

**Corresponding Author:** Fakhar Zaman (Director (Academics), Federal Judicial Academy, Islamabad, Pakistan. Email: [fakhar.zaman@yahoo.com](mailto:fakhar.zaman@yahoo.com))

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## Peshgi Practices in Pakistan: Bridging the Gap with International Labor Standards



Fakhar Zaman<sup>1</sup>

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**Abstract:** *This research paper delves into the pressing issues of child labor and forced labor, focusing on their prevalence and legal frameworks in Pakistan. The paper begins by examining "Peshgi," a prevalent form of child labor in Pakistan, analyzing international standards and Pakistan's legal stance regarding this issue. It further investigates forced labor, exploring global standards and Pakistan's legal framework in combating this violation of human rights. Through a comparative analysis of international standards and Pakistan's legal provisions, the paper aims to assess the efficacy of existing measures in addressing child labor and forced labor. By shedding light on the intricacies of these labor practices and legal responses, this paper contributes to the discourse on combating exploitation and promoting the rights and well-being of vulnerable populations.*

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**Keywords:** Child Labor, Forced Labor, Peshgi, International Standards, Pakistan's Law, Human Rights, Exploitation, Legal Frameworks

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### Introduction

Child labor and forced labor are two interlinked yet distinct manifestations of exploitation that continue to persist globally, posing significant challenges to human rights and socio-economic development. In Pakistan, these issues are particularly prevalent, with "Peshgi" serving as a widespread mode of child labor and forced labor remaining a persistent concern. This paper delves into the complexities surrounding child labor and forced labor in Pakistan, examining the international standards set forth to address these violations and the corresponding legal framework within Pakistan.

First we will analyze "Peshgi," a prevalent form of child labor in Pakistan, exploring its implications for children's rights and well-being. By examining international standards and Pakistan's legal stance on this issue, the paper aims to provide insights into the efficacy of existing measures in combating child labor. Then, the paper shifts its focus to forced labor, delving into its prevalence, impacts, and the legal mechanisms in place to address this violation. Through a comparative analysis of international standards and Pakistan's legal provisions, this section aims to evaluate the effectiveness of current strategies in tackling forced labor practices. By critically examining the intersection of international standards and Pakistan's legal responses to child labor and forced labor, this paper seeks to contribute to a deeper understanding of the challenges and opportunities in combating exploitation and promoting the rights and well-being of vulnerable populations in Pakistan.

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<sup>1</sup> Director (Academics), Federal Judicial Academy, Islamabad, Pakistan

## **Comprehending the term Peshgi**

"Peshgi" is a commonly used term in Pakistan's labor market, referring to the advance payment for work as a form of credit. This agreement obligates the debtor to repay the debt through work, with the salary intended to offset any default in repayment or fulfillment of labor. The question of how children become subjected to the concept of "Peshgi" or bonded labor is often answered by the prevailing practice in Pakistan, where entire families, including children and spouses, become bonded to an unpaid debt.<sup>2</sup> Consequently, this practice exposes children to conditions akin to forced labor or slavery, as defined by Bales and Robbins, where individuals are coerced, through violence or the threat of violence, to relinquish their autonomy over their labor power. Therefore, we identify three fundamental elements that constitute debt bondage as a form of slavery: violence, control, and economic exploitation.<sup>3</sup>

Violence encompasses situations where a laborer is compelled to work under the threat of physical harm or actual violence. The element of control pertains to the exercise of authority over the worker's actions, including decisions regarding their schedule, location, and methods of work. Economic exploitation, the third element, refers to instances where a laborer receives payment below the value of the services rendered or agreed upon, or where no compensation is provided at all for the work performed.<sup>4</sup>

While not all contracts facilitated by the peshgi system result in bondedness or coercion, a significant majority do, depending on the amount of payment advanced or the size of the loan obtained. Generally, smaller and more easily repayable loans pose fewer risks of bondedness, forced labor, or coercion, whereas larger loans are more likely to lead to such outcomes. However, by imposing interest and additional expenses or maintaining inaccurate records of repayment, a seemingly manageable loan can quickly spiral into an insurmountable debt. This perpetual indebtedness compels laborers and their descendants to engage in labor indefinitely to repay the debt, effectively transforming a legally binding debt into a form of slavery. Furthermore, illiterate workers may be further disadvantaged by misleading repayment records or limited access to accurate documentation, exacerbating their vulnerability to exploitation and bonded labor.

## **ILO's take on the Issue**

The International Labour Organization (ILO), founded in 1919 as a result of the Versailles Treaty, stands as the inaugural international body dedicated to addressing issues of slavery and child labor. Pakistan, since gaining independence in 1947, has remained an engaged and active member of the ILO.<sup>5</sup> During its early sessions, the International Labour Organization (ILO) ratified the Minimum Age (Industry) Convention, which prohibited children under the age of 14 from engaging in work within public or private industrial sectors. Later, in 1973, this convention was revised and rebranded as the Minimum Age Convention. This updated convention stipulated that the minimum age for employment should be 15 years old, with provisions allowing it to be lowered to 14 years in specific circumstances. However, if the nature of the job poses risks to the child's health, safety, or morality, the minimum age must be set at 18 years or older. Pakistan ratified the latter convention in 2006, but not the former, thus signaling its commitment to aligning with international standards regarding child labor regulations.<sup>6</sup>

## **Pakistan's Commitment to International Labor Standards**

In 1930, the ILO endorsed the Forced Labour Convention, delineating forced labor as work or service extracted from individuals under the threat of penalty, devoid of their voluntary consent. Pakistan ratified this convention in 1957. Subsequently, the ILO has consistently urged its member states, Pakistan included, eradicating all manifestations of forced or compulsory labor. In the late 1950s, the ILO also adopted the

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<sup>2</sup> Bales, Kevin, and Peter T. Robbins. "No One Shall Be Held in Slavery or Servitude": A Critical Analysis of International Slavery Agreements and Concepts of Slavery.' *Human Rights Review* 2, no. 2 (2001): 18-32.

<sup>3</sup> *ibid.*

<sup>4</sup> *ibid.*, 18,29,34.

<sup>5</sup> Human Rights Commission of Pakistan (HRCP). *The State of Human Rights 2008*. Lahore, 2008, pp. 81, 106, 108.

<sup>6</sup> ILOLEX. "Database of International Labour Standards."

Abolition of Forced Labour Convention, calling upon state parties to eliminate forced labor practices and refrain from employing forced laborers. Furthermore, addressing the scourge of bonded child labor, the ILO introduced the Worst Forms of Child Labour Convention in 1999.<sup>7</sup> This convention raised the age threshold for child labor to 18 and furnished an extensive list of the most egregious forms of child labor, encompassing practices akin to slavery, such as child sale and trafficking, debt bondage, serfdom, and forced or compulsory labor.<sup>8</sup> In 2001, two years following its adoption, Pakistan ratified the Worst Forms of Child Labour Convention, showcasing its commitment to upholding internationally recognized standards regarding slavery, bonded child labor, and minority rights. Notably, Pakistan has ratified all the ILO conventions highlighted previously, except for the Minimum Age Convention, a treaty that has garnered relatively limited ratification globally. The intricacy of this convention is frequently cited as a contributing factor to its low ratification rate.<sup>9</sup>

However, the absence of a punitive mechanism for non-compliance has rendered the ILO an organization often described as lacking enforcement capabilities. To tackle this challenge, Douglas et al. propose that NGOs employ alternative avenues to exert pressure on member states. These avenues include urging third parties to impose sanctions on violators or reducing investments and financial assistance. Such measures aim to enhance accountability and incentivize adherence to the conventions. In 1996, the United States employed this strategy by curtailing certain benefits Pakistan received under the General System of Preferences (GSP) due to concerns regarding bonded child labor. However, this approach yielded limited effectiveness and was susceptible to exploitation for political ends. Subsequently, following Pakistan's pivotal role as a core ally in the United States' war against terror post the September 11 attacks, the US reinstated the GSP benefits for Pakistan.<sup>10</sup>

### **Pakistani Law on the subject**

In the region encompassing Pakistan, the Children (Pledging of Labour) Act was introduced in 1933 as the inaugural legislation aimed at prohibiting the enslavement of children. This act delineates penalties for guardians who enlist children in labor in exchange for remuneration or other advantages. Subsequent to the establishment of the Pakistani state in 1947, further steps were undertaken to safeguard the rights and well-being of children.<sup>11</sup> In 1991, the Employment of Children Act was enacted, aiming to prohibit the engagement of children in hazardous occupations. Shortly after, in 1992, the Bonded Labour System (Abolition) Act, commonly known as the Bonded Labour Act, was introduced. Under this legislation, all bonded laborers were officially released from their debts. Notably, the Bonded Labour System (Abolition) Act not only criminalizes slavery but also stipulates penalties of imprisonment ranging from two to five years and fines of up to Rs. 50,000 for offenders. Additionally, to support liberated bonded laborers and establish Vigilance Committees, the Bonded Labour System (Abolition) Rules have set up a fund.<sup>12</sup> Vigilance Committees, comprising representatives from the press, elected local officials, and Bar Associations, are envisioned to play an active role in eliminating bonded labor within their respective regions.<sup>13</sup> However, these committees face challenges as many either do not exist or operate ineffectively, failing to contribute to the liberation of bonded laborers. Under Article 11(3) of Pakistan's Constitution, the employment of children below fourteen years in factories, mines, or any hazardous occupation is explicitly prohibited. The Constitution further directs the Pakistani state, as per its Principles of Policy, to protect children, eliminate illiteracy, and ensure free and mandatory education expeditiously. Additionally, it seeks

<sup>7</sup> International Labour Organization C182

<sup>8</sup> *ibid*, art 3(a)

<sup>9</sup> David M. Smolin, 'Strategic Choices in the International Campaign Against Child Labour' (2000) 22 *Human Rights Quarterly* 942, 945

<sup>10</sup> Shaffer, Gregory, and Yvonne Apea. "Institutional Choice in the General System of Preferences Case: Who Decides the Conditions for Trade Preferences? The Law on Politics of Rights." *Journal of World Trade* 39 (2005): 977-988.

<sup>11</sup> Human Rights Watch, "The Small Hands of Slavery: Bonded Child Labour in India." Report, September 1996, pp. 50-51.

<sup>12</sup> Anti-Slavery, 'Forced and Bonded Labour in Pakistan' (July 2008) accessed 12 June 2010, 1.

<sup>13</sup> Human Rights Commission of Pakistan (HRCP). *The State of Human Rights 2009*. Lahore, 2010.

to establish just and humane working conditions, preventing the employment of children and women in occupations unsuitable for their age or gender.

Similarly, under the provisions of the Factories Act of 1934, individuals aged between 14 and 18 may be employed in factories, contingent upon obtaining a health certificate from a certifying surgeon. Section 52 of the Act empowers certifying surgeons to assess the physical capacity of a child or adolescent seeking employment in a factory, upon application from the child, parent, or guardian.<sup>14</sup>

### **Compatibility of Pakistani Laws with Standards Laid Down by ILO.**

While Pakistan has ratified various ILO conventions aimed at upholding labor standards, such as the Minimum Age Convention and the Forced Labour Convention, the practical implementation of these standards remains a significant challenge. Despite legislative measures in place, including the Bonded Labour System (Abolition) Act, enforcement mechanisms often fall short due to inadequate resources, corruption, and societal factors. Vigilance Committees, intended to monitor and enforce labor laws, face numerous challenges, including limited effectiveness and in some cases, non-existence. This undermines the eradication of exploitative practices like bonded labor and child labor, perpetuating a cycle of vulnerability and exploitation among marginalized communities. Furthermore, while Pakistan's legislative framework may align with international standards on paper, there is a notable gap between policy intent and on-the-ground realities. The prevalence of practices like "Peshgi," which often result in bonded labor situations akin to modern-day slavery, underscores the limitations of existing laws and enforcement mechanisms.

To truly achieve compatibility with ILO standards, Pakistan must address systemic issues such as corruption, lack of resources, and societal attitudes towards labor exploitation. Strengthening enforcement mechanisms, enhancing coordination between governmental agencies, and increasing public awareness are essential steps towards translating legal commitments into tangible improvements in labor rights protection and enforcement. Collaboration with civil society organizations and international partners can also play a pivotal role in addressing these challenges and fostering a culture of respect for labor rights in Pakistan.

### **Conclusion**

While Pakistan has made strides in aligning its labor laws with international standards set by the ILO, significant challenges persist in translating legal commitments into effective enforcement and tangible improvements in labor rights protection. The prevalence of exploitative practices such as bonded labor and child labor, exemplified by phenomena like "Peshgi," underscores the urgent need for enhanced enforcement mechanisms, strengthened coordination between governmental agencies, and increased public awareness. Addressing systemic issues such as corruption, resource limitations, and societal attitudes towards labor exploitation is paramount to achieving genuine progress in labor rights protection in Pakistan. Vigilance Committees, tasked with monitoring and enforcing labor laws, must be empowered and supported to fulfill their mandates effectively. Furthermore, collaboration with civil society organizations and international partners can play a crucial role in addressing enforcement challenges and fostering a culture of respect for labor rights. Moving forward, it is imperative for Pakistan to prioritize the eradication of exploitative labor practices and ensure the full realization of labor rights for all its citizens. By addressing implementation gaps, enhancing enforcement mechanisms, and fostering partnerships, Pakistan can take significant strides towards achieving greater compatibility with ILO standards and promoting the well-being and dignity of its workforce.

### **Recommendations**

Based on the analysis presented in the paper, the following recommendations are proposed to address the challenges and improve the compatibility of Pakistani labor laws with ILO standards:

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<sup>14</sup> The Factories Act of 1934, S.52.

1. **Strengthen Enforcement Mechanisms:** Allocate sufficient resources and manpower to enforce labor laws effectively, including regular inspections, monitoring, and prosecution of violators. Enhance coordination between relevant governmental agencies to streamline enforcement efforts and address implementation gaps.
2. **Empower Vigilance Committees:** Provide adequate training, resources, and authority to Vigilance Committees to monitor workplaces, investigate complaints, and enforce labor standards. Ensure their independence and autonomy to effectively carry out their mandates.
3. **Increase Public Awareness:** Launch public awareness campaigns to educate workers, employers, and communities about their rights and obligations under labor laws. Promote dialogue and cooperation between stakeholders to foster a culture of compliance and respect for labor rights.
4. **Strengthen Legal Framework:** Review and update existing labor laws to align with international standards and address emerging challenges. Consider amendments to legislation to strengthen protections against bonded labor, child labor, and other forms of exploitation.
5. **Improve Access to Justice:** Enhance access to legal remedies and support services for victims of labor exploitation, including legal aid, counseling, and rehabilitation programs. Ensure that victims can report abuses without fear of retaliation and that perpetrators are held accountable through fair and timely legal proceedings.
6. **Foster International Cooperation:** Collaborate with international organizations, such as the ILO, and other countries to exchange best practices, technical expertise, and resources in labor rights protection. Engage in regional and global initiatives to address transnational labor issues and promote cross-border cooperation.
7. **Monitor and Evaluate Progress:** Establish mechanisms to monitor and evaluate the implementation of labor laws and the effectiveness of enforcement efforts. Regularly assess progress towards achieving compliance with ILO standards and identify areas for improvement.

By implementing these recommendations, Pakistan can strengthen its labor laws, enhance enforcement mechanisms, and promote the rights and well-being of its workforce in accordance with international standards. These efforts are crucial for advancing social justice, economic development, and human dignity for all citizens.