



Centre *for*
Labour
Research

FORCED LABOUR SITUATION IN PAKISTAN AND PROPOSED BILL



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INTRODUCTION

Forced labour is all such work that is performed involuntarily and under the menace of any penalty. ILO estimated in 2017 that 24.85 million men, women and children are in forced labour around the world – trafficked, held in debt bondage or working in slavery-like conditions. Of these 24.85 million, 16 million were victims of forced labour exploitation in economic activities such as agriculture, construction, manufacturing and domestic work; 4.8 million were victims of forced sexual exploitation and 4.1 million were victims of forced labour by the state authorities.¹ More than 4 million of these 24.85 million are children engaged in forced labour.

A 2014 ILO report estimated that the total illegal profits obtained from the use of forced labour worldwide amount to **US\$150.2 billion per year.**² More than one third of the profits – **US\$51.2 billion** – are made in forced labour exploitation, including nearly **US\$8 billion** generated in domestic work by employers who use threats and coercion to pay no or low wages.³

¹Global Estimates of Modern Slavery: Forced Labour and Forced Marriage, 2017

²An estimated **US\$99 billion of this amount is generated by forced sexual exploitation.**

³Profits and Poverty: The Economics of Forced Labour, (2014)

WHAT IS FORCED LABOUR?

Elimination of all forms of forced and compulsory labour is one of the fundamental rights at work. ILO has adopted two fundamental conventions on the subject: Forced Labour Convention, 1930 (No. 29) and Abolition of Forced Labour Convention, 1957 (No. 105). In 2014, the ILO adopted two new instruments on forced labour: Protocol to the Forced Labour Convention, 1930 and Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203). The Protocol supplements Convention No. 29 since the context and forms of forced or compulsory labour have changed (at the time of adoption of convention 29, forced labour was used mainly by colonial administrations and some independent states) and trafficking in persons for forced labour, which may involve sexual exploitation, is a growing concern.

Article 2(1) of Convention No. 29 defines “forced or compulsory labour” as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.

There are three key elements in this definition:

1. **Work or service:** “All work or service” refers to all types of work, service and employment, occurring in any activity, industry or sector, including in the informal economy. Forced labour can occur in both the public and private sectors.
2. **Menace of any penalty:** The “menace of any penalty” refers to a wide range of penalties used to compel someone to perform work or service, including penal sanctions and various forms of direct or indirect coercion, such as physical violence, psychological threats or the non-payment of wages. The “penalty” may also consist of a loss of rights or privileges (such as a promotion, transfer, or access to new employment).
3. **Involuntariness:** The terms “offered voluntarily” refer to the free and informed consent of a worker to enter into an employment relationship and his or her freedom to leave the employment at any time. If a worker is unable to terminate employment contract, without fear of suffering a penalty such as seizure of a worker’s identity documents or withholding of salary, this indicates involuntariness and thus can be considered forced labour.

However, Article 2(2) of Convention No. 29 describes several limited exceptions to the “forced labour” definition. According to this provision of the Convention the following five situations do not constitute forced labour:

- Work exacted under **compulsory military service** for the necessity of national defence, provided that the work imposed on conscripts is of purely military character.

- **Normal civic obligations** of a fully self-governing country, such as compulsory jury service, or the duty to assist a person in danger.
- **Prison labour** as a consequence of a conviction in a court of law, provided it is carried out under the supervision and control of a public authority and the convicted persons is not hired to or placed at the disposal of private individuals, companies or associations.
- **Work exacted in cases of emergency**, such as war, calamity or threatened calamity (e.g. fire, flood, famine, earthquake) or any circumstance that would endanger the lives or well-being of the whole or part of the population.
- **Minor communal services** performed by the members of a community in the direct interest of that community, provided that the community or its direct representatives are consulted regarding the need for such services.

The Abolition of Forced Labour Convention, 1957 (No. 105) further supplements Convention No. 29 by prohibiting member States from having recourse to any form of compulsory labour in five specific circumstances:

- a. as a means of political coercion or as a punishment for expressing political views;
- b. as a sanction for participating in strikes;
- c. as a means of labour discipline;
- d. as a means of racial, social, national or religious discrimination; and
- e. as a method of mobilizing labour for economic development purposes.

Forced labour is not merely limited to slave wages or atrocious working conditions, neither does it enfold purely economic necessity such as a person being unable to leave their job due to a factual and perceived absence of other employment opportunities; it is an abhorrent violation of human rights and freedom.⁴

Forced labour essentially encompasses exploitation in the place where work or service is rendered. It can comprise abusive recruitment practices which can invalidate freedom of choice by the worker or a person serving as a medium who purposely carries out such practices with the conscientious objective of placing persons in situation in which they are subjected to forced labour can surely be considered as abettors to forced labour.⁵

Forced Labour can victimize persons of any age, gender or origin but it can have the most harmful effects on children since children are not seen as independent entities, conscious of

⁴The Cost of Coercion: Report of the Director-general Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, (2009)

⁵The Cost of Coercion: Report of the Director-general Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, (2009)

giving consent legally. Forced Labour of children enunciates the work extracted by a child (under the age of 18) by a third party (other than his or her own parents) under the threat of a punishment either directed towards the child or their parents; or work performed with or for his or her parents, under threat or menace of any penalty applied by a third party either on the child directly or the child's parents; or work performed with or for his or her parents where one or both parents are themselves in a situation of forced labour⁶. Forms of child labour as set out in the Worst Forms of Child Labour Convention, 1999 (No. 182) define child labour as:

- a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom, [as well as 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 for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs.⁷

The worst forms of child labour also include hazardous work, which does not constitute forced labour per se but is detrimental to the moral, social and physical health of the child and is in fact considered as one of the worst forms of child labour.

In terms of statistics, forced labour has three distinct parts: forced labour in the private economy except commercial sex industry, forced sexual exploitation of adults and commercial sexual exploitation of children and state imposed forced labour. The three parts further summarize forced labour as:⁸

- Forced labour imposed by the state covers all forms of work exacted by public authorities, military or paramilitary, compulsory participation in public works and forced prison labour;
- Forced labour imposed by private agents for sexual exploitation covers any commercial sexual activity, including pornography, exacted from the victim (both adults and children) by fraud or force; and,
- Forced labour imposed by private agents for labour exploitation includes bonded labour, forced domestic work, forced labour of migrants in many economic sectors and work imposed in the context of slavery or vestiges of slavery. Forced illicit activities such as forced begging for gangs for example are also included in this category.

⁶Eliminating Forced Labour- Handbook for Parliamentarians No. 30, (2019)

⁷Worst Forms of Child Labour Convention, 1999 (No. 182), (Article 3)

⁸Global Estimates of Modern Slavery: Forced Labour and Forced Marriage, 2017

The table below summarizes the threats and penalties used to coerce persons into forced labour:

- Physical abduction or kidnapping
- Birth/descent into “slave” or bonded status
- Sale of a person into the ownership of another
- Physical confinement in the work location– in prison or in private detention
- Psychological compulsion, i.e. an order to work, backed up by a credible threat of a penalty for non-compliance
- Induced indebtedness (by falsification of accounts, inflated prices, reduced value of goods or services produced, excessive interest charges, etc.)
- Deception or false promises about types and terms of work
- Withholding and non-payment of wages
- Retention of identity documents or other valuable personal possessions
- Physical violence against worker or family or close associates
- Sexual violence
- (Threat of) supernatural retaliation
- Imprisonment or other physical confinement
- Financial penalties
- Denunciation to authorities (police, immigration, etc.) and deportation
- Exclusion from future employment
- Exclusion from community and social life
- Removal of rights or privileges
- Deprivation of food, shelter or other necessities
- Shift to even worse working conditions
- Loss of social status

REGIONAL ESTIMATES

On any given day in 2016, an estimated 24.9 million men, women, and children were living in modern slavery in Asia and the Pacific. The region had the second highest prevalence of modern slavery in the world with 6.1 per 1,000 people. When considering forms of modern slavery, the Asia and Pacific region had a high prevalence of forced labour (4.0 per 1,000 people) compared to other regions. The rate of forced marriage was two victims per 1,000 people.

Over half of all victims of forced labour exploitation (55 percent) were held in debt bondage and this affected male victims more than female victims. The Asia and the Pacific region had the highest number of victims across all forms of modern slavery, accounting for 73 percent of victims of forced sexual exploitation, 68 percent of those forced to work by state authorities, 64 percent of those in forced labour exploitation, and 42 percent of all those in forced marriages. Within the region, North Korea, Afghanistan, and Pakistan were the countries with the highest prevalence of modern slavery. India, China, and Pakistan had the highest absolute number of people living in modern slavery and accounted for 60 percent of the victims in the region.⁹

Country	Forced Labour Convention, 1930 (No. 29)	Abolition of Forced Labour Convention, 1957 (No. 105)	Protocol of 2014 to the Forced Labour Convention, 1930 (P029)	Worst Forms of Child Labour Convention, 1999 (No. 182)
Pakistan	Ratified (1957)	Ratified (1960)	Unratified	Ratified (2001)

⁹Asia and the Pacific- Regional Highlights, Global Slavery Index, 2018

COUNTRY PROFILE



PAKISTAN

Millions of workers in Pakistan are held in contemporary forms of slavery. Throughout the country employers forcibly extract labour from adults and children, restrict their freedom of movement, and deny them the right to negotiate the terms of their employment. Employers coerce such workers into servitude through physical abuse, forced confinement, and debt-bondage. The state offers these workers no effective protection from this exploitation. Although slavery is unconstitutional in Pakistan and violates various national and international laws, state practices support its existence. The state rarely prosecutes or punishes employers who hold workers in servitude. Moreover, workers who contest their exploitation are invariably confronted with police harassment, often leading to imprisonment under false charges.¹⁰

The Global Slavery Index, 2018 ranks Pakistan as 8/167 on the Prevalence Index Rank with an estimated 3,186,000 number of people living in modern slavery¹¹. The prevalence of modern-day slavery in Pakistan can be tabled as:

Country	Estimated number of people living in modern slavery	Population	Ratio of population living in modern slavery	Estimated proportion of population living in modern slavery	Vulnerability to modern slavery
Pakistan	3,186,000	189,380,513	1.68%	16.8 /1000	74.12/100

At a scale of 100, the vulnerability to modern slavery in Pakistan is 74. The vulnerability score is based on an analysis of data covering 23 risk variables across five major dimensions.

Forced labour in Pakistan, primarily in the form of debt bondage, is found amongst agriculture workers in Sindh and many areas of Punjab. In addition, a high incidence of bonded labour is found in brick kilns, domestic service (particularly women and child labour), carpet weaving and mining. In the above sectors apart from mining, women feature as a major labour force. Bonded labourers are mostly from socially excluded groups, including minorities and migrants who suffer additionally from discrimination and political disenfranchisement.¹²

¹⁰Contemporary Form of Slavery in Pakistan- Human Rights Watch, 1995

¹¹ Modern slavery is an umbrella term and includes both forced labour and forced marriages. The Index does not clarify how many of the 3.19 million are engaged in forced labour.

¹²Promoting the Elimination of Bonded Labour in Pakistan (PEBLIP), International Labour Organization (2010)

Per ILO global estimates of 2016, 40 million people were living in modern day slavery out of which 24.85 million people were in forced labour. The Asia-Pacific region accumulated the highest share with 54.9% of the total number. Out of these estimates, 8.1 million people globally are trapped in forced labour by means other than trafficking, primarily through debt bondage.¹³

The U.S. Department of Labor's, 2020 List of Goods Produced by Child Labour or Forced Labour (including bonded labour) in Pakistan included¹⁴:

Country	List of Goods Produced Under Forced Labour	List of Goods Produced Under Child Labour	List of Goods Produced Under Child and Forced Labour
Pakistan	Cotton, Sugarcane, Wheat	Glass Bangles, Leather, Surgical Instruments	Bricks, Carpets, Coal

The debt bondage of labourers exists in many forms. It can be intergenerational, when the burden of labour and debt are transferred to the next generation. Increasingly generational and family bondage has given way to more individualized and temporary forms of bondage such as seasonal bondage where a worker is bound by an advance to an employer for a restricted period but where the employee uses that advance or debt to exploit the worker. Bondage can be in a form in which characteristics of 'patronage' or a contractual relationship exist. Common to most forms of debt bondage is the simple fact that the minimal wages paid barely cover the most basic living costs and the accumulation of spiraling and non-transparent advances and subtractions against this minimal wage create a situation where the labourer is trapped by this debt into an exploitative working arrangement, sometimes for long periods of time. The underlying level of poverty further restricts the options of the indebted worker.¹⁵

In its most typical manifestation, a worker takes a loan or salary advance known as "Peshgi" from an employer, labour contractor or landlord. Then the debtor - and often family members as well - is obliged to work for that person for reduced wages until the debt is repaid. This 'typical' model of debt bondage masks a wide range of situations, from the relatively less severe and short-term forms to severe, long-term abuse of human rights. Women may be forced to work for little or no wages to repay the debts incurred by their spouses or male family members. The labour of children may be pledged to repay loans taken by parents. Inherited debt can result in bondage that is passed down from generation to generation. Since no written contract

¹³Global Estimates of Modern Slavery, International Labour Organization, 2016

¹⁴The U.S. Department of Labor's, 2020 List of Goods Produced by Child Labour or Forced Labour

¹⁵Poverty, Discrimination and Slavery- The Reality of Bonded Labour in India, Nepal and Pakistan, Anti-Slavery International (2008)

exists the worker is vulnerable to all forms of exploitation. This problem becomes more complex due to political and social exclusion of bonded labourers.¹⁶

Child labour and forced labour are both present in the supply chain across the globe including in Pakistan where cotton production processes are labour intensive and/or dominated by small-holder farms or by tenancy and sharecropping. Child labour is also a particular issue for certain parts of the textile-garment industry because most of the producers requires low-skilled labour and short time delivery. In the cotton, textile and garment value chains, there are indicators of forced labour, in form of bonded labour, withholding wages, restriction of movement, excessive overtime, abusive working and living conditions involving also adolescent labourers.¹⁷

Ethnographic research into brick kilns in the areas of Gujarat, Islamabad, and Rawalpindi in 2015 and 2016 showed that they are the primary sector in which bonded labour occurs in Pakistan. Debt chains drive the brick industry because they guarantee cheap labour and a continuous supply of workers.

Debt passes down through the generations and from one kiln to another.¹⁸ A 2014 study looking at Pakistan's "Peshgi" system of debt bondage found that workers in brick kilns were working under squalid conditions that lacked safe drinking water and access to health facilities, and they were denied any chance of upward mobility or contact with their families.¹⁹ The UN Human Rights Committee reported in 2017 that it was concerned by the high number of children engaged in labour under hazardous and slavery like conditions in Pakistan's brick kilns.²⁰

A 2017 study conducted in provinces of Sindh, Punjab, and Balochistan, using witness opinions, case profiles, and secondary information, found that children working in carpet-weaving are often engaged in hazardous work, suffering injuries such as eye and lung diseases due to unsafe working conditions. The report also notes that bonded child labour exists in Pakistan's carpet industry.²¹ Although hazardous child labour is not necessarily considered modern slavery, it is perceived to be a severe problem in the carpet industry of Pakistan. A cross-sectional survey of 320 children working in the carpet industry in Punjab province found

¹⁶Promoting the Elimination of Bonded Labour in Pakistan (PEBLIP), International Labour Organization (2010)

¹⁷Eliminating child labour and forced labour in the cotton, textile and garment value chains: an integrated approach, International Labour Organization (2018-2022)

¹⁸ De Lauri, A 2017, 'The Absence of Freedom: Debt, Bondage and Desire among Pakistani Brick Kiln Workers,' Journal of Global Slavery, vol. 2, no. 1-2, pp. 122-138

¹⁹ Azam, A & Rafiq, M 2014, 'Victims of circumstances: A case study to explore the socio economic problems of bonded labor working at brick kiln in Pakistan,' International Journal of Business, Economics and Management Works, vol. 1, pp. 1-5

²⁰ United Nations Human Rights Committee 2017. Concluding observations on the initial report of Pakistan, United Nations. Available from: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/PAK/CO/1&Lang=En. [October 16 2020]

²¹ Gill, F, Phull, G M & Chachar, A 2017, 'Work Related Factors Affecting the Wellbeing of Carpet Weaving Children in Punjab, Pakistan'. Journal of Grassroot, vol. 51, no. 1, pp. 228-236. Available from: <http://sujo.usindh.edu.pk/index.php/Grassroots/article/view/3259/2365>. [October 16, 2020]

that hazardous forms of child labour are evident, with notable consequences to the health of the children.²²

A 2014 survey by the Human Rights Commission of Pakistan identified coal mining as one of 34 industries in which hazardous child labour occurred.²³ To make ends meet, children are forced to work regardless of occupational hazards. Such is the case of children interviewed during the course of research conducted in Shahrig, Balochistan. Though many yearn to be enrolled in schools, they have no choice but work in the coal mines to earn a stable income for the family.²⁴ The 2017 US TIP report notes that bonded labour is concentrated in Sindh and Punjab provinces but also occurs in Balochistan and Khyber Pakhtunkhwa provinces, mainly in agriculture and brickmaking but also to a lesser extent in mining.²⁵

The U.S Department of States Trafficking in Persons Report, 2020 states that human traffickers exploit domestic and foreign victims in Pakistan, and traffickers exploit victims from Pakistan abroad. The country's largest human trafficking problem is bonded labour, in which traffickers exploit an initial debt assumed by a worker as part of the terms of employment and ultimately entraps other family members, sometimes for generations. The practice remains widespread. Traffickers, including local government officials, primarily force men, women, and children to work in bonded labour in Sindh in agriculture and in both Sindh and Punjab in brick kilns. Traffickers also force men, women, and children to work to pay off exaggerated debts in other sectors in Sindh and Punjab and in Balochistan and Khyber Pakhtunkhwa in agriculture and brick kilns and, to a lesser extent, in fisheries, mining, and textile-, bangle-, and carpetmaking. In agriculture, traffickers force workers to labour in wheat, cotton, and sugarcane, among other goods. Traffickers often do not provide workers with access to their expenditure and earnings receipts, so traffickers control how much money they earn, the accrual of interest on their debt and when they have repaid the debt.²⁶

Landlords exploit widespread illiteracy among workers and manipulate accounting records to continue to the cycle of bonded labour. Some landlords use armed guards to restrict bonded labourer's movements and others buy and sell workers among one another. In some kilns that employ entire families, kiln owners have sold bonded laborers to repay a family member's outstanding debt. Observers reported employers in Sindh are moving carpet- and bangle-making productions into private homes to further increase the difficulty in monitoring labour conditions. Reports estimate more than 70 percent of bonded laborers in Pakistan are children. Traffickers also target lower-caste Hindus, Christians, and Muslims specifically for forced and

²² Anjum, F, Zafar, M, Maann, A & Ahmad, M 2015, 'Work Related Factors Affecting the wellbeing of carpet weaving children in Punjab, Pakistan,' Pakistan Journal of Social Sciences, vol. 35, no. 2, pp. 1085-1096

²³ Human Rights Commission of Pakistan 2014, State of Human Rights in 2013. Available from: <http://www.hrcp-web.org/hrcpweb/report14/AR2013.pdf>. [October 16, 2020]

²⁴ SPARC 2013, Coal Mines in Balochistan. Available from: <http://www.sparcpk.org/2015/Publications/Coal-Mines-in-Balochistan.pdf>. [October 16, 2020]

²⁵ Office to Monitor and Combat Trafficking in Persons 2017, Pakistan Country Narrative, United States Department of State. Available from: <https://www.state.gov/j/tip/rls/tiprpt/countries/2017/271258.htm> [October 16, 2020]

²⁶ U.S Department of States Trafficking in Persons Report, 2020

bonded labor. Traffickers buy, sell, rent, and kidnap children for forced labor in begging, domestic work, small shops, and sex trafficking. One report estimated more than 264,000 child domestic workers currently work in Pakistan.²⁷

There have been reported cases of employers forcing children as young as 7 years old into domestic work, where they are often subjected to severe physical abuse, including torture, and sexual abuse; several government officials were among the suspected perpetrators. Per the report, the majority of children working in the streets in Pakistan are subjected to forced begging and are vulnerable to sexual exploitation, including sex trafficking. Begging ringmasters sometimes maim children to earn more money and sometimes force children to steal. Organized criminal groups force children into drug trafficking in Sindh and Balochistan. Traffickers subject boys to sex trafficking around hotels, truck stops, bus stations, and shrines. Traffickers have forced Afghan, Iranian, and Pakistani children into drug trafficking in border areas and Karachi. There are reports of widespread sexual exploitation of boys in one coal mining community in Balochistan. Boys as young as 6 years old from Balochistan, Khyber Pakhtunkhwa and Afghanistan, are purportedly lured to work in the mines but subjected to sex trafficking; in some cases, parents are complicit in sending their children to the mines for sex trafficking

²⁷ Ibid

ANALYSIS OF LEGISLATION

The current report is an assessment of forced labour in **Pakistan**. The table below showcases the status of ratification of different UN and ILO Conventions, relevant to the issue.²⁸ These conventions not only prohibit the use of slavery or forced labour but also protect the right to free choice of employment:

International Conventions	
Name	Status of Ratification
The Universal Declaration of Human Rights (UDHR)	Signatory
International Covenant on Civil and Political Rights, 1976	Ratified (2010)
International Covenant on Economic, Social and Cultural Rights, 1976	Ratified (2008)
C105 - Abolition of Forced Labour Convention, 1957 (No. 105)	Ratified (1960)
C029 - Forced Labour Convention, 1930 (No. 29)	Ratified (1957)
C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)	Ratified (2001)
CEDAW - Convention on the Elimination of All Forms of Discrimination against Women, 1981	Ratified (1996)
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1957	Ratified (1958)
Convention on the Rights of the Child, 1990	Ratified (1990)

²⁸ILO, Normlex

BACKGROUND OF THE BILL

On 30th July 1988, the Chief Justice of Supreme Court of Pakistan received the following Telegram:

Chief Justice Supreme Court of Pakistan, Rawalpindi.

We plead for protection and bread for our family. We are brick-kiln bonded labourers. We have been set at liberty through the court. And now three amongst us have been abducted by our owners. Our children and women are living in danger. We have filed complaint. No action taken. We are hiding like animals without protection or food. We are afraid and hungry. Please help us. We can be contacted through counsel Asma Jahangir. Our state can be inspected. We want to live like human beings. The law gives no protection to us.

Darshan Masih (Rehmatay) and 20 companions with women and children Main Market, Gulberg, Lahore.

The Supreme Court took up the case as the first public interest litigation on workers' rights in the country. The Supreme Court ruled that debt bondage in brick kilns was forced labour. The judgment on the Darshan Masih's case was passed by the Court in 1990. The case paved the way for enactment of the Bonded Labour System Abolition Act 1992. During the last 28 years, hardly any convictions have taken place under the BLSA 1992. Majority of the bonded labour victims were released under the habeas corpus (unlawful detention) provisions of the Pakistan Penal Code.

Provinces have enacted new legislation on bonded labour after 2010 except Balochistan where the draft legislation has been approved by the Cabinet. The current bonded labour legislation covers only one form of forced labour, i.e., debt bondage. While debt bondage still affects nearly half of all victims of forced labour worldwide, forced labour has also mutated into modern slavery, negatively impacting millions of workers.

While apparently, the issue of forced labour is discussed only in the Constitution (Art. 11.3), BLSA 1992 and its recent provincial variants, the forced labour and its various aspects are covered under the Pakistan Penal Code, anti-trafficking legislation, emigration laws, the Payment of Wages Act, 1936 (and its provincial variants), Employment of Children Act (and its recent provincial variants including the legislation on brick kilns), tenancy legislation at provincial level, factories and shops & establishments legislation, legislation covering the so-called excluded workers (like agriculture, domestic, and homebased workers) as well as standing orders legislation. ILO CEACR has also been asking for reforms in penal legislation ensure that no form of compulsory labour (including compulsory prison labour) may be imposed on persons who, without using or advocating violence, express certain political views or oppositions to the established political, social or economic system.²⁹

²⁹ Comments by CEACR, ILO Normlex

A detailed analysis of 20 countries from the region (SAARC and ASEAN members) indicates that none of these countries have enacted a standalone law on forced labour. Hence, if a new law is enacted, it would be a first in the region and a model to be emulated by the others. Secondly, the law needs to cover all manifestations of forced labour including but not limited to exploitative contractual systems including forced overtime beyond limits imposed in law, undue deductions from wages or withholding of wages, debt bondage, state imposed forced labour (prison labour), trafficking, and sexual exploitation. This legislation focuses only on forced labour part and not forced marriages.

THE PROHIBITION AND PREVENTION OF FORCED LABOUR BILL 2021



A Bill

to provide for the protection of workers from the menace of forced labour in all its forms

WHEREAS, the Constitution of the Islamic Republic of Pakistan prohibits forced labour and trafficking and treats freedom from these as a fundamental right;

AND WHEREAS the Islamic Republic of Pakistan has ratified ILO Convention No.29 on Forced Labour, Convention No.105 on Abolition of Forced Labour, and Convention No.182 on the Worst Forms of Child Labour

AND **WHEREAS** it is expedient to provide by law the necessary protection to the workers from the menace of forced labour in all its forms whether as bonded labour, slavery and/or practices similar to slavery, worst forms of child labour, commercial sexual exploitation, human trafficking and smuggling, and forced labour imposed by the state authorities as well as the matters ancillary thereto;

It is hereby enacted as follows:

1. **Short title, extent and commencement.** – (1) This Act shall be called as the **Prevention and Prohibition of Forced Labour Act, 2021.**

(2) It extends to the whole of Pakistan.

(3) It shall apply to all persons working in any establishment, factory, mine, contractor, sub-contractor or with any other intermediary.

(4) It shall come into force at once.

2. **Definitions –**

- i. **“child”** means a person who has not attained the age of eighteen years;
- ii. **“coercion”** means, in addition to its definition in Section 15 of the Contract Act, 1872, any and all forms of threats, violent or non-violent, that may be used in order to force a party to act in any manner against their will, and may include but is not limited to –
 - (a) the threat of harm to or physical restraint of any person;
 - (b) any scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint of any person;
 - (c) threat due to the vulnerable position of a person;
 - (d) psychological pressure;
 - (e) deduction or withholding of wages
- iii. **“commercial establishment”** means an establishment in which the business of advertising, commission or forwarding is conducted, or which is a commercial agency, and includes a clerical department of a factory or of any industrial or commercial undertaking, the office establishment of a person who for the purpose of fulfilling a contract with the owner of any commercial establishment or industrial establishment, employs worker, a unit of a joint stock company, an insurance company, a banking company or a bank, a broker’s office or stock-exchange, a club, a hotel, a restaurant or an eating house, a cinema or theater, private educational institutions, private health centres, clinical laboratories, private security agencies, other establishment or class thereof which run on commercial and profit basis, and such other establishment or class

thereof, as Government may, by notification in the official Gazette, declare to be a commercial establishment for the purposes of this Act:

Provided that relevant provisions of this Act shall also apply to the employees of societies registered under the Societies Registration Act, 1860 (Act No. XXI of 1860) and the Voluntary Social Welfare Originations.

- iv. **“discrimination”** means any distinction, exclusion or preference made on the basis of **sex, gender, religion, creed, caste, socio-economic status, ethnic background, colour, age, disability, political opinion, residence or place of birth**, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.
- v. **“employer”** means any person who employs either directly or by any other person or through another person, whether on behalf of himself or any other person, and includes-
 - a. an ‘occupier’ of the establishment;
 - b. in relation to a factory, a manager or other person who has overall control over the affairs of the factory; and
 - c. in other cases, any person responsible to the owner for supervision and control of such worker or for payment of such worker’s wages;
- vi. **“establishment”** means a shop, commercial establishment or industrial establishment, factory, mine, and such other establishment or class thereof as Government may, by notification in the Official Gazette, declare to be an establishment for the purposes of this Act;
- vii. **“exploitation”** means seeking benefits from prostitution, production or distribution of pornographic materials, other forms of sexual exploitation, slavery, forced or compulsory labour or services, or any other similar practices resulting in forced extortion, regardless of such person’s consent;
- viii. **“factory”** means any premises, including the precincts thereof, whereon ten or more workers are working or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on or is ordinarily carried on with or without the aid of power, but does not include a mine, subject to the operation of the Mines Act, 1923 (IV of 1923)
- ix. **“forced or compulsory labour”** means all work or service which is exacted from any person through coercive and exploitative practices under the menace of penalty and for which the said person has not offered themselves voluntarily. Forced labour may take the form of:
 - (a) bonded labour – as defined in section 2 (c) of the Bonded Labour System (Abolition) Act, 1992;
 - (b) forced overtime beyond normal limits as defined under section 8 of the Shops and Establishments Ordinance, 1969 except in the event of force majeure or emergency;
 - (c) exploitative contract work where a worker is made to work for more than 183 days in a period of twelve months without being considered a permanent worker;
 - (d) engagement of a child in any of the worst forms of child labour; and
 - (e) trafficking in persons

Provided that the following shall not be considered forced labour:

- (a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
- (b) any work or service which forms part of the normal civic obligations of the citizens
- (c) any work or service exacted from any person as a consequence of a conviction in a court of law, in line with Pakistan Prison Rules 1978;
- (d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in

general any circumstance that would endanger the existence or the well-being of the whole or part of the population;

(e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community.

- x. **“Government”** means the Federal Government;
 - xi. **“inspector”** means any person appointed by the Government as an inspector for purposes of this Act;
 - xii. **“industrial establishment”** means-
 - (i) tramway or motor omnibus service;
 - (ii) dock, wharf or jetty;
 - (iii) inland steam-vessel;
 - (iv) mine, quarry, oil-field or gas-field;
 - (v) plantation;
 - (vi) workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale;
 - (vii) establishment of a contractor who, directly or indirectly, employs persons to do any skilled or unskilled, manual or clerical labour for hire or reward in connection with the execution of a contract to which, he is a party, and includes the premises in which, or the site at which, any process connected with such execution is carried on;
- Explanation.**---“Contractor” includes a sub-contractor, headman, middle-man or agent;
- (viii) a factory;
 - (ix) a railway as defined in clause (4) of section 3 of the Railways Act, 1890 (IX of 1890);
 - (x) the establishment of a person who, directly or indirectly, employs worker in connection with any construction industry.
 - (xi) any other establishment or class thereof as the Government may by notification in the official gazette declare to be an industrial establishment for the purposes of this Act.
- xiii. **“mine”** has the same meaning as in Mines Act, 1923;
 - xiv. **“prescribed”** means prescribed by the rules;
 - xv. **“sexual exploitation”** means actual or attempted abuse of a position of vulnerability, power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another;
 - xvi. **“sexual abuse”** means actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions;
 - xvii. **“shop”** means any premises used wholly or in part for the wholesale or retail sale of commodities or articles either for cash or on credit, or where services are rendered to customers, and include an office, a store room, warehouse, ware-house or place of work, whether in the same premises or otherwise, mainly used in connection with such trade or business;
 - xviii. **“trafficking”** – has the same meaning as in section 3 of the Trafficking in Persons Act 2018;
 - xix. **“victim”** means a person against whom an offence under this Act is committed regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted.
 - xx. **“victimization”** means any act or omission by the employer or a person acting on behalf of the employer that affects, to the worker’s detriment, a worker with respect to any term or condition of their employment
 - xxi. **“voluntarily”** means the willing agreement of an individual of sound mind to the proposal or desires of another without the use of fraud, coercion or threat;
 - xxii. **“wages”** means all remuneration, payable in kind or in cash, which includes basic pay and all other statutory or non-statutory allowances, which would, if the terms of the contract of

employment, express or implied, were fulfilled, be payable to a worker employed in respect of their employment or of work done in such employment, but does not include-

- (i) any contribution paid by the employer in respect of such person under any scheme of social insurance or to a pension fund or provident fund;
 - (ii) any travelling allowance or the value of any travelling concession;
 - (iii) any sum paid to such person to defray special expenses incurred by him in respect of his employment;
 - (iv) any sum paid as an annual bonus; and
 - (v) any gratuity payable on discharge;
- xxiii. **“written contract”** means a physical document which entails an agreement of employment between two or more parties which sets out the obligatory duties and rights of the parties;
- xxiv. **“worst forms of child labour”**, for the purposes of this Act, include the following:
- 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 for 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 including the child domestic labour;
- xxv. **“worker”** means any person employed in any establishment, irrespective of designation or wages, to do any skilled or unskilled, manual or clerical work for hire or reward and includes permanent, probationer, badlis, temporary, apprentices and contract workers.
3. **Prohibition on Forced Labour:** An employer shall not employ or permit engagement of a worker in the establishment under forced or compulsory labour.
4. **Contract of Employment.** – (1) Every engagement or appointment of a worker shall be subject to a written contract in the prescribed format between the worker and the employer indicating the terms and conditions of employment or engagement.
- Provided that where the worker is illiterate, the contract shall also be explained verbally in worker’s native language in presence of two co-workers who shall witness the same in writing.*
- (2) An employer shall, within ninety days of the commencement of this Act, arrange for the execution of the contract of employment under subsection (1) with each of the workers engaged on work in the establishment immediately before the commencement of this Act.
- (3) For workers hired after the commencement of this Act, the employer shall ensure the execution of the employment contract within 15 days of the commencement of employment.
- (4) The contract of employment made under subsection (1) shall be executed in triplicate with one copy for the worker, one copy for the employer and one copy to be sent to the inspector having jurisdiction in the area.
- (5) In case the contract of employment is not issued to a worker in line with subsections (2) and (3), such worker may approach the inspector of the area who shall ensure issuance of the necessary contract of employment accordingly.
5. **Maintenance of register.** – An occupier shall maintain a register in respect of all workers employed in the establishment and shall make such register available for inspection to an Inspector at all times during working hours of the establishment showing:
- (a) the name and date of birth of every worker employed or permitted to work;
 - (b) CNIC, Employees Social Security and EOBI Numbers;
 - (c) hours and periods of work of every worker and the intervals of rest to which he is entitled;
 - (d) the nature of work; and
 - (e) such other particulars as may be prescribed.

6. **Bar on the deduction of or withholding wages:** While keeping in view the provisions of Payment of Wages Act 1936 and Payment of Wages Rules 1960, the maximum deduction from wages for recovery of advances, fines or breaches of the contract shall not exceed one-third of monthly wages, however contribution to the statutory schemes, where applicable, shall be deducted from the wages of the worker.
7. **Inspectors.** ---(1) Government may, by notification in the Official Gazette, appoint such persons as it may deem fit to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively.
(2) No person shall be appointed to be an Inspector under sub-section (1) or shall continue to hold office, who is or becomes directly or indirectly interested in any establishment carried on therein or in any patent or machinery connected therewith.
(3) Every Inspector shall be deemed to be a public servant within the meaning of the Pakistan Penal Code, 1860 (XLV of 1860).
8. **Penalties:**
- (1) Whomsoever compels any person to render any forced or compulsory labour shall be punishable with imprisonment for a term which may extend to five years but shall not be less than two years, or with fine which may extend to three hundred thousand rupees but shall not be less than one hundred thousand rupees or with both.
Provided that whomsoever compels a child to render any forced or compulsory labour shall be punishable with imprisonment for a term which may extend to seven years but shall not be less than three years, or with fine which may extend to five hundred thousand rupees but shall not be less than two hundred thousand rupees or with both.

Provided further that each and every instance of forced labour shall be treated as a separate offence.
- (2) Whomsoever compels a child to engage in any of the worst forms of child labour shall be punishable with imprisonment for a term which may extend to ten years but shall not be less than five years, or with fine which may extend to seven hundred thousand rupees but shall not be less than three hundred thousand rupees or with both.
Provided that each and every instance of the worst forms of child labour shall be treated as a separate offence.

Provided further that where the victim is a child, the prosecution may not prove actual use of force, fraud or coercion and the Court may not consider the consent of the victim, his parent or guardian as a defence.
- (3) Whomsoever compels a child, woman or man to engage in sexually exploitative forced labour, or uses sexual abuse or the threat of sexual abuse to induce forced labour, shall be punishable with imprisonment for a term which may extend to twelve years but shall not be less than seven years, or with fine which may extend to seven hundred thousand rupees but shall not be less than three hundred thousand rupees or with both.
Provided that each and every instance of sexual exploitation shall be treated as a separate offence.
- (4) Whoever contravenes any of the provisions of this Act or rules made hereunder, shall, if no other penalty is elsewhere provided by or under this Act or the rules made hereunder, for such contravention, be punishable with fine which may extend to one hundred thousand rupees but not less than fifty thousand rupees.
Provided that each and every instance shall be treated separately.

9. **Abetment to an offence.**— Whoever abets any offence punishable under this Act shall, whether or not the offence abetted is committed, be punishable with the same punishment as is provided for the offence which has been abetted.

Explanation.— For the purpose of this section, “abetment” has the same meaning as is assigned to it in the Pakistan Penal Code (Act XLV of 1860).

10. **Committee on Prevention of Forced Labour.**—(1) The Government shall, by notification, constitute a Committee to be called the Committee on Prevention of Forced Labour. The function of the Committee shall be:

(a) to advise the Government for appropriate legislative, administrative and other measures for the elimination of forced labour;

(b) to advise the Government regarding measures for rehabilitation of the freed forced labourers;

(c) to provide the forced labourers such assistance as may be necessary to achieve the objectives of the law;

(d) to educate employers and civil society on the various forms of forced labour and the increased vulnerability of women and children; and

(e) to keep an eye on the working of the law

(2) The Committee, set up in the manner prescribed in rules, shall consist of a chairperson and not more than ten members representing the Government, employers, workers, civil society and independent experts.

11. **Protection against discrimination.**—The employer shall not exercise any discrimination with regard to the observance of this Act.

12. **Prohibition of victimization.**— The employer shall not victimize a worker for—

(1) performing any duty or exercising any right under the relevant statutory provisions;

(2) making a complaint or representation as regards any rights granted under this Act; and

(3) giving evidence in proceedings in respect of the enforcement of the relevant statutory provisions

13. **Compensation to victims**— Where an offender is convicted of an offence under this Act, the Court may direct payment of compensation to the victim under section 545 of the Code of Criminal Procedure 1898.

14. **Cognizance of offences.**— An offence under this Act shall be cognizable by the police on the complaint in writing made by the Inspector and shall be bailable.

15. **Sealing of establishment.**— (1) If it appears to an Inspector that a worker is employed in an establishment in contravention of section 3, the Inspector may, in the prescribed manner, seal the establishment for a period not exceeding ten days.

(2) The employer aggrieved by an order under subsection (1), may, within three days of the sealing of the establishment, prefer an appeal before the appellate authority.

(3) The appellate authority may confirm, modify or reverse the order made under subsection (1).

16. **Appellate authority.**— The Government shall appoint an appellate authority to hear and decide the appeals preferred under subsection (2) of section 14.

17. **Trial of offences.**— (1) An offence under section 9 shall be tried summarily in accordance with the provisions of Chapter XXII of the Code of Criminal Procedure, 1898 (V of 1898).

(2) No court inferior to that of the Magistrate having powers under section 30 of the Code of Criminal Procedure, 1898 (V of 1898) shall try an offence under section 9 of this Act.

18. **Display of notice.**— Every occupier shall display at a conspicuous place in the establishment a notice in Urdu and in English containing an abstract of sections 3, 4, 5 and 9 of this Act.

19. **Rules.**— The Government may, by notification, make rules for carrying into effect the provisions of this Act.

20. **Application of other laws.**— Subject to the provisions contained in section 9, the provisions of this Act and the rules shall be in addition to, and not in derogation of, the provisions of any other law.
21. **Power to remove difficulties.**— If any difficulty arises in giving effect to the provisions of this Act, Government may issue such order as not inconsistent with the provisions of this Act as it may deem necessary for the purpose of removing of the difficulty.