

# ILO Conventions

## Addressing Child Labor



## What are ILO Conventions?

International labor standards are treaties adopted by the International Labor Conference, which is made up of government, worker and employer delegates from the 183 Member States of the ILO. The standards which are legally binding are known as conventions which state the basic principles to be implemented by ratifying countries; while a related recommendation, non-binding standard, supplements the convention by providing detailed guidelines on how the convention could be applied. Once a country ratifies a convention, it commits to applying it in national law and practice, and reporting on its application at regular intervals.

The Convention concerning Minimum Age for Admission to Employment 1973 (No. 138); the Convention on the Worst Forms of Child Labor 1999 (No. 182) and the Convention concerning Decent Work for Domestic Workers 2011 (No. 189) form the crux of the international guidelines concerning child labor.

### **ILO Minimum Age Convention 1973 (No. 138)**

Pakistan ratified this Convention on July 6, 2006, with the reservation that it shall set 14 years as the minimum age for employment. It requires the States to publicly commit themselves to the total elimination of all forms of child labor; and to state it in law and enforce a system of minimum ages below which boys and girls should not be admitted to work.

#### **Minimum Age of Employment**

The minimum age for employment is set at the age of completion of compulsory schooling (if it is 15 years or more) and in any case cannot be less than 15 years. (Article 2, paragraph 3) Under Article 25A of the Constitution of Pakistan, 'the State is obliged to provide free and compulsory education to all children of the age of five to 16 years in such manner as may be determined by law.' In the case of participation in artistic performances, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment or work provided for in this Article 2 but after consultation with the organizations of employers and

workers concerned. Furthermore, national laws may permit the employment of persons of 13 to 15 years of age to do light work under the Convention, provided that it is not harmful to their health or development nor does it interrupt schooling of the person concerned. (Article 7, paragraph 1) In view of this Constitutional obligation and the 138 Convention, Pakistan is legally bound to raise the minimum age of employment to 16 years.

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 jeopardize the health, safety or morals of young persons shall not be less than 18 years. (Article 3, paragraph 1) However, after consultation with organizations of employers and workers concerned, employment may be granted to those aged 16 years and above on the 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 3, paragraph 3)

All necessary measures, including the provision of appropriate penalties, are to be undertaken by the competent authority to ensure the effective enforcement of its provisions. (Article 9, paragraph 1)

### **ILO Worst Forms of Child Labor Convention 1999 (No. 182)**

Pakistan ratified the Convention on October 11, 2001. The term 'worst forms of child labor' is defined in Article 3 of the Convention to include:

- (a) All forms of slavery or practices similar to slavery such as the sale and trafficking of children, debt bondage, forced or compulsory labor and forced or compulsory recruitment of children for use in armed conflict.
- (b) The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.
- (c) The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs.
- (d) Work which by its nature or circumstances is likely to harm the health, safety and morals of a child.

The types of work referred to in Article 3(d) are to be determined by national laws or by a 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 Labor Recommendation 1999 (No. 190) (Article 4).

The Recommendation requires that while determining these types of work, and in identifying where they exist, consideration should be given to:

- Work which exposes children to physical, psychological or sexual abuse.
- Work underground, under water, at dangerous heights or in confined spaces.
- Work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads.
- 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.
- 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.

Just like in Convention 138, the Recommendation to this Convention says that national laws 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.

This Convention requires each Member State to:

- (a) Design and implement programs of action to eliminate the worst forms of child labor in consultation with relevant stakeholders. (Article 6, paragraphs 1 and 2)
- (b) Take effective and time bound measures to:
  - i. Provide necessary and appropriate assistance in removing children from the worst forms of child labor and for their rehabilitation and social integration.

- ii. Ensure access to free basic education and vocational training wherever possible for all children removed from child labor.
- iii. Identify and reach out to children at special risk and most importantly take into account the special situation of girls. (Article 7, paragraph 2)

Pakistan has so far failed to completely implement this Convention except that in 2005, the Government of Pakistan expanded the list of banned occupations and processes listed in the Schedule to the Employment of Children Act 1991 (No. V).

### **ILO Domestic Workers Convention 2011 (No. 189)**

Pakistan has yet to sign and ratify this Convention. The Convention was adopted by the International Labor Conference in June 1, 2011. It aims to promote decent work keeping in mind that domestic work continues to be undervalued and invisible with domestic workers particularly vulnerable to human rights abuses and discrimination in respect of work conditions.

'Domestic work' is defined as work performed in or for a household or households and a 'domestic worker' is a person engaged in such work provided the work is on an occupational basis. (Article 1)

This Convention requires Member States to:

- (a) Take the measures set out in the Convention to ensure the effective promotion and protection of the human rights of all domestic workers especially with regard to:
  - i. Freedom of association and the effective recognition of the right to collective bargaining;
  - ii. Elimination of all forms of forced or compulsory labor;
  - iii. Effective abolition of child labor; and
  - iv. Elimination of discrimination in respect of employment and occupation. (Article 3 (1) and (2))
- (b) Set a minimum age for domestic workers consistent with the provisions of the Minimum Age Convention and the Worst Forms of Child Labor Convention. (Article 4 (1))

- (c) Take measures to ensure that work performed by domestic workers under 18 years of age and the above the minimum age of employment does not deprive them of compulsory education, or interfere with opportunities for further education. (Article 4(2))
- (d) Take measures to ensure that domestic workers enjoy effective protection against all forms of abuse, harassment and violence. (Article 5)
- (e) Take measures to ensure that domestic workers enjoy fair terms of employment as well as decent working conditions and in case of living in the employer household, decent living conditions that respect their privacy. (Article 6)
- (f) Take measures to ensure that domestic workers are informed of their terms and conditions of employment in an appropriate, verifiable and easily understandable manner. Where possible, preferably, through written contracts in accordance with national laws or collective agreements. (Article 7)
- (g) Take measures to ensure that domestic workers:
  - i. are free to reach agreement with their employer on whether to reside in the household;
  - ii. not obliged to remain in the household during periods of daily and weekly rest or annual leave; and
  - iii. entitled to keep in their possession their travel and identity documents. (Article 9)
- (h) Take measures towards ensuring equal treatment between domestic workers and workers generally in relation to normal working hours, overtime compensation, periods of rest (at least 24 consecutive hours per week) and paid annual leave. (Article 10)
- (i) Take measures to ensure that domestic workers enjoy minimum wage coverage and that remuneration is established without gender discrimination. (Article 11)
- (j) Take effective measures, with due regard for the specific characteristics of domestic work, to ensure to a safe and healthy working environment. (Article 13)

- (k) For the protection of domestic workers:
- i. Establish effective and accessible complaint mechanisms and means of ensuring compliance with national laws and regulations.
  - ii. Develop and implement measures for labor inspection, enforcement and penalties: Such measures shall specify the conditions under which access to household premises may be granted, having due respect for privacy. (Article 17)

The Recommendation to this Convention takes into account Convention 182 and its Recommendation and ask Member States to identify the types of domestic work that, by their nature or the circumstances in which they are carried out, are likely to harm the health, safety or morals of children, and to prohibit and eliminate such child labor. (Paragraph 5(1))

It also suggests Member States to pay special attention to the needs of domestic child workers above the age of minimum employment and take measures to protect them by:

- (a) Strictly limiting their working hours to ensure adequate time for rest, education and training, leisure activities and family contacts;
- (b) Prohibiting night work;
- (c) Placing restrictions on work that is excessively demanding, whether physically or psychologically; and
- (d) Establishing or strengthening mechanisms to monitor their working and living conditions. (Paragraph 5(2))

### **SPARC's Recommendations**

- Domestic legislation should be introduced to adopt the Conventions ratified by Pakistan in order to make them part of law of the country.
- The minimum age for employment should be raised from 14 to 16 years; and to 18 years in the case of worst forms of child labor.
- Article 25A of the Constitution must be implemented in totality and all provincial governments should be directed to introduce an appropriate law to implement the Article.

- Pakistan must urgently sign and ratify the Domestic Workers Convention 2011.
- Domestic child labor should be included in the Schedule to the Employment of Children Act 1991 in order for this menace to be covered by the provisions of the law.
- All provincial governments should adopt a comprehensive law banning child labor, incorporating the salient features of all the applicable laws, including but not limited to, the Employment of Children Act 1991; the Factories Act 1934; the Mines Act 1923; and the Shops and Establishments Ordinance 1961.
- A country wide survey to ascertain the magnitude of child labor in Pakistan and devise interventions and policies must be conducted, with specific recommendations for each province, the tribal areas, Gilgit-Baltistan and Azad Jammu and Kashmir.
- Massive and continuous campaigns to oppose child labor at the national level must be introduced to mould the public opinion favoring child labor.
- Child labor inspection teams must be invigorated and properly trained.
- The penalties collected for violation of child labor related laws should be entrusted to a separate fund and must be spent for the welfare of former child laborers.



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