



International
Labour
Organization



LEGAL FRAMEWORK: ILO CONVENTIONS, UN PROTOCOLS AND NATIONAL POLICIES AND ACTS



Canadian International Development Agency

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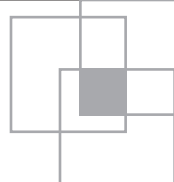
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FOREWORD

Over the last few years Pakistan has made significant advancements in promoting women's rights and gender equality for women and men. Much of this improvement comes from the concerted efforts of governments, employers and workers to put in place structures and systems that promote women's employment with the aim to achieving gender equality. Testament to this is the fact that Pakistan has ratified all eight fundamental ILO conventions including those that directly contribute to gender equality; C100 Equal Remuneration Convention, 1951 on 11 Oct 2001 and C111 Discrimination (Employment and Occupation) Convention, 1958 on 24 Jan 1961.

We have seen women's labour force participation rates increasing, and affirmative action policies to promote women's recruitment in the government and legislature. Recent legislative reforms are aimed at protecting women in the workplace, and women are generally more visible in media and public spaces as confident, intelligent, successful contributors to the country's economic and social development.

But challenges remain. Despite advances in educational levels, women are over-represented in low paying jobs and under-represented in executive, management and technical positions. The gender pay gap persists, as does discrimination related to maternity and horizontal and vertical segregation in the labour market. More women than men work in the informal economy where decent work deficits are the most serious. In the formal economy, women are under-represented in decision making structures, for example, in employers' and workers' organisations, and have ineffective or no voice.

And since we know what the gender based challenges of employment are, and now that more and more women are entering the workforce, it is our duty to ensure that women and men are enabled to participate in and benefit from their work, without discrimination. One of the best ways to do this is through an efficient and effective labour administration system, with a robust inspection programme.

Labour inspection plays a key role in monitoring and evaluating gender equality outcomes for women and men. Pakistan ratified the ILO Labour Inspection Convention (C81) on 10 Oct 1953, which outlines the functions of labour inspectors and the scope of their work. After the 18th Constitutional

Amendment in 2010, labour administration, with its inspection mandate, is now a provincial responsibility, for which the National Labour Protection Policy 2006 provides progressive, gender mainstreamed guidelines upon which Labour Departments can build.

Given the central role of labour inspection in the Departments of Labour mandates and the fundamental importance it has in ensuring that the rights of women and men in the workplace are respected and addressed, the ILO, in collaboration with the four provincial Departments of Labour, is pleased to present this publication on “Gender Responsive Labour Inspection”. This toolkit provides reference material, background reading and an easy to use, comprehensive, gender mainstreamed checklist to help inspectors conduct their inspection duties in a systematic way and analyse information to capture gender disparities. The reporting that ensues from gender responsive labour inspections will help Labour Departments better capture information on gender and the world of work and improve their reporting on compliance and progress on the application of international labour standards.

The ILO is confident that this publication will provide useful, practical information on gender responsive labour inspection and the checklist will facilitate its use across the country.

Signed on behalf of the Department of
Labour and Manpower,
Government of Balochistan



Mr. Abdul Qayyum Kakar
11 October 2012

Signed on behalf of the Department of
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Government of Gilgit-Baltistan



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11 October 2012

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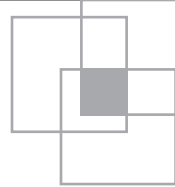
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Signed on behalf of the Department of Labour
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11 October 2012



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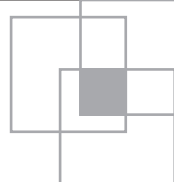
We would like to extend our thanks and special acknowledgements to Mr. Tahir Manzoor, Director, Department of Labour Punjab and Gender Focal Point (GE4DE) in taking this initiative and for bringing his great experience covering many years to the project and the writing of much of the material in this publication. His professionalism and dedication to furthering the cause of modern labour inspection in Pakistan is to be commended.

Our appreciation also goes to all the Gender Focal Points; Mr Irfan Ullah Khan, Director, Department of Labour, Khyber PukhtunKhwa, Mr. Gulfam Memon, Deputy Director, Department of Labour Sindh, Mr. Shahid Ali, Assistant Director, Department of Labour Gilgit Baltistan and Mr. Muhammad Zahir, Research Officer, Department of Labour Balochistan, for their specific inputs to the checklist.

Our grateful acknowledgements are also extended to the Directors and Secretaries of respective Provincial Labour Departments for releasing their staff to work on this important knowledge and practice product.

We would also like to thank Ms. Saadya Hamdani, Gender Specialist, ILO Decent Work Technical Support Team for South Asia, New Delhi for her technical feedback and helping make this a stronger, more gender responsive tool.

Finally our thanks to Ms. Rabia Razzaque, Programme Officer, Gender Equality for Decent Employment (GE4DE) for her part in bringing together this important tool in order to make it available to a wider audience, to the benefit of labour inspectorates, employers and workers throughout Pakistan and Ms Frida Khan, National Project Coordinator, (GE4DE) for overall supervision and her commitment to ILO's mandate on Gender Equality.



EXECUTIVE SUMMARY ■

Globalization has brought about major changes, which has had an impact on the lives of all men and women, ushering in rapid growth, transformation in the supply chain, new opportunities in employment and also new technologies. On the one hand, this progress has reduced barriers for women, creating more employment opportunities and increasing the number of women in employment. On the other hand, job quantity for women is not matched with job quality- many of the new jobs are often in precarious and informal employment which cannot be categorized as decent work, and are characterized by low pay, few opportunities for growth and development at work, little or no access to social security, social protection, social dialogue, as well as an absence of the full enjoyment of workers' rights.

International labour standards provide the framework and guidance for national legislation that can ensure decent work for women and men. The implementation of labour standards is monitored through the labour inspection system which provides the data for countries to report progress on the application of labour standards.

An important role of labour inspection in any country is the promotion of compliance with national labour legislation as well as good labour practices, to achieve basic workers' rights, balanced socio-economic development, and sound and effective industrial relations as a basis for constructive social dialogue and thus fair economic growth. Labour inspectorates are expected to assist management and workers in developing good labour practices and achieving social justice and decent work for all.

In order to ensure decent work for all, it is imperative that labour inspection is made more inclusive and responsive to gender needs and realities, which also means looking at vulnerable groups (including women) in a disadvantaged situation such as maternity protection, harassment at work, or child labour, home workers, work in the form of bondage etc. The modern approach of labour inspection is in accordance with the spirit of International Labour Standards and if followed properly can facilitate ratifying countries in reporting on their international and national obligations vis-à-vis gender equality.

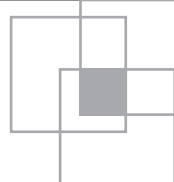
The Government of Pakistan has ratified all eight of the fundamental ILO Conventions as articulated in the 1998 Declaration on the Fundamental

Principles and Rights at Work¹ including the two main pillars for promoting gender equality which are C100 Equal Remuneration Convention, 1951 ratified on 11 Oct 2001 and C111 Discrimination (Employment and Occupation) Convention, 1958 ratified on 24 Jan 1961.

To help government, workers and employers promote international labour standards in their work, the ILO Office for Pakistan has, in collaboration with the constituents, developed the second Decent Work Country Programme. Strengthening labour administration and the government's capacity to report on progress on labour standards implementation have emerged as priority areas of work. To ensure that this work promotes equity and non-discrimination in its application, Promoting Gender Equality for Decent Employment (GE4DE), an ILO project funded by the Canadian government, has taken the lead in mainstreaming gender in labour inspection through the development and it is hoped, eventual application, of this toolkit for gender responsive labour inspection.

This toolkit provides reference material and guidelines to make labour inspection gender responsive, by examining issues in respect to the needs, expectations and experiences of women, men, girls and boys.

1. http://www.ilo.org/dyn/normlex/en/f?p=1000:11110:0::NO:11110:P11110_COUNTRY_ID:103166
C29 Forced Labour Convention, 1930 (ratified by Pakistan on 23 Dec 1957)
C87 Freedom of Association and Protection of the Right to Organise Convention, 1948 (ratified by Pakistan on 14 Feb 1951)
C98 Right to Organise and Collective Bargaining Convention, 1949 (ratified by Pakistan on 26 May 1952)
C100 Equal Remuneration Convention, 1951 (ratified by Pakistan on 11 Oct 2001)
C105 Abolition of Forced Labour Convention, 1957 (ratified by Pakistan on 15 Feb 1960)
C111 Discrimination (Employment and Occupation) Convention, 1958 (ratified by Pakistan on 24 Jan 1961)
C138 Minimum Age Convention, 1973 (ratified by Pakistan on 6 July 2006)
C182 Worst Forms of Child Labour Convention, 1999 (ratified by Pakistan on 11 Oct 2001)



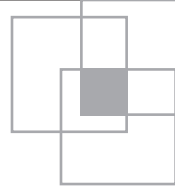
ACRONYMS

CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CIDA	Canadian International Development Agency
DOL	Department of Labour
DVCs	District Vigilance Committees
DWA	Decent Work Agenda
ECA	Employment of Children Act
ECOSOC	Economic and Social Council
GE4DE	Gender Equality for Decent Employment
GM	Gender Mainstreaming
GRLI	Gender Responsive Labour Inspection
HRD	Human Resource Development
ILO	International Labour Organization
ILS	International Labour Standards
IRA	Industrial Relations Act
OS&H	Occupational Safety and Health
TU	Trade Union



LEGAL FRAMEWORK: ILO CONVENTIONS, UN PROTOCOLS AND NATIONAL POLICIES AND ACTS

- Wages ■
- Discrimination at Work ■
- Health and Safety ■
- Forced Labour ■
- Child Labour ■
- Working Hours ■
- Maternity Benefits ■
- Freedom of Association and Right to
Collective Bargaining ■
- Disciplinary Practices ■
- Support Environment ■



WAGES

“Wages” mean all remuneration, capable of being expressed in terms of money, which would, if the term of the contract of employment, express or implied, were fulfilled be payable whether conditionally upon the regular attendance, good work or conduct or other behavior of the person employed or otherwise, to a person in respect of his/her employment or of work done in such employment, and includes any bonus or other additional remuneration of the nature aforesaid which would be so payable and any sum payable to such person by reason of the termination of his/her employment, but does not include:

- a) The value of any accommodation, supply of light, water, medical attendance or other amenity, or of any service excluded by general or special order of the Provincial Government];
- b) Any contribution paid by the employer to any pension fund or provident fund;
- c) Any travelling allowance or the value of travelling concession;
- d) Any sum paid to the person employed to defray special expenses entailed on him/her by the nature of his/her employment; or
- e) Any gratuity payable on discharge.

C100- Equal Remuneration Convention, 1951

Article 1-3

Pakistan has ratified the C100- Equal Remuneration Convention, 1951 of the ILO on 11 Oct 2001. The convention places an obligation on the State to promote and ensure the equal remuneration for women and men workers for work of equal value i.e., rates of remuneration established without discrimination based on sex; it identifies that this could be done through national laws or regulations; legally established or recognized machinery for wage determination; collective agreements between employers and workers; or a combination of these means. The convention also notes that it is necessary to take measures to promote objective appraisal of jobs on the basis of the work to be performed and not based on the sex of the worker.

Minimum Wages Ordinance 1961**Section 9**

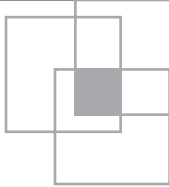
- (1) Subject only to such deduction as may be authorized under this Ordinance or under any other law for the time being in force, no employer shall pay any worker wages at a rate lower than the rate declared under this Ordinance to be the minimum rate of wages for such worker.
- (2) Nothing in sub-section (1) shall be deemed.
 - a) To require or authorize an employer to reduce the rate of wages of any worker: or
 - b) To affect, in any way, the right of worker to continue to receive wages at a rate higher than the minimum rate are declared under this Ordinance if, under any agreement, contract or award, or as a customary differential, or otherwise, he/she is entitled to receive wages at such higher rate, or to continue to enjoy such amenities and other advantages as are customary for such worker to enjoy: or
 - c) To affect the provisions of the payment of wages Act, 1936 (IV of 1936).
- (3) Any employer who contravenes the provision of this section shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both, and if the court trying such contravention by order so directs, shall also pay to the worker concerned such sum as may be specified in the order to represent the difference between the amount actually paid to such worker and the amount which would have been paid to him/her had there been no such contravention.

Minimum wages for Un-skilled Workers Ordinance 1964**Section 3**

Every unskilled worker, other than an apprentice employed in a commercial or industrial establishment situated in an area specified in column I of the schedule, shall be paid wages at a rate not lower than the minimum wages per month specified against such area in column 2 of the schedule.

Payment of wages Act, 1936**Section 15(2, 3)**

Where contrary to the provision of this Act any deduction has been made from the wages of an employed person, or any payment of wages (2)[or of any dues relating to provident fund or gratuity payable under any law] has been delayed, such person her/himself, or any legal practitioner, or any official of a registered trade union authorized in writing to act on his/her behalf, or any Inspector under



this Act, (3)[or of any heirs of an employed person who has died] or any other person acting with the permission of the authority appointed under sub-section (1), may apply to such authority for direction under sub-section (3).

Provided that every such application shall be presented within (4)[three years] from the date on which the deduction from the wages was made or from the date on which the payment of the wages was due to be made, as the case may be.

Provided further that any application may be admitted after the said period [three years] when the applicant satisfies the authority that he/she had sufficient cause for not making the application within such period.

When any application under sub-section (2) is entertained, the authority shall hear the applicant and employer or other person responsible for the payment of wages under section (3), or give them an opportunity of being heard, and, after such further inquiry (if any) as may be necessary, may, without prejudiced to any other penalty to which such employer or other person is liable under this act, direct the refund to the employed person ,(5)[or, if the applicant is one of the heirs of an employed person the payment to such applicant], of the amount deducted, of the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding ten rupees in the latter.

WEST PAKISTAN INDUSTRIAL & COMMERCIAL EMPLOYMENT (STANDING ORDERS) ORDINANCE, 1968	
Publication of wages rates	Order 5

Notices specifying the rates of wages payable to all classes of workers and for all classes of work shall be displayed on the said notice boards.

Publication of wages rates	Order 10
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- (1) Any wages due to the worker but not paid on the usual pay day on account of their being unclaimed, shall be paid by the employer on an unclaimed wages pay day in the week, which shall be notified on the notice boards as aforesaid.
- (2) All workers shall be paid wages on a working day before the expiry of the 7th if the total number of workers employed in the establishment is 1,000 or less or before the 10th day after the last day of payment if the total number of workers employed in the establishment exceeds 1,000.

DISCRIMINATION AT WORK

Discrimination is a distinction, exclusion or preference made on the basis of race, colour, sex, sexual orientation, religion, political opinion, national extraction or social origin which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.

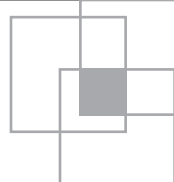
**C111, Discrimination (Employment and Occupation)
Convention, 1958**

Article 1-3

Pakistan has also ratified the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) on 24 Jan 1961. This convention provides that member States are to declare and pursue proactively a national policy to promote equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating discrimination. The purpose of the Convention is to protect all persons against discrimination at work. The Convention protects not only those who have already found employment or exercise an occupation, but also those who are preparing to work, seeking work, or risk losing their work. It covers all jobs and occupations in the public and private sector, and applies to small businesses and those in informal employment. It covers not only wage employment, but also independent and own-account work. Furthermore the Convention requires that both the “direct” and “indirect” forms of discrimination be addressed. Furthermore the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has emphasized that sexual harassment is a form of sex discrimination and should be addressed within the requirements of C-111. As per the Sexual Harassment Act and the Code of Conduct within, penalties for violation range from a stop in pay increment, to termination of employment. Under the Act a committee is to be established (mechanism of which is prescribed in the Act). The committee recommends the punishment which the management executes. In case of the owner or a senior manager being implicated an employee would have the choice of going outside the organization and filing a complaint to an Ombudsperson.

Constitution of Pakistan:

Article 25 (a) lays down the right to equality before the law and prohibition of discrimination on the grounds of sex alone.



HEALTH AND SAFETY

C155 - Occupational Safety and Health Convention, 1981
(No. 155)

Article 4, 9, 11

Article 9 of the Convention lays down the action required at national levels:

1. The enforcement of laws and regulations concerning occupational safety and health and the working environment shall be secured by an adequate and appropriate system of inspection.
2. The enforcement system shall provide for adequate penalties for violations of the laws and regulations

Article 11 of this convention ensures that the competent authority or authorities progressively carry out the following functions:

- a) the determination, where the nature and degree of hazards so require, of conditions governing the design, construction and layout of undertakings, the commencement of their operations, major alterations affecting them and changes in their purposes, the safety of technical equipment used at work, as well as the application of procedures defined by the competent authorities;
- b) the determination of work processes and of substances and agents the exposure to which is to be prohibited, limited or made subject to authorization or control by the competent authority or authorities; health hazards due to the simultaneous exposure to several substances or agents shall be taken into consideration;
- c) the establishment and application of procedures for the notification of occupational accidents and diseases, by employers and, when appropriate, insurance institutions and others directly concerned, and the production of annual statistics on occupational accidents and diseases;
- d) the holding of inquiries, where cases of occupational accidents, occupational diseases or any other injuries to health which arise in the course of or in connection with work appear to reflect situations which are serious;
- e) the publication, annually, of information on measures taken in pursuance of the policy referred to in **Article 4** of this Convention and on occupational accidents, occupational diseases and other injuries to health which arise in the course of or in connection with work;

- f) the introduction or extension of systems, taking into account national conditions and possibilities, to examine chemical, physical and biological agents in respect of the risk to the health of workers.

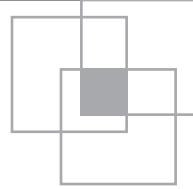
The Factories Act, 1934

Chapter II

This chapter deals with different work aspects of factories, detailing within its provisions safeguards which include cleanliness, effective disposal of waste, ensuring and maintaining adequate ventilation by circulation of fresh air, comfortable temperature and adequate safety measures for workers when there is a necessity for them to work in extreme temperatures or, where the manufacturing process results in dust and fume which is likely to be injurious and hazardous for workers.

Effective measures shall be taken to prevent workers from facing any OSH challenge:

- Monitoring and ensuring effective methods of securing adequate ventilation and cooling of air through artificial humidification.
- Providing sufficient and suitable light and emergency lighting to prevent workroom over crowdedness
- Providing workers with regular supply of wholesome drinking water;
- Providing separate latrines and urinals for women and men, that are accessible at all times and adequately lighted, ventilated and maintained in a clean and sanitary condition;
- Providing spittoons maintained in a clean and hygienic condition;
- Ensuring compulsory vaccination of workers at the expense of the establishment;
- Special provisions for women prohibit them from being employed in processes with obvious or potential serious risks that may cause injury to the body, poisoning or disease, nor are they allowed to clean, lubricate or adjust any part of machinery while it is still in motion or to work near cotton openers.



FORCED LABOUR

C029 - Forced Labour Convention, 1930 (No. 29)

Article 2

Pakistan ratified C029 on 23 Dec 1957. C-29 defines the nature of work that can be classified as bonded labour as:

1. All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.
2. Nevertheless, for the purposes of this Convention, the term forced or compulsory labour shall not include--
 - a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
 - b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;
 - c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;
 - d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;

- e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

C105 - Abolition of Forced Labour Convention, 1957**Article 1**

Pakistan ratified C105 on 15 Feb 1960. This Convention undertakes to suppress and not to make use of any form of forced or compulsory labour--

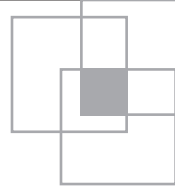
- a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
- b) as a method of mobilising and using labour for purposes of economic development;
- c) as a means of labour discipline;
- d) as a punishment for having participated in strikes;
- e) as a means of racial, social, national or religious discrimination.

CONSTITUTION OF PAKISTAN**Article-11(1,2)**

- (1) Slavery is non-existent and forbidden and no law shall permit or facilitate its introduction into Pakistan in any form.
- (2) All forms of forced labour and trafficking in human beings are prohibited.

BONDED LABOUR SYSTEM ABOLITION ACT, 1992

The Act explicitly defines peshgi (or advance), bonded debt, bonded labour, bonded labourer, bonded labour system, family, and nominal wages. It considers any work done against peshgi as a form of bonded labour. The Act abolishes the bonded labour system with immediate effect. It declares all bonded labour free and discharged from any obligation to render any bonded labour, or any form of forced labour, or payment of debts. The Act prohibits any person from extracting labour under forced conditions from anyone. All customs, traditions, or contracts entered into before or after the commencement of the Act, pertaining to forced labour or bonded labour, have been declared void and inoperative; After the commencement of this Act compels any person to render any bonded labour shall be punishable with imprisonment for a term which shall not be less than two years nor more than five years, or with fine which shall not be less than fifty thousand rupees, or with both.



District Vigilance Committees. The Department of Labour is also represented in the DVCs composition. The DVC is led by District Magistrate but the labour inspectors by authority vested in them can inspect premises for bonded labour. Where applicable inspectors can use the checklist below to collect data, this may vary from province to province.

Definition of a worker. Worker means a person employed, whether for wages or not, in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind to work whatsoever, incidental to or connected with the subject of the manufacturing process, but does not include any person solely employed in a clerical capacity in any room or place where no manufacturing process is being carried on.

Definition of a Factory. Factory means any premises, including the precincts thereof, whereon or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on but does not include a mine, subject to the operation of the Mines Act 1923.



CHILD LABOUR

Child Labour is, generally speaking, any work for children that harms them or exploits them in some way, physically, mentally, morally, or socially such as by blocking access to education. While child labour affects both boys and girls, many girls are likely not accounted for in statistics on child labour. Child labour may in fact have a more significant impact on girls, reinforcing gender discrimination and resulting in a denial of education and other opportunities. Child labour of young girls deserves particular attention by labour inspectors because of the nature of the work (often indoors, keeping them isolated and exposed to violence and sexual abuse) and the conditions under which they work (often working long hours in the home with very little pay).

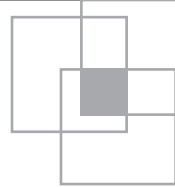
C182, Worst Forms of Child Labour Convention, 1999

Article 3

Pakistan ratified C182 on 11 Oct 2001.

For the purposes of this Convention, the term the worst forms of child labour comprises:

- a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;



- c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

C182 specifically provides for member States to take account of the special situation of girls.

Labour inspectors should thus take special steps to deal with this specifically vulnerable group. These steps could include:

- setting priorities according to age and sex
- considering how hazardous the work is in lieu of the gender of the child
- taking into account the situation of girls and gender discrimination throughout the process

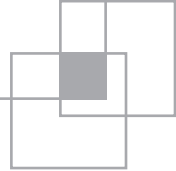
C138 - Minimum Age Convention, 1973	Article 2
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Pakistan ratified C138 on 6 July 2006.

The term “child” and “child labour” has different legal, usage and meaning in different countries and even within the same country. The International Labour Organization’s Minimum Age Convention sets a basic minimum age of employment of 15 years while allowing light work at 13 and prohibiting hazardous work until 18. In Pakistan the working age for children is set at 14 years¹⁸.

1. Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation.
2. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office, by further declarations, that it specifies a minimum age higher than that previously specified.
3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.

18. <http://www.dol.gov/ilab/media/reports/iclp/sweat/pakistan.htm>

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4. Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.

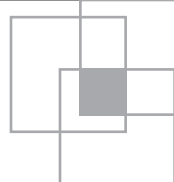
C138, Article 6, explicitly states that:

This Convention does not apply to work done by children and young persons in schools for general, vocational or technical education or in other training institutions, or to work done by persons at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, and is an integral part of--

- a) a course of education or training for which a school or training institution is primarily responsible;
- b) a programme of training mainly or entirely in an undertaking, which programme has been approved by the competent authority; or
- c) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.

Article 7 of the convention highlights that:

1. National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light 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.
2. National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements set forth in sub-paragraphs (a) and (b) of paragraph 1 of this Article.
3. The competent authority shall determine the activities in which employment or work may be permitted under paragraphs 1 and 2 of this Article and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.
4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which has availed itself of the provisions of paragraph 4 of Article 2 may, for as long as it continues to do so, substitute the ages 12 and 14 for the ages 13 and 15 in paragraph 1 and the age 14 for the age 15 in paragraph 2 of this Article.

**NATIONAL LEGISLATION ON CHILD LABOUR**

The Prevention and Control of Human Trafficking Ordinance (promulgated in October 2002). This Ordinance applies to all children aged less than 18 years. It defines exploitative entertainment as all activities in connection with human sports or sexual practices, and related abusive practices. According to the Ordinance, human trafficking means recruiting, buying or selling a person, with or without consent, by use of coercion, abduction, or by giving payment or share for such person's transportation, for exploitative entertainment. The Ordinance prescribes severe terms of punishment — 7-14 years of imprisonment — for perpetrators, depending on the degree of involvement in trafficking. If criminal groups are involved, each member of the group is liable to the same punishment. Parents guilty of the crime involving their own children are liable for the same punishment. The Ordinance recognizes that all offences are cognizable, non-bailable, and non-compoundable. The strong measures recommended in the Ordinance are expected to check the incidence of human trafficking.

The Employment of Children Act (ECA), 1991. Section 2 of the Act defines a 'child' to mean any person who has not completed his fourteenth year. Section 3 of the Act bans employment of children under-14 in occupations connected with transport by railways, cinder picking, cleaning of an ash pit or building operations in railway premises, catering at a railway station or on a train, construction of a railway station, working close to or between railway lines, working in a port area, and manufacture or sale of fireworks. Part II prohibits employment of children in 13 specific sectors. The prohibition against employing children in hazardous labour, and the regulations governing the working conditions of children under 14 do not apply to family run establishments, and schools (training institutes) established, assisted, or organized by the Government.

CONSTITUTION OF PAKISTAN**Article-11(3)**

- (i) No child below the age of fourteen years shall be engaged in any establishment or mine or any other hazardous employment.



WORKING HOURS

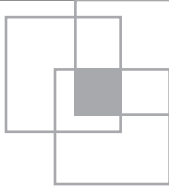
C001 - Hours of Work (Industry) Convention, 1919

Article 2

The working hours of persons employed in any public or private industrial undertaking or in any branch thereof, other than an undertaking in which only members of the same family are employed, shall not exceed eight in the day and forty-eight in the week, with the exceptions hereinafter provided for:

- a) the provisions of this Convention shall not apply to persons holding positions of supervision or management, nor to persons employed in a confidential capacity;
- b) where by law, custom, or agreement between employers' and workers' organisations, or, where no such organisations exist, between employers' and workers' representatives, the hours of work on one or more days of the week are less than eight, the limit of eight hours may be exceeded on the remaining days of the week by the sanction of the competent public authority, or by agreement between such organisations or representatives; provided, however, that in no case under the provisions of this paragraph shall the daily limit of eight hours be exceeded by more than one hour;
- c) where persons are employed in shifts it shall be permissible to employ persons in excess of eight hours in any one day and forty-eight hours in any one week, if the average number of hours over a period of three weeks or less does not exceed eight per day and forty-eight per week.

Pakistan ratified C001 on 14 July 1921. While convention No. 1 only covers industrial workers, Convention (No.30) covers the hours of Work for Commerce and Offices.



C030 - Hours of Work (Commerce and Offices) Convention, 1930 **Article 2**

For the purpose of this Convention the term hours of work means the time during which the persons employed are at the disposal of the employer; it does not include rest periods during which the persons employed are not at the disposal of the employer.

The break intervals or the reduction of daily hours of work for women during breast feeding and maternity leaves shall be counted as working time and remunerated accordingly.

Factories Act 1934

Weekly hours **Section 34**

No adult worker shall be allowed or required to work in an establishment for more than forty- eight hours in any week, or, where the establishment is a seasonal one, for more than fifty hours in any week. Provided that an adult worker in an establishment is engaged in work which for technical reasons must be continuous throughout the day may work for fifty-six hours in any week.

Factories Act 1934

Section 36 **Daily Hours**

No adult worker shall be allowed or required to work in an establishment for more than nine hours in any day. Provided that an adult worker is in an establishment where work is seasonal, may work ten hours in any day.

Factories Act 1934

Section 37 **Intervals for rest**

The periods of work of adult workers in an establishment during each day shall be fixed either:

- (1) So that no period shall exceed six hours and so that no worker shall work for more than six hours before he/she has had an interval for rest of at least one hour.
- Or

Factories Act 1934

Section 47 **Extra pay for overtime**

- (2) So that no period shall exceed five hours, and so that no worker shall work for more than five hours before he/she has had an interval for rest of at least half an hour, or for more than eight and a half hours he/she has had at least two such intervals.

Factories Act 1934

Section 38

Spread over

The periods of work of an adult worker in an establishment shall be so arranged that along with his/her intervals for rest under section 37, they shall not spread over more than ten and a half hours, or where the establishment is a seasonal one, eleven and a half hours in a day, save with the permission of the Provincial Government and subject to such conditions as it may impose, either generally or in the case of any particular establishment.

Where a worker is

- (1) In a non-seasonal establishment worker and works for more than nine hours in any day for more than forty-eight hours in any week. Or
- (2) In a seasonal establishment where he/she works for more than nine hours in any day or for more than fifty hours in any week.

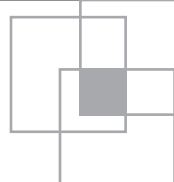
He/ She shall be entitled in respect of the overtime worked to pay at the rate of twice his/her ordinary rate of pay.

In this sub-section, ordinary rate of pay means all remuneration capable of being expressed in terms of money which does not include.

- (1) The value of any house-accommodation, supply of light, water, medical attendance or other amenity.
- (2) Any contribution paid by the employer to any pension fund or provident fund.
- (3) Any travelling allowance or the value of travelling concession, or
- (4) Any gratuity, bonus or share in the profits of the establishment.

Where any workers are paid on a piece-rate basis, the Provincial Government in consultation with the industry concerned may, for the purpose of this section fix time-rates as accurately as possible equivalent to the average rate of earnings of those workers and the rate so fixed shall be deemed to be the ordinary rates of those workers for the purpose of this section.

The Provisional Government may prescribe that shall be maintained in an establishment for the purpose of securing compliance with the provisions of the section.



MATERNITY BENEFITS

C183 - Maternity Protection Convention, 2000

This Convention applies to all employed women, including those in atypical forms of dependent work.

The provisions of the Convention are to provide:

Health Protection: Article 3 ensures that pregnant or breastfeeding women are not obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to the mother's health or that of her child.

Maternity leave: Article 4 ensures that maternity leave shall include a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the government and the representative organizations of employers and workers. The prenatal portion of maternity leave shall be extended by any period elapsing between the presumed date of childbirth and the actual date of childbirth, without reduction in any compulsory portion of postnatal leave

Leave in case of illness or complications: Article 5 ensures that on production of a medical certificate, leave shall be provided before or after the maternity leave period in the case of illness, complications or risk of complications arising out of pregnancy or childbirth. The nature and the maximum duration of such leave may be specified in accordance with national law and practice.

Benefits: Article 6 ensures that cash benefits shall be at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living. Where a woman does not meet the conditions to qualify for cash benefits under national laws and regulations or in any other manner consistent with national practice, she shall be entitled to adequate benefits out of social assistance funds, subject to the means test required for such assistance.

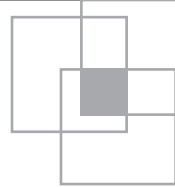
Employment protection and non-discrimination: Article 8 declares that it shall be unlawful for an employer to terminate the employment of a woman during her pregnancy or absence on leave referred to in Articles 4 or 5 or during a period following her return to work to be prescribed by national laws or regulations, except on grounds unrelated to the pregnancy or birth of the child and its consequences or nursing. The burden of proving that the reasons for dismissal are unrelated to pregnancy or childbirth and its consequences or nursing shall rest on the employer. A woman is guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of her maternity leave.

Breastfeeding mothers: Article 10 ensures that a woman shall be provided with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child. The period during which nursing breaks or the reduction of daily hours of work are allowed, their number, the duration of nursing breaks and the procedures for the reduction of daily hours of work shall be determined by national law and practice. These breaks or the reduction of daily hours of work shall be counted as working time and remunerated accordingly.

CONSTITUTION OF PAKISTAN

Article 37(e)

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, and for maternity benefits for women in employment.

**West Pakistan Maternity Benefit Ordinance, 1958**

The ordinance is only applicable to establishments i.e., industrial, commercial or otherwise. Under the ordinance women should not be expected to work during six weeks before and after the delivery. In order to achieve the benefits under the ordinance an employee must have at least four months employment record with the employing organization. The procedure is that a women worker who is pregnant is required to give a notice to the employer and at same time also nominate a representative. Immediately after the receiving of notice, the employer shall grant six weeks leave. The employer shall pay maternity benefit for twelve weeks and the same can be paid at the option of the applicant as per the following schedule;

- i. Six weeks before delivery and six weeks after delivery.
- ii. Six weeks before the delivery including day of delivery for remainder after proof of certificate.
- iii. After delivery for whole twelve weeks

Mines Maternity Benefit Act, 1941

An act to regulate the employment of women working in mines for certain period before or after childbirth and to provide maternity benefit to them.



FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING

C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948

Article-3

Pakistan ratified C87 on 14 Feb 1951.

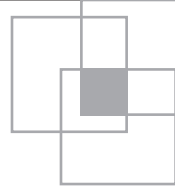
Article 3 of the convention allows Workers' and employers' organisations to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.

C098- Right to Organise and Collective Bargaining Convention, 1949

Article-1

Pakistan ratified C98 on 26 May 1952.

- (1) Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.
- (2) Such protection shall apply more particularly in respect of acts calculated to—
 - (a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;
 - (b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.



CONSTITUTION OF PAKISTAN

Article-17(1)

Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality.

Industrial Relations Act, 7 March 2012

Industrial Relations Act (IRA) primarily deals with the following issues:

1. Formation of trade unions
2. Collective bargaining agent/s
3. Unfair labour practice on behalf of employers and workers
4. Strikes and lockouts
5. National Industrial Relations Commission
6. Workers participation and dispute resolution
7. Labour court and labour appellate tribunal
8. Workers participation in the management
 - Shop Steward
 - Joint Management Board

DISCIPLINARY PRACTICES

West Pakistan Industrial & Commercial
Employment Ordinance 1968

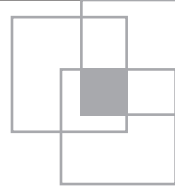
Section 15

- 1) A worker can be reprimanded or fined in the manner prescribed under the payment of wages Act, 1936 (IV of 1936) up to three paise in the rupee of the wages payable to him/her in a month, for any of the following acts of omissions, namely:
 - a) In case where the Payment of the Wages Act, 1936 (IV of 1936), is applicable, the list of acts and omission for which fine may be levied shall be same as approved by the Chief Inspector of Factories or any other officer concerned.
 - b) In other case, the following shall be the list of acts and omissions,
 - i. Disregard or disobedience of rules or orders
 - ii. Improper behavior, such as drunkenness
 - iii. Making false or misleading statement/s
 - iv. Inefficient, dilatory, careless or wasteful working
 - v. Malingering.

- 2) A worker found guilty of misconduct shall be liable to any of the following punishments:
 - a) Fine in the manner prescribed under the Payment of Wages Act, 1936 (IV of 1936), up to three paise in the rupee of the wages payable to him/her in a month
 - b) Withholding of increment or promotion for a specified period not exceeding one year
 - c) Reduction to a lower post, or
 - d) Dismissal without payment of any compensation in lieu of notice.

The following acts and omission shall be treated as misconduct

- a. Willful insubordination or insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a supervisor



- b. Theft, fraud, or dishonesty in connection with the employer's business or property
- c. Willful damage to or loss of employer's goods or property
- d. Taking or giving bribes or any illegal gratification
- e. Habitual absence without leave or absence without leave for more than ten days
- f. Habitual late attendance
- g. Habitual breach of any law applicable to the establishment
- h. Riotous or disorderly behavior during working hours at the establishment or any act supervisor of discipline
- i. Habitual negligence to work
- j. Frequent repetition of any act of omission referred to in clause (I)
- k. Striking work or inciting others to strike in contravention of the provision of any law, or rule having the force of law
- l. Go-slow; when workers delay work as a symbol of protest

No order of dismissal shall be made unless the worker concerned is informed in writing of the alleged misconduct within one month of the date of such misconduct or of the date on which the alleged misconduct comes to the notice of the employer and is given an opportunity to explain the circumstances alleged against him/her. The approval of the employer shall be required in every case of dismissal and, the employer shall institute independent inquiries before dealing with charges against a worker, provided that the worker proceeded against may, if he/she so desires for his/her assistance in the inquiry, nominate any worker employed in that establishment and the employer shall allow the worker so nominated to be present in the inquiry to assist the worker proceeded against and shall not deduct his/her wages if the inquiry is held during his/her duty hours.

Where for the purpose of conducting inquiry into the alleged misconduct of a worker, the employer considers it necessary, he/she may suspend the worker, concerned for a period not exceeding four days at a time, so however, that the total period of such suspension shall not exceed four weeks except where the matter is pending before an arbitrary, a labour court, tribunal or Conciliator for the grant of permission under Section 47 of the Industrial Relation Ordinance, 1969 (XXXIII of 1969). The order of suspension shall be in writing and may take effect immediately on delivery to the worker concerned shall be paid by the employer subsistence allowance of not less than fifty per centum of the wages. If the worker is found not guilty, he/she shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages as he/she would have received if he/she had not been suspended.

SUPPORT ENVIRONMENT

Convention on the Elimination of All forms of Discrimination Against Women (CEDAW)

Article- 11 (2)

Pakistan ratified CEDAW on 12 March 1996.

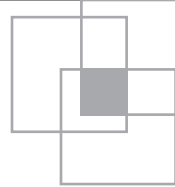
In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

- c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities.

UN Convention on the Rights of the Child, 20 November 1989

Pakistan ratified the UN CRC on 12 Dec 1990.

With regards to Non-discrimination. **Article 2** states: (1) States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.



Articles 28 covers the right to education. It states:

- '(1) States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
- i) make primary education compulsory and available free to all;
 - ii) encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
 - iii) make higher education accessible to all on the basis of capacity by every appropriate means;
 - iv) make educational and vocational information and guidance available and accessible to all children;
 - v) take measures to encourage regular attendance at schools and the reduction of drop-out rates....'

C156- Workers with Family Responsibilities Convention, 1981

Article-5

All measures compatible with national conditions and possibilities shall further be taken--

- (a) to take account of the needs of workers with family responsibilities in community planning; and
- (b) to develop or promote community services, public or private, such as child-care and family services and facilities.

Factory's Act, 1934

Section 33 (q)

The labour inspection machinery and the Factory's Act, 1934, section 33 q, stresses on the provision of shelter during rest as part of the health and safety rules, labour inspectors can recommend including additional support services like separate toilets, rest rooms, transportation.

Provision of Child care center is applicable to establishments employing more than the 50 number of women.

Shelter Rooms

The provincial Government may make rules requiring that in any specified establishment wherein more than one hundred and fifty workers are ordinarily employed, an adequate shelter shall be provided for rest, and such rules may

prescribe the standards of such shelter.

Rooms for children

The Provincial Government may also make rules:

- Requiring that in any specified , wherein more than fifty women workers are ordinarily employed, a suitable room shall be reserved for the use of children under the age of six years belonging to such women
- Prescribing the standards for such rooms and the nature of the supervision to be exercised over the children therein.

Canteen

“The occupier of every establishment wherein more than two hundred and fifty workers are ordinarily employed and which is specified by Government by a notification in this behalf shall provide in or near the establishment adequate canteen according to the standards prescribed in the Factory's ordinance, and the canteen shall be available for the use of such workers within a period of six months from the date of such notification”. **(Canteen Rules)**

Establishment of Fair Price Shop

Every employer of an establishment to which this Ordinance is applied shall within one month from the date of its application, establish and maintain a fair price shop for the workers of the establishment. Provided the Government may, for sufficient reason by an order extend the said period in respect of any/or class of establishment.

Labour inspection is a key element of any labour administration system for ensuring the implementation of labour policies, providing feedback and allowing for a readjustment of these policies as necessary. The importance of labour inspection in promoting decent work has been widely recognized. The principle of Decent Work is derived from the International Labour Standards that ensure social justice for all. All ILO standards apply equally to men and women with the exception of these there are some that particularly address women reproductive roles. The two main pillars in promoting gender equality are the Conventions on equal remuneration for men and women for work of equal value (No 100) and Convention on discrimination in employment and occupation (No 111). Other conventions that specifically address gender equality are the Maternity Protection Convention, 2000 and the Workers with Family Responsibilities Convention, 1981 (No. 156) which notably applies to both men and women who have responsibilities with respect to their dependents. Other conventions such as Convention on part time work (No 175), Convention on Home Work (No 177), Convention of Maternity Protection, C 183 and the Convention on domestic workers (No 189) also have particular implications for women.

This toolkit takes a systems approach and is designed to be a practical exercise to assist labour inspectors in assessing and taking actions on gender gaps and discriminatory practices at workplace to strengthen their approaches to inspection. It is also intended to be used as a self-assessment tool for enterprises.

For further information on the project:

Promoting Gender Equality for Decent Employment (GE4DE)

A Project supported by CIDA

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