action against child labour. These include the Police, Provincial Labour Inspectors, Federal Investigation Agency (FIA), Inter-Agency Task Force, Labour Courts, District Vigilance Committees, Provincial Child Protection Units, Punjab Child Protection and Welfare Bureau, Balochistan Child Protection Commission, KP Child Protection and Welfare Commission and Sindh Child Protection Authority. Although the actors for implementing the legislative framework are identified, the enforcement mechanisms remain weak.⁶

6. ILO, Child labour in domestic work in Pakistan: A scoping study, 2022

Table of National and Provincial Legal Framework on Child Labour

Jurisdiction: National

Specific Labour Laws	Specified Age	Relevant Sections	About Child Domestic Labour
The Constitution of Pakistan, 1973	14 Years	Article 3	Article 3 provides that the State shall ensure the elimination of all forms of exploitation, etc.
		Article 11	Article 11 prohibits all forms of slavery, forced labour, human trafficking, employment of children younger than 14 years, and working of children in hazardous places.
	5-16 Years	Article 25-A	Article 25-A provides that the state shall provide free and compulsory education to all children of the age of five to sixteen years.
	Article 35	Article 35 provides that the state shall protect the family and the Child.	
		Article 37(e)	Article 37(e) provides that the state shall make provision for securing just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, etc.
The Children (Pledging Of Labour) Act, 1933	15 Years	4	Nothing about CDL specifically, but parents can be penalised to pledge the labour of a child and employers who employ a child whose labour has been pledged.
The Trafficking in Persons Act, 2018	18 Years	2(A)	Any person who recruits, harbours, transports, provides or obtains another person, or attempts to do so, for compelled labour or commercial sex acts through the use of force, fraud or coercion, commits an offence of trafficking in persons.

Territory: Islamabad Capital Territory (ICT)

Specific Labour Laws	Specified Age	Relevant Sections	About Child Domestic Labour
The Employment of Children Act, 1991	14 Years	3 Schedule (Part 1- Occupations)	Prohibit the employment of children under 14 years of age in certain occupations and processes set forth in Part I and Part II schedules. CDL is included in the Part I schedule dealing with prohibited occupations, but not in substantive provisions of the Act.
ICT Child Protection Act, 2018	18 Years		Nothing about CDL

Territory: Punjab

Specific Labour Laws	Specified Age	Relevant Sections	About Child Domestic Labour
The Punjab Prohibition Of Child Labour At Brick Klin Act, 2016	14 Years		Nothing about CDL
The Punjab Restriction On Employment Of Children Act, 2016	15 Years		Nothing about CDL
The Punjab Domestic Workers Act, 2019	15 Years (For Light Work 15-18 Years)	3	No child under 15 years of age is allowed to work in any capacity in a household, while children over 15 and under 18 years of age may be employed only in light work that is part-time in nature and does not endanger the health, safety and education of a domestic worker.
The Punjab Destitute and Neglected Children Act, 2004	18 Years		Nothing about CDL

Territory: Khyber Pakhtunkhwa

Specific Labour Laws	Specified Age	Relevant Sections	About Child Domestic Labour
Khyber Pakhtunkhwa Prohibition of Employment of Children Act, 2015	14 Years		Nothing about CDL
The KP Home Based Workers (Welfare and Protection) Act, 2021	14 Years	7(c)	Not to engage under the age of fourteen (14) as prohibited under the Khyber Pakhtunkhwa Prohibition of Employment of Children Act, 2015
Khyber-Pakhtunkhwa Child Protection and Welfare Act, 2010	18 Years		Nothing about CDL

Territory: Sindh

Specific Labour Laws	Specified Age	Relevant Sections	About Child Domestic Labour
The Sindh Prohibition Of Child Labour Act, 2017	14 Years		Nothing about CDL
The Sindh Child Protection Authority Act, 2011	18 Years	2(a-i) 2(c)	“Abuse” means the child abuse and includes physical, psychological or sexual violence, exploitation, comprising economic exploitation and sexual exploitation, including child marriage, child trafficking or exploitive, domestic or commercial child labour, corporal punishment, injury and maltreatment; “Child in need of special protection measures” includes a child who- (iii) is forced into the worst forms of the child labour, exploitative labour, or beggary; (iv) is subject to human trafficking within and outside Pakistan;

Territory: Balochistan

Specific Labour Laws	Specified Age	Relevant Sections	About Child Domestic Labour
The Balochistan Employment of Children (Prohibition & Regulation) Act, 2021	14 Years	2 (c)	No person below the age of 18 years shall be employed or permitted to work in any hazardous occupations and in any of forms of labour. CDL is included in prohibited process.
Balochistan Child Protection Act, 2016	18 Years		Nothing about CDL

Child Protection Laws in Pakistan

All provinces and the ICT region have child protection laws in place to ensure that children have access to functioning child protection systems. With the exception of the Sindh Child Protection Authority Act, 2011, the other protection laws do not directly address child domestic labour, but provide protection to all children from abuse, violence, neglect and exploitation including child domestic labour, when they are vulnerable and in need of the care and protection provided by law, i.e. Khyber Paktunkhwa Child Protection and Welfare Act, 2010 (“child at risk”), Balochistan Child Protection Act, 2016 (“child abuse”, “child exploitation”, “neglect or negligent treatment”, “mental violence”, “maltreatment”), Islamabad Capital Territory Child Protection Act, 2018 (“child abuse”, “child exploitation”, “maltreatment”, “mental violence”, “neglect”), Punjab Destitute and Neglected Children Act, 2004 (“destitute and neglected child”).

Selected Case Laws on Child Domestic Labour

Tayyaba Torture Case⁸

Tayyaba's case was first reported in December 2016 when she was rescued from the house of the senior presiding officer of the district court of Islamabad.

The First Information Report No.483/2016, dated 29.12.2016, under sections 342, 506, 328-A, 201, 337-A(i), 337-F(i), 34 P.P.C. was registered against Raja Khurram and his wife in Police Station Industrial Area, Islamabad and Police took the cognizance and initiated the investigations.

Given the loopholes in the system and the absence of child-friendly legislation, the said judge reached a compromise with Tayyaba's parents on 2 January 2017, prompting him to grant bail before arrest by the Additional Session Judge Raja Asif Mehmood court on the same day. Meanwhile, on 3 January 2017, Additional District and Sessions Judge Atta Rabbani handed over custody of Tayyaba to her parents.

However, the very next day, on 4 January 2017, the Supreme Court took suo moto notice of the matter due to the media hype on the issue and civil society interventions. The Supreme Court directed the police to investigate the case from all angles and, at a subsequent hearing on 11 January 2017, found that the role of Chakwal-based lawyer Raja Zahoor Hassan, who practised law in Islamabad, had played a part in the "illegitimate" compromise between the suspects and the child's family. The Chief Justice of Pakistan, Saqib Nisar, had strictly remarked during the trial that "there is no doubt that a criminal act has been committed in Tayyaba's case".

Later, the Supreme Court also directed the police to investigate how the compromise was possible, how the compromise deed came about and also to investigate the aspect of internal child trafficking for labour

⁸. Source: 2020 PLD (SC) 146, Raja KHURRAM ALI KHAN VS TAYYABA BIBI, 2019 YLR-ISLAMABAD 98

exploitation. At this point, the police only focused on the issue of child abuse and the involvement of the suspect. On 26 January 2017, the SC had expressed displeasure at the way the police were investigating the case.

As a result, the apex court referred the case back to the Islamabad High Court for further consideration. After the hearing, the prosecution proved the charges under Section 328-A of the Pakistan Penal Code, "Both the accused have admitted that the girl was working as maid at their house thus was in their care," Justice Farooq stated "Raja, being the head of the family and Mrs. Zafar being responsible for the daily domestic affairs, were jointly responsible for looking after and taking care of the child."

From the long judgement, dated 17-04-2017 by the learned trial judge Justice Aamer Farooq of Islamabad High Court the following two paragraphs are of pertinence for the deliberations;

"23. The evidence mentioned above as tendered by the parties clearly shows that the accused persons neglected and/or wilfully harmed and abandoned Mst. Tayyaba Bibi which resulted in harm to her or had the potential of causing harm hence have committed the offence as charged and the prosecution has proved the same beyond shadow of doubt. Both the accused have admitted that Tayyaba was working as maid at their house thus was in their care. Raja Khurram Ali Khan being the head of the family and Mst. Maheen Zafar being responsible for the daily domestic affairs were jointly responsible for looking after and taking care of the child i.e. Tayyaba Bibi. The version of the accused that the media hype was created about the incident and hence the FIR, is inconsequential in as much as the media hype has no bearing on the facts leading to the commission of the offence."

"25. In view of above the prosecution has been able to prove the charge under section 328-A PPC, hence the accused persons Mst. Maheen Zafar and Raja Khurram Ali Khan both are jointly responsible for it and are accordingly convicted. They are acquitted of other charges. Raja Khurram Ali Khan and Mst. Maheen Zafar are punished with imprisonment of One-year simple imprisonment with fine of Rupees 50,000/- each and in default to serve one-month imprisonment. The accused shall have the benefit of Section 382-B Cr.P.C." Later, the punishment was enhanced in appeal.

The appellate bench showed serious concerns and narrated;

"The object was exploitation of the child in return for gain which was to be received by her father... She was not admitted in any school and thus her right to education was also denied... Admittedly, neither was the consent of Tayyaba Bibi sought nor was her engagement as a domestic worker (servant) governed under a contractual arrangement agreed at arm's length. There were no fixed working hours nor was she paid the minimum wage determined by the State of Pakistan. Needless to mention that because of her age she was not even competent to contract...The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime adopted for ratification and accession by the General Assembly resolution 55/25 dated 15-11-2000 provides under Article 3(c) that recruitment, transportation, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if it does not involve any of the means described in Article 3(a). Child has been defined under Article 3 (d) as meaning any person under eighteen years of age. This is an internationally accepted definition of 'trafficking of a child'..."

It further goes on to say in same para declaring the child domestic labour as slavery.

"Child labour can tantamount to the worst form of modern day, The Black's law dictionary, Eighth Edition defines the expression 'slave' as 'a person who is wholly subject to the will of another; one who has no freedom of action, but whose person and services are wholly under the control of another. One who is under the power of a master, and who belongs to him Likewise, 'slavery' is defined as 'The condition of a slave, that civil relation in which one man has absolute power over the life, fortune and liberty of another'. Child slavery is referred to exploitation of a child for someone else's gain...being engaged in domestic work and her responsibilities were of a nature which had exposed her to physical and psychological harm...Her status was not different from a child who is a victim of trafficking and has to endure degrading treatment of being a virtual modern day slavery."

Muhammad Naseer v/s District Police Officer, Sialkot, etc.

Criminal Misc. No. 115355-H/2017 IN THE LAHORE HIGH COURT, LAHORE

In the matter whereby Muhammad Naseer petitioner herein, seeks issuance of a production order for the recovery of his wife Mst. Rukhsana Bibi and niece Saweera 11 years old domestic worker, allegedly placed under restraint by Haji Tariq Sheikh Respondent No.3 in this case and employer of the little girl. According to the petitioner, Mst. Saweera, an underage girl, was employed as a maid with family approval, however, she was subsequently confined after denial of access to the family alongside Rukhsana Bibi.

The single bench court of Mr. Justice Qazi Amin passed the verdict dated 07-12-2017; *The incident is merely the tip of an iceberg, as cases of child servitude are ubiquitous throughout. Poverty is taking its toll and it horrifically illustrates our abysmal failure on the socio-economic side; people in the lower strata are not only renting out their children they are selling body organs as well to sustain themselves in the face of fewer alternatives. The gap between the haves and have-nots is alarmingly widening. This abhorrent activity is being carried out through facilitators, readily available in every neighbourhood. It is certainly for those, asked at the helm affairs through the will of the people to take immediate remedial statutory measures to eradicate the menace. Nonetheless, it is certainly a duty cast upon this court under the constitution to ensure that statutory arrangement, for the protection of the Child, is already in place, and faithfully adhere to Article-11(3) of the constitution of Islamic Republic of Pakistan, 1973: prohibits employment of a child below the age of 14 years in any factory mine or other hazardous callings. Similarly, it is incumbent upon the state to provide free and compulsory education to all children of the age of 5-16 years in such a manner as may be determined by law under Article 35 of the Constitution the Child, alongside the family is placed under constitutional protection.*

Obligations out of the supreme law must be given effect in letter and spirit. Under section 2(e) of the Bonded labour system (abolition) Act,

*1992 (III of 1992) bonded labour system includes engagements for any economic consideration received by the worker or by any member of his family and thus clearly brings employment of a child in mischief thereof, cognizable under section 11 of the Act *ibid*; in addition to prohibition already provided under section 3 of the Pakistan Employment of Children Act, 1991. The practice is equally cognizable under section 374 of the Pakistan Penal Code 1860 which *inter alia* provides “whoever compels any person to labour against the will of that person shall be punished with imprisonment of either description for a term which may extend to five years or with fine or with both” Acquiescence of a child cannot be construed or equated by any stretch of the imagination, with his willingness to drudge on in an alien household and, thus, all those including the parents as well as the facilitators are equally capable to bring the Child in such a vulnerable situation”.*

The girl was later recovered and handed over to the legal guardians of the Child.

Recommendations

There is a need for effective implementation of laws and regulations to address child domestic labour, review of laws to address gaps, and case management and referral mechanisms to respond to the specific nature of domestic work and protection needs, as well as efforts to prevent the employment of children in domestic work.

1. Legislative Bodies: Parliament and Provincial Assemblies

- There is a need to harmonise all federal and provincial laws relating to the definition of a child to define anyone under the age of 18 as a child, and provinces must raise the minimum age for admission to employment in line with the age for compulsory education as defined in Article 25(A).
- Article 11 (3) of the Constitution of Pakistan should be amended to prohibit the employment of children (under 18 years of age) in factories, mines or hazardous occupations in accordance with Pakistan's commitment to the ILO Convention on the Worst Forms of Child Labour No.182.
- The federal government should introduce the criminal law amendments in Pakistan Penal Code, to penalise child domestic labour as slavery-like practice; the offence should be cognizable, non-bailable and non-compoundable.
- The offence in PPC 328A dealing with cruelty to a child should be made cognizable.
- Light work needs to be defined in the context of child labour in domestic work. The details of domestic work and the hours of work that are or are not included in light work should be explicitly defined in laws or rules. The right of children between the ages of 16 and 18 to perform light work should be protected.
- Introduce laws and rules to recognise and regulate adult domestic workers as "real work" and amend domestic worker laws in Punjab, Sindh and KP to prohibit the employment of children as domestic workers. Law on regulating domestic worker should be enacted in Balochistan to protect domestic workers. The Federal government should enact the Islamabad Capital Territory Domestic Workers Bill, 2021, which has already been passed by the National Assembly.
- Punjab government should immediately introduce the rules and framework under the Punjab Domestic Workers Act, 2019 and amend the law to raise the minimum age for light work from 15 to 16 years.
- Sindh Provincial government should immediately ban the child domestic labour in Sindh by amending the schedule of The Sindh Prohibition of Employment of Children Act, 2017, and The Sindh Home Based Workers Act, 2018 should be amended to prohibit employment of children.

- The issue of hazardous labour and child domestic labour as a hazardous occupation should be included in the list of prohibited occupations/ processes of the KP Prohibition of Employment of Children Act, 2015, and KP Home Based Workers (Welfare and Protection) Act, 2021 should be amended to prohibit employment of children.
- The Government of Balochistan should introduce the Rules for the Implementation of the Employment of Children in Balochistan (Prohibition and Regulation) Act, 2021.
- The Government of Pakistan should ratify the ILO Domestic Workers Convention, 2011 (No. 189), particularly in relation to child domestic labour.

2. Government and Enforcement Agencies

- There is a need to increase knowledge and understanding of the problem of child domestic labour in Pakistan. After 23 years, the government has launched child labour survey in Pakistan to establish a baseline, which has not yet been completed in all provinces. Once they are published, the impact can be evaluated through regular surveys to see how programmatic interventions are addressing and improving the situation of child domestic labour.
- Provincial departments should conduct in- depth research on child domestic labour. A needs gap analysis could be conducted to assess the problems in implementing child labour laws in the respective regions.
- It is recommended that the Pakistan Bureau of Statistics' annual Labour Force Survey (LFS) should include child domestic labour in the child labour component as a regular feature, and cover the age group 5-17 years (currently it covers those over 10 years).
- Provincial governments must develop action plans to eradicate child labour, taking into account the findings of the child labour surveys and national and international commitments.
- There must be a ban on child domestic labour for public office holders, public representatives and political office holders. Admission to public places such as hotels, restaurants, wedding halls, parks, playgrounds, public transport and car parks should be banned for adults accompanied by child domestic labour, and these prohibitions should be publicly displayed.
- Children up to the age of sixteen should go to schools by strictly enforcing the laws on compulsory education and free education in ICT and the respective provinces in line with Article 25(A) of Pakistan's Constitution. The government should focus on alternative learning opportunities for out-of-school children.

- Effective cooperation and strong coordination must be developed between provincial governments and district administrations to prevent child domestic labour.
- Provincial governments and ICT must increase budgetary allocations to improve the education system and provide mechanisms to ensure student attendance in primary, middle and high schools and ensure that no child is absent from school. There is also a need to connect schools with training institutes such as TEVTA and provide skills trainings.
- The establishment of a coherent and efficient vigilance system is required in ICT and in all provinces to identify children who are engaged in child labour in domestic, including the establishment of district-level vigilance committees.
- The federal and provincial governments must improve their child protection systems and ensure that services and support are available and accessible to children who have been physically, sexually or otherwise abused or exploited as domestic workers through well-coordinated child protection case management and referral systems. Child Protection Centres and Child Protection Units should be established in all districts of Pakistan under federal and provincial child protection laws.
- A neighbourhood watch system should be introduced so that individuals can report cases of child domestic labour to the relevant authorities. A neighbourhood watch system should not replace the state monitoring system but complement it.
- A mandatory reporting system should be established and referral mechanisms should be put in place for immediate response with interdepartmental case management protocols.
- Training programmes should be conducted for law enforcement agencies, including labour department, police, social welfare, child protection agencies and commissions on child rights and child protection laws. Police and other law enforcement agencies should be trained to deal with the newly amended provisions in the Pakistan Penal Code 1860, internal child trafficking and its consequences.
- There is a need to develop a formal linkage of child labour/child domestic labour with social safety nets as a policy measure, with a strategy that links to existing Ehsaas, Bait-ul-Mal and other provincial social protection programmes, and to expand the scope and scale of programmes to reach children working in the informal sector and in the worst forms of child labour, including child domestic labourers and their families.

- Complaint handling through the helpline 1121 administered by the Child Protection Authority/Commission and helpline 1099 administered by the Ministry of Human Rights should also be improved. It is recommended that all child protection helplines should be made toll-free (as in the rest of the South Asia region).
- Child Protection Officers should be trained for the recovery, rehabilitation and reunification of child victims of child domestic labour.
- The federal and provincial governments should include families of domestic workers with children or those living below the poverty line in social protection schemes.
- The federal and provincial governments should introduce programmes to upskill adult domestic workers, and include them in the social safety nets to reduce child labour in the province.
- The number of labour officers and the technical capacity of labour inspectors need to be enhanced to improve the effectiveness of monitoring and accountability mechanisms to address child domestic labour.
- Labour inspectors should be given more powers to carry out on-site inspections, without prior notice or information.
- The Labour Departments have implemented projects to curb child labour in various industrial sectors. They should also focus on and include child domestic labour in their projects.
- Government agencies can play an effective role in mobilising public opinion against child domestic labour and the ways in which child domestic labour robs children of childhood. The Chief Secretaries of the respective provinces, PTA, PEMRA etc. can help to bring the issue to the forefront without spending much money.
- Parenting is a neglected area that should be highlighted for both awareness and punishment in the context of trafficking, as in the recent Kamran murder case in Punjab. It is recommended that the human trafficking law be applied and parents be held accountable for neglect and exploitation.

3. Judicial bodies: District Judiciary and Higher Judiciary

- The higher courts should develop their rules for dealing with children and labour issues involving children. This will guide the subordinate courts, including trial courts, labour courts, magistrates and other judicial bodies.
- The superior judiciary should apply the notion of child protection when adjudicating children's matters to ensure the best interests of the child, as

provided for in international human rights law and standards, and ensure that children have prompt access to justice and redress.

- The judiciary should follow the guiding principle of child justice when interacting with children in contact or in conflict with the law.
- Strengthen the functioning of labour courts by training judges/presiding officers on international labour standards, national and provincial labour and industrial laws.

4. National and Provincial Human Rights Institutions

- NHRIs should closely monitor the implementation of international commitments to which the State is a party to ensure that the recommendations of the UN bodies are followed through the various periodic reviews.
- Establish effective and accessible grievance mechanisms, investigate complaints promptly and take appropriate action where warranted.
- In-depth research should be conducted at the federal and provincial levels on the impact of child labour in domestic work.
- Coordinate with Treaty Implementation Cells to obtain data/figures on CDL and status of government compliance with ratified treaties.
- NHRIs should recommend to the Government of Pakistan to ratify the Domestic Workers Convention, 2011 (No. 189).
- NHRIs should be strengthened to include jurisdiction over business entities with a broader scope and to take cognizance of complaints, as envisaged in the “Action Plan on Human Rights and Business”.
- NHRIs should recommend that all state institutions and officials observe the Universal Children’s Day on 20 November at the state level to highlight the problems of children and the plight of child abuse and exploitation.

5. Civil Society Organisations

- Information, education and behaviour change communication campaigns with the engagement of media personals and media houses should be carried out for the change in trends, practices and behaviours of stakeholders. Advocacy and awareness raising campaigns with policy makers, Department of Labour, Law Department, Home Department, Department of Social Welfare, Police, Department of Education, Child Protection authorities and commissions to advocate for the implementation of laws and policies.

- Conduct quantitative and qualitative research on child domestic labour to understand the prevalence and impact on children, families and society, and identify bottlenecks in the implementation of existing policies, programmes and interventions.
- Social media is a powerful tool with a wide reach in society. It should be used to raise awareness of the harm and impact on children's lives. In addition, relevant laws and social protection measures should be publicised to inform the public about the policy and legal framework and the rights of children.
- Media campaigns highlighting child labour legislation by working with media influencers, celebrities and famous media spokespersons to promote the child rights agenda.
- Civil society organisations should develop a strong advocacy and lobbying strategy to address the issue of child domestic labour, explicitly outlining the roles and responsibilities of each organisation.

Annexure

List of stakeholders interviews

ICT

Islamabad 7-9 September 2021

1. Muhammad Hassan Mangi (DG- MOHR)
2. Kamran Ali Cheema (Director Labor)
3. Iftikhar Ahmad (Labor Right Expert/International Consultant)
4. Muhammad Khalid (DG-NCCWD/MOHR)
5. Rao Khalil (Assistant Director/Child Protection)
6. CRM members and core team
7. Atta Ul Mustafa (Legal Expert)

Sindh

Karachi: 20-23 June 2021

1. Syeda Shehla Raza Minister (Women Development)
2. Shamim Mumtaz, Chairperson (Child Protection Authority)
3. Azeem ur Rehman Khan Meo DG (Child Protection Authority)
4. Anjum Iqbal Jumani (Secretary Women Development Department)
5. Rasheed Ahmad Solangi (Secretary Labor Department)
6. Tahir Malik, (Lawyer/ Legal Expert. Civil Society)
7. Dr. Farrukh (SSP Investigation, Sindh Police)

Khyber Pakhtunkhawa

Peshawar: 5-6 July 2021

1. Ayesha Bano (MPA, Provincial Assembly Women Caucus)
2. Rooh Ullah (Social Welfare Department/ Gender Specialist)
3. Ejaz Ahmad Khan (Child Protection Commission)
4. Malak Maqsood (Director Human Rights Department)
5. Shakil Ahmad (Director, Labour Department)
6. Waqar Ahmad (Registrar, Labour Department)
7. Dr. Riffat Sardar (Chair KP Women Commission)
8. Aamir Abbas (Deputy Superintendent Police/Investigation)

Balochistan

Quetta 25-26 July 2021

1. Abdul Nasir (Social Welfare Department)
2. Abu Ul Hassan (Head, Child Protection Unit)
3. Saeed Ahmad (Director Labour)
4. Pari Gull (ASP Police)
5. Fatima Nangyal (Human Rights Activist)

Punjab

Lahore 11-12 September 2021

1. Muhammad Shahid (Assistant Director/Legal Officer Labour Department, Punjab)
2. Irshad Waheed (DG woment Protection Authority)
3. Bushra Khaliq (Director WISE Domestic Labour Right Expert)
4. Sarah Ahmad (Chairperson, Child Protection and Welfare Bureau)
5. Mr. Ijaz Alam Augustine (Minister Human Rights and Minority Affairs, Punjab)
6. Mr. Saeed Nasir (Legal Expert, Treaty Implementation Cell)

The Commission envisions an enabling, responsive
and productive society for children to enjoy their
rights with dignity.

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