

Child Domestic Labor: What does the Law say?

Child domestic labor refers to the employment of children in private households, where they perform household chores, often in extremely exploitative and hazardous conditions. These children are typically deprived of education, undergo physical and emotional abuse leaving them vulnerable to various forms of exploitation. For generations, the practice of employing child domestic workers has been considered as an act of charity. Employers believe that since employing poor and unfortunate children is in itself a great favour to the child, they have the liberty to treat them as they wish. Unfortunately, many basic human rights of the child are violated in doing so. Lately child abuse cases regarding domestic child labor have been rampant all across Pakistan and the details of these incidents are jarring to say the least.

According to a 2018 report by the Human Rights Commission of Pakistan (HRCP), an estimated 12 million children work in the country and the most common jobs that these children are forced to do is domestic servitude, which requires children to serve the owners of the house. These child laborers are often times forced to work from dawn to dusk, fed with leftovers and allowed to be punished in various forms of cruelty. As a result of this type of labor, children are deprived of basic healthcare and education.

It is unfortunate that this problem still plagues our society till date where children are being subjected to torture and abuse at the hands of their employers with no social and personal safeguards set in place, however, there have been steps taken to address this issue from a legal perspective but the issue lies in effective implementation of these laws. Despite lack of implementation as a citizen of Pakistan one must be aware of the laws that are designed to protect these children from being exploited like this.

Constitutional framework

- **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.

Criminal legal framework- Pakistan Penal Code

The Pakistan Penal Code (PPC) has provisions related to child labor, including Section **371-A**, which criminalises the employment of a child in any work that is likely to be hazardous to their health or development. Section **374-A** of the PPC criminalises the import or export of a person for the purpose of forced labor or prostitution.

Section 328-A deals with cruelty towards a child. Whoever willfully assaults, illtreats, neglects, abandons or does an act of omission or commission, that results in or has, potential to harm or injure the child by causing physical or psychological injury to him shall be punished with imprisonment of either description for a term which shall not be less than one year and may extend upto three years, or with fine which shall not be less than twentyfive thousand rupees and may extend upto fifty thousand rupees, or with both.

Provincial Legal Framework

Islamabad Capital Territory:

The Islamabad Capital Territory Domestic Workers Act, 2022

The Act provides legal cover for regulating the employment of domestic workers in Islamabad Capital Territory (ICT), besides protecting their rights it also envisages improving the working conditions and terms of employment of domestic workers. This piece of legislation contains provisions for their social protection and welfare, including working hours as stipulated in **Section 5**, minimum wages, the entitlement of leaves, safety and medical care. It also provides for their social protection, welfare, including working hours, leaves and medical care.

The minimum age of employment has been stipulated as 16 years in all sections of the Act. Hence 16 years has been set as the minimum age for engagement in the domestic employment.

Section 29 of this Act imposed an imprisonment of a term which may extend to one month for employing a child under 12 years old and a fine leading up to fifty thousand but not less than ten thousand for employing a child under 16 years of age.

Punjab:

The Punjab Restriction on Employment of Children Act, 2016

Section 3 prohibits employment a child under the age of 15 to work in any establishment furthermore, Section 3(2) states that an occupier shall not employ or permit an adolescent defined as an individual who is 15 years old (under 18) to perform any hazardous work in the establishment.

Section 2 describes “hazardous work” as the work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of adolescents and is mentioned in the Schedule.

Section 11 deals with Penalties wherein, an occupier, who employs or permits a child to work in an establishment, shall be liable to punishment with imprisonment for a term which may extend to six months, but which shall not be less than seven days and with a fine which may extend to fifty thousand rupees, but not be less than ten thousand rupees. Moreover, an occupier, who employs or permits any adolescent to work in contravention of the provisions of section 3, shall be liable to punishment with imprisonment for a term which may extend to six months, but which shall not be less than seven days and with a fine which may extend to fifty thousand rupees, but which shall not be less than ten thousand rupees.

Moreover, a person, who employs a child or an adolescent in:

- (a) any form of slavery or practices similar to slavery, such as the sale and trafficking of children or adolescents, debt bondage and serfdom and forced or compulsory labor, including forced or compulsory recruitment of children or adolescents for use in armed conflicts;
- (b) the use, procuring or offering of a child or adolescent for prostitution, for the production of pornography or for pornographic performances; and
- (c) the use, procuring or offering of a child or adolescent for illicit activities, in particular for the production and trafficking of drugs,

shall be liable to punishment with imprisonment for a term which may extend to seven years but which shall not be less than three years and with fine which may extend to one million rupees but which shall not be less than two hundred thousand rupees.

An occupier who has been convicted of an offence under subsection (1) and subsection (2), again commits the same offence or an offence of similar nature, shall be punishable with imprisonment which may extend to five years but which shall not be less than three months in addition to the fine prescribed for the offence.

THE PUNJAB DOMESTIC WORKERS ACT, 2019

Section 3 prohibits employment of any child under the age of 15 years to be allowed to work in a household in any capacity, provided that no domestic worker under the age of 18 years shall be engaged in a domestic work except involving light work in a household. The act further explains that “light work” means a domestic work which is part-time in nature and is not likely to harm health, safety and education of a domestic worker.

Section 31 deals with penalties wherein an employer who fails to comply with or contravenes any provisions of the Act other than section 3, shall, on conviction, be punishable with fine which for the first offence may extend to five thousand rupees, and for a second or subsequent offence with fine which may extend to ten thousand rupees. Whoever knowingly contravenes the provisions of section 3, shall be liable to punishment with imprisonment for a term which may extend to one month if he employs a child under the age of 12 years and in case of a child under 15 years by fine which may extend to Rs fifty thousand but which shall not be less than ten thousand rupees.

Any employer or any such person who willfully obstructs an Inspector in the exercise of any power in compliance of section 37, or fails to produce on demand thereunder any evidence, statement or other document, shall be punishable with fine which may extend to ten thousand rupees.

This act enumerates various the rights and entitlement of domestic worker. The law forbids the use of the word “servant” for a domestic worker. It prohibits the engagement of a domestic worker in a labor system or forced or partly forced labor system. The Act further proscribes discrimination against a domestic worker on the basis of religion, race, caste, creed, sex, ethnic background, and place of birth/residence, domicile, migration or any other reason. For extra work, a domestic worker’s consent is needed. Moreover, it requires extra compensation. Occupational safety and health measures should be guaranteed, and the worker should be provided with dignified working conditions. Domestic workers are provided with sickness and medical care, accident compensation, disability payments and survivor pensions in line with the provisions of the Punjab Social Security Ordinance 1965.

Khyber Pakhtunkhwa:

The Khyber Pakhtunkhwa Prohibition of Employment of Children Act, 2015

Section 3 prohibits employment child under the age of 14 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 lightwork, 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.

No adolescent (under 18 years) shall be employed or permitted to work in any hazardous work included in the Schedule.

Section 2 defines the following as:

“light work” means work, which is not likely to cause harm to health or impede the physical or mental development of a child engaged in such work;

hazardous work” means the work which, by its nature or the circumstances in which it is carried out, is likely to cause harm to health, safety or morals of children and adolescents and includes occupations and processes mentioned in Part-I & II of the Schedule;

Section 15 deals with penalties in the following terms:

(1) Whoever employs any child in contravention of the provisions of section 3 of this Act shall be punishable with imprisonment for a term which may extend to six months or with a fine which may extend to fifty thousand rupees or with both: Provided that if the child is employed in any hazardous occupation or process, as listed in the Schedule, the fine may extend to one hundred thousand rupees, but shall not be less than ten thousand rupees and imprisonment, which may extend to three years.

(2) Whoever employs any adolescent or permits any adolescent to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which may extend to one year or with a fine which may extend to seventy five thousand rupees or with both.

(3) Whoever, having been convicted of an offence under section 3, commits a similar offence subsequently, shall be liable to punishment with imprisonment for a term which may extend to five years but shall not be less than six months and with a fine which may extend to two hundred thousand rupees but shall not be less than twenty-five thousand rupees or with both.

Sindh:

The Sindh Prohibition of Employment of Children Act, 2017

Section 3 states that no child shall be employed or permitted to work in any establishment. Further, no adolescent (of 15 years or above but under 18) shall be employed or permitted to work in any hazardous work included in the Schedule.

Section 2 defines the following as:

“light work” means work which is not likely to harm the health or impede the physical or mental development of a child engaged in the work and includes activities mentioned in the Schedule;

“hazardous work” means the work which, by its nature or the circumstances in which it is carried out, is likely to harm or jeopardize the health, safety or morals of children and adolescents and includes occupations and processes mentioned in the Schedule;

Section 14 deals with penalties in the following terms:

Whoever employs any child in contravention of the provisions of sub-section 3 (1) shall be punishable with imprisonment for a term which may extend to six months or with a fine which may extend to fifty thousand rupees or with both: Provided that if the child is employed in any hazardous work the fine may extend to one hundred thousand rupees but not less than ten thousand rupees and imprisonment which may extend to three years:

The law also prohibits adolescents from working between the hours of 7pm to 8am.

Balochistan:

Balochistan Employment of Children (Prohibition and Regulation) Act, 2021

Section 3 states that a child who is under the age of 14 or an adolescent (who is 14 years of age or above but not 18 years old) may not be employed in or given permission to work in any of the processes listed as hazardous work. This law includes domestic work in the list of hazardous occupations.

Section 17 deals with penalties in the following terms:

(1) Whoever employs any child or permits any child, adolescent or young person to work in contravention of the provisions of section 3 and section 9 shall be punishable with imprisonment for a term which may extend to one year or with a fine which may extend to one hundred thousand rupees or with both:

Provided the amount of the fine shall, after the same is recovered and transferred to the fund or any specified authority for growth of children, shall be so spent within the meaning of section

(2) Whoever, having been convicted of an offence under section 3, commits a like offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than six months and may extend to two years.

The abuse of child domestic workers is clearly illegal. There are laws in place to protect children from such exploitation. However, these laws are not always enforced. The cultural acceptance of child labor as a means of earning money for families is a major obstacle to overcome. Furthermore, the nonchalant attitude of the institutions that are empowered to ensure the safety of children and make sure their fundamental rights are not breached make it easier for the employers to feel that they are above the law and can get away with treating them as however they deem fit.