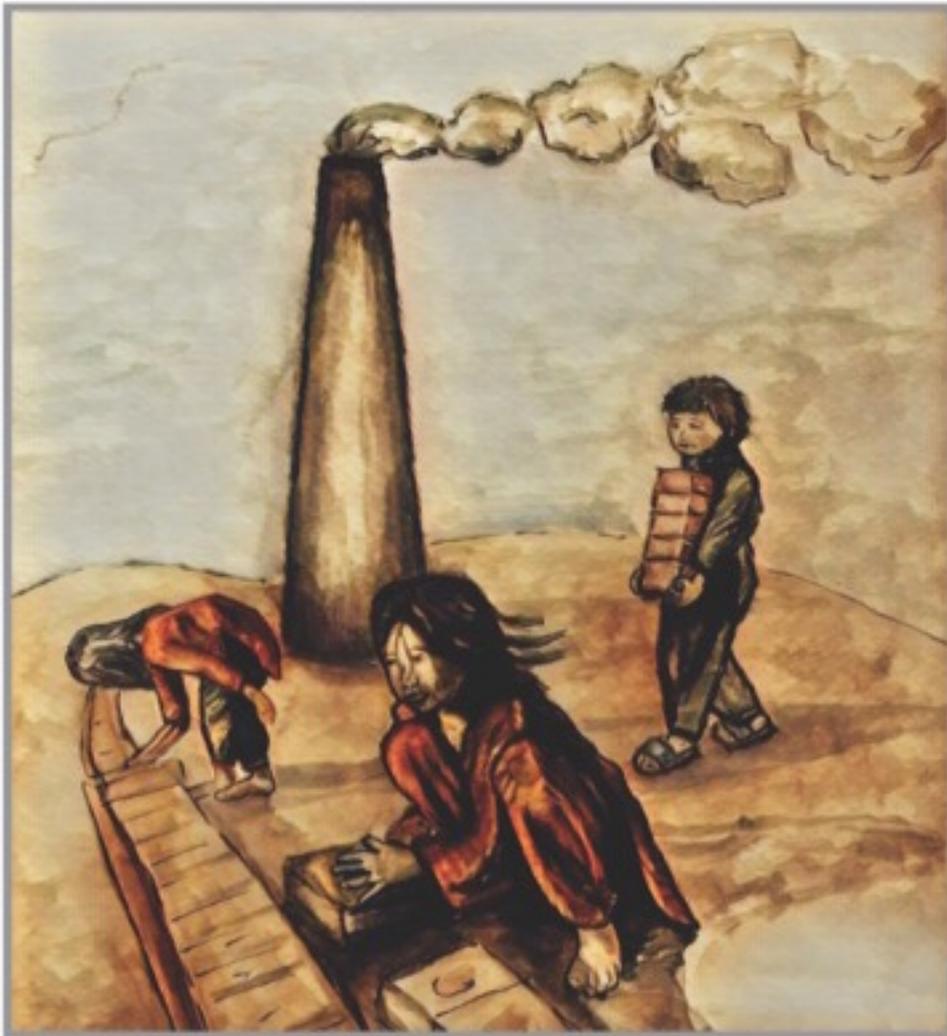


Child Labour

Lack of Coherent Reforms in Pakistan



Iftikhar Ahmad

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INDIGENOUS SOLUTIONS, ISLAMABAD

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جو گھروں میں گھریلو ملازم اور دیگر کام کی جگہوں پر چھوٹے کے طور پر
غلامی کی زندگی گزارنے پر مجبور ہیں

To those children who are enslaved in
"homes" as domestic workers and in "workplaces" as Chhotas (helpers)

Preface

There are more than 20 laws in Pakistan which deal with different dimensions of child labour. These include anti-child labour legislation, child protection legislation and anti-trafficking and bonded labour laws. Most of these laws were enacted or reformed after 2010. If this multiplicity of legislation meant a higher level of compliance, Pakistan would be free of child labour by now.

The Labour Force Survey 2014-15 indicates that there are 3.70 million child labourers, aged between 10-17 years, in the country. Out of this 1.64 million are engaged in hazardous work, which is defined as “any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons.”

What is the impact of these legislations if the number of child labourers is not declining? **Indigenous Solutions** has worked on this legislative and statistical brief to highlight the situation of child labour in Pakistan. There is a lack of coherence and consistency in new enactments and reforms initiated in recent years.

Indigenous Solutions is thankful to Mr. Iftikhar Ahmad for producing such relevant work urging coherent child labour legislation reforms and its proper implementation. We are also thankful to his team including Sajjad Akbar, Bushra Siraj and Musaib Umar for data analysis, drafting and reviewing of this document.

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September 2017

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Introduction

The subject of labour used to be a concurrent subject, i.e., both the federal and provincial governments could legislate on labour issues (implementation, however, was always in the provincial jurisdiction). Nonetheless, with the adoption of 18th Constitution amendment in 2010, labour (and other social subjects including education and social welfare) became provincial subject and thus is no longer part of the Federal Legislative List. Federal Government can no longer legislate on devolved issues. However, since the international conventions and covenants are ratified and reported upon by the federal government, it can still impress upon the provinces to legislate accordingly.¹ The Parliament, while amending the Constitution, saved existing laws through Article 270-AA(6). This Article provides that the laws, with respect to any matter enumerated in the repealed Concurrent List, would continue to remain in force until altered, amended or repealed by the competent authority.²

This Legislative and Statistical brief on child labour provides an outline of legislation enacted prior to the 2010 Constitutional Amendment (and still in force in Islamabad Capital Territory-ICT and Balochistan) and the legislation enacted afterwards by provinces. It also brings forward new data on child labour, taken from Labour Force Survey 2014-15, the most recent available.

The legal analysis indicates that there is lack of coherent reforms in the country and the provinces need to learn from each other thus necessitating the dissemination of local best practices.

Defining Child Labour

Child labour is essentially a legal rather than a statistical concept. The relevant international legal standards, i.e., Minimum Age to Employment Convention, 1973 (No. 138), Worst Forms of Child Labour Convention, 1999 (No. 182) and United Nations Convention on the Rights of the Child (1990, CRC) define it and are the necessary frame of reference for child labour measurement.

Child labour is defined as “any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons”. Particular forms of work can be classified as ‘child labour’ depending on the **child’s age**; the **type and hours of work** performed; and the **conditions under which it is performed** as referred in the above ILO Conventions.

Child labour is recognized as a violation of children’s rights, fundamental rights at work and other human rights and is considered as an important barrier to national development. Child labour has negative impact on human resource development and its allocation. As stated above, three principal international conventions set the legal boundaries for child labour, and provide the legal basis for national and international actions against it. Child labour is a subset of children in employment and includes work that is injurious, negative or undesirable to children and thus should be discouraged in all its manifestations and also targeted for elimination.

ILO Convention No. 138 on the Minimum Age to Employment, adopted in 1973, represents the most comprehensive and authoritative international norm concerning the minimum age for admission to work or employment. The Convention requires the member States to set a general minimum age for admission to work or employment of at least 15 years (14 years in less developed countries), and a higher minimum age of not less than 18 years (16 years under certain conditions) for hazardous work.³ The Convention further requires that minimum age for work must not be less than compulsory schooling age. The Convention further states that national laws or regulations may permit the employment or work of persons from 13 years of age (12 years in less developed countries) in case of light work.⁴

Table 1: Minimum age for admission to employment or work

		General Minimum Age	Light Work	Hazardous Work
General Rule	Not less than the age of completion of compulsory schooling, and in any case, not less than:	15 years	13 years	18 years (16 years under certain conditions)
Where the economy and educational facilities are insufficiently developed		14 years	12 years	18 years (16 years under certain conditions)
Initially not less than:				

ILO Convention No. 182 on the Worst Forms of Child Labour, adopted in 1999, supplements ILO Convention No. 138 by emphasizing the subset of worst forms of child labour requiring priority action. The Convention calls on the member states to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. For the purposes of the Convention, the worst forms of child labour comprise the following:

- 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, procurement or offering of a child for **illicit activities**⁵, in particular for the production and trafficking of drugs as defined in relevant international treaties; and
- 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 third key international legal standard on the subject is the UN Convention on the Rights of the Child (CRC), which was adopted in 1990. The Convention recognizes the child's right to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. In order to achieve this goal, the CRC calls on states parties to set minimum age(s) for admission to employment, having regard to other international instruments.⁶ The worst forms of child labour, as enunciated above, are also covered under different articles of the CRC.⁷

Estimating Child Labour Incidence in Pakistan

Translating above referred legal norms into statistical indicators necessitates a thorough understanding of Convention 138. However, an ILO Resolution of 2008 translates these legal standards into statistical terms for the purpose of child labour measurement.⁸ In accordance with the Resolution, children in productive activities are those who are engaged in any activity falling within the general production boundary as defined in the System of National Accounts (SNA). These include children in employment and children who are perform (unpaid) household chores. Children in employment are those engaged in any economic activity for at least one hour during the reference period.⁹ Children in employment comprises three categories:

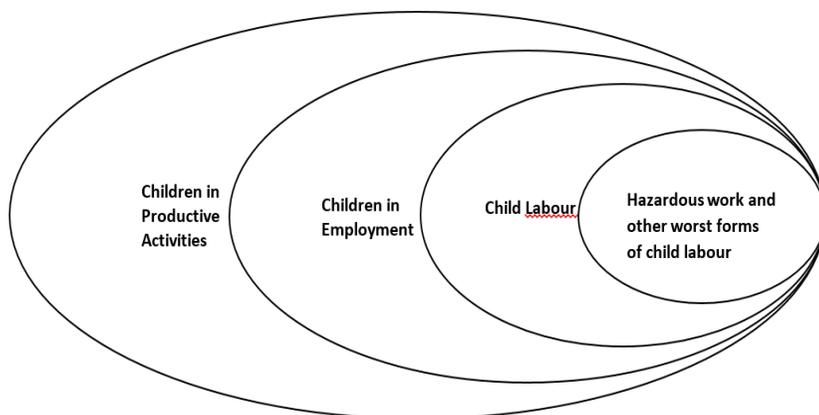
- a) Those in child labour within the SNA production boundary (these include children in worst forms of child labour + those employed below the minimum age);
- b) Children aged 12-14 years in permissible light work; and
- c) Adolescents in the age group 15-17 years engaged in work not designated as one of the worst forms of child labour.

Children engaged in child labour include all persons aged 10 to 17 years who were engaged in one or more of the following categories of activities:

- i. Employment below the minimum age (10-11 years);
- ii. Worst forms of child labour, which includes hazardous work.

Figure I (a Venn diagram) explains the estimation of child labour and how child labour is a subset of children in employment. Children in employment is a subset of children in productive activities; child labour is a subset of children in employment; and children in hazardous work is a subset of children in child labour.

Figure 1: Estimating Child Labour



Hazardous work by children is statistically defined in terms of the engagement of children in activities of a hazardous nature (designated hazardous industries and occupations) or as work under hazardous conditions, for example, long hours of work in tasks and duties which by themselves may or may not be of a hazardous nature for children (hazardous work conditions).

The Labour Force Survey provides estimates only in relation to hazardous work (hours of work, hazardous sector or occupations) however it does not take into account other worst forms of child labour which are prevalent in the country. The involvement of children in armed conflict, human and drug trafficking, begging and other illicit activities as well as debt bondage cannot be estimated from LFS data. Hazardous work is also used as a proxy for worst forms of child labour, of which hazardous work is also a part. Since data is not readily available on children trapped in worst forms of child labour, hazardous work is taken as a proxy to the “worst forms of child labour”.¹⁰

Figure 2: Measuring Child Labour through LFS

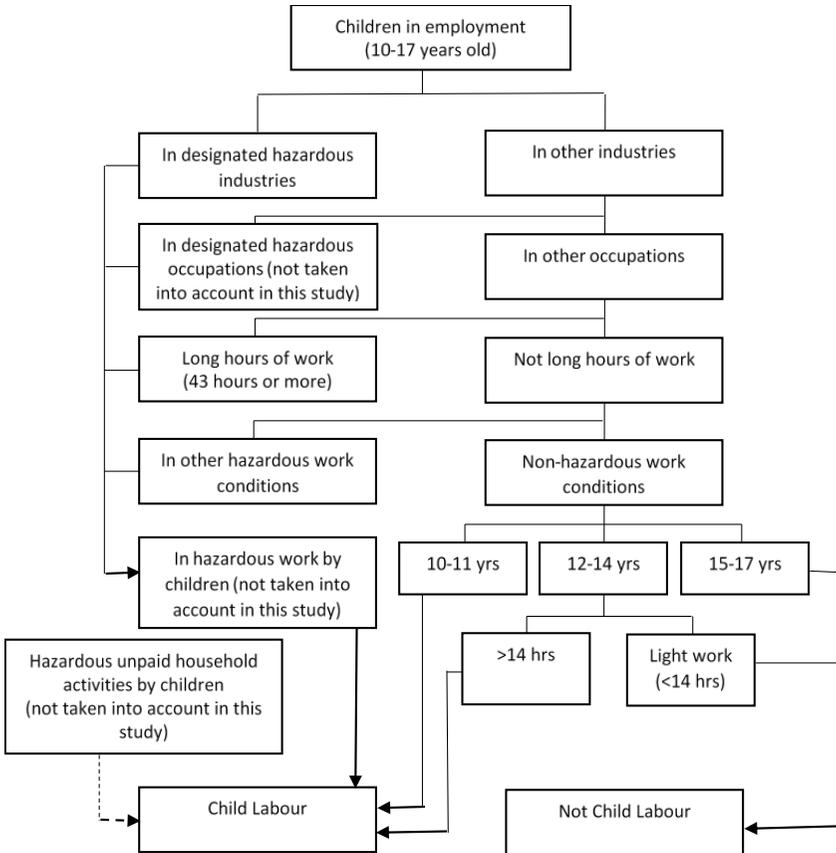


Figure 2 provides an outline of child labour estimation through labour force survey data. Labour Force Survey includes data for those aged 10 years and above. Child labour is estimated for those aged 10-17 years. As indicated in the figure, the total children in designated hazardous industries (construction and mining) and those engaged in long hours of work make up the total children in hazardous work. Hazardous unpaid household activities by children, children engagement in hazardous occupations and involvement of children in other hazardous work conditions are excluded from this methodology. Other than hazardous work, those included in child labour are 10-11 years old engaged in any economic activity during the reference period (employment below minimum age even for one hour), and the number of other children 12 to 14 years old who were engaged in an economic activity that could not be considered as permissible light work (more than 14 hours per week) during the reference period.

Situation in Pakistan

The last national Child Labour Survey in Pakistan was held in 1996, which indicated that there were 3.3 million (8.3% of the 40 million) economically active children (aged 5-14). More than 70% (2.4 millions) of these children were boys. The data further indicated majority of the economically active children were in the 10-14-year age group and were from rural areas (more than 80 percent in both cases). The major reasons for economic activity included assisting in household enterprises and supplementing household income (accounting for 81% of the cases).¹¹

Though no new child labour survey could be held for the last 21 years¹², the Labour Force Survey (2014-15) provides useful insights.¹³ Although LFS provides data for those aged 10 years and above, its results recapitulate above points. Of the 5.24 million “children in employment”, 3.708 million are engaged in child labour.¹⁴ LFS data further indicates that majority of child labour comes from rural areas and most are boys. Hazardous work (15-17 year) constitutes more than 40 percent of total child labour. Most children (75%) work in the agriculture sector and those engaged in the non-agriculture sector are heavily concentrated in informal sector (87%). The table below gives province, gender and area wise situation of child labour in the country, based on LFS 2014-15.

Considering the population figures under the 2017 Census (207 million), the child labour estimates appear deflated since these figures were based on the population estimate of 189 million. Still, these statistics indicate a trend.

Table 2: Child Labour by Province, Gender and Area

Region	A	B	A+B	C	A+B+C
Pakistan	379,519	1,688,325	2,067,844	1,641,150	3,708,995
Provincial Disaggregation					
Punjab	222,847	973,671	1,149,518	886,662	2,083,180
Sindh	89,965	468,677	558,642	465,208	1,023,850
Khyber	34,865	123,607	158,643	167,856	326,319
Pakhtunkhwa					
Balochistan	31,851	122,370	154,221	121,425	275,646
Gender Disaggregation					
Male	203,602	1,067,168	1,270,770	1,471,142	2,741,912
Female	175,917	621,157	797,074	170,008	967,082
Area Disaggregation					
Rural	346,153	1,474,893	1,821,046	1,179,694	3,000,740
Urban	33,366	213,432	246,798	461,456	708,254

Source: Labour Force Survey 2014-15

Legend: A: Children aged 10-11 years in economic activity¹⁵; B: Children aged 12-14 years in economic activity excluding those in light work¹⁶; A+B: Children aged 10-14 years in child labour; C: Children aged 15-17 years in hazardous work¹⁷; A+B+C: Total in child labour, children aged 10-17 years

Child population can be categorized in four mutually exclusive non-overlapping groups. These are (a) children in employment only (b) children attending school only, (c) children combining school and employment, and (d) children doing neither. In accordance with the LFS, there are 37.32 million children in the age group of 10-17 years. Sixty-nine per cent of these children are attending school only while 1.3 per cent are combining work and school. Thirteen per cent are engaged in employment only while seventeen percent are engaged in neither work nor school.

Table 3: Children's Work and Education

Children	Age Groups (millions)		Numbers (millions)	Per cent
	10-14 years	15-17 years		
Total Children	24.81	12.51	37.32	20 ¹⁸
Working only	1.88	2.88	4.76	13
Attending School Only	18.91	6.92	25.83	69
Combining Work and School	0.27	0.21	0.48	1
Neither School nor work	3.75	2.51	6.26	17

Source: Labour Force Survey 2014-15

Of these four categories, what is more difficult to explain is children under 'neither activity'. These are the children who are reported as inactive, i.e., neither in employment nor in school. The percentage of inactive children ranges between 15-20% for both age groups. These children are likely to be working at home (doing household chores) or others' homes (domestic work) thus falling in the informal sector. Some of these inactive children may be trapped in worst forms of child labour. While the inactive percentages ranges between 6-8% for boys in both age groups, this percentage is in the range of 24-35% for girls.

So, where are these inactive girls? They are either married at a young age (thus becoming housewives and mothers) or are trapped in worst forms of child labour including forced and bonded, commercial sexual exploitation (within and outside the country) and domestic work.

Table 4: Distribution of Child Employment by Sector

Children	Age Groups (millions)		Numbers (millions)	Per cent
	10-14 years	15-17 years		
i. Agriculture	1.6	1.6	3.2	62 ¹⁹
Non-Agriculture	0.54	1.43	1.97	38
Formal	0.06	0.16	0.22	4
Informal	0.48	1.26	1.74	34
ii. Industry	0.26	0.79	1.05	20
iii. Services	0.27	0.64	0.91	18

As is evident from Table 4 above, more than sixty percent of the children in employment are engaged in agriculture. Remaining thirty-eight percent are engaged in non-agriculture sector and can be further divided in two categories, i.e., formal and informal as well as industry and services. Formal sector engages four per cent of the children engaged in employment while remaining thirty-four per cent are in informal sector. Industry engages twenty percent of the children while services sector employs eighteen percent of such workers.

While the above statistics were calculated through ILO Global Estimation Methodology, we have also compiled these while taking into account national legal provisions as well. During the time under review (2015), Employment of Children Act 1991 was applicable in the country. The working maximum daily working hours, set under section 7(3) of 1991 Act, are seven hours per day inclusive of interval for rest (one hour). Thus, the total working hours of adolescents per week cannot exceed thirty-six hours per week. Since Pakistan has not used flexibility clauses under C138 and does not specify light work under the above Act, child labour can be calculated by adding the children working under the general minimum age (10-14 years) even for one hour and children (15-17 years) engaged in hazardous work, i.e., working more than 36 hours per week. Under this method, the child labour numbers increase by 0.59 million. Thus, the new statistic is 4.29 million child labourers instead of 3.70 million.

Data in Table 2 clearly indicates that a dominant child employment as well child labour emanates from rural areas. Similarly, the occupational and sectoral classification of children (10-17 years) indicates that nearly 50% of children in employment are engaged in agriculture work. Our data further indicates that children in rural areas are more likely to be “in employment” than “in school”. The share of occupational injuries/diseases faced by children is the highest for agriculture, forestry and fishery sector (65%), followed by manufacturing (14%), and construction (8%). It is alarming to note that children’s share of employment in construction is only 2% however the share of occupational injuries is 8%. Further insight into data also indicates that construction sector has the highest incidence of occupational injuries/diseases for workers aged 10-14 years.

It is good to note that DWCP III (2016- 20) has as its first priority area the “promotion of decent work in the rural economy”. Its second outcome focuses on improved working conditions for rural economy workers through progressive elimination of worst forms and child and bonded labour in the rural economy as well as establishment, improvement and implementation of statistical and monitoring system on child and bonded labour.

In the post-devolution scenario, Federal Government has been working on a National Strategy to Eliminate Child and Bonded Labour which aims to contribute to the abolition of child and bonded labour in the country by providing a framework to the Federal and the Provincial Governments for a coordinated implementation of their Constitutional mandate, through capacity development; policy integration and mainstreaming of child and bonded labour issues and concerns into key development policies, programmes and budgets; strengthening of law and its enforcement; enhancing the data collection, analysis and use; forging partnerships and resource mobilization; and raising awareness through Information, Education and Communication (IEC).

Legislative Compliance

Article 11 of the Constitution of Pakistan guarantees that “no child below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment. In 2010, Article 25-A was added to the Constitution under the 18th Constitutional Amendment, requiring the state to provide free and compulsory education to all children of the age of five to sixteen years. Similarly, Article 37(e) of the Constitution requires the State to 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. National Action Plan for Human Rights, announced in February 2016, pledged to prepare and submit a bill for establishing a statutory National Commission on the Rights of Children (NCRC). The bill has been passed both by the Parliament (National Assembly and Senate)²⁰ and is waiting for the assent of the President.

The minimum age for admission to work is set under the Mines Act 1923 (15 years), Factories Act 1934 as well as its provincial variants enacted after devolution (14 years), Shops & Establishments Ordinance 1969 and its provincial variants enacted in Sindh and Khyber Pakhtunkhwa (14 years) and Road Transport Workers Ordinance 1961 (18 years, 21 years for drivers). The minimum age for starting work is 14 years under the Khyber Pakhtunkhwa Prohibition of Employment of Children Act 2015 and Sindh Prohibition of Employment of Children Act 2017. The minimum age for admission to work is raised to 15 years under Punjab Restriction on Employment of Children Act 2016. The minimum age for admission to work is also set as 14 years in draft legislation by Balochistan and draft legislation of ICT (a private member bill submitted in the Senate of Pakistan, the upper house of the Parliament).²¹

The minimum age for hazardous work is set as 14 years under the Employment of Children Act 1991 (applicable currently in ICT (ICT) and Balochistan). Khyber Pakhtunkhwa, Punjab and Sindh have enacted necessary legislation raising the minimum age for hazardous work to 18 years, in line with the provisions of Convention 138. None of the newly enacted child labour legislation prohibits employment of children in brick kilns and domestic work. The minimum age for hazardous work is raised to 18 years in the draft legislation for ICT and Balochistan. There are also Hazardous Occupations Rules 1963, framed under the Factories Act, which prohibit employment of children in certain hazardous occupations (such as in lead, rubber, sand blasting, chromium, etc.).

Table 5: Minimum age for employment (Region and type of work)

Province	Factories	Shops and establishments	Road Transport	Hazardous Work	Brick Kilns	Light work	Mines	Domestic Work
Punjab	15	15	18 (21 for drivers)	18	14	No Provision	15	No Provision
Sindh	14	14	18 (21 for drivers)	18	14	No Provision	15	No Provision
Khyber Pakhtunkhwa	14	14	18 (21 for drivers)	18	14	12	15	No Provision
Balochistan	14	14	18 (21 for drivers)	14	14	No Provision	15	No Provision
ICT	14	14	18 (21 for drivers)	14	14	No Provision	15	No Provision

Source: Based on various federal and provincial legislation

It must be mentioned here that most of the child labour legislation is not compliant with the compulsory education age (16 years) specified in the Constitution and implementing legislation²². Child labour is not prohibited in domestic work, work in the family enterprises, work in the so-called informal sector (employing less than 10 workers and where labour laws are not applicable) and agriculture sector and employers can engage a child as young as five years to work. These provisions are summarized in the table 5.

The table 6 gives a detailed account of child labour provisions in Pakistan. As stated above, the 18th Constitutional Amendment devolved all child labour and welfare issues from the federal government to provinces however the federal laws remain in force until altered, amended (adopted) or repealed by a province. Since devolution, the provinces have concentrated on drafting and enacting new legislation and repealing the former legislation (Khyber Pakhtunkhwa and Sindh), although some have relied on re-enacting pre-existing federal provisions through adoption (like by Punjab). There are still others (i.e. Balochistan and ICT) where federal legislation is still in force.

In the last three years (2015-17), Khyber Pakhtunkhwa, Punjab and Sindh provinces have enacted new child labour and bonded labour legislation. Balochistan and ICT are still working on draft legislation for regulating child labour in their respective areas. Criminal Law Amendment Act 2016 criminalises serious offences against children including exposure to seduction, child pornography, and trafficking in children. However, it still does not deal with internal/domestic child trafficking.

The hazardous work prohibitions under provincial labour legislation still do not cover employment in brick kilns and domestic work. Similarly, the minimum age for hazardous work is not applicable to informal sector (including enterprises with less than 10 workers) and family enterprises. Family enterprises are exempted from following working hour regulations (prohibition of employing more than 36 hours per week, overtime and night work) and thus expose children to exploitation because of its invisibility and accountability.

Table 6: Laws Related to Child Labour

Standard	Related Entity	Age Specified (Years)	Related Legislation
Minimum Age for Work	Federal	14	Article 3, 11(3) of the Constitution of Pakistan, 1973
		15	Section 26 of the Mines Act 1923 (applicable in all provinces)
		14	Section 50 of the Factories Act 1934 (applicable in Balochistan and Islamabad)
		14	Section 20 of the Shops and Establishments Ordinance 1969 (applicable in Balochistan and Islamabad)
		18 (21 years for drivers)	Section 3 of the Road Transport Workers Ordinance 1961 (applicable in all provinces)
	Khyber Pakhtunkhwa	14	Sections 2(1)(b) and 3(1) of the Khyber Pakhtunkhwa Prohibition of Employment of Children Act 2015
	Punjab	14	Sections 2(e) and 5 of the Punjab Prohibition of Child Labour at Brick Kilns Act 2016
		15	Sections 2(c) and 3 of the Punjab Restriction on Employment of Children Act 2016
	Sindh	14	Sections 2(ii) and 3(1) of the Sindh Prohibition of Employment of Children Act 2017
	Minimum Age for Light Work	Khyber Pakhtunkhwa	12
Minimum Age for Hazardous Work	Federal	14	Article 11(3) & 37(e) of the Constitution of Pakistan, 1973 Sections 2(iii) and 3 of the Employment of Children Act 1991 (applicable in Balochistan and Islamabad)
		17	Section 26-A of the Mines Act 1923 (applicable in Balochistan and Islamabad) for underground work

	Khyber Pakhtunkhwa	18	Sections 2(1)(a) and 3(2) of the Khyber Pakhtunkhwa Prohibition of Employment of Children Act 2015
	Punjab	18	Sections 2(a) and 3(2) of the Punjab Restriction on Employment of Children Act 2016
	Sindh	18	Sections 2(i) and 3(2) of the Sindh Prohibition of Employment of Children Act 2017
Prohibition of Hazardous Occupations and Processes for Children	Federal		Schedule under section 3 of the Employment of Children Act 1991 (applicable in Balochistan and Islamabad) (4 occupations & 34 processes) Hazardous Occupations Rules 1963 (various processes)
	Khyber Pakhtunkhwa		Schedule under Section 3(2) of the Khyber Pakhtunkhwa Prohibition of Employment of Children Act 2015 (4 occupations & 35 processes)
	Punjab		Schedule under Section 2(i) of the Punjab Restriction on Employment of Children Act 2016 (38 hazardous works)
	Sindh		Schedule under Section 2(i) of the Sindh Prohibition of Employment of Children Act 2017 (38 hazardous works)
Forced Labour Prohibition	Federal		Section 3 of the Children (Pledging of Labour) Act, 1933 (applicable in all provinces) Section 4 of the Bonded Labor System (Abolition) Act 1992 (applicable in Balochistan and Islamabad) Section 3 of the Prevention and Control of Human Trafficking Ordinance 2002 Sections 366A, 366B, 367, 370, 371A, 371B, and 374 of the Penal Code 1860 Sections 17–23 of the Emigration Ordinance 1979 Rule 31A of the Emigration Rules 1979
	Khyber Pakhtunkhwa		Sections 3 & 4 of the Khyber Pakhtunkhwa Bonded Labour

			System Abolition Act, 2015
	Punjab		Section 4 of the Bonded Labor System (Abolition) Act 1992, adopted in 2012
	Sindh		Section 4 of the Sindh Bonded Labor System (Abolition) Act 2015
Prohibition of Child Trafficking	Federal		Section 2 and 3 of the Prevention and Control of Human Trafficking Ordinance 2002 Sections 366A, 366B, and 369-A of the Penal Code 1860 (external trafficking)
	Balochistan		Section 2(1)(w)(iv) of Balochistan Child Protection Act 2016 (defines internal and external trafficking as a form of child sexual abuse)
	Khyber Pakhtunkhwa		Sections 2(1)(j) and 52 of the Khyber Pakhtunkhwa Child Protection and Welfare Act 2010
	Punjab		Section 11(3)(a) of the Punjab Restriction on Employment of Children Act 2016
	Sindh		Section 14(1)(a) of the Sindh Prohibition of Employment of Children Act 2017 Section 2(c)(iv) of the Sindh Child Protection Authority Act 2011 (defines internal and external trafficking in terms of children in need of special protection measures)
Prohibition of Commercial Sexual Exploitation of Children	Federal		Sections 292A, 292B, 292C, 366A, 366B, 369A, and 377A of the Penal Code 1860 Section 3(iii) of the Prevention and Control of Human Trafficking Ordinance 2002
	Balochistan		Section 2(1)(w)(ii and iii) of Balochistan Child Protection Act 2016
	Khyber Pakhtunkhwa		Sections 48, 50 and 52 of the Khyber Pakhtunkhwa Child

			Protection and Welfare Act 2010
	Punjab		Section 40 of the Punjab Destitute and Neglected Children Act 2004 Section 11(3)(b) of the Punjab Restriction on Employment of Children Act 2016
	Sindh		Sections 56 and 59 of the the Sindh Children Act 1955 Section 2(c)(ii and iii) of the Sindh Child Protection Authority Act 2011 Section 14(1)(b) of the Sindh Prohibition of Employment of Children Act 2017
Prohibition of use of forced or compulsory recruitment of children for use in armed conflict	Federal		Section 21(c) of the Anti-Terrorism Act 1997
	Punjab		Section 11(3)(a) of the Punjab Restriction on Employment of Children Act 2016
	Sindh		Section 14(1)(a) of the Sindh Prohibition of Employment of Children Act 2017
Prohibition of Using Children in Illicit Activities	Federal		Sections 6-8 of the Control of Narcotic Substances Act 1997 (the provisions are however not specific to children)
	Balochistan		Section 2(1)(w)(ii and iii) of Balochistan Child Protection Act 2016
	Khyber Pakhtunkhwa		Sections 35 (fraud or deceit), 38 (harmful practices), 45 (begging) and 49 (betting) of the Khyber Pakhtunkhwa Child Protection and Welfare Act 2010
	Punjab		Sections 36 (begging) and 39 (betting) of the Punjab Destitute and Neglected Children Act 2004 Section 11(3)(c) of the Punjab Restriction on Employment of Children Act 2016 (drug trafficking)

	Sindh		Sections 49 (begging) of the the Sindh Children Act 1955 Section 2(c)(iii and v) of the Sindh Child Protection Authority Act 2011 Section 14(1)(c) of the Sindh Prohibition of Employment of Children Act 2017 (drug trafficking)
Compulsory Education Age and the Right to Free Public Education	Federal	5-16	Article 25-A of the Constitution of Pakistan, 1973 Sections 2(c&g) and 3 of the Right to Free and Compulsory Education Act 2012
	Balochistan	5-16	Sections 2(c&f) and 3 of the Balochistan Compulsory Education Act 2014
	Khyber Pakhtunkhwa	5-16	Sections 2(a) and 3 of the Khyber Pakhtunkhwa Free Compulsory Primary and Secondary Education Act 2017
	Punjab	5-16	Sections 2(a&e) and 3 of the Punjab Free and Compulsory Education Act 2014
	Sindh	5-16	Sections 2(b&f) and 3 of the Sindh Right of Children to Free and Compulsory Education Act 2013

Control of Narcotic Substances Act 1997 prohibits possession, export or import and trafficking or financing the trafficking of drugs however its provisions do not encompass children. Similarly, no law directly prohibits recruitment and use of children by non-state actors for armed conflict though the provisions of Anti-Terrorism Act 1997 can be applied in such cases.

Nonetheless, provinces have enacted necessary child protection legislation that covers some forms of worst child labour (engaging children in illicit activities like begging or betting/gambling) and the most recent enactment in this regard was Balochistan Child Protection Act 2016.

As for domestic workers, the current labour laws mention domestic workers only twice. The Provincial Employees Social Security Ordinance 1965²³ (and Sindh's newly enacted law²⁴) requires an employer to provide health care (including maternity care) to the full time domestic workers. The Minimum Wages Ordinance 1961 also includes domestic workers in the definition of workers however government has not notified the minimum wages applicable to these workers for the last 55 years.²⁵ Albeit, Punjab has already announced its domestic workers policy and is working on draft legislation.

Labour Force Survey 2014-15 data indicates that there are 100,000 live-in domestic workers in the country. The live-out (day-based) and task specific domestic workers count to 364,000. The total domestic workers in the country are 0.464 million. Data further shows that more than 10 per cent of workers are in the category of 'child labour'.²⁶

A Domestic Workers (Employment Rights) Bill, 2016 has already been approved by the Senate and was submitted to the National Assembly as a private member bill in May 2017. Since the Bill covers only ICT, it was referred to the Standing Committee on Interior and Narcotics Control. The Bill provides for all those rights of minimum wage, daily and weekly working hours, annual leave, maternity leave, work injury benefits as are applicable to the formal sector workers.

Analyzing Coherence in Reforms

If this multiplicity of legislation guaranteed any level of compliance, Pakistan would be free of child labour by now. As is evident in the table 6, most of the provincial legislation has been enacted after devolution of the subject of labour in 2010. Following pages show that there is a lack of coherence in the reforms initiated for eradication of child labour in the country.

Minimum Age for Work and Compulsory Schooling Age

The minimum age for admission to work (work in a factory or mine) and other hazardous employment is set as 14 years under Article 11(3) of the Constitution of Pakistan.

Eighteenth Constitutional Amendment in the Constitution added a new article, namely article 25-A which requires the state to “provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law.” In compliance with this constitutional guarantee, provinces have enacted necessary legislation, the most recent one enacted by the Khyber Pakhtunkhwa province in 2017. Under these laws, the compulsory education age is set as 16 years. However, as is evident in the above table, the minimum age for employment is overall 14 years except under Punjab Punjab Restriction on Employment of Children Act 2016 which sets the minimum age as 15 years.

Article 2 of the Convention 138 requires that the minimum age for admission to work must not be less than the compulsory schooling age. Setting a lower minimum age for admission to work may actually encourage children to engage in employment and leave education. Since children are legally permitted to work at a younger age, the long working hours may affect their education completion. Punjab Restriction on Employment of Children Act 2016 however deals with this issue and requires an employer to “arrange the hours of work of an adolescent in such manner that the working hours are not in conflict with the timings of the educational or vocational institution where the adolescent is enrolled”.²⁷

Another interesting phenomenon is the minimum age set under the above

Act (15 years) and Punjab Prohibition of Child Labour at Brick Kilns Act 2016 (14 years). Does it mean that the child workers can be engaged in brick kilns after attaining the age of 14 years while in other establishments, the minimum age for admission is 15 years? The Punjab Restriction on Employment of Children Act 2016 has not repealed the Brick Kiln Act and thus the latter Act is still applicable in the brick kiln sector.

Suggested Actions:

- i. Article 11(3) of the Constitution of Pakistan needs amendment whereby the minimum age for admission to work needs to be raised to 16 years. The minimum age for hazardous employment also needs to be raised to 18 years;
- ii. Provinces need to harmonize the minimum age for admission to work with the the compulsory schooling age;
- iii. Punjab Government should remove the legal anomaly where the minimum age for admission to work is different under the general (15 years) and sector specific labour law (14 years);
- iv. Punjab Government should publish enforcement data on the Punjab Restriction on Employment of Children Act 2016, especially with regard to arranging the hours of work for adolescents who are still receiving education. If the enforcement data is not available on this legal provision, there is no surety that adolescent workers are not dropping out of school to continue their their employment.

Regulating Light Work

Convention 138 defines light work as work “which is (a) not likely to be harmful to their health or development; and (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received”. Generally, the minimum age for light work cannot be lower than 13 years. However, in developing countries, a lower minimum age of 12 years can be set for light work.²⁸ In such case, the maximum hours of work are two hours per day and maximum of 14 hours per week.

Only the Khyber Pakhtunkhwa Prohibition of Employment of Children Act 2015 regulates light work and allows children from the age of 12 years to work up to two hours per day in a private enterprise alongside his family member.

Keeping in view the local circumstances where children are forced to work due to extreme poverty, the provision regarding light work are essential in protecting the workers under minimum age. Since 1.7 million children (12-14 years) are employed in Pakistan, it is necessary to regulate this work by inserting light work provisions in the provincial legislation.

Since compulsory education age is 16 years throughout the country, the children in school must be able to do light work from the age of 12 to 16 years. Light work (types of occupation/work) and hours for child workers (12-14 years) as well as adolescents (aged 15-16 years) can also be specified under legislation.

Suggested Actions:

- i. Light work for children (12-14 years) and adolescents (15-16 years) must be regulated under federal and provincial (Balochistan, Punjab and Sindh) child labour legislation
- ii. Light work must be determined under the Punjab Prohibition of Child Labour at Brick Kilns Act 2016 since now the Act prohibits employment mainly during school hours. Since brick kiln workers and their families are generally housed around the kiln, these children are bound to work. However, they need protection from hazardous processes and long working hours. It is possible only when the law specifies light work for these children and regulates their working hours.

Prohibition of Hazardous Occupations and Processes

In 2005, the Employment of Children 1991 included a long list of 4 occupations and 34 processes which were prohibited for children under 14. New legislation by the provinces of Khyber Pakhtunkhwa, Punjab and Sindh has similar schedules of occupations and processes or hazardous works prohibited for children under 18, as required under ILO Convention 138.

However, none of the new legislation includes working in brick kilns especially the hazardous processes of firing the bricks or unloading of baked bricks from the kiln. Similar is the case for child domestic labour, the only occupation where dozens of children have been tortured to death in recent years.

Interestingly, though, new legislation in the three provinces prohibits employment of adolescents (14-18) in “ship breaking” though the activity exists only in Balochistan (mainly Gadani which is considered the world's third largest ship breaking yard)²⁹ and, to a limited extent, in Sindh.

The Provincial Committees on Child Labour, constituted under the child labour legislation, can also play a role in regular revision of hazardous works list and recommending other necessary reforms. In Khyber Pakhtunkhwa and Punjab, Child Labour Committee is a maximum 8-member committee (other than a chairperson) with members from Government, employers, workers and civil society. In Sindh, the Provincial Coordination Committee on Child Labour comprises at least 9 members (other than a chairperson) with representatives from government, employers, workers, civil society and Provincial Assembly of Sindh. The two Members of the Provincial Assembly of Sindh are nominated by the Speaker, Provincial Assembly of Sindh.

Suggested Actions:

- i. Adding brick kiln work (or at least certain processes of it) in the list of hazardous works by a departmental notification as provided under legislation;
- ii. Adding child domestic labour, especially live-in domestic work, as hazardous work and banning it for children under 18;
- iii. Revision and updation of the hazardous works list in consultation with worker and employer organizations, as required under article 3 of ILO Convention 138;
- iv. Constitution of Provincial Committees on Child Labour and regular holding of their meetings with discussions on enactment of new legislation and its effective enforcement.³⁰

Scope of Legislation

The new child labour legislation, enacted in the provinces of Khyber Pakhtunkhwa, Punjab and Sindh, extends the coverage to agricultural establishments. The schedule of hazardous works under the legislation prohibits employment of adolescents in occupation or work connected with “power driven cutting machinery like saws, shears, guillotines, agricultural machines, thrashers, fodder cutting machines”. Employment of Children Act 1991 (still applicable in Balochistan and ICT) also has similar hazardous work provision however it does not include “agricultural establishments” to the definition of establishments. Since millions of the children are in employment in the country (3.2 million out of total 5.24 million in 2014-15), this appears as a great step for expanding jurisdiction of labour laws to agriculture sector however enforcement would be a major challenge in this case. Enforcing these provisions in corporate agriculture farms or farms using hired labour would be relatively easier.

Khyber Pakhtunkhwa Prohibition of Employment of Children Act 2015 however includes a proviso and excludes “small scale agricultural landholdings producing mainly for self-consumption and not employing hired workers”.

Suggested Actions:

- i. Provinces must must collect and publish enforcement data to ensure that no adolescents are engaged in hazardous work processes in the agriculture sector (children are already prohibited from engaging in hazardous work);
- II. Punjab and Sindh should limit the legislation to the corporate agriculture farms or big agriculture land holdings where hired workers are engaged.

Penalties for Engaging Child Labour

Though it is the mandate of each province to determine penalties for child labour, these must be set at a level high enough to deter those trying to violate the law. The table below provides a comparison of penalties provided under the legislation for engaging a child and adolescent to work.

As is evident, the lowest punishment for engaging child labour is in ICT and Balochistan (500 rupees). Provinces, under newly enacted legislation, have raised these penalties to a level where these no longer persuade employers to violate the legislation and pay fine instead of complying with legislation.

Once again, there is interesting case of Punjab which provides two different penalties for engaging child labour under two different laws. Under the Brick Kilns Act, the fine ranges between 50,000-500,000 rupees. However, it is ten times lower in the general law (10,000-50,000 rupees). It may persuade employers to engage children in establishments other than brick kilns to avoid such high fines. Detailed comparative analysis of penalties is given in table 7.

Suggested Actions:

- i. Amending the Employment of Children Act 1991 and raising the penalties to a dissuasive level;
- ii. Harmonizing penalties provided under different laws in Punjab for engaging child labour
- iii. Raising penalties for those employers who are engaging adolescents in hazardous work

Table 7: Penalties for Child Labour

Law	Status	Penalties	
		Imprisonment	Fine (PKR)
Factories Act 1934 (applicable in Balochistan and Islamabad)	Child or Adolescent	No Provision	500
Employment of Children Act 1991 (applicable in Balochistan and Islamabad) (Section 14)	Child*	Up to 1 year	Up to 20,000
Khyber Pakhtunkhwa Prohibition of Employment of Children Act 2015 (section 15)	Child	Up to 6 months	Up to 50,000
	Adolescent	Up to 3 years* Up to 1 year	10,000-100,000 Up to 75,000
Punjab Prohibition of Child Labour at Brick Kilns Act 2016	Child	7 days to 6 months	50,000-500,000
Punjab Restriction on Employment of Children Act 2016	Child	7 days to 6 months	10,000-50,000
	Adolescent	7 days to 6 months	10,000-50,000
Sindh Prohibition of Employment of Children Act, 2017	Child	Up to 6 months	Up to 50,000
	Adolescent	Up to 1 year	Up to 75,000

*The punishment provided under Employment of Children Act 1991 and KPK Act 2015 relates to the engagement of children in hazardous work.

Penalties for Worst Forms of Child Labour

Recent child labour legislation in Punjab and Sindh also prohibits engagement of children in the worst forms of child labour and imposes stringent penalties. The worst forms of child labour, as described under Convention 182, are generally regulated and prohibited under various Acts including Pakistan Penal Code 1860 and Prevention and Control of Human Trafficking Ordinance 2002.

Table 8: Penalizing worst forms of child labour under labour laws

Crime		Pakistan Penal Code 1860	Punjab Restriction on Employment of Children Act 2016	Sindh Prohibition of Employment of Children Act, 2017
Forced Compulsory Labour	or	One year imprisonment or with fine or both	3-7 years imprisonment or fine of 0.2-1 million rupees or both	5-10 years imprisonment or fine of 0.2-1 million rupees or both
Trafficking Children	in	5-7 years imprisonment or fine of 0.5-0.7 million rupees or both	As above	As above
Forced compulsory recruitment of children or adolescents for use in armed conflicts	or	No direct Provision. Provisions of Anti-Terrorism Act 1997 are used in such cases.	As above	As above
		At least 10 years imprisonment and a fine	As above	As above
Prostitution		Up to 25 years imprisonment and a fine	As above	As above
Child Pornography		2-7 years imprisonment or fine of 0.2-0.7 million or both	As above	As above

The Punjab Restriction on Employment of Children Act 2016 and Sindh Prohibition of Employment of Children Act 2017 however contradict the provisions of Penal Code 1860 amended in earlier 2016 to include punishments for trafficking and child pornography. Moreover, it is not clear whether compliance with the provisions in child labour legislation would be ensured by the labour department or the home department and police since none of the worst forms of child labour include formal employer-employee relationship.

In this new set up, what would happen to the Child Protection and Welfare Bureau in Punjab and Child Protection Authority in Sindh. The table 8 compares provisions of PPC 1860 and provincial legislation. Similarly, the penalties in child labour legislation are not in line with the Punjab Destitute and Neglected Children Act 2004 (which prohibits begging and betting of children) and Sindh Children Act 1955 (which prohibits engaging children in begging).

Suggested Actions:

- i. Punjab and Sindh should remove penalties for worst forms of child labour from their respective child labour legislation since these issues are already covered under the Penal Code or Child Protection legislation.

Joint Liability for Parents and Employers

Punjab Prohibition of Child Labour at Brick Kilns Act 2016 (section 7) and the Punjab Restriction on Employment of Children Act 2016 (section 12) hold a parent jointly responsible for violation of legal provisions along with an employer. Parents are already punished under the Punjab Free and Compulsory Education Act 2014 (section 20) if they do not send their children to school. Failure to keep a child in school also makes a parent ineligible for any subsidy or poverty targeted support of the Government. No other province has added such provision in their child labour legislation allowing for dual liability.

An employer's culpability cannot be reduced simply because a parent asked to employ his child or where the child is working in the presence of his parent. Workers generally work longer than normal working hours as well as specified overtime hours to make ends meet³¹, they work under minimum wage and in hazardous conditions, but does it make workers responsible for such violations? It would be relevant to mention here that 14% of the employees in Pakistan are working more than 60 hours per week. The employers could exploit the joint liability rule to oppress the poor workers.

Suggested Actions:

- ii. Joint liability rule must be changed and it should be the responsibility of an employer to ensure that no worker under the legal minimum age is employed in the enterprise.

Allowing Peshgi and its Impact on Child Bonded Labour

Bonded labour, a special form of forced labour found particularly in South Asia region, occurs when a person enters into an agreement to render his/her family member's services at the disposal of a creditor in consideration of advance (peshgi) obtained by him or his family or guardian without considering whether such advances are documented or not. Other than agreement with a person because of advance (peshgi), a person may enter into bonded labour in pursuance of any customary or social obligation or for financial benefit received by him or by any member of family. The incidence of bonded labour is more in the rural areas and mostly prevalent in the informal sector. ILO research has indicated that there are many instances of bonded labour in agriculture, domestic work, fisheries, mines, and brick kilns.

The Supreme Court of Pakistan, in its landmark decision of 1989, ordered discontinuation of peshgi system except in *proper cases* where a written agreement is reached between the parties (one copy of the agreement is retained by each party) and an advance loan is given by the employer to the worker for a maximum of seven days' wages. The Bonded Labour System (Abolition) Act 1992 (BLSA) however banned peshgi altogether.

A new provision in both Khyber Pakhtunkhwa BLSA 2015 and Punjab Prohibition of Child Labour at Brick Kilns Act 2016 allows advance, which was strictly prohibited under the BLSA 1992, and Supreme Court decision of 1989 that discontinued future peshgi (advance) system.

Khyber Pakhtunkhwa BLSA (section 6) allows advance in the form of Qarz e Hasna or interest free loan and requires that such advance should not exceed three times the minimum rate of wages (45,000 rupees from July 2017). The KPK Act prescribes a procedure for recovery of advance (instalment cannot exceed one-fourth of the worker's wages) and requires the employer to maintain a record.

On the other hand, Punjab Prohibition of Child Labor at Brick Kilns Act 2016 limits the amount of advance to 50,000 rupees and requires the employer to maintain record of advance (peshgi) and its payback schedule in the prescribed Register, a copy of which must be endorsed to the inspector of the area. It has however been criticized that this amount is much higher than the limit allowed by the Supreme Court (up to seven

days' wages only) in "proper cases" and it runs against the intent of the decision and BLSA 1992.

While Punjab Prohibition of Child Labour at Brick Kilns Act 2016 allows advance only for brick kiln workers, the provision in Khyber Pakhtunkhwa BLSA is expansive and covers all sectors and workers. Maintaining compliance with such seemingly contradictory provision requires strong labour inspection system. Khyber Pakhtunkhwa and Punjab Government must publish data on compliance with advance provision under their respective legislation. Unless this new system is properly regulated with regular oversight, it can lead to child bonded labour.

Suggested Actions:

- i. Khyber Pakhtunkhwa Labour Department must publish enforcement data to ensure that the workers are not plunging in bonded labour system again. The data must include the number of workers and the advance received by them;
- ii. Punjab Labour and Human Resource Department must publish data on compliance with Punjab Prohibition of Child Labour at Brick Kilns Act 2016, especially the number of contracts registered with the inspectors under the Act and the advance received by such workers.
- iii. The Punjab Prohibition of Child Labour at Brick Kilns Act 2016 or its rules must clearly specify the maximum percentage of total deduction from wages on account of recovering advance

Curbing Child Labour through Enabling Environment

Other than taking legislative measures, federal and provincial governments need to follow a three-pronged strategy to curb child labour through provision of free, compulsory and quality basic education at least up to the minimum age for admission to work; adoption and enforcement of laws and policies, with cooperation between labour inspection and the education system; and establishment of social protection system.

Improving the Education System

Unless basic education system is improved through proper enactment and enforcement of compulsory education laws (KPK has yet to enact the law), we will keep having such large numbers of out of school children. Though the children in employment are a concern for all of us, those in neither activity/inactive (6 million children in ages of 10-17 years) must be tackled first and their attendance be ensured through conditional cash transfers (like Khidmat Cards in Punjab), provision of free education through abolition of all school fees, and introduction of inclusive education strategies. The minimum age regulations alone do not produce the desired results since these divert children from regulated to non-regulated activities if compulsory education laws do not supplement minimum age laws.

Thus both the Federal and Provincial governments need to fully implement compulsory education laws. Similarly, children in the higher age group (15-17) need to be given training on skills through provincial Technical and Vocational Education and Training Authorities (TEVTAs) and National Vocational & Technical Training Commission (NAVTTTC). There should be programs for allowing apprenticeships and training of those children earlier involved in child labour (rehabilitative measures) and facilitating their transition from child labour to decent youth employment.

Strengthening Labour Inspection System

The existence of a large informal economy (72.57%), massive rural economy, including the agricultural sector (engaging 42.27% of total workforce), lack of financial and human resource capacity (334 labour inspectors) on the part of labour departments and other implementation agencies and the scrapping of enforcement institutions in the name of investment friendly and competitiveness raising policies (from time to time; inspections were allowed only in 2012 after a gap of 10 years) have played their respective roles in lacklustre implementation of labour laws. The Committee on the Rights of the Child has raised serious concerns about “inadequate number of sufficiently trained inspectors, their vulnerability to corruption and a lack of resources to inspect workplaces” in its 2016 report.³² Similar comments have been made by the Committee on Economic, Social and Cultural Rights in its 2017 Report.³³

There is a need to strengthen the capacity of labour inspectors to detect instances of hazardous child labour and worst forms of child labour. In order to combat child labour at the local level and especially in the agricultural sector, the local government system has to play its part. There is also a need for greater collaboration between the enforcement agencies and labour departments for effective implementation of child labour conventions. There is also a need for development of child labour monitoring system since that complements the work of labour inspectorates/labour departments by monitoring those areas of hazardous work, which are difficult to reach through conventional labour inspection system like workers in informal economy (such as home-based workers). The Sialkot Soccer Ball Industry Project is a case in point. Similar is the case of carpet-weaving industry which addressed child labour through public-private multi-stakeholder partnership. These sectoral approach experiences can be replicated in other sectors of economy. Government of Punjab has also started a sector specific operation against engaging of children in brick kilns through promulgation of Punjab Prohibition of Child Labour at Brick Kilns Act, 2016, which prohibits employment of children under 14 years in brick kilns. Later, the operation of the Act was extended to auto workshops, hotels/restaurants and petrol pumps. Similar sector specific approaches can also be employed by provinces to deal with child labour.

Social Protection System

While governments have focused on adopting legislation prohibiting child labour, a lot needs to be done on addressing the root causes of child labour. Poverty is said to be root cause of child labour and there is evidence that child labour declines by huge proportions when poverty is moderated. There is a need to establish adequate social protection floors with programs like social health insurance (Prime Minister's National Health Program), conditional and unconditional cash transfers, school feeding programs as well as public employment schemes (like public works program, NREGA from India is a good example to replicate in order to ensure livelihood to people especially in rural areas). Punjab has already established its Social Protection Authority with the aim to "provide a comprehensive, efficient, effective and inclusive social protection system to the poor and vulnerable". Other provinces can follow suit and establish similar institutions and their working should follow the ILO Recommendation 202 (Social Protection Floors Recommendation, 2012) on the subject.

Other than these, the Child Support Program and National Centers for Rehabilitation of Child Labour, run by the Pakistan Bait-ul-Mal (PBM), an autonomous body set up in 1991 to provide social protection to the poor marginalized segments of society, must be strengthened to provide cash support to poor parents and removing children from hazardous labour.

Conclusion

While the intentions of law makers are to eradicate child labour from the country, no tangible results would be achieved until these inconsistencies are removed. Laws simply cannot have contradictory provisions, on the one hand requiring compulsory education and on the other hand allowing children to engage in full time employment before they complete compulsory education. Similarly, laws cannot have different cut-off age for child labour and then different penalties for the same crime under different laws. Unless coherent reforms are made in the labour laws, children will remain engaged in abusive working conditions and worst forms of child labour. Moreover, as a State, we need to decide whether we want our children to be used as child suicide bombers, child jockeys in the Middle East, drug mules around the world, slaves or bonded labourers (both as domestic and factory workers)?

While there has been a cascade of labour law reform in the last 4 years (2013 onward), however, as discussed elsewhere, only legislation is not enough at this stage. It needs to be backed by a rigorous institutional arrangement, i.e., labour inspection system. Unfortunately, in the case of labour inspection system, the focus has been too much on the number of labour inspectors (347)^{xxxiv} and budgetary limitations. The actual problem is that the labour departments at the provincial level do not have readily available data to indicate their progress. This data is about number of inspections conducted, discrepancies found, prosecutions lodged, cases decreed, and fines collected. It is only with data that the progress achieved can be proved.

Interestingly, there is no state corroborated data available on any of the core labour standards except for gender wage gap (and to a limited extent, sexual harassment cases registered with Ombudsman under the law). There are no reliable statistics on trade union density, collective bargaining, strikes and lockouts. There is no statistic on bonded or forced labour. Similarly, child labour figures are out-dated as these are from 1996 survey. Instead of conducting provincial child labour, as is the rage these days^{xxxv}, Pakistan Bureau of Statistics may be requested to develop a module for collection of data on child labour (with ILO assistance and in

consultation with MOP&HRD) to be attached with Labour Force Survey questionnaires. It is preferable that questions should be added in LFS instead of holding provincial surveys on child labour whose data will be outdated again in 5 years.

As noted above, while there have been many new enactments regarding the issue of child protection and child labour, however no implementing rules have been notified under any of the new laws enacted in the last 3 years. A legislation cannot be implemented properly if its implementation rules are lacking. Provinces should formulate rules and regulations under the newly enacted laws at the earliest.

Thus, there is a need to not only reform the labour legislation and its rigorous enforcement but also that the enforcement data is ready available with the labour departments to indicate their progress.

¹ entry 32 of the Federal Legislative List, Part I, <http://pakistancode.gov.pk/english/UY2FqajwI-apaUY2Fqa-apaUY2Fvbpw%3D-sg-ijiiiiiiiiiiiiii> [accessed 11 June 2017]

² Article 270AA(6) of the Constitution of Pakistan 1973, <http://pakistancode.gov.pk/english/UY2FqajwI-apaUY2Fqa-apaUY2Fvbpw%3D-sg-ijiiiiiiiiiiiiii> [accessed 11 June 2017]

³ Article 3 of the ILO Convention 138 defines hazardous work as “any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons.”

⁴ Article 7 of the ILO Convention 138 defines light work as work “which is (a) not likely to be harmful to their health or development; and (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.”

⁵ Illicit activities include forced or organized begging, gambling, production and trafficking of drugs, housebreaking, petty theft, and unlawful carrying of firearms or other weapons.

⁶ Article 32 of the United Convention on the Rights of the Child, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> [accessed 11 June 2017]

⁷ Articles 33-38 of the UN CRC, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> [accessed 11 June 2017]

⁸ ILO Resolution concerning Statistics of Child Labour 2008, http://ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/normativeinstrument/wcms_112458.pdf [accessed 11 June 2017]

⁹ Economic activity covers all market production and certain types of nonmarket production (for household consumption).

¹⁰ The total of children in designated hazardous industries (mining and quarrying; Construction), children in designated hazardous occupations (more than 30 occupations from ISCO-88), children with long hours of work (43 hours or more) and children working in other hazardous work conditions (night work, long hours of work and other work conditions as specified under article 3 of Recommendation 190) make up in aggregate the total number

of children in hazardous work.

¹¹ Summary results of Child Labour Survey in Pakistan (1996), http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-new-delhi/documents/publication/wcms_436435.pdf [accessed 12 June 2017]

¹² A child labour survey was planned in 2011-12 however it could not be held because of devolution of the subject of labour to provinces and transfer of collection of labour statistics from erstwhile Ministry of Labour & Manpower to Pakistan Bureau of Statistics.

¹³ These statistics are calculated while using the ILO Global Estimation Methodology, for more information, please see (ILO: Marking progress against child labour - Global estimates and trends 2000-2012, (Geneva, ILO, 2016), p.47). http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipecc/documents/publication/wcms_221513.pdf [accessed 12 June 2017]

¹⁴ Children in employment is a broader concept and measurement than 'child labour'. The involvement of children in employment is not bad per se if it is within the age, hour and type of work (occupation and sector) limits defined under the international standards or national legislation and does not have negative impact on school and the child's well-being

¹⁵ This category includes those children who were engaged in any economic activity during the reference period (employment below minimum age) even for one hour.

¹⁶ This category includes those children who were engaged in an economic activity that could not be considered as permissible light work during the reference period. Permissible light work is any non-hazardous work by children (12 to 14 years) of less than 14 hours during the reference week. The 14-hour threshold is derived from ILO Convention (No. 33) on the Minimum Age (Non-Industrial Employment), 1932, which sets two hours per day, on either school days or holidays, as the maximum for light work from the age of 12 years. http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:NO::P12100_ILO_CODE:C033 [accessed 14 June 2017]

¹⁷ This category includes children engaged in in designated hazardous industries (mining and quarrying; Construction) and children with long hours of work (43 hours or more).

¹⁸ of total population of 189.19 million, as estimated under LFS 2014-15.

¹⁹ of total children in employment, i.e., 5.24 million, as estimated under LFS 2014-15

²⁰ http://www.na.gov.pk/uploads/documents/1485951591_584.pdf [accessed 12 June 2017] and http://senate.gov.pk/uploads/documents/1494847720_924.pdf [accessed 12 June 2017]

²¹ http://senate.gov.pk/uploads/documents/1503334353_906.pdf [accessed 25 August 2017]

²² Federal Government as well as all the Provincial Governments in Balochistan, Khyber Pakhtunkhwa, Punjab and Sindh have enacted compulsory education laws to provide for free and compulsory education as guaranteed under the Constitution (for children aged five to sixteen years).

²³ Section 55-A of the Provincial Employees Social Security Ordinance 1965, <http://punjablaws.gov.pk/index3.html> [accessed 14 June 2017]

²⁴ Section 59 of the Sindh Employees' Social Security Act 2016, <http://www.pas.gov.pk/uploads/acts/Sindh%20Act%20No.V1%20of%202016.pdf> [accessed 14 June 2017]

²⁵ Section 2(9) of the Minimum Wages Ordinance 1961, <http://punjablaws.gov.pk/index3.html> [accessed 14 June 2017]. This provision has not been retained by the Khyber Pakhtunkhwa and Sindh province under their newly enacted legislation.

²⁶ Domestic Workers Left Out by Dr. Lubna Shahnaz, <https://www.dawn.com/news/1320018> [accessed 14 June 2017]

²⁷ Section 5(3)(a) of the Punjab Restriction on Employment of Children Act 2016, <http://punjablaws.gov.pk/laws/2668.html> [accessed 12 June 2017]

²⁸ Different countries have specified light work as follows: sorting of fruit or vegetables, gathering of flowers or herbs, providing fodder and water to animals, houseboy, errand running, shelving or pricing of products in a shop, delivery of newspaper, work in operational side of hotel or restaurant.

²⁹

https://www.klp.no/polopoly_fs/1.34213.1467019894!/menu/standard/file/Shipbreaking%20report%20mai%202016.pdf [accessed 12 June 2017]

³⁰ Punjab has already constituted such Committee in February 2017 with 4 members from Government and 1 member each from employer organizations, worker organizations and civil society. Minister for Labour and Human Resource Development is the Chairman. http://www.punjablabour.gov.pk/news/news_detail/82 [accessed 14 June 2017]

³¹ Shops and Establishments Ordinance sets the weekly working hours as 48 hours and overtime limit as 624 hours per year for adult workers. The allowed overtime per week is 12 hours. Section 8 of the 1969 Ordinance, <http://punjablaws.gov.pk/laws/230.html> [accessed 14 June 2017]

³² Concluding observations on the fifth periodic report of Pakistan, Committee on the Rights of the Child, 11 July 2016, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fPAK%2fCO%2f5&Lang=en [accessed 14 June 2017]

³³ Concluding observations on the initial report of Pakistan, Committee on Economic, Social and Cultural Rights, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/PAK/CO/1&Lang=en [accessed 09 August 2017]

^{xxxiv} An ILO report indicated that there is one inspector for every 25,000 workers in the non-agricultural formal sector. Decent Work Country Profile Pakistan 2014, p. 132. http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-islamabad/documents/publication/wcms_316668.pdf [accessed 14 June 2017]

^{xxxv} All provinces, with UNICEF support, are either holding or in the process of holding provincial child labour surveys. Annual Development Programs for the year 2016-17 and 2017-18 already allocate the amount for such purpose.



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His work with WageIndicator compares labour laws of 150 countries across all the regions and income groups on various labour law indicators. He has developed “Decent Work Check”, a tool which compares local legislation with international labour standards and ranks it accordingly. The same tool enables workers to compare their own situation with local legislation and learn about their rights. His work on labour law awareness on 100+ countries had more than 15 million viewers in 2016 alone. He has also developed a local website "www.paycheck.pk" to raise awareness on workers' rights in Pakistan.

