

Labour related Legislation in Pakistan

Labour Rights in the Constitution¹

The Constitution of Pakistan contains a range of provisions with regards to labour rights found in Part II: Fundamental Rights and Principles of Policy.

- Article 11 of the Constitution prohibits all forms of slavery, forced labour and child labour;
- Article 17 provides for a fundamental right to exercise the freedom of association and the right to form unions;
- Article 18 proscribes the right of its citizens to enter upon any lawful profession or occupation and to conduct any lawful trade or business;
- Article 25 lays down the right to equality before the law and prohibition of discrimination on the grounds of sex alone;
- Article 37(e) makes 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, and for maternity benefits for women in employment

Child Labour in Pakistan²

- Article 3: the state shall ensure the elimination of all forms of exploitation and the gradual fulfillment of fundamental principle, from each according to his ability and to each according to his work.
- Article 11(3): No child below the age of 14 years shall be engaged in any factory or mine or any other hazardous employment.
- Article 25(A): The state shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as determined by law.
- Article 37(e): The state shall make provision for securing just and humane conditions of work, ensuring that women and children are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment.

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). 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 Ordinance 2016. The minimum age for admission to work is also set as 14 years in draft legislation by Balochistan. The minimum age for admission to work is raised to 15 years in draft legislation of Islamabad Capital Territory (a private member bill submitted in the Senate of Pakistan, the upper house of the Parliament).

¹ International Labour Organization, *retrieved from* [https://www.ilo.org/ifpdial/information-resources/national-labour-law-profiles/WCMS_158916/lang-en/index.htm#:~:text=Article%2011%20of%20the%20Constitution,forced%20labour%20and%20child%20labour%3B&text=Article%2037\(e\)%20makes%20provision,benefits%20for%20women%20in%20employment.](https://www.ilo.org/ifpdial/information-resources/national-labour-law-profiles/WCMS_158916/lang-en/index.htm#:~:text=Article%2011%20of%20the%20Constitution,forced%20labour%20and%20child%20labour%3B&text=Article%2037(e)%20makes%20provision,benefits%20for%20women%20in%20employment.)

² <https://paycheck.pk/labour-laws/fair-treatment/minors-and-youth/child-labour/child-labour-and-pakistan>

The minimum age for light work, in line with provision of Convention 138, is prescribed under the Khyber Pakhtunkhwa Prohibition of Employment of Children Act, 2015 which states as follows:
Section 3. Prohibition of employment. (1) No child shall be employed or permitted to work in any establishment:

Provided that a child not below the age of 12 years may be engaged in the light work, alongside his family member, for a maximum of two hours per day mainly for the purpose of acquiring skills, in a private undertaking, or in any school established, assisted or recognized by Government for such purpose.

The provisions on light work are also found in legislation of Sindh province prohibiting employment of children.

The minimum age for hazardous work is set as 14 years under the Employment of Children Act 1991 (applicable currently in Islamabad Capital Territory (ICT), Balochistan and Sindh). After devolution, Khyber Pakhtunkhwa, Punjab and Sindh Province have enacted necessary legislation raising the minimum age for hazardous work to 18 years, in line with the provisions of Convention 138. The minimum age for hazardous work is raised to 18 years in the draft legislation for Islamabad Capital Territory and Balochistan. There are also Hazardous Occupations Rules, framed under the Factories Act which prohibit employment of children in certain hazardous occupations (lead, rubber, sand blasting, chromium, etc.). The worst forms of child labour, as described under Convention 182, are regulated and prohibited under various Acts including Pakistan Penal Code 1860 and Prevention and Control of Human Trafficking Ordinance 2002. The Punjab Restriction on Employment of Children Act 2016 and Sindh Prohibition of Employment of Children Act 2017 also prohibit worst forms of child labour, as specified under Convention 182, and prescribes stringent penalties.

Child Labour Legislation

- i. The Children (Pledging of Labour) Act 1933 (applicable in all provinces)
- ii. The Employment of Children Act 1991 (applicable in Balochistan and ICT)
- iii. The Employment of Children Rules 1995 (applicable in Balochistan and ICT)
- iv. Khyber Pakhtunkhwa Prohibition of Employment of Children Act 2015
- v. Punjab Prohibition of Child Labour at Brick Kilns Act 2016
- vi. Punjab Restriction on Employment of Children Act 2016
- vii. Sindh Prohibition of Employment of Children Act 2017

Factories Legislation

- i. The Factories Act, 1934
- ii. The Factories Act, 1934 (adapted by the province of Punjab through Amendment Act of 2012)
- iii. The Khyber Pakhtunkhwa Factories Act, 2013
- iv. The Sindh Factories Act, 2015

Shops and Establishments Legislation

- i. The Shops and Establishments Ordinance, 1969
- ii. The Shops and Establishments Ordinance, 1969 (adapted by the province of Punjab through Amendment Act of 2014)
- iii. The Khyber Pakhtunkhwa Shops and Establishments Act, 2015

- iv. The Sindh Shops and Commercial Establishment Act, 2015

Sector Specific Legislation

- i. Mines Act, 1923
- ii. The Road Transport Workers Ordinance, 1961
- iii. Merchant Shipping Ordinance, 2001
- iv. Punjab Prohibition of Child Labour at Brick Kilns Act 2016

Minimum age in Pakistan (i.e. the age at which a person is allowed to work and is not regarded a child)?

The Employment Of Children Act 1991 defines “child” as a person below 14 years of age and an “adolescent” as a person below 18 years of age (the definitions of child and adolescent in this act override these definitions in other labour laws). As mentioned above, the Constitution of Pakistan also regards the minimum age as 14 years. However, the 18th amendment has actually raised the minimum age up to 16 years without amending the labour laws, so contradiction continues. Article 25(A) of the Constitution says that the state now has to provide compulsory education to all children between the ages of five and sixteen years, which means that, a child can't be allowed to work before 16 years of age.

The law also provides for certain exceptions. It says that no child has to be employed in any occupation, establishment or process defined as hazardous for children except where such process is carried by the family as a business or in any (training) school established, assisted and recognized by the government.

The minimum age for employment under newly enacted legislation is 14 years in Khyber Pakhtunkhwa and Sindh while 15 years in Punjab. The minimum age for hazardous work is still 14 years in Balochistan and ICT however it has been raised to 18 years in Khyber Pakhtunkhwa, Punjab and Sindh.

Employers are required to arrange the working hours of adolescents (15 to 18 years) in such a manner so that these are not in conflict with school hours.

What are the Processes and Occupations where child employment is prohibited?

Under section 4 of the Employment of Children Act 1991, the Federal Government may notify any occupations and process where children's employment is prohibited. Similar hazardous work schedule is provided under newly enacted legislation in Khyber Pakhtunkhwa, Punjab and Sindh. The list is essentially the same in all provinces except that Khyber Pakhtunkhwa has added the work on "oil & gas fields including rigs" in the list of hazardous processes. None of the provinces includes working at brick kilns and child domestic labour in the list of hazardous works.

Occupations

Any occupation- connected with-

- (1) transport of passengers, goods or mail ;
- (2) work in a catering establishment at a railway station, involving the movement of a vendor or any other employee of the establishment from one platform to another or into or out of a moving train;
- (3) work relating to the construction of a railway station or with any other work where such work is done in close proximity to or between the railway lines; and
- (4) a port authority within the limits of any port.

PROCESSES

- (1) Work inside underground mines and above ground quarries including blasting and assisting in blasting.
- (2) Work with power driven cutting machinery like saws, shears, guillotines and agricultural machines, thrashers, fodder cutting machines.
- (3) Work with live electrical wires over 50 volts.
- (4) All operations related to leather tanning process e.g., soaking, de-hairing, liming, chrome tanning, de-liming, pickling, de-fleshing, ink application.
- (5) Mixing and manufacture of pesticides and insecticides; and fumigation.
- (6) Sandblasting and other work involving exposure to free silica.
- (7) Work with exposure to all toxic, explosive and carcinogenic chemicals e.g., asbestos, benzene, ammonia, chlorine, manganese, cadmium, sulphur dioxide, hydrogen sulphide, sulphuric acid, hydrochloric acid, nitric acid, caustic soda, phosphorus, benzidine dyes, isocyanates, carbon tetrachloride, carbon disulphide, epoxy resins, formaldehyde, metal fumes, heavy metals like nickel, mercury chromium, lead, arsenic, beryllium, fiber glass.
- (8) Work with exposure to cement dust in cement industry.
- (9) Work with exposure to coal dust.
- (10) Manufacture and sale of fireworks and explosives.
- (11) Work at the sites where liquid (liquefied) petroleum gas (LPG) and compressed natural gas (CNG) is filled in cylinders.
- (12) Work on glass and metal furnaces; and glass bangles manufacturing.
- (13) Work in the cloth weaving, printing, dyeing and finishing sections.
- (14) Work inside sewer pipelines, pits and storage tanks.
- (15) Stone - crushing.
- (16) Lifting and carrying of heavy weight (15kg and above), especially in transport industry.
- (17) Carpet- weaving.
- (18) Working two meters or more above the floor.
- (19) All scavenging including hospital waste.
- (20) Tobacco processing and manufacturing including niswar and bidi making.
- (21) Deep-sea fishing, commercial fishing and processing of fish and seafood.
- (22) Sheep-casing and wool industry.
- (23) Ship- breaking.
- (24) Surgical instruments manufacturing specially in vendors' workshops.

- (25) Spice- grinding.
- (26) Work in boiler house.
- (27) Work in cinemas, mini cinemas and cyber clubs.
- (28) Mica cutting and splitting.
- (29) Shellas manufacturing.
- (30) Soap manufacture.
- (31) Wool cleaning.
- (32) Building and construction industry.
- (33) Manufacture of slate pencils, including packing.
- (34) Manufacture of products from Agate.” Noti. S.R.O. 1280(1)/2005, dt. 20-12-2005. Gaz. of Pak., Extra., Pt. I, December 27, 2005.

What are the penalty levels for employing children?

In accordance with section 14 of the Employment of Children Act, whosoever employs any child or permits any child to work in occupations and processes mentioned above, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to PKR20, 000 or with both. If a person, who was already convicted under the law, commits the same offence again, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years.

Penalties have been raised in the newly enacted legislation in Khyber Pakhtunkhwa, Punjab and Sindh to a minimum of 50,000 rupees fine.

Pakistan Employment of Children’s Act of 1991, Punjab 2016, Sindh 2017.

Key Feature:

Standards and working conditions for children.

Lists occupations that are not allowed for children less than 14 years of age.

Gaps:

The contradiction between ILO Minimum Age Convention –which requires it to be greater than or equal to age at which compulsory education ends (i.e. 16 for Pakistan). Does not cover domestic and home-based labor or children in agriculture apart from cinder farming.

Legislation	Key Features	Gaps	Policy Recommendation
Child Marriage Restraint Act of 1929	Legal minimum ages for marriage. Boys = 18, Girls = 16	Remove discrepancy between male and female minimum ages; penalties; Muslim family / Sharia laws override this law i.e. instead of adopting puberty as the mark for marriageability, the age	The minimum age for girls should be increased to 18. Penalties for violation of this law should also be increased.

Legislation	Key Features	Gaps	Policy Recommendation
		enacted by parliament be enforced.	
Juvenile Justice System Act of 2018	Process and standards for handling criminal cases for children (under 18)	Not explicitly against solitary confinement for children	<p>Stronger implementation of the law.</p> <ul style="list-style-type: none"> • Capacity building of police, prison guards, probation officers, remand home staff, lawyers and judges on legislation. • JJSO should over-ride other laws such as the Code of Criminal Procedure, Antiterrorism Act and the PPC
Pakistan Employment of Children's Act of 1991, Punjab 2016, Sindh 2017.	Standards and working conditions for children. Lists occupations that are not allowed for children less than 14 years of age.	The contradiction between ILO Minimum Age Convention –which requires it to be greater than or equal to age at which compulsory education ends (i.e. 16 for Pakistan). Does not cover domestic and home-based labor or children in agriculture apart from cinder farming.	<p>Employment under 16 should be banned 16-18 should be regulated. Penalties should be increased</p> <p>Laws specifically addressing and regulating working conditions, hours and rights of domestic and home-based labor, children in farming as well should be introduced.</p>
Birth Marriage and Death Registration (Amendment) Act 2016	Birth Registration standards and procedures	Birth registration for children with unknown fathers not possible. Weak implementation	<ul style="list-style-type: none"> • Rules and regulations (by-laws) for registering children with unknown fathers including those who have no contact with their families. • Stronger implementation of legislation.
Prevention and Control of Human Trafficking Act 2018	Bonded Labor; Trafficking in and out of Pakistan	Does not cover organ trade, forced marriages, internal trafficking and use of children for drug trafficking.	<ul style="list-style-type: none"> • Amend legislation to include internal trafficking, drug trafficking, organ trade, and forced marriages. • Legislation should explicitly provide rescue and rehabilitation services for child victims of trafficking.

Legislation	Key Features	Gaps	Policy Recommendation
Pakistan Penal Code (PPC)	The minimum age for criminal responsibility is 7; Honor killing; corporal punishment; violence, murder, assault; trafficking; kidnapping;	While PPC does not hold children under 7 criminally responsible, children under 7 can be tried under Zina laws and Anti-Terrorism Act. Corporal punishment is allowed if considered for the best interest of the child. Weak implementation of honor killing laws.	<ul style="list-style-type: none"> • Increase in the age of criminal responsibility to 12 (as per CRC recommendations). • PPC should override the Zina and Anti-terrorism Acts. • Ban corporal punishment of children, under any circumstance.
Criminal Law (Amendment Act) 2005	This law increased penalties for honor killings.	Allows the victim's family to negotiate a physical or monetary settlement with the accused in exchange for dropping cases, in keeping with the provisions of the Qisas and Diyat Laws.	Options of waiver of offense and compromise in the case of honor killings need to be removed.
The Prevention of Migrant Smuggling Act 2018	Allows the court upon considering the factors of (i) age of the offender and (ii) the nature of the offense, which should not be punishable with imprisonment for more than two years to either discharge the offender or	Implementation of the law is poor. Practice suggests that judiciary is not familiar with the provisions of this law.	<ul style="list-style-type: none"> • The law needs to be implemented • Judges should be familiarized with it in conjunction with the JJSA, which urges probation as a preferred treatment for juveniles.

Legislation	Key Features	Gaps	Policy Recommendation
	put him on probation.		
Guardianship and Ward Act of 1890	Provides for the procedure for legal guardianship and custody of children.	Full adoption under this law is not possible and the process can be complex. Foster care systems are not developed and there is no provision for tracking children in guardianship.	Expand law to include regulations regarding foster care, formal care and informal or kinship care; and/or supplement law with additional laws regulating the above.
Prevention of Trafficking in Persons Act 2018	Specifically provides provision to protect and non-criminalise victims, awards grave punishments to offenders specially in case of women and children and sets out provisions to raise awareness at stakeholder and public level. Provide effective measures to promote and facilitate national and	Although, passing of law is lauded as an important step. However, structural and technical issues remain and the law's implementation leaves much to be desired ie. capacity building, funds etc. Do not have separate provisions to safeguard the rights of survivors and provide for their needs. Do not provide legal aid or protection for children from being returned to the same environment (e.g. home) from which they were exposed to trafficking.	The law needs to be implemented; Effective coordination of state agencies ie FIA along with government and other relevant stakeholders, to provide all necessary support is required to ensure effective implementation. Technical and structural capacities should be provided.

Legislation	Key Features	Gaps	Policy Recommendation
	international cooperation.		

Child Rights Legislation and Implementation Status

Sr#	Legislation	Status
1.	Zainab Alert, Response and Recovery Act, 2020	President Dr Arif Alvi in March 20, ratified the Zainab Alert.
2.	The ICT Prohibition of Employment of Children Act – May 2018	Not effectively enforced.
3.	ICT Child Protection Act 2018	Not effectively enforced. Rules in drafting process by MoHR
4.	The Prevention of Trafficking in Persons Act – May 2018 (National)	Not effectively enforced.
5.	The Prevention of Smuggling of Migrants Act – April 2018 (National)	Passed
6.	The Acid and Burn Crime Act – May 2018 (National)	Effectively Enforced.
7.	The Juvenile Justice System Act – May 2018 (National)	Not effectively enforced
8.	The National Commission on the Right of the Child (NCRC) Act – September 2017.	• Not enforced
9.	The Sindh Prohibition of Employment of Children Act – 2017.	Not effectively enforced
10.	The Sindh Child Marriage Restraint Act – 2014.	Partially enforced.
11.	The Sindh Prohibition of Corporal Punishment Act 2017.	Not effectively enforced
12.	The Sindh Street Children Shelter Home Act – 2018.	Not effectively enforce.
13.	The Balochistan Child Protection Act – 2016.	Not effectively enforced.
14.	Baluchistan Child Marriage Prohibition Bill – 2018.	Not effectively enforced.
15.	The Child Marriage Restraint (Amendment) Act 2017 (National).	Not effectively enforced.

16.	The Khyber Pakhtunkhwa Child Protection and Welfare (Amendment) Act - 2016	Partially enforced.
17	The Khyber Pakhtunkhwa Prohibition of Corporal Punishment Act - 2017	Partially enforced
18.	Criminal Law (2 nd Amendment) Child Protection Act – 2016 (National) (To amend the PPC (1860) and CCrP (1898)	Not effectively enforced.
19.	Punjab Domestic Workers – Act 2019	Recently Enacted.
21.	The Child Marriage Restraint (Amendment 1929) Bill, November 2018.	<ul style="list-style-type: none"> • Passed by the Senate in April 2019; • Bill yet to be passed by the National Assembly.
22.	The Punjab Child Marriage Restraint (Amendment) Act 2015	<ul style="list-style-type: none"> • Enacted and not effectively enforced. It need amendment on raising the age of marriage for girls from 16 to 18 years
23.	The Sindh Child Marriage Restraint Act, 2013	<ul style="list-style-type: none"> • Enacted and not effectively enforced
24.	Child Marriage Restraint Bill 2019	<ul style="list-style-type: none"> • CMRB 2019 is all set to be tabled in the KP Assembly once it is approved by the cabinet; • Working group constituted by the KP Child Protection and Welfare Commission to discuss the issue of prohibitory age of a male and female; • Finally it came to conclusion that the prohibitory age of marriage for both male and female should be 18 years. • Summary has now been moved by the department for approval of the chief minister after which it would be referred to the provincial cabinet for final approval to be tabled in the PA.
25.	The Gilgit-Baltistan Prohibition of Corporal Punishment against Children Act 2015	<ul style="list-style-type: none"> • Act enacted, by-laws in process
26.	The Gilgit Baltistan Health and Nutrition Act 2015	<ul style="list-style-type: none"> • To date we as a nation have not succeeded in formulating an effective Nutrition Specific legislation any where

in Pakistan. The most important mile stone in this regard are:

- **a).** The Protection of Breastfeeding and Child Nutrition Ordinance 2002, business rules for the same were also formulated and endorsed by the health ministry in 2009 and Young Child Feeding Strategy was approved in 2016 , however enforcement of these rules still remains a challenge.
- **b).** In Punjab “Protection of Breast-Feeding and Child Nutrition (Amendment) Act 2012” was promulgated to encourage breast feeding and discourage formula milk, But unfortunately the law could not be enforced and not a single violator of this law could be made liable. Formula milk is easily available, easily prescribed, happily advertised and glamorized, and unfortunately even educated families prefer to buy formula milk.

27. The Gilgit Baltistan Child Labour Act 2015

- (Not materialized)
- Child protection Response Act 2017 is enacted; rules of business are in process with the technical support of UNICEF.

The good news is that the.

- First Child Protection Unit for GB will become operational by September 2019 in Gilgit.
