



Group Development Pakistan

Legal Framework on CDL in Pakistan

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International Legal Framework



United Nations Convention on the Rights of the Child (UNCRC)

The UNCRC is the most widely ratified human rights treaty in the world and sets out the specific rights that all children are entitled to, so that they can fulfill their potential, including rights relating to health and education, leisure and play, fair and equal treatment, protection from exploitation, and the right to be heard. Pakistan ratified this Convention in 1990. The UN Committee on the Rights of the Child in its concluding Observations on the 5th periodic report in 2016 urged 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.

International Covenant on Civil and Political Rights (ICCPR)

The ICCPR is a multilateral treaty that commits nations to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights, and rights to due process and a fair trial. Pakistan ratified the Covenant in 2010. A committee composed of independent experts monitors the implementation of this Covenant by its States parties. With regards to child protection as well as child labour, the committee in its concluding Observations to the periodic report of Pakistan in August 2017 states:

“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 (arts. 2, 6, 7, 8, 24 and 26)”.

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

The ICESCR provides a legal framework to protect and preserve the most basic economic, social, and cultural rights, including rights relating to work in just and favourable conditions, social protection, adequate standards of living, the highest attainable standards of physical and mental health, education, and to the enjoyment of the benefits of cultural freedom and scientific progress. The Committee on ICESCR is the body of independent experts that monitors the implementation of this covenant by State parties. With regards to economic exploitation of children, the committee in its concluding Observations to the periodic report of Pakistan in July 2017 states:

“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 28 percent of them are engaged in hazardous work. Moreover, most of these children are out of school. It is further concerned with the working conditions of children, most of whom work in agriculture, brick kilns, coal mining, in street and domestic settings, and at the high risk faced by these children of exposure to sexual and economic exploitation (arts. 7, 10 and 13-14).

The Committee recommends the State party to:

- “(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 on the Elimination of All Forms of Discrimination Against Women (CEDAW)

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted by the United Nations in 1979 and came into force in 1981. It comprehensively addresses women's rights within political, civil, cultural, economic, and social life. The CEDAW is monitored by the CEDAW Committee established through the Convention.

CEDAW is based on three core principles: equality, non-discrimination, and the obligations of the State. Equality includes both equality of access and opportunity and equality of results upon access and opportunity.

In January 2020, The Committee on the Elimination of Discrimination Against Women raised serious concerns on the high incidence of trafficking in women and girls for sexual exploitation and forced or bonded labour, including enslavement as domestic workers" in its concluding Observations on the fifth periodic reports.

UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The Convention Against Torture is a treaty that is committed to ending the torture, inhumane and degrading treatment of persons. The United Nations Committee Against Torture (CAT) monitors the implementation of States Parties' obligations under the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee Against Torture considered the initial report of Pakistan (CAT/C/PAK/1) at its 1506th and 1508th meetings (see CAT/C/SR.1506 and 1508), held on 18th and 19th April 2017, and adopted the presented concluding Observations at its 1530th and 1531st meetings, held on 4th and 5th May 2017.

The specific concerns and recommendations by the treaty committee about child domestic labour are as follows:

“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).

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”.

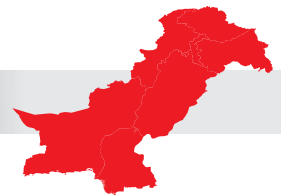
Minimum Age Convention, 1973 (No. 138)

Pakistan ratified the ILO Convention No. 138 in 2006 which defines the minimum age for admission to employment as not less than 15, or not less than 14 in countries with inadequate educational facilities. The Convention requires each ratifying state to pursue a national policy to ensure the effective abolition of child labour. They should progressively raise the minimum age for admission to employment to a level consistent with the fullest physical and mental development of young persons. States must also notify the minimum age for children's entry into employment, which should not be less than the age of completion of compulsory schooling. The Convention permits 'light work' by children and prohibits the employment of any person under the age of 18 in occupations that pose a risk to their health and safety.

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

Pakistan ratified the ILO Convention No. 182 in 2001, which calls for the prohibition and elimination of the worst forms of child labour. These include all types of slavery, the sale and trafficking of children, forced labour to pay off debts, any other types of forced labour, using children in war or armed conflict, the sexual exploitation of children, the involvement of children in illicit activities, and work which is likely to harm the health, safety or morals of children.

2 Constitutional Provisions



- Article 11 of Pakistan's Constitution prohibits slavery, all forms of forced labour, trafficking in human beings, and child labour.
- Article 25-A requires the state to provide free and compulsory education for all the children between 5 and 16 years old.
- Article 37 (e) lays out the provisions for secure and humane conditions of work, specifying that children and women must not be employed in vocations "unsuited to their age or sex".

3 Provincial Legal Framework

Punjab

- The Prohibition of Child Employment Act, 2016 prohibits the employment of children below the age of fifteen and makes it a punishable offense, but does not cover child domestic labor.
- The Punjab Domestic Workers Act, 2019 prohibits any form of domestic labor for children below the age of fifteen and provides a legal framework to protect children from exploitation. The Act defines child domestic labor as a child-hazardous sector.



Sindh

- The Sindh Prohibition of Employment of Children Act 2017 prohibits the employment of children under the age of 14 in any sector.



Khyber Pakhtunkhwa

- The Khyber Pakhtunkhwa Prohibition of Employment of Children Act 2015 prohibits the employment of children under the age of fourteen in any sector, but in this Act, no legal remedy has been proposed to prevent Child Domestic Labour.



Balochistan

- The Balochistan Child Labour (Prohibition and Regulation) Act, 2021 has been introduced to prevent children under the age of fourteen from entering any sector for employment or labor and prohibits children between the ages of fourteen and eighteen years from engaging in any such activity. The Act also includes the prohibition of work in a hazardous sector. The Act includes child domestic labor in the list of prohibited sectors and prohibits children from working in homes, and provides a punishment of imprisonment of up to one year (up to two years for repeat offenders) and a fine of up to one lakh rupees.



Islamabad Capital Territory

- The Islamabad Capital Territory Domestic Workers Act 2022 has also prohibited domestic labour under the age of 16 years and has suggested a punishment with imprisonment for a term which may extend to one month, if a person employs a child under the age of 12 years; in case of a child under 16 years, the punishment is a fine which may extend to rupees fifty thousand but which shall not be less than ten thousand rupees. The law also recommends action according to other child labor laws if violated.
- Similarly, the Employment of Children Act 1991 in ICT prohibits the employment of children under the age of 14 in various sectors; under this law child domestic labour is included in the list of banned occupations.

