

**IDENTIFYING INTERNATIONAL,
NATIONAL & PROVINCIAL CHILD
LABOUR LAWS: AN EXAMINATION
OF INTERNATIONAL AND
NATIONAL STANDARDS AND BEST
PRACTICES**

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EXECUTIVE SUMMARY

Children, by their very nature, are a vulnerable class of society, often susceptible to exploitation and the arbitrary denial of fundamental rights by those often closest to them. Those from disadvantaged and poverty stricken backgrounds have a much higher likelihood of facing these outcomes and the need for the domestic implementation of internationally accepted standards regarding child labour is substantial.

The task of limiting, preventing, criminalizing, etc. child labour is daunting and requires approaches that target the underlying as well as the overlying causes of this phenomenon. The penalization of acts related to child labour must not only be deterrent, but also retributive, and restorative. Mandates targeting the underlying causes must begin with and focus on the role of education as it influences the prevalence of child labour.

International laws and recommendations establish a very basic framework regarding child labour and the relevant laws of the state of Pakistan are in many ways based on these standards. However, there is substantial room for growth regarding thresholds that Pakistan's domestic laws fail to meet, along with general development of domestic law beyond the generic provisions of international law.

The following is a basic initial compilation of international law obligations, international best practices, federal laws and provincial laws as regards the use of child labour and its associated practices in Pakistan. These laws are assembled into various categories relevant to an effective framework regarding child labour and are accompanied by basic initial recommendations for future development.

The desired end result of such a report is to provide a useful tool for comparison of standards and current practices that may be employed in the development of future domestic laws and policies. It is hoped that this report may serve as a guide to a wide variety of stakeholders seeking to gain further knowledge about the basic rules and regulations surrounding child labour.

I. DEFINING A “CHILD”

INTRODUCTION

The legal conceptualization of what is a “child” varies between states, legislative instruments and areas of law. The age of eighteen is a common benchmark amongst international and state frameworks, but there is no definitive consensus on a particular age that, once crossed, ushers in adulthood. The age at which a child realistically attains the maturity to accept additional responsibilities (i.e. voting, driving, ability to marry, etc.) may vary across cultures, social systems and the like. For the purposes of employment, there is also variation in the age or age range at which an individual may perform various types of work. International standards take into account the nature of the work as well as the development stage of the state in determining the appropriate threshold to codify.

INTERNATIONAL LAW & OBLIGATIONS

United Nations Convention on the Rights of the Child (ratified November 12, 1990)

Article 1

For the purposes of the present Convention, a child means every human being below the age of **eighteen years** unless under the law applicable to the child, majority is attained earlier.

UNCRC General Comment No. 4: Adolescent Health and Development in the context of the Convention on the Rights of the Child

Paragraph 1

Consequently, adolescents up to 18 years old are holders of all the rights enshrined in the Convention; they are entitled to special protection measures and, according to their evolving capacities, they can progressively exercise their rights

UNCRC General Comment No. 6: Treatment of Unaccompanied and Separated Children Outside Their Country of Origin

Paragraph 9

A “child as defined in article 1 of the Convention,” means “every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier.” This means that any instrument governing children in the territory of the State cannot define a child in any way that deviates from the norms determining the age of majority in that State.

ICCPR General Comment No. 17: Rights of the Child (Art. 24)

Paragraph 4

The right to special measures of protection belongs to every child because of his status as a minor. Nevertheless, the Covenant does not indicate the age at which he attains his majority. This is to be determined by each State party in the light of the relevant social and cultural conditions. In this respect, States should indicate in their reports the age at which the child attains his majority in civil matters and assumes criminal responsibility. States should also indicate the age at which a child is legally entitled to work and the age at which

he is treated as an adult under labour law. States should further indicate the age at which a child is considered adult for the purposes of article 10, paragraphs 2 and 3. However, the Committee notes that the age for the above purposes should not be set unreasonably low and that in any case a State party cannot absolve itself from its obligations under the Covenant regarding persons under the age of 18, notwithstanding that they have reached the age of majority under domestic law.

Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182) (ratified October 11, 2001)

Article 2

For the purposes of this Convention, the term “child” shall apply to all persons under the age of 18.

INTERNATIONAL BEST PRACTICES

Child Protection Model Law: Protection of Children from Neglect, Abuse, Maltreatment and Exploitation

Article 2(1)

A child under this Law is any person who has **not attained 18 years of age**. A different age may apply in the circumstances prescribed by this Law. In case of doubt about the majority or minority of a child, minority status shall be presumed. Ignorance regarding the age of the child shall be excluded as a defense.

South Asian Association for Regional Cooperation

Article 1

“Child” shall mean a national of any Member State of the South Asian Association for Regional Cooperation (SAARC), below the age of eighteen years unless, under the national law, majority is attained earlier.

European Convention on the Exercise of Children’s Rights

Article 1(1)

This Convention shall apply to children who have not reached the age of 18 years.

African Charter on the Rights and Welfare of the Child

Article 2

For the purposes of this Charter, a child means every human being below the age of 18 years.

FEDERAL LEGISLATION

Constitution of Pakistan (1973)

Article 25A

The State shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law.

Pakistan Penal Code (1860)

Section 299(a)

"adult" means a person who has attained the age of eighteen years

Section 299 (i)

"minor" means a person who is not an adult

The Majority Act (1875)

Section 3

Subject as aforesaid, every other person domiciled in Pakistan shall be deemed to have attained his majority when he shall have completed his age of eighteen years, and not before.

The Registration Act (1908)

Section 2(8)

“minor” means a person who, according to the personal law to which he is subject, has not attained majority

The Mines Act (1923)

Section 3(c)

“child” means a person who has not completed his fifteenth year

Child Marriage Restraint Act (1929)

Section 2(a)

"child" means a person who, if a male, is under eighteen years of age, and if a female, is under sixteen years of age

Section 2(d)

"minor" means person of either sex who is under eighteen years of age

Children (Pledging of Labour) Act (1933)

Section 2

“child” means a person who is under the age of fifteen years

The Factories Act (1934)

Section 2(c)

"child" means a person who has not completed his fifteenth year

Pakistan Citizenship Act (1951)

Section 2

"minor" means, notwithstanding anything in the Majority Act, 1875. Any person who has not completed the age of twenty-one years.

Tea Plantation Labour Ordinance (1962)

Section 2

(a) “adolescent” means a person who has completed his fifteenth year but has not completed his seventeenth year

(c) “child means a person who has not completed his fifteenth year

(k) “young person” means a person who is either a child or an adolescent

West Pakistan Shops and Establishments Ordinance (1969)

Section 2(c)

“child” means a person who has not completed his fourteenth year of age.

Employment of Children Act (1991)

Section 2(i)

“adolescent” means a person who has completed his fourteenth but has not completed his eighteenth year.

Section 2(iii)

“child” means a person who has not completed his fourteenth year of age

Juvenile Justice System Ordinance (2000)

Section 2(b)

“Child” means a person who at the time of commission of an offence has not attained the age of eighteen years.

Prevention and Control of Human Trafficking Ordinance (2002)

Section 2(b)

“child” means any person who has not attained the age of eighteen years.

Right to Free and Compulsory Education Act (2012)

Section 2(c)

“child” means a child including a child with special education needs, male or female, of the age of five to sixteen years of age.

PROVINCIAL LEGISLATION

Punjab Juvenile Smoking Ordinance (1959)

Section 2(c)

“juvenile” means any person who is under the age of eighteen years

Punjab Compulsory Primary Education Act (1994)

Section 2(a)

“child” means a child of either sex whose age at the beginning of the school year is not less than five years and not more than ten years;

Punjab Destitute and Neglected Children Act (2004)

Section 3(1)(e)

“child” means a natural person who has not attained the age of eighteen years

RECOMMENDATIONS

1. While there is general uniformity with international standards in Punjab’s legislation, there is significant variation in the definition of “child across Pakistan’s spectrum of law, which must be brought in line with international best practices

II. MINIMUM AGE FOR EMPLOYMENT

INTRODUCTION

International law standards recommend that states set a minimum age for admission to employment for reasons including to prevent activities that may expose a young person to harm, either mental or physical. A state accepting and enforcing these standards is indicative of its willingness to administrate a higher standard of protection for vulnerable classes of society. It may also signify a desire on the state's part to promote compulsory education to younger individuals, not yet suited for extensive economic activity. Whatever the reasons may be, a reasonable and enforceable minimum age standard for admission to employment is a necessity for the protection of children, especially those more susceptible to exploitation.

INTERNATIONAL LAW & OBLIGATIONS

United Nations Convention on the Rights of the Child (ratified November 12, 1990)

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - (a) Provide for a minimum age or minimum ages for admission to employment;
 - (b) Provide for appropriate regulation of the hours and conditions of employment;
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

UNCRC General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child

Paragraph 14

The Committee urges States parties to take all necessary measures to abolish all forms of child labour, starting with the worst forms, **to continuously review national regulations on minimum ages for employment with a view to making them compatible with international standards**, and to regulate the working environment and conditions for adolescents who are working (in accordance with article 32 of the Convention, as well as ILO Conventions Nos. 138 and 182), so as to ensure that they are fully protected and have access to legal redress mechanisms.

ICCPR General Comment No. 17: Rights of the Child (Art. 24)

Paragraph 3

In most cases, however, the measures to be adopted are not specified in the Covenant and it is for each State to determine them in the light of the protection needs of children in its territory and within its jurisdiction. The Committee notes in this regard that such measures,

although intended primarily to ensure that children fully enjoy the other rights enunciated in the Covenant, may also be economic, social and cultural.

Paragraph 4

The right to special measures of protection belongs to every child because of his status as a minor. Nevertheless, the Covenant does not indicate the age at which he attains his majority. This is to be determined by each State party in the light of the relevant social and cultural conditions. In this respect, States should indicate in their reports the age at which the child attains his majority in civil matters and assumes criminal responsibility. **States should also indicate the age at which a child is legally entitled to work and the age at which he is treated as an adult under labour law.** States should further indicate the age at which a child is considered adult for the purposes of article 10, paragraphs 2 and 3. However, the Committee notes that the age for the above purposes should not be set unreasonably low and that in any case a State party cannot absolve itself from its obligations under the Covenant regarding persons under the age of 18, notwithstanding that they have reached the age of majority under domestic law.

International Labour Organization Convention Concerning Minimum Age for Admission to Employment (No. 138) (ratified July 6, 2006)

Article 2

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.
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.
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 organizations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.

Article 3

1. The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.
2. The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist.
3. Notwithstanding the provisions of paragraph 1 of this Article, national laws or regulations or the competent authority may, after consultation with the organisations of employers and workers concerned, where such exist, authorise employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

Article 6

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

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.

International Covenant on Economic, Social and Cultural Rights (ratified April 17, 2008)

Article 10(3)

Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Night Work of Young Persons (Industry) Convention (Revised) No. 90 (ratified February 14, 1951)

Article 3

1. Young persons under eighteen years of age shall not be employed or work during the night in any public or private industrial undertaking or in any branch thereof except as hereinafter provided for.
2. For purposes of apprenticeship or vocational training in specified industries or occupations which are required to be carried on continuously, the competent authority may, after consultation with the employers' and workers' organisations concerned, authorise the employment in night work of young persons who have attained the age of sixteen years but are under the age of eighteen years.

Article 5

The prohibition of night work may be suspended by the government, for young persons between the ages of sixteen and eighteen years, when in case of serious emergency the public interest demands it.

INTERNATIONAL BEST PRACTICES

Recommendation concerning Minimum Age for Admission to Employment No. 146 (1973)

Section 6

The minimum age should be fixed at the same level for all sectors of economic activity.

Section 7

1. Members should take as their objective the progressive raising to 16 years of the minimum age for admission to employment or work specified in pursuance of Article 2 of the Minimum Age Convention, 1973.
2. Where the minimum age for employment or work covered by Article 2 of the Minimum Age Convention, 1973, is still below 15 years, urgent steps should be taken to raise it to that level.

Section 8

Where it is not immediately feasible to fix a minimum age for all employment in agriculture and in related activities in rural areas, a minimum age should be fixed at least for employment on plantations and in the other agricultural undertakings referred to in Article 5, paragraph 3, of the Minimum Age Convention, 1973.

Section 9

Where the minimum age for admission to types of employment or work, which are likely to jeopardise the health, safety or morals of young persons is still below 18 years, immediate steps should be taken to raise it to that level.

Section 11

Where, by reference to Article 5 of the Minimum Age Convention, 1973, a minimum age is not immediately fixed for certain branches of economic activity or types of undertakings, appropriate minimum age provisions should be made applicable therein to types of employment or work presenting hazards for young persons.

Recommendation concerning the prohibition and immediate action for the elimination of the worst forms of child labour No. 190 (1999)

Section 4

For the types of work referred to under Article 3(d) of the Convention and Paragraph 3 above, national laws or regulations or the competent authority could, after consultation with the workers' and employers' organizations concerned, authorize employment or work

as from the age of 16 on condition that the health, safety and morals of the children concerned are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity .

Child Protection Model Law: Protection of Children from Neglect, Abuse, Maltreatment and Exploitation

Article 50

1. A minimum age for employment shall be established by law taking into consideration the time necessary for children to gain the adequate physical and mental maturity and to complete their basic education. Children below the minimum age for employment shall not engage in any employment relationship, remunerated or not.
2. A minimum age for an apprenticeship below the age established in accordance with paragraph (1) of this Article may be established by law. This shall apply to work done by children in a program of vocational or technical training or in a comparable training institution serving the purpose of occupational training, education, guidance, or orientation. Such program must be approved by the CPCs. The CPCs establish the conditions of the program in cooperation with organizations of employers and workers concerned.
3. A minimum age for light employment below the age established in accordance with paragraph (2) of this Article may be established by law. The CPCs shall determine the activities that constitute light employment and shall prescribe the conditions in which such employment may be undertaken. Children may engage in light employment if –
 - (a) It does not affect their attendance at school or other vocational training as defined under paragraph (3) and their capacity to benefit therefrom; and
 - (b) It is not likely to be harmful to their health or development.
4. The minimum age for employment in a specific sector may depend on the nature of the work. Exceptions for certain areas of work where a child under the minimum age for employment may be employed shall be established by law in accordance with the principles of Article 49 of this Law.

Child Labour (Prohibition and Regulation) Act 1986, India

Section 2(ii)

“child” means a person who has not completed his fourteenth year of age;

Section 3

Prohibition of employment of children in certain occupations and processes.- No child shall be employed or permitted to work in any of the occupations set forth in Part A of the Schedule or in any workshop wherein any of the processes set forth in Part B of the Schedule is carried on:

Provided that nothing in this section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from, Government.

The prohibition of employment of children is not applicable to any workshop wherein any process is carried on by the occupier with the aid of his family, or to any school established by, or receiving assistance or recognition from, Government.

Fair Labor Standards Act, United States

Section 213(c)

1. Except as provided in paragraph (2) or (4), the provisions of section 212 of this title relating to child labor shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee—
 - (A) is less than twelve years of age and
 - (i) is employed by his parent, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person, or
 - (ii) is employed, with the consent of his parent or person standing in the place of his parent, on a farm, none of the employees of which are (because of subsection (a)(6)(A) of this section) required to be paid at the wage rate prescribed by section 206(a)(5) of this title,
 - (B) is twelve years or thirteen years of age and
 - (i) such employment is with the consent of his parent or person standing in the place of his parent, or
 - (ii) his parent or such person is employed on the same farm as such employee, or
 - (C) is fourteen years of age or older.
2. The provisions of section 212 of this title relating to child labor shall apply to an employee below the age of sixteen employed in agriculture in an occupation that the Secretary of Labor finds and declares to be particularly hazardous for the employment of children below the age of sixteen, except where such employee is employed by his parent or by a person standing in the place of his parent on a farm owned or operated by such parent or person.
3. The provisions of section 212 of this title relating to child labor shall not apply to any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions.
5. (A) In the administration and enforcement of the child labor provisions of this chapter, employees who are 16 and 17 years of age shall be permitted to load materials into, but not operate or unload materials from, scrap paper balers and paper box compactors—
 - (i) that are safe for 16-and 17-year-old employees loading the scrap paper balers or paper box compactors; and
 - (ii) that cannot be operated while being loaded.
6. In the administration and enforcement of the child labor provisions of this chapter, employees who are under 17 years of age may not drive automobiles or trucks on public roadways.

Children and Young Persons Act 1933, United Kingdom

Section 18(1)

Subject to the provisions of this section and of any byelaws made thereunder no child shall be employed—

- (a) so long as he is under the age of fourteen years; or
- (aa) to do any work other than light work or;
- (b) before the close of school hours on any day on which he is required to attend school; or
- (c) before seven o'clock in the morning or after seven o'clock in the evening or any day; or

- (d) for more than two hours on any day on which he is required to attend school; or
- (dd) for more than twelve hours in any week in which he is required to attend school; or
- (e) for more than two hours on any Sunday; or
- (f) [omitted]
- (g) for more than eight hours or, if he is under the age of fifteen years, for more than five hours in any day—
 - (i) on which he is not required to attend school, and
 - (ii) which is not a Sunday; or
- (h) for more than thirty-five hours or, if he is under the age of fifteen years, for more than twenty-five hours in any week in which he is not required to attend school; or
- (i) for more than four hours in any day without a rest break of one hour; or
- (j) at any time in a year unless at that time he has had, or could still have, during a period in the year in which he is not required to attend school, at least two consecutive weeks without employment.

FEDERAL LEGISLATION

Constitution of Pakistan (1973)

Article 11(3)

No child below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment.

The Mines Act (1923)

Section 26

No child shall be employed in a mine, or be allowed to be present in any part of a mine, which is below ground.

Section 26A

No person who has not completed his seventeenth year shall be employed in any part of a mine.

Merchant Shipping Act (1923)

Section 37A

- (ii) “young lascar” means a lascar or other native seaman under eighteen years of age; and
- (iii) “young person” means a person under eighteen years of age, and, includes a young lascar.

Section 37D

1. Subject to the provisions of sub-section (2), no young person shall be engaged or carried to sea to work in any capacity in any ship registered in Pakistan and no young lascar shall be engaged or carried to sea to work in any capacity in any foreign ship, unless there has been delivered to the master a certificate granted by a prescribed authority that the young person is physically fit to be employed in that capacity.
2. Sub-section (1) shall not apply-----
 - (a) to the employment of a young person in a ship in which all persons employed

- are members of one family ; or
- (b) where the shipping-master, on the ground of urgency, has authorized a young person to be engaged and carried to sea, without the certificate required by subsection (1) being delivered to the master, and the young person is not employed beyond the first port at which the ship in which he is so engaged calls except in accordance with the provisions of sub-section (1).

Children (Pledging of Labour) Act (1933)

Section 2

In this Act, unless there is anything repugnant in the subject or context,- “an agreement to pledge the labour of a child” means an agreement, written or oral, express or implied, whereby the parent or guardian of a child, in return for any payment or benefit received or to be received by him, undertakes to cause or allow the services of the child to be utilised in any employment Provided that an agreement made without detriment to a child and not made in consideration of benefit other than reasonable wages to be paid for the child’s services, and terminable at not more than a week’s notice, is not an agreement within the meaning of this definition.

“child” means a person who is under the age of fifteen years.

Section 3

An agreement to pledge the labour of a child shall be void.

The Factories Act (1934)

Section 2

(a) “adolescent” means a person who has completed his fifteenth but has not completed his seventeenth year;

(c) “child” means a person who has not completed his fifteenth year;

Section 28

No child or adolescent shall work at any machine unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed

Section 50

No child who has not completed his fourteenth year shall be allowed to work in any factory.

Section 72

If a child over the age of six years is found inside any part of a factory in which children are working, he shall, until the contrary is proved, be deemed to be working in the factory

Road Transport Workers Ordinance (1961)

Section 3

1. No person, other than a driver, shall be employed in any road transport service unless he has attained the age of eighteen years.
2. No person shall be employed in any road transport service for the purpose of driving a vehicle unless he has attained the age of twenty-one years.

Tea Plantations Labour Ordinance (1962)

Section 21

No child who has not completed his twelfth year shall be required or allowed to work in any tea plantation

West Pakistan Shops and Establishments Ordinance (1969)

Section 2

- (c) “child” means a person who has not completed his fourteenth year of age;
- (y) “young person” means a person who is not a child and has not completed his seventeenth year of age.

Section 20

Prohibition of employment of children.– No child shall be required or allowed to work in any establishment.

Employment of Children Act (1991)

Section 2(iii)

“child” means a person who has not completed his fourteenth year of age

Section 3

No child shall be employed or permitted to work in any of the occupations set forth in Part I of the Schedule or in any workshop wherein any of the processes set forth in Part II of that Schedule is carried on:

Provided that nothing in this section shall apply to any establishments wherein such process is carried on by the occupier with the help of his family or to any school established, assisted or recognized by Government

Boilers and Pressure Vessels Ordinance (2002)

Section 6

Save as otherwise expressly provided in this Ordinance, no owner of a boiler shall use the boiler or permit it to be used

- (e) unless the boiler is in the charge of a person holding the Boilers Engineers Competency Certificate required by such rules and not more than sixty years old or less than twenty-five years of age.

PROVINCIAL LEGISLATION

The Factories Act (1934) (*identical to federal legislation*)

Apprenticeship Rules (1966)

Section 15

The minimum and maximum age for enrolment as an apprentice shall be 15 years and 20 years respectively.

Employment of Children Act (1991) (*identical to federal legislation*)

RECOMMENDATIONS

1. As a developing state, Pakistan adheres legally to the decreased standard of 14 years as the age of admission to general employment. However, enforcement may be improved significantly to reduce the rate of child labor in Pakistan.

2. The mandated standard minimum age for admission to hazardous or potentially harmful employment is 18 years of age. Pakistan specifies an age as low as 14 years, which does not even meet the relaxed standard of 16 years allowed by the relevant convention. Thus, the Government of Pakistan and its respective provinces should take all appropriate steps to increase the age at which a child may be admitted to hazardous or potentially harmful employment.

III. HARMFUL, HAZARDOUS & INDECENT LABOUR

INTRODUCTION

Harmful or hazardous labour is a significant portion of what may be considered the worst forms of child labour. Unregulated, harmful or hazardous labour may have lasting mental or physical side effects on children or may at its worst, result in serious harm or death. The types of labour classified in this category may include a wide range of employments from manufacturing processes that use toxic chemicals to operation of commercial boilers to assembly of flammable materials. Thousands of unprotected children are killed by the harmful or hazardous employment in which they engage each year. Any measures taken by a state to regulate the employment of children must include additional standards prohibiting or severely restricting the engagement of young persons in labour that may be considered harmful or hazardous.

INTERNATIONAL LAW & OBLIGATIONS

United Nations Convention on the Rights of the Child (ratified November 12, 1990)

Article 32

3. States Parties recognize the right of the child to be protected from economic exploitation and from performing **any work that is likely to be hazardous** or to interfere with the child's education, **or to be harmful to the child's health or physical, mental, spiritual, moral or social development.**
4. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - (b) Provide for appropriate regulation of the hours and conditions of employment;

UNCRC General comment No. 3: HIV/AIDS and the Rights of the Child

Paragraph 33

Consistent with the right of children under articles 32, 34, 35 and 36 of the Convention, and in order to decrease children's vulnerability to HIV/AIDS, States parties are obliged to protect children from all forms of economic and sexual exploitation, including ensuring they do not fall prey to prostitution networks, and that they are protected from performing any work likely to be hazardous or to interfere with their education, health or physical, mental, spiritual, moral or social development. States parties must take bold action to protect children from sexual and economic exploitation, trafficking and sale and consistent with the rights under article 39, create opportunities for those who have been subjected to such treatment to benefit from the support and caring services of the State and non-governmental entities engaged in these issues.

UNCRC General Comment No. 4: Adolescent Health and Development in the Context of the Convention on the Rights of the Child

Paragraph 14

The Committee urges States parties to take all necessary measures to abolish all forms of child labour, starting with the worst forms, to continuously review national regulations on minimum ages for employment with a view to making them compatible with international

standards, and **to regulate the working environment and conditions for adolescents who are working (in accordance with article 32 of the Convention, as well as ILO Conventions Nos. 138 and 182)**, so as to ensure that they are fully protected and have access to legal redress mechanisms.

Paragraph 35

In exercising their obligations in relation to the health and development of adolescents, States parties shall always take fully into account the four general principles of the Convention. It is the view of the Committee that States parties must take all appropriate legislative, administrative and other measures for the realization and monitoring of the rights of adolescents to health and development as recognized in the Convention. To this end, States parties must notably fulfil the following obligations:

- (e) To protect adolescents from all forms of labour which may jeopardize the enjoyment of their rights, notably by abolishing all forms of child labour and by regulating the working environment and conditions in accordance with international standards

Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182) (ratified October 11, 2001)

Article 1

Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

Article 3

For the purposes of this Convention, the expression "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 the 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.

Article 4

1. The types of work referred to under Article 3 (d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.

International Labour Organization Convention Concerning Minimum Age for Admission to Employment, No. 138 (ratified July 6, 2006)

Article 3

4. The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.
5. The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist.
6. Notwithstanding the provisions of paragraph 1 of this Article, national laws or regulations or the competent authority may, after consultation with the organisations of employers and workers concerned, where such exist, authorise employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

Article 5(3)

The provisions of the Convention shall be applicable as a minimum to the following: mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.

Night Work of Young Persons (Industry) Convention (Revised) No. 90 (ratified February 14, 1951)

Article 1

1. For the purpose of this Convention, the term *industrial undertaking* includes particularly:
 - (a) mines, quarries, and other works for the extraction of minerals from the earth;
 - (b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in shipbuilding or in the generation, transformation or transmission of electricity or motive power of any kind;
 - (c) undertakings engaged in building and civil engineering work, including constructional, repair, maintenance, alteration and demolition work;
 - (d) undertakings engaged in the transport of passengers or goods by road or rail, including the handling of goods at docks, quays, wharves, warehouses or airports.
2. The competent authority shall define the line of division, which separates industry from agriculture, commerce and other non-industrial occupations.
3. National laws or regulations may exempt from the application of this Convention employment on work which is not deemed to be harmful, prejudicial, or dangerous to young persons in family undertakings in which only parents and their children or wards are employed.

Article 3

3. Young persons under eighteen years of age shall not be employed or work during the night in any public or private industrial undertaking or in any branch thereof except as hereinafter provided for.

International Covenant on Economic, Social and Cultural Rights (ratified April 17, 2008)

Article 10(3)

Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. **Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law.** States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

INTERNATIONAL BEST PRACTICES

Recommendation concerning the prohibition and immediate action for the elimination of the worst forms of child labour No. 190 (1999)

Section 3

In determining the types of work referred to under Article 3(d) of the Convention, and in identifying where they exist, consideration should be given, inter alia, to:

- (a) work which exposes children to physical, psychological or sexual abuse;
- (b) work underground, under water, at dangerous heights or in confined spaces;
- (c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;
- (d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;
- (e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

Section 4

For the types of work referred to under Article 3(d) of the Convention and Paragraph 3 above, national laws or regulations or the competent authority could, after consultation with the workers' and employers' organizations concerned, authorize employment or work as from the age of 16 on condition that the health, safety and morals of the children concerned are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity.

Section 12

Members should provide that the following worst forms of child labour are criminal offences:

- (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; and
- (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, or for activities which involve the unlawful carrying or use of firearms or other weapons.

Child Protection Model Law: Protection of Children from Neglect, Abuse, Maltreatment and Exploitation

Article 51

1. The employment of children in dangerous occupations or the performance of hazardous processes that are likely to be harmful to the child's health and physical well-being shall be prohibited. The employment of children in areas of work likely to harm their physical, mental, emotional, or social development shall be prohibited.
2. The exposure of children to materials and fumes likely to damage their health and the handling and manufacturing of toxic or inflammable substances and explosives shall be prohibited.
3. The worst forms of child labor shall be prohibited, particularly all forms of slavery or practices similar to slavery. These include but are not limited to forced or compulsory labor, debt bondage, serfdom, the sale and trafficking of children for the purpose of economic exploitation and for the purpose of sexual exploitation.

African Charter on the Rights and Welfare of the Child

Article 15(1)

Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development.

Fair Labor Standards Act, United States

Section 203(l)

“Oppressive child labor” means a condition of employment under which

1. any employee under the age of sixteen years is employed by an employer (other than a parent or a person standing in place of a parent employing his own child or a child in his custody under the age of sixteen years in an occupation other than manufacturing or mining or an occupation found by the Secretary of Labor to be particularly hazardous for the employment of children between the ages of sixteen and eighteen years or detrimental to their health or well-being) in any occupation, or
2. any employee between the ages of sixteen and eighteen years is employed by an employer in any occupation which the Secretary of Labor shall find and by order declare to be particularly hazardous for the employment of children between such ages or detrimental to their health or well-being; but oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Secretary of Labor certifying that such person is above the oppressive child-labor age. The Secretary of Labor shall provide by regulation or by order that the employment of employees between the ages of fourteen and sixteen years in occupations other than manufacturing and mining shall not be deemed to constitute oppressive child labor if and to the extent that the Secretary of Labor determines that such employment is confined to periods which will not interfere with their schooling

and to conditions which will not interfere with their health and well-being.

Section 212(c)

No employer shall employ any oppressive child labor in commerce or in the production of goods for commerce or in any enterprise engaged in commerce or in the production of goods for commerce.

Child Labour (Prohibition and Regulation) Act 1986, India

Section 3

No child shall be employed or permitted to work in any of the occupations set forth in Part A of the Schedule or in any workshop wherein any of the processes set forth in Part B of the Schedule is carried on: Provided that nothing in this section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from, Government.

FEDERAL LAW

Constitution of Pakistan (1973)

Article 11(3)

No child below the age of Fourteen years shall be engaged in any factory or mine or any other hazardous employment.

Article 37(e)

The State shall:

- (e) make provisions 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

The Factories Act (1934)

Section 28

1. No child or adolescent shall work at any machine unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and -
 - (a) has received sufficient training in work at the machine, or
 - (b) is under adequate supervision by a person who has thorough knowledge and experience of the machine.
2. This section shall apply to such machines as may be notified by the Provincial Government to be of such a dangerous character that children or adolescents ought not to work at them unless the foregoing requirements are complied with.

Section 27(2)

No woman or child shall be allowed in any factory to clean, lubricate or adjust any part of machinery while that part is in motion, or to work between moving parts or between fixed and moving parts of any machinery which is in motion.

Section 32

No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work:

Provided that if the feed end of a cotton-opener is in a room separated from the delivery end by a partition extending to the roof or to such height as the Inspector may in any

particular case specify in writing, women and children may be employed on the side of the partition where the feed end is situated.

Section 33-F

1. No person shall be employed in any factory to lift, carry or move any load so heavy as to be likely to cause him injury.
2. The Provincial Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in carrying on any specified process.

Section 33-Q(4)

Where the Provincial Government is satisfied that any operation in a factory exposes any persons employed upon it to a serious risk of bodily injury, poisoning or disease, it may make rules applicable to any factory or class of factories in which the operation is carried on -

- (b) prohibiting or restricting the employment of women, adolescents or children upon the operation,

Hazardous Occupation Rules (1963)

Section 5

No woman, adolescent or child shall be employed in any factory in any of the operations specified in the Schedule.

Schedule

- i. Work at furnace where reduction or treatment of zinc or lead ores is carried on ;
- ii. the manipulation, treatment, or reduction of ashes containing lead, the desilvering of lead or the refining of dross containing lead ;
- iii. the manufacture of alloys containing more than ten per cent of lead ;
- iv. the manufacture of any oxide, carbonate, sulphate, chromate, acetate, nitrate, or silicate of lead ;
- v. handling or mixing of lead tetra ethyl ;
- vi. mixing or pasting in connection with the manufacture or repair of electric accumulators ;
- vii. the manufacture, assembly and repair of lead storage batteries ;
- viii. the cleaning of work-rooms where any of the processes aforesaid are carried on ;
and
- ix. every other manufacturing operation involving the use of -my lead compound or the cleaning of work-rooms where any such operation is carried on.

Employment of Children Act (1991)

Section 3

No child shall be employed or permitted to work in any of the occupations set forth in Part I of the Schedule or in any workshop wherein any of the processes set forth in Part II of that Schedule is carried on:

Provided that nothing in this section shall apply to any establishments wherein such process is carried on by the occupier with the help of his family or to any school established, assisted or recognized by Government

Schedule Part I

Any occupation connected with:

1. transport of passengers, goods or mails by railway;
2. cinder picking, cleaning of an ash pit or building operation in the railway premises;
3. work in a catering establishment at a railway station, involving the movement of a vendor or any other employee of the establishment from one platform to another or into or out of a moving train;
4. work relating to the construction of a railway station or with any other work where such work is done in close proximity to or between the railway lines;
5. a port authority within the limits of any port; and
6. work relating to selling of crackers and fire works in shops with temporary licences.

Schedule Part II

1. Bidi-making
2. Carpet-weaving
3. Cement manufacture, including bagging of cement
4. Cloth printing, dyeing and weaving
5. Manufacture of matches, explosives and fire-works
6. Mica-cutting and sploting
7. Shell as manufacture
8. Soap manufacture
9. Training
10. Wool-cleaning
11. Building and construction industry
12. Manufacture of slate pencils (including packing)
13. Manufacture of products from agate.
14. Manufacturing processes using toxic metals and substances such as lead, mercury, manganese, chromium, cadmium; benzene, pesticides and asbestos.

PROVINCIAL LAW

The Factories Act (1934) (*identical to federal legislation*)

Punjab Factories' Rules (1978)

Section 78(2)

In cases where a woman adolescent or child lifts or carries the weights by herself or himself the weight carried or lifted shall not exceed than the weight indicated in the following, table

2. Male adolescent aged over 15 and below 17 years 50 Lbs.
3. Female adolescent aged over 15 and below 17 years 40 Lbs.
4. Child aged 15 years and below 35 Lbs.

Section 81

No child shall be employed in any of the operations specified in the Schedules appended to the following rules as adopted in the Punjab:---

- i. West Pakistan Hazardous Occupations (Lead) Rules, 1963;
- ii. West Pakistan Hazardous Occupations (Miscellaneous) Rules, 1963;
- iii. West Pakistan Hazardous Occupations (Chromium) Ruffles, 1963;

- iv. West Pakistan Hazardous Occupations (Sand Blasting) Rules, 1963;
- v. West Pakistan Hazardous Occupations (Cellulose Spraying) Rules, 1963;
- vi. West Pakistan Hazardous Occupations (Sodium and Potassium Bichromate) Rules, 1963.
- vii. West Pakistan Hazardous Occupations (Petrol Gas Generating Plant) Rules, 1963.

Employment of Children Act (1991) (*identical to federal legislation*)

RECOMMENDATIONS

1. The Government of Pakistan may take steps to increase the age specified in the Constitution at which an individual may engage in employment in a factory or other hazardous locations in line with international law standards
2. The governments of the respective provinces may consider reviewing and revising the list of employments which qualify as harmful or hazardous
3. Normative standards across the Federal and Provincial Governments may be adopted to further raise the threshold for child labour standards pursuant to preventing engagement of children in labour that may be considered harmful or hazardous

IV. PREVENTION OF EXPLOITATION

INTRODUCTION

Exploitation developed into a key concept evoked in incidents related to the taking advantage of vulnerable groups for purposes that include sexual gratification or financial gain. Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime suggests that exploitation is inclusive of “the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.” Though not a definitive list, this sampling demonstrates the nature of activities in which exploitation may occur. In the context of child labour, this exploitation is aggravated as it involves, vulnerable children, most likely from disadvantaged socioeconomic backgrounds.

SLAVERY & RELATED PRACTICES

INTERNATIONAL LAW AND OBLIGATIONS

International Convention on Civil And Political Rights (June 23, 2010)

Article 8(1)

No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst forms of Child Labour (No. 182) (ratified November 12, 1990)

Article 3

For the purposes of this Convention, the expression "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 the use in armed conflict

ICCPR General comment No. 24: Issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant

Paragraph 8

Accordingly, a State may not reserve the right to engage in slavery, to torture, to subject persons to cruel, inhuman or degrading treatment or punishment, to arbitrarily deprive persons of their lives

INTERNATIONAL BEST PRACTICES

Child Protection Model Law: Protection of Children from Neglect, Abuse, Maltreatment and Exploitation.

Article 2

For the purpose of this Law –

- (d) Exploitation shall mean –

(iii) Other forms of exploitation, including all forms of **slavery or practices similar to slavery**, debt bondage or servitude

18 US. Code: Sale into Involuntary Servitude, United States
Section 1584

- (a) Whoever knowingly and willfully holds to involuntary servitude or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.
- (b) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be subject to the penalties described in subsection (a).

Human Rights Act 1998, United Kingdom
Article 4(1)

No one shall be held in slavery or servitude.

FEDERAL LAW

Constitution of Pakistan (1973)

Article 11(1)

Slavery is non-existent and forbidden and no law shall permit or facilitate its introduction into Pakistan in any form.

Pakistan Penal Code (1860)

Section 371

Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves. Shall be punished with imprisonment for life, or with imprisonment of either description for a term not exceeding ten years, shall also be liable to fine.

RECOMMENDATIONS

SALE & TRAFFICKING OF CHILDREN

INTERNATIONAL LAW AND OBLIGATIONS

United Nations Convention on the Rights of the Child (ratified November 12, 1990)

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (ratified July 5, 2011)

Article 1

States Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol.

Article 2(a)

Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration

Article 3

1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether these offences are committed domestically or transnationally or on an individual or organized basis:

(a) In the context of sale of children as defined in Article 2:

(i) The offering, delivering or accepting, by whatever means, a child for the purpose of:

- a. Sexual exploitation of the child;
- b. Transfer of organs of the child for profit;
- c. Engagement of the child in forced labour;

(ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption.

Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst forms of Child Labour (No. 182) (ratified November 12, 1990)

Article 3

For the purposes of this Convention, the expression "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 the use in armed conflict.

ICCPR General Comment No. 28: Article 3 (The equality of rights between men and women)

Paragraph 12

Having regard to their obligations under article 8, States parties should inform the Committee of measures taken to eliminate trafficking of women and children, within the country or across borders, and forced prostitution. They must also provide information on measures taken to protect women and children, including foreign women and children, from slavery, disguised, inter alia, as domestic or other kinds of personal service. States parties where women and children are recruited, and from which they are taken, and States parties where they are received should provide information on measures, national or international, which have been taken in order to prevent the violation of women's and children's rights.

INTERNATIONAL BEST PRACTICES

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,
Supplementing the United Nations Convention against Transnational Organized Crime

Article 2

The purposes of this Protocol are:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children

Article 3

For the purposes of this Protocol:

- (a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons”

African Charter on the Rights and Welfare of the Child

Article 29

States Parties to the present Charter shall take appropriate measures to prevent:

- (a) the abduction, the sale of, or traffic of children for any purpose or in any form, by any person including parents or legal guardians of the child;
- (b) the use of children in all forms of begging.

Child Protection Model Law: Protection of Children from Neglect, Abuse, Maltreatment and Exploitation.

Article 2

For the purposes of this law

(d) Exploitation shall mean –

- (i) Sexual exploitation, including commercial sexual exploitation of children in the form of child prostitution, child sex tourism, child pornography, and **child trafficking** for these purposes

Criminal Code, 1998 (as amended in July 2009), Germany

Section 236

- (1) Whosoever in gross neglect of his duties of care and education leaves his child, ward or foster child under eighteen years of age with another for an indefinite period for material gain or with the intent of enriching himself or a third person shall be liable to imprisonment of not more than five years or a fine. Whosoever in cases under the 1st sentence above takes the child, ward or foster child into his home for an indefinite period and awards compensation for it shall incur the same penalty.

(2) Whosoever unlawfully

- 1. procures the adoption of a person under eighteen years of age; or
- 2. engages in procurement activity with the aim of a third person taking a person

under eighteen years of age into his home for an indefinite period, and acts for consideration or with the intent of enriching himself or a third person shall be liable to imprisonment of not more than three years or a fine. Whosoever, as an agent for the adoption of a person under eighteen years of age, grants a financial reward to a person in exchange for the required consent to the adoption shall incur the same penalty. If the offender in cases under the 1st sentence above causes the procured person to be brought into Germany or abroad the penalty shall be imprisonment of not more than five years or a fine.

(3) The attempt shall be punishable.

(4) The penalty shall be imprisonment from six months to ten years if the offender

1. seeks profit or acts on a commercial basis or as a member of a gang whose purpose is the continued commission of child trafficking or
2. by the act places the child or the procured person in danger of a substantial impairment of his physical or mental development.

Child Care and Protection Act 2004, Jamaica

Section 10

1. No person shall sell or participate in the trafficking of any child.
2. Any person who commits an offence under of subsection (1) shall be liable on conviction or indictment before a Circuit Court, to a fine or to imprisonment with hard labour for a term not exceeding ten years, or to both such fine and imprisonment.

FEDERAL LAW

Constitution of Pakistan (1973)

Article 11(2)

All forms of forced labour and traffic in human beings are prohibited.

Prevention and Control of Human Trafficking Ordinance (2002)

Section 3(iii)

Whoever knowingly purchases, sells, harbours, transports, provides, detains or obtains a child or a woman through coercion, kidnapping or abduction, or by giving or receiving any benefit for trafficking him or her into or out of Pakistan or with intention thereof, for the purpose of exploitative entertainment by any person and has received or expects to receive some benefit in lieu thereof shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine.

RECOMMENDATIONS

1. The Government of Pakistan, Federal and Provincial, must take all effective measures to prevent the sale and trafficking of children on or through its territory
2. The legal framework and institutions governing the criminalization of such practices requires significant development to remain in line with international law standards
3. Domestic organized crime that contributes to the practice and proliferation of the sale or trafficking of children must also be curbed through measures taken at both the Federal and Provincial Government level

DEBT BONDAGE

INTERNATIONAL LAW AND OBLIGATIONS

Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst forms of Child Labour (No. 182) (ratified November 12, 1990)

Article 3

For the purposes of this Convention, the expression "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 the use in armed conflict

INTERNATIONAL BEST PRACTICES

Child Protection Model Law: Protection of Children from Neglect, Abuse, Maltreatment and Exploitation.

Article 2(2)

For the purposes of this law

- (d) Exploitation shall mean –
 - (iii) Other forms of exploitation, including all forms of slavery or practices similar to slavery, **debt bondage** or servitude

Children's Act, South Africa

Section 1(1)

"exploitation", in relation to a child, includes

- (a) all forms of slavery or practices similar to slavery, including **debt bondage** or forced marriage;

FEDERAL LAW

Bonded Labour System (Abolition) Act (1992)

Article 2(b)

"bonded debt" means an advance (peshgi) obtained, or presumed to have been obtained, by a bonded labourer under, or in pursuance of, the bonded labour system.

Article 6

1. On the commencement of this Act, every obligation of a bonded labourer to repay any bonded debt, or such part of any bonded debt as remains unsatisfied immediately before such commencement, shall stand extinguished.
2. After the commencement of this Act, no suit or other proceeding shall lie in any civil court, tribunal or before any other authority for the recovery of any bonded debt or any part thereof.

RECOMMENDATIONS

1. The respective governments of Pakistan shall take necessary measures to eradicate debt bondage in practice, not just in law.

FORCED & COMPULSORY LABOUR

INTERNATIONAL LAW AND OBLIGATIONS

Forced Labour Convention 1930 (No. 29) (ratified December 23, 1957)

Article 1(1)

Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.

Article 2(1)

For the purposes of this Convention the term **forced or compulsory labour** shall mean 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.

Article 4

1. The competent authority shall not impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies or associations.
2. Where such forced or compulsory labour for the benefit of private individuals, companies or associations exists at the date on which a Member's ratification of this Convention is registered by the Director-General of the International Labour Office, the Member shall completely suppress such forced or compulsory labour from the date on which this Convention comes into force for that Member.

Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst forms of Child Labour (No. 182) (ratified November 12, 1990)

Article 3

For the purposes of this Convention, the expression "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 the use in armed conflict.

INTERNATIONAL BEST PRACTICES

African Charter on the Rights and Welfare of the Child

Article 15

1. Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development.
2. States Parties to the present Charter take all appropriate legislative and administrative measures to ensure the full implementation of this Article which covers both the formal and informal sectors of employment and having regard to the relevant provisions of the International Labour Organization's instruments relating to children, States Parties shall in particular:

- (a) provide through legislation, minimum wages for admission to every employment;
- (b) provide for appropriate regulation of hours and conditions of employment;
- (c) provide for appropriate penalties or other sanctions to ensure the effective enforcement of this Article;
- (c) promote the dissemination of information on the hazards of child labour to all sectors of the community.

Child Protection Model Law: Protection of Children from Neglect, Abuse, Maltreatment and Exploitation.

Article 2(2)

For the purposes of this law

- (d) Exploitation shall mean –
 - (ii) Economic exploitation, including the worst forms of child labor, child begging, children’s work and child domestic work not in accordance with the regulations of this Law.

Fair Labor Standards Act, United States

Section 203(1)

“Oppressive child labor” means a condition of employment under which:

- (1) any employee under the age of sixteen years is employed by an employer (other than a parent or a person standing in place of a parent employing his own child or a child in his custody under the age of sixteen years in an occupation other than manufacturing or mining or an occupation found by the Secretary of Labor to be particularly hazardous for the employment of children between the ages of sixteen and eighteen years or detrimental to their health or well-being) in any occupation, or
- (2) any employee between the ages of sixteen and eighteen years is employed by an employer in any occupation which the Secretary of Labor shall find and by order declare to be particularly hazardous for the employment of children between such ages or detrimental to their health or well-being; but oppressive child labor shall not be deemed to exist by virtue of the employment in any occupation of any person with respect to whom the employer shall have on file an unexpired certificate issued and held pursuant to regulations of the Secretary of Labor certifying that such person is above the oppressive child-labor age.

Human Rights Act 1998, United Kingdom

Article 4(3)

No one shall be required to perform forced or compulsory labour

Act No. 13 of 2003, Indonesia

Article 74(1)

Anyone shall be prohibited from employing and involving children in the worst forms of child labour.

FEDERAL LAW

Children (Pledging of Labour) Act (1933)

Article 4

Whoever, being the parent or guardian of a child, makes an agreement to pledge the labour of that child, shall be punished with fine which may extend to fifty rupees.

RECOMMENDATIONS

1. Pakistan shall take effective steps to establish laws preventing and penalizing all forms of forced or compulsory labour
2. Children are particularly vulnerable to fall victim to such practices and pursuant to the Constitution, additional special measures shall be legislated to enhance the protective regime criminalizing the pledging of children as labourers

CHILD PROSTITUTION

INTERNATIONAL LAW AND OBLIGATIONS

United Nations Convention on the Rights of the Child (ratified November 12, 1990)

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse.

For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices

Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Prostitution (ratified July 5, 2011)

Article 1

States Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol.

Article 2(b)

Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration

Article 3(b)

Offering, obtaining, procuring or providing a child for child prostitution, as defined in Article 2

Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst forms of Child Labour (No. 182) (ratified November 12, 1990)

Article 3

For the purposes of this Convention, the expression "the worst forms of child labour" Comprises:

- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances

General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child

Paragraph 33

Adolescents who are sexually exploited, including in **prostitution** and pornography, are exposed to significant health risks, including STDs, HIV/AIDS, unwanted pregnancies, unsafe abortions, violence and psychological distress. They have the right to physical and psychological recovery and social reintegration in an environment that fosters health, self-respect and dignity (art. 39). It is the obligation of States parties to enact and enforce laws to prohibit all forms of sexual exploitation and related trafficking; to collaborate with other States parties to eliminate intercountry trafficking; and to provide appropriate health and counselling services to adolescents who have been sexually exploited, making sure that they are treated as victims and not as offenders.

INTERNATIONAL BEST PRACTICES

Child Protection Model Law: Protection of Children from Neglect, Abuse, Maltreatment and Exploitation

Article 2(2)

For the purposes of this law

(d) Exploitation shall mean –

- (i) Sexual exploitation, including commercial sexual exploitation of children in the form of **child prostitution**, child sex tourism, child pornography, and child trafficking for these purposes

18 U.S. Code: Sexual Exploitation and other Abuse of Children, United States

Section. 2251

- (a) Any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, or who transports any minor in or affecting interstate or foreign commerce, or in any Territory or Possession of the United States, with the intent that such minor engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such conduct or for the purpose of transmitting a live visual depiction of such conduct, shall be punished as provided under subsection (e), if such person knows or has reason to know that such visual depiction will be transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce or mailed, if that visual depiction was produced or transmitted using materials that have been mailed, shipped, or transported in or affecting interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce or mailed.
- (b) Any parent, legal guardian, or person having custody or control of a minor who knowingly permits such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of producing any visual depiction of such

conduct or for the purpose of transmitting a live visual depiction of such conduct shall be punished as provided under subsection (e) of this section, if such parent, legal guardian, or person knows or has reason to know that such visual depiction will be transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce or mailed, if that visual depiction was produced or transmitted using materials that have been mailed, shipped, or transported in or affecting interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported or transmitted using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce or mailed.

Sexual Offences Act 2003, United Kingdom

Section 47(1)

A person (A) commits an offence if—

- (a) he intentionally obtains for himself the sexual services of another person (B),
- (b) before obtaining those services, he has made or promised payment for those services to B or a third person, or knows that another person has made or promised such a payment, and
- (c) either—
 - i. B is under 18, and A does not reasonably believe that B is 18 or over, or
 - ii. B is under 13.

Section. 48

(1) A person (A) commits an offence if—

- (a) he intentionally causes or incites another person (B) to become a **prostitute**, or to be involved in pornography, in any part of the world, and;
- (b) either—
 - (i) B is under 18, and A does not reasonably believe that B is 18 or over, or
 - (ii) B is under 13.

(2) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.

Section. 49

(1) A person (A) commits an offence if—

- (a) he intentionally controls any of the activities of another person (B) relating to B's **prostitution** or involvement in pornography in any part of the world, and
- (b) either—
 - (i) B is under 18, and A does not reasonably believe that B is 18 or over, or
 - (ii) B is under 13

(2) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.

FEDERAL LAW

The Offence of Zina (Enforcement of Hudood) Ordinance (1979)

Section 13

Whoever sells, lets to hire, or otherwise disposes of any person with intent that such person shall at any time be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any time be employed or used for any such purpose, shall be punished with imprisonment for life and with whipping not exceeding thirty stripes, and shall also be liable to fine.

Explanations:

- (a) When a female is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.
- (b) For the purposes of this section and section 14 "illicit intercourse" means sexual inter-course between persons not united by marriage

Section 14

Whoever buys, hires or otherwise obtains possession of any person with intent that such person shall at any time be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any time be employed or used for any such purpose, shall be punished with imprisonment for life and with whipping not exceeding thirty stripes, and shall also be liable to fine.

Explanation: Any prostitute or any person keeping or managing a brothel, who buys, hires or otherwise obtains possession of a female shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.

RECOMMENDATIONS

1. Pakistan shall take effective steps to establish laws preventing and penalizing all forms of prostitution, especially the use of children in prostitution
2. Children are particularly vulnerable to fall victim to such practices and pursuant to the Constitution, additional special measures shall be legislated to enhance the protective regime criminalizing the use of children in prostitution

CHILD PORNOGRAPHY

INTERNATIONAL LAW AND OBLIGATIONS

The United Nations Convention on the Rights of the Child (ratified November 12, 1990)

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (c) The exploitative use of children in pornographic performances and materials.

Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (ratified July 5, 2011)

Article 1

States Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol.

Article 2(c)

Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

Article 3(c)

Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in Article 2

INTERNATIONAL BEST PRACTICES

Child Protection Model Law: Protection of Children from Neglect, Abuse, Maltreatment and Exploitation

Article 2(2)

(d) Exploitation shall mean –

- (i) Sexual exploitation, including commercial sexual exploitation of children in the form of child prostitution, child sex tourism, **child pornography**, and child trafficking for these purposes;

18 U.S. Code: Sexual Exploitation and other Abuse of Children, United States

Section 2252A

(a) Any person who—

- (1) knowingly mails, or transports or ships using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer, any child pornography;
- (2) knowingly receives or distributes—
 - (A) any child pornography that has been mailed, or using any means or facility of interstate or foreign commerce shipped or transported in or affecting interstate or foreign commerce by any means, including by computer; or
 - (B) any material that contains child pornography that has been mailed, or using any means or facility of interstate or foreign commerce shipped or transported in or affecting interstate or foreign commerce by any means, including by computer;
- (3) knowingly—
 - (A) reproduces any child pornography for distribution through the mails, or using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer; or

- (B) advertises, promotes, presents, distributes, or solicits through the mails, or using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer, any material or purported material in a manner that reflects the belief, or that is intended to cause another to believe, that the material or purported material is, or contains—
 - (i) an obscene visual depiction of a minor engaging in sexually explicit conduct; or
 - (ii) a visual depiction of an actual minor engaging in sexually explicit conduct;
- (4) either—
 - (A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the United States Government, or in the Indian country (as defined in section 1151), knowingly sells or possesses with the intent to sell any child pornography; or
 - (B) knowingly sells or possesses with the intent to sell any child pornography that has been mailed, or shipped or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported in or affecting interstate or foreign commerce by any means, including by computer;
- (5) either—
 - (A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the United States Government, or in the Indian country (as defined in section 1151), knowingly possesses, or knowingly accesses with intent to view, any book, magazine, periodical, film, videotape, computer disk, or any other material that contains an image of child pornography; or
 - (B) knowingly possesses, or knowingly accesses with intent to view, any book, magazine, periodical, film, videotape, computer disk, or any other material that contains an image of child pornography that has been mailed, or shipped or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer, or that was produced using materials that have been mailed, or shipped or transported in or affecting interstate or foreign commerce by any means, including by computer;
- (6) knowingly distributes, offers, sends, or provides to a minor any visual depiction, including any photograph, film, video, picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means, where such visual depiction is, or appears to be, of a minor engaging in sexually explicit conduct—

- (A) that has been mailed, shipped, or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer;
 - (B) that was produced using materials that have been mailed, shipped, or transported in or affecting interstate or foreign commerce by any means, including by computer; or
 - (C) which distribution, offer, sending, or provision is accomplished using the mails or any means or facility of interstate or foreign commerce, for purposes of inducing or persuading a minor to participate in any activity that is illegal; or
- (7) knowingly produces with intent to distribute, or distributes, by any means, including a computer, in or affecting interstate or foreign commerce, child pornography that is an adapted or modified depiction of an identifiable minor. shall be punished as provided in subsection (b).

Sexual Offences Act 2003, United Kingdom
Section 47

A person (A) commits an offence if—

- (a) he intentionally obtains for himself the sexual services of another person (B),
- (b) before obtaining those services, he has made or promised payment for those services to B or a third person, or knows that another person has made or promised such a payment, and
- (c) either—
 - (i) B is under 18, and A does not reasonably believe that B is 18 or over,
 - or
 - (ii) B is under 13.

Section. 48

(1) A person (A) commits an offence if—

- (a) he intentionally causes or incites another person (B) to become a prostitute, or to be involved in **pornography**, in any part of the world, and
- (b) either—
 - (i) B is under 18, and A does not reasonably believe that B is 18 or over,
 - or
 - (ii) B is under 13.

(2) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.

Section. 49

(1) A person (A) commits an offence if—

- (a) he intentionally controls any of the activities of another person (B) relating to B's prostitution or involvement in **pornography** in any part of the world, and
- (b) either—
 - (i) B is under 18, and A does not reasonably believe that B is 18 or over,
 - or
 - (ii) B is under 13.

- (2) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 14 years.

Khyber Pakhtunkhwa Child Protection and Welfare Act (2010)

Section 2(f)

“child pornography” means taking, permits to be taken, with or without the consent of the child, any photograph, film, video, picture or representation, portrait, or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of obscene or sexually explicit conduct, where-

- (i) the production of such visual depiction involves the use of a minor engaging in obscene or sexually explicit conduct; or
- (iii) such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaged in obscene or sexually explicit conduct; or
- (iv) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in obscene or sexually explicit conduct, preparation, possession or distribution of any data stored on a computer disk or any other modern gadget

Section 48

Whoever commits an offence of child pornography shall be punished with rigorous imprisonment of either description for a term, which may not be less than three years and may extend to seven years and also liable to fine which may not be less than two hundred thousand rupees and may extend to five hundred thousand rupees.

RECOMMENDATIONS

1. The laws regarding child pornography in Punjab and throughout the provinces must be developed significantly to address this rapidly developing problem
2. Significant steps must be taken, including cooperation with other states, in order to address the production and distribution of child pornography, domestically and through cyber law

V. AGE IDENTIFICATION, RECORD-KEEPING & REPORTING

INTRODUCTION

Prohibition and penalization of child labour is ineffective without appropriate measures to regulate the employment of younger people in establishments susceptible to such practices. To protect children as well as employers from liability, it is important that labour laws include procedures to both verify the ages of younger employees and to track their progress as per any special measures designed for their protection.

INTERNATIONAL LAW & OBLIGATIONS

United Nations Convention on the Rights of the Child (ratified November 12, 1990)

Article 32(2)

States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article.

UNCRC General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child

Paragraph 14

The Committee urges States parties to take all necessary measures to abolish all forms of child labour, starting with the worst forms, to continuously review national regulations on minimum ages for employment with a view to making them compatible with international standards, **and to regulate the working environment and conditions for adolescents who are working** (in accordance with article 32 of the Convention, as well as ILO Conventions Nos. 138 and 182), so as to ensure that they are fully protected and have access to legal redress mechanisms.

Paragraph 35

In exercising their obligations in relation to the health and development of adolescents, States parties shall always take fully into account the four general principles of the Convention. It is the view of the Committee that States parties must take all appropriate legislative, administrative and other measures for the realization and monitoring of the rights of adolescents to health and development as recognized in the Convention. To this end, States parties must notably fulfil the following obligations:

- (e) To protect adolescents from all forms of labour which may jeopardize the enjoyment of their rights, notably by abolishing all forms of child labour and **by regulating the working environment and conditions in accordance with international standards**

Convention Concerning the Night Work of Young Persons Employed in Industry

Convention (No. 90) (ratified February 14, 1951)

Article 6(1)

The laws or regulations giving effect to the provisions of this Convention shall:

- (e) require every employer in a public or private industrial undertaking to keep a register, or to keep available official records, showing the names and dates of

birth of all persons under eighteen years of age employed by him and such other pertinent information as may be required by the competent authority.

International Labour Organization Convention Concerning Minimum Age for Admission to Employment (No. 138) (ratified July 6, 2006)

Article 9

1. All necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.
3. National laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom he employs or who work for him and who are less than 18 years of age.

INTERNATIONAL BEST PRACTICES

Recommendation concerning Minimum Age for Admission to Employment No. 146 (1973)

Section 16

The following measures should be taken to facilitate the verification of ages:

- (a) the public authorities should maintain an effective system of birth registration, which should include the issue of birth certificates;
- (b) employers should be required to keep and to make available to the competent authority registers or other documents indicating the names and ages or dates of birth, duly certified wherever possible, not only of children and young persons employed by them but also of those receiving vocational orientation or training in their undertakings;
- (c) children and young persons working in the streets, in outside stalls, in public places, in itinerant occupations or in other circumstances which make the checking of employers' records impracticable should be issued licences or other documents indicating their eligibility for such work.

Recommendation concerning the prohibition and immediate action for the elimination of the worst forms of child labour No. 190 (1999)

Section 8

Members should establish or designate appropriate national mechanisms to monitor the implementation of national provisions for the prohibition and elimination of the worst forms of child labour, after consultation with employers' and workers' organizations.

Child Protection Model Law: Protection of Children from Neglect, Abuse, Maltreatment and Exploitation

Article 52(2)

The employer shall be required to maintain a register identifying all child employees, their date of birth, job description and periods of work to be provided to the CPCs for monitoring purposes.

Child Labour (Prohibition and Regulation) Act 1986, India

Section 9

1. Every occupier in relation to an establishment in which a child was employed or permitted to work immediately before the date of commencement of this Act in relation to such establishment shall, within a period of thirty days from such commencement, send to the Inspector within whose local limits the establishment is situated, a written notice containing the following particulars, namely:-
 - (a) the name and situation of the establishment;
 - (b) the name of the person in actual management of the establishment;
 - (c) the address to which communications relating to the establishment should be sent; and
 - (d) the nature of the occupation or process carried on in the establishment.
2. Every occupier, in relation to an establishment, who employs, or permits to work, any child after the date of commencement of this Act in relation to such establishment, shall, within a period of thirty days from the date of such employment, send to the Inspector within whose local limits the establishment is situated, a written notice containing the particulars as are mentioned in sub-section (1).

Explanation.- For the purposes of sub-sections (1) and (2), "date of commencement of this Act, in relation to an establishment" means the date of bringing into force of this Act in relation to such establishment.

3. Nothing in sections 7, 8 and 9 shall apply to any establishment wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from, Government.

Section 10

If any question arises between an Inspector and an occupier as to the age of any child who is employed or is permitted to work by him in an establishment, the question shall, in the absence of a certificate as to the age of such child granted by the prescribed medical authority, be referred by the Inspector for decision to the prescribed medical authority.

Section 11

There shall be maintained by every occupier in respect of children employed or permitted to work in any establishment, a register to be available for inspection by an Inspector at all times during working hours or when work is being carried on in any such establishment, showing-

- (a) the name and date of birth of every child so employed or permitted to work;
- (b) hours and periods of work of any such child and the intervals of rest to which he is entitled;
- (c) the nature of work of any such child; and
- (d) such other particulars as may be prescribed.

FEDERAL LAW

The Mines Act (1923)

Section 26A

No person who has not completed his seventeenth year shall be employed in any part of a mine unless

- (a) a certificate of fitness in the prescribed form and granted to him by a qualified

medical practitioner is in the custody of the manager of the mine, and
(b) he carries while at work a token giving a reference to such certificate.

Section 27

1. If any question arises between the Chief Inspector or the Inspector and the manager of any mine as to whether any person is a child or has not completed his seventeenth year, the question shall, in the absence of a certificate as to the age of such person granted in the prescribed manner be referred by the Chief Inspector or the Inspector for decision to a qualified medical practitioner.
2. Every certificate as to the age of a person which has been granted in the prescribed manner and any certificate granted by a qualified medical practitioner on a reference under sub-section (1) shall, for the purposes of this Act, be conclusive evidence as to the age of the person to whom it relates.

Section 28

1. For every mine there shall be kept in the prescribed form and place a register of all persons employed in the mine showing in respect of each such person
 - (a) name, date of birth and the nature of his employment

Merchant Shipping Act (1923)

Section 37D

1. Subject to the provisions of sub-section (2), no young person shall be engaged or carried to sea to work in any capacity in any ship registered in Pakistan and no young lascar shall be engaged or carried to sea to work in any capacity in any foreign ship, unless there has been delivered to the master a certificate granted by a prescribed authority that the young person is physically fit to be employed in that capacity.
3. A certificate of physical fitness required under this section shall remain in force for one year only from the date on which it is granted.

Section 37E

There shall be included in every agreement with the crew of every ship registered in Pakistan and every foreign ship, which engages young persons in Pakistan, a list of young persons who are members of the crew, together with particulars of the dates their birth and in the cases of any such ship where there is no agreement, the master shall keep a register of young persons with particulars of the dates of their birth and of the dates on which they became or ceased to be members of the crew.

The Factories Act (1934)

Section 51

No child who has completed his fourteenth year and no adolescent shall be allowed to work in any factory unless -

- (a) a certificate of fitness granted to him under section 52 is in the custody of the manager of the factory, and
- (b) he carries while he is at work a token giving a reference to such certificate.

Section 52

1. A certifying surgeon shall, on the application of any child or adolescent who wishes to work in a factory, or, of the parent or guardian of such person, or of the factory in which such person wishes to work, examine such person and ascertain his fitness for such work.

2. The certifying surgeon after examination, may grant to such person, in the prescribed form -
 - (a) a certificate of fitness to work in a factory as a child if he is satisfied that such person has completed his fourteenth year, that he has attained the prescribed physical standards (if any), and that he is fit for such work; or
 - (b) a certificate of fitness to work in a factory as an adult if he is satisfied that such person has completed his fifteenth year and is fit for full day's work in a factory.
3. A certifying surgeon may revoke any certificate granted under sub-section (2) if, in his opinion, the holder of it is no longer fit to work in the capacity stated therein in a factory.
4. Where a certifying surgeon or a practitioner authorised under sub-section (2) of section 12 refuses to grant a certificate or a certificate of the kind requested, or revokes a certificate, he shall, if so requested by any person who could have applied for the certificate state his reasons in writing for so doing.

Section 53

1. An adolescent who has been granted a certificate of fitness to work in a factory as an adult, under clause (b) of sub-section (2) of section 52, and who, while at work in a factory, carries a token giving reference to the certificate, shall be deemed to be an adult for all the purposes of Chapter IV.
2. An adolescent who has not been granted a certificate of fitness to work in a factory as an adult under sub-section (2) of section 52, shall, notwithstanding his age, be deemed to be a child for the purposes of this Act.

Section 56

1. The manager of every factory in which children are employed shall maintain a Register of Child Workers showing -
 - (a) the name and age of each child worker in the factory,
 - (b) the nature of his work,
 - (c) the group, if any, in which he is included,
 - (d) where his group works on shifts, the relay to which he is allotted.
 - (e) the number of his certificate of fitness granted under section 52, and
 - (f) such other particulars as may be prescribed.
2. The Provincial Government may make rules prescribing the form of the Register of Child Workers, the manner in which it shall be maintained and the period for which it shall be preserved.

Section 58

Where an Inspector is of opinion:

- (a) that any person working in a factory without a certificate of fitness is a child or an adolescent, or
- (b) that a child or adolescent working in a factory with a certificate is no longer fit to work in the capacity stated therein,

he may serve on the manager of the factory a notice requiring that such person, or that such child or adolescent, as the case may be, shall be examined by a certifying surgeon or by a practitioner authorized under sub-section (2) of section 12, and such person, child or adolescent shall not if the Inspector so directs, be allowed to work in any factory until he has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be.

Section 73

1. When an act or omission would, if a person were under or over a certain age, be an

offence punishable under this Act, and such person is in the opinion of Court apparently under or over such age, the burden shall be on the accused to prove that such person is not under or over such age.

2. A declaration in writing by a certifying surgeon relating to a worker that he has personally examined him and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of that worker.

Tea Plantations Labour Ordinance (1962)

Section 23

No child who has completed his twelfth year and no adolescent shall be required or allowed to work in any tea plantation unless

- (a) a certificate of fitness granted with reference to him under section 24 is in the custody of the employer ; and
- (b) such child or adolescent carries with him while he is at work a token giving a reference to such certificate.

Section 24

2. A certifying surgeon shall, on the application of any young person or his parent or guardian accompanied by a document signed by the employer or any other person on his behalf that such person will be employed in the tea plantation if certified to be fit for work, or on the application of the employer or any other person on his behalf with reference to any young person intending to work in the tea plantation, examine such person, and ascertain his fitness for work as a child or an adolescent.
3. A certificate of fitness granted under this section shall be valid for a period of twelve months from the date thereof, but may be renewed.
4. Any fee payable for a certificate under this section shall be paid by the employer and shall not be recoverable from the young person, his parents or guardian.

Section 25

An inspector may, if he thinks necessary so to do, cause any young person employed in a tea plantation to be examined by a certifying surgeon.

Employment of Children Act (1991)

Section 9

1. Every occupier in relation to an establishment in which a child was employed or permitted to work immediately before the date of commencement of this Act in relation to such establishment shall, within a period of thirty days from such commencement, send to the Inspector within whose local limits the establishment is situated, a written notice containing the following particulars, namely:
 - (a) the name location and address of the establishment;
 - (b) the name of the person in actual management of the establishment;
 - (c) the address to which communications relating to the establishment should be sent; and
 - (d) the nature of the occupation or process carried on in the establishment.
2. Every occupier, in relation to an establishment, which employs, or permits to work, any child after the date of commencement of this Act in relation to such establishment, shall, within a period of thirty days from the date of such employment send to the

Inspector within whose local limits the establishment is situated, a written notice containing the particulars mentioned in sub-section (1).

3. Nothing in sections 7, 8 and 9 shall apply to any establishment wherein any process is carried on by the occupier with the aid of his family or to any school established, assisted or recognized by Government.

Section 10

If any question arises between an Inspector and an occupier as to the age of any child who is employed or is permitted to work by him in an establishment, the question shall, in the absence of a certificate as to the age of such child granted by the prescribed medical authority, be referred by the Inspector for decision to the prescribed medical authority.

Section 11

There shall be maintained by every occupier in respect of children employed or permitted to work in any establishment, a register to be available for inspection by an Inspector at all times during working hours showing:

- (a) the name and date of birth of every child so employed or permitted to work;
- (b) hours and periods of work of any such child and the intervals of rest to which he is entitled;
- (c) the nature of work of any such child; and
- (d) such other particulars as may be prescribed.

Employment of Children Rules (1995)

Rule 5

1. The register to be maintained under Section 11 shall be in Form 'D'.
2. The register shall be preserved for three years from the date of commencement of work.
3. The register prescribed under this rule shall always be available, and if it is not produced on demand made by the Inspector, the occupier of the establishment shall be responsible for its non-production, whether he was present in the establishment at the time of demand or not.

PROVINCIAL LAW

The Factories Act (1934) (*identical to federal legislation*)

Punjab Employment of Children (Workshop) Rules (1939)

Section 3

An Inspector appointed by the Provincial Government may enter any workshop wherein persons are employed in any of the process set forth in the Schedule to the Act, or any premises which he may suspect to be a workshop and may take on the spot or otherwise, such evidence of any person and exercise such other powers of inspection as he may deem necessary for carrying out the purposes of the Act.

Section 4

Any medical practitioner registered under the Medical Act, 1858, or under any Act of any Legislature in Pakistan providing for the maintenance of a register of medical practitioners, may grant certificate of age in respect of young persons in employment or seeking employment in a workshop.

Section 5

A certificate of age granted under rule 4 shall be in the form appended to these rules.

Apprenticeship Rules (1966)

Section 18

1. The employer and the apprentice shall on the eve of the apprentice's recruitment, enter into a written contract to be known as the "Apprenticeship Contract" on the prescribed form given in Appendix "I".
2. In case of apprentice being a minor, the contract shall be signed by the parent/guardian as well as by such minor apprentice.
3. The contract shall be prepared in triplicate and submitted to the competent authority for registration and after endorsement of registration on all three copies the original shall be sent to the apprentice, a copy sent to the employer and a copy retained by the competent authority.

Punjab Factories' Rules (1978)

Section 10

1. A certifying surgeon or a medical practitioner authorised under section 12 to exercise the powers of a Certifying Surgeon may charge a fee of Rs. 5 per person and shall,
 - i. examine any child or adolescent desirous of being employed in a factory;
 - ii. (ii) examine any child or person in respect of whom a notice has been served upon the manager and who is desirous of being reemployed;
 - iii. (iii) On the request of an Inspector, examine any person produced before him and issue a certificate regarding the age and the fitness or otherwise of such child, adolescent or other person to work in a factory.
2. A certifying surgeon or medical practitioner authorized as aforesaid shall fix such place and such time at he may deem convenient for the attendance of persona desiring to obtain certificates of age and physical fitness and shall give notice of such place and time to the managers of factories for which be Is appointed.

Section 14

1. The certifying surgeon shall ordinarily visit every factory within local limits for which he is appointed In which children or adolescents are known to be employed at least once in six months and may give previous notice of big visit to the manager of the factory Proposed to be visited. At each of these visits the manager shall produce before him at such time as the certifying surgeon may fix, all children or adolescents employed in the factory whether actually at work or not.
2. The certifying surgeon shall personally examine every child or adolescent who is in possession of a "provisional" certificate granted under sub-section (2) of section 12, and shall, if he is satisfied that a certificate should be granted, countersign the certificate and cross out the word "provisional".
3. If, on such examination, the certifying surgeon is of opinion that the person in possession of a "provisional" certificate granted under subsection (2) of section 12, is under the age of twelve years or is not fit for employment in a factory, he shall impound the certificate write on it the word-cancelled" over his signature. He shall then forward the certificate with such remarks an he considers necessary to the Chief Inspector or an Inspector authorized in this behalf and shall also inform the person who issued the certificate that it has been cancelled.

Section 15

The certifying surgeon at his periodical visit shall satisfy himself as to the fitness of the children and adolescents employed in the factory and shall revoke the certificate of any, whom he considers unfit.

Section 16

The token giving a reference to the certificate granted to a child or adolescent under section 52 which is required to be carried under clause (b) section 51, shall show the number of the workers in the register of child workers or adult workers, as the case may be.

Section 133

1. The register of child workers in all factories as provided under sub-section (2) of section 56 shall be in Form 'U'.
2. The register shall be maintained for three years in non-seasonal factories while in seasonal factories it shall be maintained at least for one year beginning from the date of the commencement of the season.
3. The register shall always be available for inspection by the Inspector and if not produced on demand being made therefore by the Inspector, the manager shall be responsible for its non-production, whether he was present in the factory at the time of the demand or not.

Employment of Children Act (1991) (*identical to federal legislation*)

RECOMMENDATIONS

1. Greater transparency regarding the records of those employers that host younger labourers, especially those engaged in harmful or hazardous work, is required
2. The seemingly ad hoc procedures designed to prevent the use of child labour must be strengthened and redesigned as more permanent institutions within the greater structure of the respective government ministries overseeing labour

VI. REGULATION OF WORKING HOURS & HOLIDAYS

INTRODUCTION

Greater maturity begets greater responsibility and younger persons must be protected from being overburdened too quickly. The special mandate of the Government of Pakistan to legislate for the protection of children allows for the creation of a regime in labour law that restricts the burden of excessive employment that may be harmful to a child's development. International standards support these protective regulations as a means of limiting not only the burden of long hours of work on a younger person, but also the inclination to forgo educational options

INTERNATIONAL LAW & OBLIGATIONS

United Nations Convention on the Rights of the Child (ratified November 12, 1990)

Article 32(2)

States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

- (b) Provide for appropriate regulation of the hours and conditions of employment

UNCRC General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child

Paragraph 14

The Committee urges States parties to take all necessary measures to abolish all forms of child labour, starting with the worst forms, to continuously review national regulations on minimum ages for employment with a view to making them compatible with international standards, **and to regulate the working environment and conditions for adolescents who are working** (in accordance with article 32 of the Convention, as well as ILO Conventions Nos. 138 and 182), so as to ensure that they are fully protected and have access to legal redress mechanisms.

Paragraph 35

In exercising their obligations in relation to the health and development of adolescents, States parties shall always take fully into account the four general principles of the Convention. It is the view of the Committee that States parties must take all appropriate legislative, administrative and other measures for the realization and monitoring of the rights of adolescents to health and development as recognized in the Convention. To this end, States parties must notably fulfil the following obligations:

- (e) To protect adolescents from all forms of labour which may jeopardize the enjoyment of their rights, notably by abolishing all forms of child labour and by regulating the working environment and conditions in accordance with international standards

International Labour Organization Convention Concerning Minimum Age for Admission to Employment (No. 138) (ratified July 6, 2006)

Article 7(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

Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182) (ratified October 11, 2001)

Article 3

In determining the types of work referred to under Article 3(d) of the Convention, and in identifying where they exist, consideration should be given, inter alia to:

- (e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

Night Work of Young Persons (Industry) Convention (Revised) No. 90 (ratified February 14, 1951)

Article 2

1. For the purpose of this Convention the term night signifies a period of at least twelve consecutive hours.
2. In the case of young persons under sixteen years of age, this period shall include the interval between ten o'clock in the evening and six o'clock in the morning.
3. In the case of young persons who have attained the age of sixteen years but are under the age of eighteen years, this period shall include an interval prescribed by the competent authority of at least seven consecutive hours falling between ten o'clock in the evening and seven o'clock in the morning; the competent authority may prescribe different intervals for different areas, industries, undertakings or branches of industries or undertakings, but shall consult the employers' and workers' organisations concerned before prescribing an interval beginning after eleven o'clock in the evening.

Article 3

1. Young persons under eighteen years of age shall not be employed or work during the night in any public or private industrial undertaking or in any branch thereof except as hereinafter provided for.
2. For purposes of apprenticeship or vocational training in specified industries or occupations which are required to be carried on continuously, the competent authority may, after consultation with the employers' and workers' organisations concerned, authorise the employment in night work of young persons who have attained the age of sixteen years but are under the age of eighteen years.
3. Young persons employed in night work in virtue of the preceding paragraph shall be granted a rest period of at least thirteen consecutive hours between two working periods.
4. Where night work in the baking industry is prohibited for all workers, the interval between nine o'clock in the evening and four o'clock in the morning may, for purposes of apprenticeship or vocational training of young persons who have attained the age of sixteen years, be substituted by the competent authority for the interval of at least seven consecutive hours falling between ten o'clock in the evening and seven o'clock in the morning prescribed by the authority in virtue of paragraph 3 of Article 2.

INTERNATIONAL BEST PRACTICES

Recommendation concerning Minimum Age for Admission to Employment No. 146 (1973)

Section 13(1)

In connection with the application of the preceding Paragraph, as well as in giving effect to Article 7, paragraph 3, of the Minimum Age Convention, 1973, special attention should be given to

- (b) the strict limitation of the hours spent at work in a day and in a week, and the prohibition of overtime, so as to allow enough time for education and training (including the time needed for homework related thereto), for rest during the day and for leisure activities;
- (c) the granting, without possibility of exception save in genuine emergency, of a minimum consecutive period of 12 hours' night rest, and of customary weekly rest days;
- (d) the granting of an annual holiday with pay of at least four weeks and, in any case, not shorter than that granted to adults;

Child Protection Model Law: Protection of Children from Neglect, Abuse, Maltreatment and Exploitation

1. The maximum number of hours a child may work per day and per week and the maximum number of days a child may work per week shall be prescribed by law/regulation taking into consideration the nature of the work and if applicable, the requirement that work shall not negatively affect the child's attendance at school or other vocational training and the possibilities to benefit therefrom. The law/regulation shall provide for adequate rest periods and for time off of work.
2. Employment of children for night work shall be regulated by a law/regulation.

Child Labour (Prohibition and Regulation) Act 1986, India

Section 7

1. No child shall be required or permitted to work in any establishment in excess of such number of hours as may be prescribed for such establishment or class of establishments.
2. The period of work on each day shall be so fixed that no period shall exceed three hours and that no child shall work for more than three hours before he has had an interval for rest for at least one hour.
3. The period of work of a child shall be so arranged that inclusive of his interval for rest, under sub-section (2), it shall not be spread over more than six hours, including the time spent in waiting for work on any day.
4. No child shall be permitted or required to work between 7 p.m. and 8 a.m.
5. No child shall be required or permitted to work overtime.
6. No child shall be required or permitted to work in any establishment on any day on which he has already been working in another establishment.

This section stipulates that no child shall work for more than 3 hours before he has had an interval for rest for at least one hour. The double employment of a child is banned.

Section 8

Every child employed in an establishment shall be all each week, a holiday of one whole day, which day shall be specified by the occupier in a notice permanently exhibited in a

conspicuous place in the establishment and so specified shall not be altered by the occupier more than once in three months

The child employed in an establishment is entitled for a holiday of one whole day in each week.

Children and Young Persons Act 1933, United Kingdom

Section 18

1. Subject to the provisions of this section and of any byelaws made thereunder no child shall be employed—

- (a) so long as he is under the age of fourteen years; or
- (aa) to do any work other than light work or;
- (b) before the close of school hours on any day on which he is required to attend school; or
- (c) before seven o'clock in the morning or after seven o'clock in the evening or any day; or
- (d) for more than two hours on any day on which he is required to attend school; or
- (dd) for more than twelve hours in any week in which he is required to attend school; or]
- (e) for more than two hours on any Sunday; or
- (g) for more than eight hours or, if he is under the age of fifteen years, for more than five hours in any day
 - i. on which he is not required to attend school, and
 - ii. which is not a Sunday; or
- (h) for more than thirty-five hours or, if he is under the age of fifteen years, for more than twenty-five hours in any week in which he is not required to attend school; or
 - i. for more than four hours in any day without a rest break of one hour; or
 - ii. at any time in a year unless at that time he has had, or could still have, during a period in the year in which he is not required to attend school, at least two consecutive weeks without employment.

FEDERAL LAW

The Mines Act (1923)

Section 26B

No person who has not completed his seventeenth year shall be permitted to work in any part of a mine, either below ground or above ground, unless the hours of work of such person for any day are so fixed as to allow an interval of rest of at least twelve consecutive hours which shall include at least such seven consecutive hours between the hours of 7 P.M. and 7 A.M. as may be prescribed,

Provided that nothing in this section shall apply to any such person while employed or permitted to work in any mine as an apprentice or for the purposes of receiving vocational training in such circumstances and in accordance with such conditions as may be prescribed;

Provided further that such person while so employed or permitted to work, shall be

granted a rest period of at least thirteen consecutive hours between two working periods.

The Factories Act (1934)

Section 54

1. No child shall be allowed to work in a factory for more than five hours in any day.
2. The hours of work of a child shall be so arranged that they shall not spread over more than seven-and-a-half hours in any day.
3. No child or adolescent shall be allowed to work in a factory except between 6 a. m. and 7 p. m.
4. Provided that the Provincial Government may, by notification in the Official Gazette in respect of any class or classes of factories and for the whole year or any part of it, vary these limits to any span of thirteen hours between 5 a. m. and 7.30 p.m.
5. The provisions of section 35 shall apply also to child workers, but no exemption from the provisions of that section may be granted in respect of any child.
6. No child shall be allowed work in any factory on any day on which he has already been working in another factory.

Tea Plantations Labour Ordinance (1962)

Section 22

Except with the permission of the chief inspector, no woman or child worker shall be employed in any tea plantation otherwise than between the hours of 6 a. m. and 7 p.m. Provided that nothing in this section shall be deemed to apply to midwives and nurses employed as such in any tea plantations.

West Pakistan Shops and Establishments Ordinance (1969)

Section 7

3. No employee shall be required or permitted to work continuously in any establishment for more than six hours in the case of an adult and for more than three and half hours in the case of a young person, unless he has been allowed an interval for rest or meals of not less than one hour.
4. Except with the permission of Government, no woman or young person shall be employed in any establishment otherwise than between the hour of 9-00 a.m. to 7:00 p.m.

Section 8

Save as otherwise expressly provided in this Ordinance, no adult employee shall be required or permitted to work in any establishment in excess of nine hours a day and forty-eight hours a week, and no young person in excess of seven hours a day and forty-two hours a week:

Provided that in any day or in any week, in which there occurs stock-taking, making up of accounts, settlement or such other business operation, and during such other period, as may be prescribed, an adult employee of an establishment may be required or permitted to work over-time in such establishment for more than nine hours in such day and for more than forty-eight hours in such week, and a young person for more than seven hours in such day and for more than forty-two hours in such week, but so that the total number of hours so worked by an adult does not exceed six hundred and twenty-four hours and by a young person four hundred and sixty-eight hours in any one year

Section 10

The period of work of an adult and young person shall be so arranged that inclusive of the interval for rest or meals under section 7, it shall not spread-over more than twelve hours in the case of adult and nine hours in the case of young person:

Provided that the total period of work so worked out, in case of an adult worker, shall not exceed sixty hours and by a young person fifty-four hours in a week.

Employment of Children Act (1991)

Section 7

1. No child or adolescent shall be required or permitted to work in any establishment in excess of such number of hours as may be prescribed for such establishment or class of establishments.
2. The period of work on each day shall be so fixed that no period shall exceed three hours and that no child shall work for more than three hours before he has an interval of at least one hour for rest.
3. The period of work of a child shall be so arranged that inclusive of the interval for rest, under subsection (2), it shall not exceed seven hours, including the time spent in waiting for work on any day.
4. No child shall be permitted or required to work between 7.00 p.m. to 8.00 a.m.
5. No child shall be required or permitted to work over-time.
6. No child shall be required or permitted to work in any establishment on any day on which he has already been working in another establishment.

Section 8

Every child employed in an establishment shall be allowed in each week a holiday of one whole day, which day shall be specified by the occupier in a notice permanently displayed in a conspicuous place in the establishment and the day so specified shall not be altered by the occupier more than once in three months.

Employment of Children Rules (1995)

Rule 3

1. The occupier shall send a notice of period of work in respect of the adolescent and child workers to the Inspector of the area before commencement of work in the establishment in Form 'A': Provided that in respect of those establishments which were already in existence before the commencement of the Act and promulgation of these rules, the notice shall be sent within a period of thirty days from the date of promulgation of these rules in Form A-1.
2. The notice of period of work shall be
 - (a) in Form 'B' when all the adolescent and child workers in an establishment are required to work within the same period and when the periods of work are the same on each working day of the week; and
 - (b) in Form 'B-I' when all the adolescent and child workers in an establishment are required to work within the same periods and when the periods are the same on five working days in a week and shorter on the sixth day;
3. The notice of period of work shall be displayed painted in bold letters in English as well as in vernacular language at the main entrance of the establishment.

PROVINCIAL LAW

The Factories Act (1934) *(identical to federal legislation)*

Apprenticeship Rules (1966)

Section 25

1. Working hours, leave and holidays for an apprentice shall be the same as for other employees in the undertaking.
2. Apprentices falling under the categories of adolescent and children as defined in the Factories Act 1934, shall be entitled to the benefits of the special provisions contained in that Act, and they may work over time only in compliance with that Act,
3. Apprenticeship not covered by the Factories Act 1934 may work over-time but only under the same conditions as though they were covered by that Act.

Employment of Children Act (1991) *(identical to federal legislation)*

RECOMMENDATIONS

1. Measures shall be taken to increase uniformity amongst the various regulations regarding the hours of work between industries
2. Clarification must be provided regarding the overlap of eligible hours of work during any given day and hours in which compulsory schooling is held

VII. SAFETY STANDARDS

INTRODUCTION

It is a given that any place of employment must provide adequate safeguards and protections from any harms or hazards that may be incurred. Safety standards may include measures both proactive and reactive, protecting younger persons from injuries. International standards provide only the basic requirement of a suitable work environment, further interpretation is in the ambit of the states' parties. From the established laws of other states, developing labour law frameworks may extract reasonable safety regulations to employ.

INTERNATIONAL LAW & OBLIGATIONS

United Nations Convention on the Rights of the Child (ratified November 12, 1990)

Article 32(2)

States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

(b) Provide for appropriate regulation of the hours and conditions of employment

UNCRC General comment No. 3: HIV/AIDS and the Rights of the Child

Paragraph 33

Consistent with the right of children under articles 32, 34, 35 and 36 of the Convention, and in order to decrease children's vulnerability to HIV/AIDS, States parties are obliged to protect children from all forms of economic and sexual exploitation, including ensuring they do not fall prey to prostitution networks, and that they are protected from performing any work likely to be hazardous or to interfere with their education, health or physical, mental, spiritual, moral or social development. States parties must take bold action to protect children from sexual and economic exploitation, trafficking and sale and consistent with the rights under article 39, create opportunities for those who have been subjected to such treatment to benefit from the support and caring services of the State and non-governmental entities engaged in these issues.

UNCRC General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child

Paragraph 14

The Committee urges States parties to take all necessary measures to abolish all forms of child labour, starting with the worst forms, to continuously review national regulations on minimum ages for employment with a view to making them compatible with international standards, **and to regulate the working environment and conditions for adolescents who are working** (in accordance with article 32 of the Convention, as well as ILO Conventions Nos. 138 and 182), so as to ensure that they are fully protected and have access to legal redress mechanisms.

Paragraph 35

In exercising their obligations in relation to the health and development of adolescents, States parties shall always take fully into account the four general principles of the

Convention. It is the view of the Committee that States parties must take all appropriate legislative, administrative and other measures for the realization and monitoring of the rights of adolescents to health and development as recognized in the Convention. To this end, States parties must notably fulfil the following obligations:

- (e) To protect adolescents from all forms of labour which may jeopardize the enjoyment of their rights, notably by abolishing all forms of child labour and by regulating the working environment and conditions in accordance with international standards

International Covenant on Economic, Social and Cultural Rights (ratified April 17, 2008)

Article 10(3)

Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182) (ratified October 11, 2001)

Article 4

For the types of work referred to under Article 3(d) of the Convention and Paragraph 3 above, national laws or regulations, or the competent authority, may, after consultation with the workers' and employers' organizations concerned, authorize employment or work as from the age of 16, on condition that the health, safety and morals of the children concerned are fully protected, and the children have received adequate specific instruction or vocational training in the relevant branch of activity.

International Labour Organization Convention Concerning Minimum Age for Admission to Employment (No. 138) (ratified July 6, 2006)

Article 7(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

INTERNATIONAL BEST PRACTICES

Recommendation concerning Minimum Age for Admission to Employment No. 146 (1973)

Section 13(1)

In connection with the application of the preceding Paragraph, as well as in giving effect to Article 7, paragraph 3, of the Minimum Age Convention, 1973, special attention should be given to--

- (f) the maintenance of satisfactory standards of safety and health and appropriate instruction and supervision.

Child Protection Model Law: Protection of Children from Neglect, Abuse, Maltreatment and Exploitation

Article 52

1. The employer, whether an individual or a corporate entity, shall be responsible for assuring the health and safety of the child employee. This includes guaranteeing –
 - (a) Cleanliness of the workplace and premises;
 - (b) Availability of adequate nutrition and water;
 - (c) Non-exposure of child employees to harmful substances;
 - (d) Security of the machinery, appropriate for the use by children;
 - (e) Security of the buildings according to the relevant laws;
 - (f) Provision of the necessary protective gear and protective equipment; and
4. The employer shall encourage the adoption of rules of corporate social responsibility to prevent the exploitation of child employees and to improve the conditions in which children are working.
5. The employer shall take the necessary steps to ensure that any sub-contractor, supplier, recruiter, etc., domestic or international, whom she/he deals with abides by the safeguards and standards that ensure the protection of children.

Child Labour (Prohibition and Regulation) Act 1986, India

Section 13(1)

The appropriate Government may, by notification in the Official Gazette, make rules for the health and safety of the children employed or permitted to work in any establishment or class of establishments.

FEDERAL LAW

Constitution of Pakistan (1973)

Article 37(e)

The State shall:

- (e) make provisions 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

The Factories Act (1934)

Section 28

1. No child or adolescent shall work at any machine unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and
 - (a) has received sufficient training in work at the machine, or
 - (b) is under adequate supervision by a person who has thorough knowledge and experience of the machine.
2. This section shall apply to such machines as may be notified by the Provincial Government to be of such a dangerous character that children or adolescents ought not to work at them unless the foregoing requirements are complied with.

Employment of Children Act (1991)

Section 13

1. The appropriate Government may, by notification in the Official Gazette, make rules for the health and safety of the children employed or permitted to work in any establishment or class or establishments.
2. Without prejudice to the generality of the foregoing provisions, the said rules may provide for all or any of the following matters, namely:
 - (a) cleanliness in the place of work and its freedom from nuisance;
 - (b) disposal of wastes and effluents;
 - (c) ventilation and temperature;
 - (d) dust and fumes;
 - (e) artificial humidification;
 - (f) lighting;
 - (g) drinking water,
 - (h) latrine and urinals;
 - (i) spittoons;
 - (j) fencing of machinery;
 - (k) work at or near machinery in motion;.
 - (l) employment of children on dangerous machines;
 - (m) instructions, training and supervision in relation to employment of children on dangerous machines;
 - (n) device for cutting off power.
 - (o) self-acting machines;
 - (p) easing of new machinery;
 - (q) floor, stairs and means of access;
 - (r) pits, sumps, openings in floors, etc.;
 - (s) excessive weights;
 - (t) protection of eyes;
 - (u) explosive of inflammable dust, gas, etc.;
 - (v) precaution in case of fire;
 - (w) maintenance of buildings; and
 - (x) safety of building and machinery.

Employment of Children Rules (1995)

Rule 8(1)

As long as many workers are present in an establishment, the latrines, passages, stairs, hoists, ground and all other parts of the establishment in so far as the entrance of the said places is not closed, shall be lighted in such manner that safety is fully secured in passing through or remaining in the same.

Rule 12. Fencing of Machinery.

1. All shafts, couplings, collars, clutches, toothend wheels, pulleys, driving straps, chains projecting set screws, keys, nuts and belts on revolving parts, except such as are in the opinion of the Inspector by construction or position equally safe to every person employed in the establishment, shall be securely fenced if in motion and within reach of a child worker.
2. The underside of all heavy overhead main driving belts or ropes if there is any

- probability of persons having to pass under them shall be securely fenced.
3. No child worker shall be allowed to work on the following operations of machines when in motion-
 - (a) lathes, shaping, slatting and milling machines;
 - (b) platen machine and gelating cutting machines;
 - (c) every-wheel or tool grinding machine;
 - (d) operation of hoist;
 - (e) operation of band saw or circular saw;
 - (f) in blow loom of textile mills;
 - (g) near cotton openers, combined openers, sketchers, lapmachines, hard waste breakers, and carding machine; and
 - (h) welding plant.
 4. All electrical circuits or parts of such circuits or any object electrically connected with them whether commonly or occasionally in an electrified condition which by reason of their position could cause injury to any person, shall be protected adequately, either by non-metalic fencing or insulation or by both, in such manner as to remove danger of injury.
 5. Instructions both in Urdu and the vernacular of the district for the restoration of persons suffering from electric shock shall be affixed in a conspicuous place in every factory using electric energy for lighting or power purpose.
 6. All open tanks and vessels containing either chemical or substances dangerous to human life or safety and all pits, gutters or tanks and excavations two feet or more in depth within the precincts of any establishment shall be securely fenced.
 7. No child workers shall be allowed to be engaged in oiling or adjusting belts or any work whatsoever within reach of unfenced transmission machinery.

Rule 13

1. In every establishment there shall be maintained in good working condition a first-aid box containing appliances. The first-aid appliances shall be placed under the charge of a responsible person who knows how to use them and shall be kept in a readily accessible place so as to be immediately available during working hours. The words "FIRST AID" shall be clearly painted on the box or other receptacle containing such appliances.
2. Every child worker sustaining an injury within the establishment, whether while working or not shall be administered "FIRST AID".

PROVINCIAL LAW

The Factories Act (1934) (*identical to federal legislation*)

Punjab Factories' Rules (1978)

Section 17

In every factory a register in Form 'F' shall be maintained for entering into it the dates on which lime-washing, painting or varnishing is carried out.

Section 18

No rubbish, filth or debris shall be allowed to accumulate or in remain in any part of a factory in such position that effluvia there from can arise within the factory.

Section 19

In every factory all drains carrying waste or sullage water shall be constructed in masonry or other impermeable material and shall be regularly flushed at least once a day and where possible connected with some re-organized drainage line.

Section 20

The floor of tire morns and the compound surrounding every factory shall be maintained in a strictly sanitary and clean condition.

Sections 21

Proper arrangements shall be made for maintaining in a reasonably clean and drained condition all washing and bathing places within a factory, the places where drinking water is distributed to the operatives of the factory and the area around such places.

Section 39(1)

As long as any worker is present in a factory in latrines, passages, stairs, hoists, factory ground and other parts of the factory in so far as the entrance of the said places is not closed, shall be lighted in such manner that safety is fully secured in passing through or remaining in the same.

Employment of Children Act (1991) (*identical to federal legislation*)

RECOMMENDATIONS

1. Though the safety standards enumerated above are developed beyond the basic requirements established in international law, there is room for further development regarding protective measures in harmful or hazardous work environments especially.

VIII. SANCTIONS & PENALTIES

INTRODUCTION

A justice system built on the premise that laws must be designed in a manner that repels potential offenders relies heavily on strong and enforceable penalties. Crimes with only nominal punishments have little deterrent effect upon offenders and serve only to criminalize an act for names' sake. International law mechanisms suggest provisions for punishments, but offer no fine or sentencing guidelines, leaving this open-ended for states to decide.

INTERNATIONAL LAW & OBLIGATIONS

United Nations Convention on the Rights of the Child (ratified November 12, 1990)

Article 32

5. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
6. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

UNCRC General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child

Paragraph 35

In exercising their obligations in relation to the health and development of adolescents, States parties shall always take fully into account the four general principles of the Convention. It is the view of the Committee that States parties must take all appropriate legislative, administrative and other measures for the realization and monitoring of the rights of adolescents to health and development as recognized in the Convention. To this end, States parties must notably fulfil the following obligations:

- (e) To protect adolescents from all forms of labour which may jeopardize the enjoyment of their rights, notably by abolishing all forms of child labour and by regulating the working environment and conditions in accordance with international standards

Convention Concerning the Night Work of Young Persons Employed in Industry

Convention (No. 90) (ratified February 14, 1951)

Article 6(1)

The laws or regulations giving effect to the provisions of this Convention shall:

- (c) prescribe adequate penalties for any violation thereof;

International Labour Organization Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182) (ratified October

11, 2001)

Article 7(1)

Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.

Article 12

Members should provide that the following worst forms of child labour are criminal offences:

- (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; and
- (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, or for activities which involve the unlawful carrying or use of firearms or other weapons.

Article 13

Members should ensure that penalties including, where appropriate, criminal penalties are applied for violations of the national provisions for the prohibition and elimination of any type of work referred to in Article 3(d) of the Convention.

Article 14

Members should also provide as a matter of urgency for other criminal, civil or administrative remedies, where appropriate, to ensure the effective enforcement of national provisions for the prohibition and immediate elimination of the worst forms of child labour, such as special supervision of enterprises which have used the worst forms of child labour, and, in cases of persistent violation, consideration of temporary or permanent revoking of permits to operate.

International Labour Organization Convention Concerning Minimum Age for Admission to Employment (No. 138) (ratified July 6, 2006)

Article 9(1)

All necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.

International Covenant on Economic, Social and Cultural Rights (ratified April 17, 2008)

Article 10(3)

Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

INTERNATIONAL BEST PRACTICES

Child Protection Model Law: Protection of Children from Neglect, Abuse, Maltreatment and Exploitation

Article 49(5)

Any violation of the provisions of this Chapter shall be established as a punishable offense in accordance with Article 23 of this Law. Any employer who has been convicted of violating this Chapter is liable to pay compensation to the child victim in accordance with Article 24 of this Law.

African Charter on the Rights and Welfare of the Child

Article 15(2)

States Parties to the present Charter take all appropriate legislative and administrative measures to ensure the full implementation of this Article which covers both the formal and informal sectors of employment and having regard to the relevant provisions of the International Labour Organization's instruments relating to children, States Parties shall in particular:

- (c) provide for appropriate penalties or other sanctions to ensure the effective enforcement of this Article;

Child Labour (Prohibition and Regulation) Act 1986, India

Section 14

1. Whoever employs any child or permits any child to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with both.
2. Whoever, having been convicted of an offence under section 3, commits alike offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years.
3. Whoever-
 - (a) fails to give notice as required by section 9; or
 - (b) fails to maintain a register as required by section 11 or makes any false entry in any such register; or
 - (c) fails to display a notice containing an abstract of section 3 and this section as required by section 12; or
 - (d) fails to comply with or contravenes any other provisions of this Act or the rules made thereunder, shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to ten thousand rupees or with both.

Fair Labor Standards Act, United States

Section 216(e)(1)(A)

Any person who violates the provisions of sections 212 or 213(c) of this title, relating to child labor, or any regulation issued pursuant to such sections, shall be subject to a civil

penalty not to exceed—

- i. \$11,000 for each employee who was the subject of such a violation; or
- ii. \$50,000 with regard to each such violation that causes the death or serious injury of any employee under the age of 18 years, which penalty may be doubled where the violation is a repeated or willful violation.

FEDERAL LAW

Merchant Shipping Act (1923)

Section 37F

If any young person is carried to sea to work in contravention of section 37B, section 37C or section 37D, the master of the ship shall for each such offence be liable to a fine which may extend to fifty rupees.

Section 37G

If any young person is engaged to work in any capacity in a ship in contravention of section 37B, section 37C or section 37D on a false representation by his parent or guardian that the young person is of an age at which such engagement is not in contravention of those sections, such parent or guardian shall be liable to a fine which may extend to fifty rupees.-

Section 37H

If the master of any ship refuses or neglects to produce for inspection any medical certificate delivered to him under section 37D when required so to do by a shipping-master, he shall for each such offence be liable to a fine which may extend to fifty rupees.

Section 37I

If the master of a ship where there is no agreement with the crew fails to keep the register of young persons required to be kept by him under section 37E, or refuses or neglects to produce such register for inspection when required so to do by a shipping-master, he shall be liable to a fine which may extend to two hundred rupees.

Children (Pledging of Labour) Act (1933)

Section 4

Whoever, being the parent or guardian of a child, makes an agreement to pledge the labour of that child, shall be punished with fine, which may extend to fifty rupees.

Section 5

Whoever makes with the parent or guardian of a child an agreement whereby such parent or guardian pledges the labour of the child shall be punished with fine, which may extend to two hundred rupees.

Section 6

Whoever, knowing or having reason to believe that an agreement has been made to pledge the labour of a child, in furtherance of such agreement employs such child, or permits such child to be employed in any premises or place under his control, shall be punished with fine, which may extend to two hundred-rupees.

The Factories Act (1934)

Section 60

If in any factory

(e) any adolescent or child is allowed to work in contravention of any of the provisions of sections 50, 51, 54, 55, 57 and 58, the manager and occupier of the factory shall each be punishable with fine which may extend to five hundred rupees:

Provided that if both the manager and the occupier are convicted, the aggregate of the fines in respect of the same contravention shall not exceed this amount.

Section 67

Whoever knowingly uses or attempts to use, as a certificate granted to himself under section 52, a certificate granted to another person under that section, or who having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with fine which may extend to twenty rupees.

Section 68

If a child works in a factory on any day on which he has already been working, in another factory, that parent or guardian of the child or the person having custody of, or control over him, or obtaining any direct benefit from his wages, shall be punishable with fine which may extend to twenty rupees, unless it appears to the Court that the child so worked without the consent, connivance or willful default of such parent, guardian or person

Road Transport Workers Ordinance (1961)

Section 11

Whoever contravenes any of the provisions of this Ordinance, or any of the rules made there under, shall be punishable-

- (a) for the first offence, with fine not exceeding one thousand rupees ; and
- (b) for every subsequent offence, with imprisonment for a term which may extend to six months, and fine not exceeding one thousand rupees.

Tea Plantations Labour Ordinance (1962)

Section 34

Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself under section 24 a certificate granted to another person under that section, or having been granted a certificate of fitness to himself, knowingly allows it to be used, or allows an attempt to use it to be made by another person, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Section 35

Whoever except as otherwise permitted by or under this Ordinance, contravenes any provision of this Ordinance or of any rules made thereunder, prohibiting, restricting or regulating the employment of persons in a tea plantation, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Section 36

Whoever contravenes any of the provisions of this Ordinance or of any rules made thereunder for which no other penalty is elsewhere provided by this Ordinance or the rules, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Section 37

If any person who has been convicted of any offence punishable under this Ordinance is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

West Pakistan Shops and Establishments Ordinance (1969)

Section 27(2)

Whoever contravenes any of the provisions of section 6, 7, 19 or 20 shall, on conviction, be punishable with fine which for the first offence may extend to rupees two hundred and fifty, and for a second or subsequent offence with fine which may extend to rupees five hundred or with simple imprisonment which may extend to three months, or with both.

Employment of Children Act (1991)

Section 14

1. Whoever employs any child or permits any child 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 twenty thousand rupees or with both.
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 but which may extend to two years.
3. Whoever
 - (a) fails to give notice as required by section 9; or
 - (b) fails to maintain a register as required by section 11 or makes any false entry in any such register, or
 - (c) fails to display a notice; or
 - (d) fails to comply with or contravenes any provisions of this Act or the rules made thereunder shall be punishable with simple imprisonment which may extend to one month or with a fine which may extend to ten thousand rupees or with both.

Section 15

1. Where any person is found guilty and convicted of contravention of any of the provisions regarding children and adolescents mentioned in subsection (2), he shall be liable to penalties as provided in sub-sections (1) and (2) of section 14 of this Act and not under other relevant Acts.
2. The provisions mentioned in section (1) are the provisions regarding children and adolescents in the following Acts:
 - (a) The Mines Act 1923;
 - (b) The Factories Act 1934;
 - (c) The Shops and Establishments Ordinance 1969.

PROVINCIAL LAW

The Factories Act (1934) (*identical to federal legislation*)

Employment of Children Act (1991) (*identical to federal legislation*)

RECOMMENDATIONS

1. The current penalties for violations of various anti-child labour provisions are nominal and not the least bit preventative. In order to properly deter potential offenders, they must be increased proportional to the nature of the crimes.
2. Penalties for similar crimes must be similar across the various acts that make up the labour law framework of the Federal and Provincial Governments.

IX. EXCEPTIONS & RESTRICTIONS TO CHILD LABOUR LAWS

INTRODUCTION

Not all forms of employment of children are exploitative. In certain limited circumstances, the employment of children, if mindful of normative labour standards, is acceptable and not entirely uncommon. States are allowed to make exceptions for employment of children that may otherwise be prevented from working regarding employment in “light work,” by family or in such circumstances as the relevant government institutions may determine.

INTERNATIONAL LAW & OBLIGATIONS

United Nations Convention on the Rights of the Child (ratified November 12, 1990)

Article 8(1)

States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

International Labour Organization Convention Concerning Minimum Age for Admission to Employment (No. 138) (ratified July 6, 2006)

Article 6

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 organizations 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

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.

Article 8(1)

After consultation with the organisations of employers and workers concerned, where such exist, the competent authority may, by permits granted in individual cases, allow

exceptions to the prohibition of employment or work provided for in Article 2 of this Convention, for such purposes as participation in artistic performances.

INTERNATIONAL BEST PRACTICES

Child Protection Model Law: Protection of Children from Neglect, Abuse, Maltreatment and Exploitation

Article 50

3. A minimum age for light employment below the age established in accordance with paragraph (2) of this Article may be established by law. The CPCs shall determine the activities that constitute light employment and shall prescribe the conditions in which such employment may be undertaken. Children may engage in light employment if –
 - (a) It does not affect their attendance at school or other vocational training as defined under paragraph (3) and their capacity to benefit therefrom; and
 - (b) It is not likely to be harmful to their health or development.
4. The minimum age for employment in a specific sector may depend on the nature of the work. Exceptions for certain areas of work where a child under the minimum age for employment may be employed shall be established by law in accordance with the principles of Article 49 of this Law.

Child Labour (Prohibition and Regulation) Act 1986, India

Section 3

Provided that nothing in this section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from, Government.

The prohibition of employment of children is not applicable to any workshop wherein any process is carried on by the occupier with the aid of his family, or to any school established by, or receiving assistance or recognition from, Government.

The Child and Youth Welfare Code 1974, Philippines

Article 107

Children below sixteen years of age may be employed to perform light work which is not harmful to their safety, health or normal development and which is not prejudicial to their studies. The provisions of the Labor Code relating to employable age and conditions of employment of children are hereby adopted as part of this Code insofar as not inconsistent herewith.

FEDERAL LAW

Merchant Shipping Act (1923)

Section 37D

1. Subject to the provisions of sub-section (2), no young person shall be engaged or carried to sea to work in any capacity in any ship registered in Pakistan and no young lascar shall be engaged or carried to sea to work in any capacity in any foreign ship, unless there has been delivered to the master a certificate granted by a prescribed authority that the young person is physically fit to be employed in that capacity.

2. Sub-section (1) shall not apply-----

(a) to the employment of a young person in a ship in which all persons employed are members of one family

Employment of Children Act (1991)

Section 3

Provided that nothing in this section shall apply to any establishment wherein such process is carried on by the occupier with the help of his family or to any school established, assisted or recognized by Government.

PROVINCIAL LAW

Employment of Children Act (1991) (*identical to federal legislation*)

RECOMMENDATIONS

1. Reasonable accommodations must be made, keeping in mind opportunities for exploitation, for children to be employed in limited circumstances, including in family business ventures.
2. The Government of Pakistan and its respective provinces may make reasonable additional measures, keeping in mind the nature of the economy of the state, not in contravention of the international standards regarding child labour, but for the purposes of protecting the reasonable employment of children

X. RIGHT TO EDUCATION

INTRODUCTION

International law and the Constitution of Pakistan acknowledge that the right to education is not only fundamental, but paramount. In lieu of so many principles that only guide policy, this right to education is enforceable. The nature of compulsory education is determined by the states, but must be provided in some fashion, free of charge. It is accepted that education is the greatest opponent of exploitative child labour and a pervasive educational system contributes to the reduction of the use of children as labourers.

INTERNATIONAL LAW & OBLIGATIONS

United Nations Convention on the Rights of the Child (ratified November 12, 1990)

Article 28

3. **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:
 - (a) **Make primary education compulsory and available free to all;**
 - (b) 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;
 - (c) **Make higher education accessible to all** on the basis of capacity by every appropriate means;
 - (d) Make educational and vocational information and guidance available and accessible to all children;
 - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
4. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
5. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

ICCPR General Comment No. 13: The Right to Education (art. 13)

Paragraph 47

The obligation to respect requires States parties to avoid measures that hinder or prevent the enjoyment of the right to education. The obligation to protect requires States parties to take measures that prevent third parties from interfering with the enjoyment of the right to education.

The obligation to fulfil (facilitate) requires States to take positive measures that enable and assist individuals and communities to enjoy the right to education. Finally, States parties

have an obligation to fulfil (provide) the right to education. As a general rule, States parties are obliged to fulfil (provide) a specific right in the Covenant when an individual or group is unable, for reasons beyond their control, to realize the right themselves by the means at their disposal. However, the extent of this obligation is always subject to the text of the Covenant.

Paragraph 55

The Committee especially affirms the importance of education in eliminating child labour

International Covenant on Economic, Social and Cultural Rights (ratified April 17, 2008)

Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.
1. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
 - (a) **Primary education shall be compulsory and available free to all;**
 - (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
 - (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
 - (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
 - (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

Convention on the Elimination of All Forms of Discrimination against Women (ratified March 12, 1996)

Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- (d) The same opportunities to benefit from scholarships and other study grants;
- (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;
- (g) The same Opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

INTERNATIONAL BEST PRACTICES

Convention against Discrimination in Education

Article 4

The States Parties to this Convention undertake furthermore to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education and in particular:

- (a) To make primary education free and compulsory; make secondary education in its different forms generally available and accessible to all; make higher education equally accessible to all on the basis of individual capacity; assure compliance by all with the obligation to attend school prescribed by law;
- (b) To ensure that the standards of education are equivalent in all public educational institutions of the same level, and that the conditions relating to the quality of the education provided are also equivalent;
- (c) To encourage and intensify by appropriate methods the education of persons who have not received any primary education or who have not completed the entire primary education course and the continuation of their education on the basis of individual capacity;

Child Protection Model Law: Protection of Children from Neglect, Abuse, Maltreatment and Exploitation

Article 30(1)

It shall be prohibited to deprive a child of her/his right to education.

FEDERAL LEGISLATION

Constitution of Pakistan (1973)

Article 25A

The State shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law.

Article 37

The State shall:

- (b) remove illiteracy and provide free and compulsory secondary education within minimum possible period;

PROVINCIAL LEGISLATION

Punjab Compulsory Primary Education Act (1994)

Section 2(d)

“primary education” means education pertaining to all or any of the classes I to V in a school.

Section 3

The parent of a child shall, except in the case of a reasonable excuse, cause a child to attend a primary school until the child has completed the primary education course.

Workers’ Children (Education) Ordinance (1972)

Section 4

The Government shall provide education free of cost up to Matric and thereafter in a Polytechnic or vocational training institute to one child any level of education to two children of every worker employed in an establishment referred to in section 3.

Education free of cost includes provision of text books free of cost and exemption from admission fee, tuition fee, examination fee and school fund.

RECOMMENDATIONS

1. The right to education lacks enforcement, despite the existence of a fundamental right for children ages 5 to 16. It must be a predominant value within Pakistani society in order for it to receive proper attention and funding from government institutions
2. The conditions of employment should not be such as to conflict with compulsory or higher education requirements.

ANNEX OF REFERENCED LAWS

International

United Nations Convention on the Rights of the Child (ratified November 12, 1990)
Convention Concerning the Night Work of Young Persons Employed in Industry Convention (No. 90) (ratified February 14, 1951)
Forced Labour Convention 1930 (No. 29) (ratified December 23, 1957)
Convention on the Elimination of All Forms of Discrimination against Women (ratified March 12, 1996)
International Labour Organization Convention Concerning Minimum Age for Admission to Employment (No. 138) (ratified July 6, 2006)
International Labour Organization Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182) (ratified October 11, 2001)
International Covenant on Economic, Social and Cultural Rights (ratified April 17, 2008)
International Convention on Civil And Political Rights (June 23, 2010)
Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Prostitution (ratified July 5, 2011)

UNCRC General comment No. 3: HIV/AIDS and the Rights of the Child
UNCRC General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child
UNCRC General Comment No. 6: Treatment of Unaccompanied and Separated Children Outside Their Country of Origin
ICCPR General Comment No. 13: The Right to Education (art. 13)
ICCPR General Comment No. 17: Rights of the Child (Art. 24)
ICCPR General comment No. 24: Issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant
ICCPR General Comment No. 28: Article 3 (The equality of rights between men and women)

International Best Practices

Child Protection Model Law: Protection of Children from Neglect, Abuse, Maltreatment and Exploitation
Convention against Discrimination in Education
The Child and Youth Welfare Code 1974, Philippines
Child Labour (Prohibition and Regulation) Act 1986, India
Fair Labor Standards Act, United States
African Charter on the Rights and Welfare of the Child
Recommendation concerning Minimum Age for Admission to Employment No. 146 (1973)
Recommendation concerning the prohibition and immediate action for the elimination of the worst forms of child labour No. 190 (1999)
Children and Young Persons Act 1933, United Kingdom
Sexual Offences Act 2003, United Kingdom
18 U.S. Code: Sexual Exploitation and other Abuse of Children, United States
18 US. Code: Sale into Involuntary Servitude, United States
Act No. 13 of 2003, Indonesia
Human Rights Act 1998, United Kingdom
Children's Act, South Africa
Criminal Code, 1998 (as amended in July 2009), Germany
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime

Federal

Constitution of Pakistan (1973)

Pakistan Penal Code (1860)
The Majority Act (1875)
The Registration Act (1908)
The Mines Act (1923)
Merchant Shipping Act (1923)
Child Marriage Restraint Act (1929)
Children (Pledging of Labour) Act (1933)
The Factories Act (1934)
Pakistan Citizenship Act (1951)
Road Transport Workers Ordinance (1961)
Tea Plantations Labour Ordinance (1962)
Hazardous Occupation Rules (1963)
West Pakistan Shops and Establishments Ordinance (1969)
The Offence of Zina (Enforcement of Hudood) Ordinance (1979)
Employment of Children Act (1991)
Bonded Labour System (Abolition) Act (1992)
Employment of Children Rules (1995)
Juvenile Justice System Ordinance (2000)
Prevention and Control of Human Trafficking Ordinance (2002)
Boilers and Pressure Vessels Ordinance (2002)
Right to Free and Compulsory Education Act (2012)
European Convention on the Exercise of Children's Rights
South Asian Association for Regional Cooperation

Provincial

The Factories Act (1934)
Punjab Employment of Children (Workshop) Rules (1939)
Punjab Juvenile Smoking Ordinance (1959)
Apprenticeship Rules (1966)
Workers' Children (Education) Ordinance (1972)
Punjab Factories' Rules (1978)
Employment of Children Act (1991)
Punjab Compulsory Primary Education Act (1994)
Punjab Destitute and Neglected Children Act (2004)
Khyber Pakhtunkhwa Child Protection and Welfare Act (2010)