



Human Rights Commission
of Pakistan



Revisiting the Bonded Labour System (Abolition) Act 1992

A People's Assessment



FRIEDRICH NAUMANN
FOUNDATION For Freedom.

Pakistan



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With the support of



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Table of Contents

1. Introduction	5
2. Bonded Labour System (Abolition) Act	7
3. Project Aim and Methodology	9
4. Obstacles to Ensuring Labour Rights	11
5. Recommendations	19
Annex: Punjab Bonded Labour System (Abolition) Act 1992	21

1. Introduction

Bonded labour is one of the worst forms of exploitation. It implies that indigent workers are employed at nominal wages or without any fixed wages; their dependence on their employers for sustenance means that bonded labourers and their families are denied not only a fair wage, but also freedom of movement and the choice of other means to earn a living. It is a vicious system that extracts a heavy price from all parties concerned. It dehumanises the worker, devalues the life of each member of their family, especially children, allows the employer to misuse laws, and undermines the economy. Although Pakistan has tried to eradicate bonded and forced labour and the state is committed to the abolition of such practices, the problems have multiplied – partly due to the 2016 amendment to the Bonded Labour (Abolition) Act 1992, which revived the *peshgi* (bonded debt or advance money) system and practically justifies workers' slave-like status and their sale and trafficking when the *peshgi* amount cannot be repaid.

The Constitution of Pakistan contains a range of provisions relevant to labour rights in Part II (Fundamental Rights and Principles of Policy):

- Article 11 of the Constitution prohibits all forms of slavery, forced labour and child labour.
- Article 17 provides for the fundamental right to exercise freedom of association and the right to form unions.
- Article 18 prescribes the right of citizens to enter any lawful profession or occupation and to conduct any lawful trade or business.
- Article 25 lays down the right to equality before the law and prohibits discrimination on the grounds of sex alone.
- Article 37(e) makes provision for securing just and humane conditions of work and ensuring that children and women are not employed in vocations unsuited to their age or sex, as well as maternity benefits for women in employment.

However, constitutional guarantees against bonded labour could not have materialised without enacting laws and establishing effective enforcement mechanisms. The first step in this direction was the adoption of the Bonded Labour System (Abolition) Act 1992.

2. Bonded Labour System (Abolition) Act

The Bonded Labour System (Abolition) Act was passed by Parliament in 1992 and came into force on 17 March of that year. On that day, the bonded labour system stood abolished throughout Pakistan: every bonded labourer stood freed and discharged from any obligation to render bonded labour (Sec. 4(1) of the Act).

This implied the following:

- Every person was prohibited from making any advance under the bonded labour system or compelling anyone to render bonded labour or other form of forced labour [Sec 4(2)].
- All customs, traditions, practices and all contracts, agreements or other instruments, whenever executed, under which any person, or any member of his family, was required to work as a bonded labourer, became void and inoperative (Sec 5).
- Every obligation of a bonded labourer to repay any bonded debt outstanding against him stood extinguished [Sec 6 (1)].
- No suit or other proceeding could be taken up by any court or tribunal or any other authority for the recovery of bonded debt [Sec 6(2)] and every decree or order passed before the commencement of the Act and not fully satisfied by then was deemed to have been fully satisfied. [Sec 6(3)].
- Several measures came into force, designed to restore to bonded labourers any property taken from them by force or by sale or mortgage or attachment [Sec 6(4) to 6(7)].
- Any person who compelled anyone to render bonded labour or extracted bonded labour under the bonded labour system, in any guise or under any pretext, became liable to imprisonment for two to five years or with a fine of Rs50,000 or both. Failure to restore a bonded labourer's property within 90 days became punishable by imprisonment and/or a fine.
- All powers and duties required for the implementation of the law could be conferred on district governments by a provincial government. Elected representatives and officials were required to promote the welfare of freed bonded labourers by securing their economic interests so that they did not have to contract bonded debt again.

- District governments and other designated officials were required to enquire whether anyone was being made to work as a bonded labourer in the area under their jurisdiction, and if any evidence of bonded labour system was found, they were duty-bound to take such action as was necessary to implement the Act.

Although the Bonded Labour System (Abolition) Act – which was adopted by the Punjab government with minor amendments in 2012 – overrides all other laws, the provincial ordinance of January 2016 revived the system of *peshgi* and fixed its limit at 'six times the wage of a worker for one wage period, if his wages are time-rated, and earned wages during one month, if his wages are piece-rated.' The difficulty caused by confusion in interpreting this provision was met by fixing the *peshgi* limit at Rs50,000. This amount is far higher than the limit conceded by the Supreme Court 'in proper cases' and may push the debtor into bonded labour.

According to veteran human rights defender I. A. Rehman, apart from the apparent impossibility of reconciling this regressive provision with the bar to *peshgi* in the Bonded Labour System (Abolition) Act, 'lawmakers have ignored the entire debate held during 1988–1992 on the way the *peshgi* amount had been manipulated for decades to inflate workers' liability, and to justify workers' slave-like status and their sale when the *peshgi* amount could not be repaid.'¹

By reviving the *peshgi* system, the problem of labour exploitation and debt bondage has once again come to the fore. In the 13 focus group discussions (FGDs) that HRCP conducted with labourers across Pakistan, it became clear that the *peshgi* granted by landlords and factory or kiln owners allows them to abuse their position of power and exploit social links with politicians and the police, thereby keeping the labourer bonded and under immense pressure. Another pertinent issue is that of fraudulent book-keeping, which allows those managing debt payments to inflate the amount and further keep the illiterate labourer bonded.

In addition to the January 2016 ordinance, a glaring issue is that of implementation. While district vigilance committees (DVCs) were formed under the Act, the monitoring of landlords and employers is at an all-time low and practices such as child labour, delayed/lower payment to workers, and squalid working conditions persist.

¹ I. A. Rehman. 'A flawed child labour law.' Dawn, 8 September 2016.
<https://www.dawn.com/news/1282778>

3. Project Aim and Methodology

In collaboration with the Friedrich Naumann Foundation for Freedom, the Human Rights Commission of Pakistan (HRCP) held a series of consultations in Lahore, Chiniot, Faisalabad and Multan (Punjab) and in Karachi, Hyderabad and Mirpurkhas (Sindh). The aim of engaging with stakeholders in these areas was to strengthen their understanding of the scope and implementation of laws related to various aspects of modern slavery – including bonded labour, domestic labour, child labour, human trafficking and forced marriage – and to identify obstacles in the working of government departments responsible for protecting labour rights and the rights of women and children. This document is based on the recommendations derived from these consultations, which were attended by government department officials, particularly from the provincial treaty implementation cells and social welfare wings, DVC representatives, lawyers, human rights activists and journalists.



Participants at labour rights consultation in Multan

The consultations in Sindh and Punjab were held in tandem with 13 FGDs with labourers from different economic sectors, including agriculture, brick making and mining. The FGDs were held in Karachi, Hyderabad, Sukkur, Mirpurkhas, Quetta, Peshawar, Darra Adam Khel, Kohat, Multan, Okara, Faisalabad, Chiniot and Lahore. These discussions took place as informal, unstructured interviews designed to gauge labourers' working conditions and their most common problems.

4. Obstacles to Ensuring Labour Rights

4.1 Lack of oversight, implementation and documentation by labour departments

The absence of an effective regulatory state, as well as failure to develop a long-term strategy to harness the labour force's potential, has led to a rise in labour exploitation. Low literacy levels have impeded compliance, since employees do not report violations primarily due to lack of awareness and knowledge of labour rights, poor compliance and low wages at the workplace. At the same time, the Labour Department does not carry out the necessary workplace inspections to see if safety nets have been provided and if they are working effectively, or if there is evidence of malpractice, such as child labour.

4.2 Absence of a contract

When asked, respondents said that they were never provided formal written contracts at the time of their recruitment. Waqar, a cherry picker in Gilgit-Baltistan said that 'most workers are employed through verbal contracts. The rule of written contracts applies only to government departments. In private labour, particularly when you work on a seasonal basis, you will not be employed under any written agreement.'

Similarly, at brick kilns, managers maintain *peshgi* accounts and no labourer has the right to ask for details. As a result, the *peshgi* amount continues to multiply and 'we are bound to work in this condition for generations as we are never able to clear our debts,' said a kiln worker in Chiniot.

The absence of any written agreement between labourers and their employer was discussed at all the consultations and FGDs, indicating how common this problem is. It allows employers such as mine or kiln owners to fire their labourers at any time for any given reason. This verbal agreement is executed for accommodation, medical treatment in the case of accidents, and provision of necessities for mining. The labourers bear their own food expenses. Rahim Khan, a coalminer, said: 'The main reasons for firing a worker are theft and slow work. If a labourer dies, his family is not compensated with money. Although the government and owners approved a package of Rs500,000 and Rs300,000,

respectively, in case of death, no labourer's [family] has received this package to date.' A labourer in Faisalabad, who is also the general secretary of the labour union of brick kilns, said that it was impossible to move the courts against any injustice by the owners or management without any proof of employment. This issue is tied to another key issue that underlies modern slavery: the failure to provide social security and computerized national identity cards (CNICs) (see also Section 4.4).

4.3 Child labour and sexual exploitation

Pakistan's extent of compliance with the Worst Forms of Child Labour Convention 1999 needs to be examined, given that the heinous practice of hazardous child labour at brick kilns continues. The higher a family's *peshgi*, the more likely parents are to have their children make bricks with them so that they can raise enough money to repay their loan. According to Boota, a brick kiln worker in Chiniot, 'The parents' circumstances make them send their children [to make bricks] of their own free will: they become pawns in the hands of the brick kiln owners.' Children as young as ten can be found working at brick kilns or as construction labourers on building and road sites. Respondents also reported that brick kiln owners did not allow labourers' children to go to school because the latter were a source of cheap labour.

In extreme cases, brick kiln labourers have even sold transplant organs to repay their loans. A respondent in Multan told HRCP that four members of her extended family had sold their kidneys to pay back their ever-increasing *peshgi*. The 'sale' itself was also arranged by the brick kiln owner.

'The lack of documentation of women and children working in small factories or at home makes them vulnerable to economic and sexual exploitation. The government departments concerned should make sure to document every worker to stop this exploitation,' said a female participant in Hyderabad. At the consultation in Karachi, trainer Zulfiqar Qureshi pointed out that many child labour cases were not reported by the local media, but are instead covered by international news channels. 'We need comprehensive coverage at the local and national level to keep this issue alive,' he added.

According to trainer Tahira Habib, 'Sometimes, labourers cannot leave because of the *peshgi* they have taken from the owner or contractor.' For Talat, a brick

kiln worker in Lahore, this means that 'parents and their children are forced to live their whole lives in subjugation because the ill-fated children were born to parents in bonded debt.'

Saeed, a brick kiln labourer in Chiniot, said that 'stitching footballs or working at a tea stall or running simple errands in a workshop do not fall into the category of "hazardous work." Such labour should therefore not be discouraged.' Ghafoor Khan, a respondent in Khyber Pakhtunkhwa, observed that 'child labour in mines is strictly prohibited under the law and any job is to be provided based on [possession of] a CNIC. Although children can work outside the mines, undertaking ordinary work such as dishwashing, cooking and maintaining generators, they are not allowed to step inside.' Participants also felt that the fate of ten-year-old Zainab in Kasur in 2019 showed that children were easy prey for criminal elements and should therefore be in a safe environment.

In Gilgit-Baltistan, participants were asked if labourers for cherry picking also included children. One participant, Iftikhar, said that they were, adding that child labourers ranged in age 'from seven to 15 years. There are also minors who work at shops for 10–12 hours daily and earn very little for their work. Their parents are very poor and because of this, they are compelled to send their children to work.' Younas, a labourer, stated: 'A child labourer does not have the requisite physical strength and it is evident that many children suffer physical injuries when undertaking hazardous work. For instance, children who work as carpet weavers end up suffering from asthma. Child labour is the worst form of slavery.'

A mother at a brick kiln in Multan said that 'asking our children to work with us is not out of choice. I am sick and my husband alone cannot make 1,500 bricks daily. My daughters work with their father to meet the target.'

4.4 Lack of government inspection or oversight

Fauzia Viqar, a social justice and women's rights activist in Lahore, pointed out that 'labour inspection is fundamental to monitoring the conditions and terms of work. It needs to be strengthened rather than done away with.' A weak oversight function is primarily why labour exploitation persists.

'In Gilgit-Baltistan, no official from any government department has ever come to see our workplace. We think that such an institution does not exist in Gilgit. If it does exist, then it must be dysfunctional,' said a cherry picker in Gilgit. In Chiniot, Rahim, a labourer, commented: "This country is known as a Muslim country, but the atrocities committed here are worse than hell. Labour inspections are not allowed in factories by their owners; they bribe inspectors not to carry out inspections, so how is it possible to determine whether the labourers there are carrying social security cards or not?" Bashir, a labourer at a brick kiln in Chiniot, said that, "The day an inspection is to be carried out at a brick kiln, due to prior inside information, the children [who work there] are kept away.' Another labourer, Arif, added, 'Sometimes, they are locked inside the kiln owner's office at the very location the inspection is presumably being carried out.'

4.5 No implementation of minimum wage standards

Weak enforcement and the reintroduction of the *peshgi* system has seriously compromised the extent to which existing labour laws protect vulnerable groups. Although the minimum wage standard at brick kilns is Rs1,110 per 1,000 bricks, employers do not necessarily pay their workers this amount. Most workers in Punjab receive between Rs600 and Rs900. Most women employees do not even have access to their wages because 'our male family members take our wages directly from the contractor,' said a woman kiln worker at the FGD in Lahore.



Consultation on labour rights in Karachi

Low literacy and education mean that many brick kiln workers do not even know how much they have borrowed from the kiln owner on different occasions, such as the birth of a child, illness of a family member or a wedding in the family. The loan builds up to the point that it becomes virtually impossible to repay. Irfan, a labourer at a brick kiln, said that, 'Rs1,200 per day is the minimum wage, but we never receive more than Rs600 because the owner says he will not pay us more since we took *peshgi* from him.'

Highlighting the plight of labourers in this situation, a lawyer at the consultation in Lahore explained that 'the scope of exploitation goes beyond denial of reasonable wages. Citizens who are DVC members should therefore ensure that no prohibited practices under the Bonded Labour Act are carried out, by reporting any discrepancy they notice. Khalid Mahmood, another participant, commented: 'The provincial vigilance committee for Punjab has met only once since its tenure commenced this year.' Meher Safdar, a labour rights campaigner from the Bonded Labour Liberation Front, emphasized the importance of establishing a monitoring and evaluation system with the Labour Department inspection team and urged DVC members to become more proactive.

When labourers in Gilgit-Baltistan were asked if they were satisfied with their working conditions, the response was negative: 'Our compensation should be increased and working hours reduced. There should be some effort by the state to improve our situation so that we can meet our expenses with our earnings and live respectably.' Salman, a labourer in Gilgit, added: 'It depends on the nature of the job. For example [in the horticulture sector], our earnings depend on how many kilogrammes of vegetables we pick. Therefore, we try to work the maximum number of hours. Usually, we work in two shifts: early morning and evening. We work at least eight hours a day in the fields.'

Afsar Khan, a coalminer in Dara Adam Khel, explained the constraints arising from the inefficiency of the Labour Department: 'Coalminers do not have regular salary packages and they work on a contractual basis. Each coalminer charges Rs5,000 per ton. While the owners earn in millions, they do not even provide basic tools or facilities that are mandatory for miners' safety.' Hamid Khan, a respondent in Quetta, observed: 'Compared to Khyber Pakhtunkhwa, coalminers in Balochistan enjoy more benefits. For instance, they have their own association and are given advance payments when needed as well as scholarships for their children.'

4.6 Absence of social security cards

In most cases, labourers do not possess CNICs or social security cards. Although it is the responsibility of the brick kiln and factory owners to issue social security cards, it is the state's job to oversee implementation of safety nets. Asad Jamal, a lawyer and trainer, explained that, under the 1935 labour laws, 'an industrial labourer needs a social security card to safeguard his rights. Workers of Afghan origin are even less aware of their rights and are thus more vulnerable to coercion.'

A researcher and social activist at the HRCP consultation in Multan said that, 'in accordance with Article 25-A of the Constitution, education is mandatory for children and therefore it is the duty of the state to ensure that children are able to go to school. The second tier of responsibility rests with their parents and the owners of brick kilns or factories. Without social security cards, workers' children cannot access scholarships that they might otherwise be entitled to. Also, the *parchi* (chit recording the sum owed) system in which a labourer goes from one brick kiln owner to the next [owing the balance] is an underhanded way of selling a bonded labourer. Yet, this practice is still exercised.'

Yousaf, a respondent at the FGD held in Faisalabad, maintained that 'checking whether brick kiln labourers have social security cards is the responsibility of kiln owners, and labour inspectors can ensure if owners are fulfilling this responsibility.' The situation worsens considerably when a bonded labourer becomes unemployed: 'It becomes very difficult to meet our expenses. We are forced to get food from shopkeepers on credit during this period,' he added.



Discussion on Bonded Labour System (Abolition) Act in Lahore

During a consultation in Lahore, Meher Safdar (Bonded Labour Liberation Front) pointed out that religious discrimination was also rampant at brick kilns: 'There are about 25,000 brick kilns in Pakistan, 15,000 of which are in Punjab. Sixty to eighty percent of bonded labour victims in Punjab belong to minority communities and they are victimized not only because they are poor, but also because they belong to a religious minority.' He highlighted the lack of social security cards as one of the main reasons that labourers continue to be exploited and discriminated against. 'If the state could ensure minimum wages and social security cards for all workers, they would have an allowance for expenses such as hospital bills, weddings and funerals. This would lead to fewer advances from their employers, thereby reducing the practice of *peshgi* altogether,' he explained. While conducting the FGD in Multan, HRCP trainer Tahira Habib maintained that CNICs were mandatory for labourers and would help limit exploitative child labour.

Another key issue was that of illiteracy among workers, many of whom said that they did not even know what payment was due to them and whether they were being paid what they had been promised. This happens because the manager handles all payments: workers are asked to record their thumbprints on their agreement with the employer, but its details are not disclosed to them.

4.7 Lack of safe working environment makes workers non-productive

Most of the labourers confirmed that they had no safety measures at the workplace. Raza, a cherry picker in Gilgit-Baltistan, said that, 'there is no concept of safety measures at private workplaces in Gilgit-Baltistan. Employees are not even aware of them. We are lucky that we have never experienced an accident or a catastrophe at work.'

On 10 April 2019, four coalminers were killed and at least two injured in a gas explosion in a Darra Adam Khel mine. Such explosions can be caused inadvertently when mining, as the methane released when digging underground becomes highly explosive on contact with air. One worker was seriously injured and hospitalized for a month and a half; another has been on bed rest for the past year. While some mines have their own ambulances to deal with such accidents, Rescue 1122 and government ambulances had to rush to the spot in this case.

Another mining accident in Degari MPDC Quetta in July 2019 killed 10 workers and injured one, but since all the victims were Afghan, their families were not issued death certificates. Instead, their bodies were transported to Afghanistan as soon they were recovered. Rehman, a coal miner, recounted how the accident occurred: 'The mine where the accident occurred is owned by the government and leased to a private entity. Despite this, the government has not been supervising the functioning of the mine because the agreement focuses on the rent to be paid to the government. The accident took place because of obsolete electricity cables fixed in 1959 and lack of emergency exits. The mine was filled with gas, which caused the accident.' The problem is compounded by the absence of unions, which means that workers' grievances are never highlighted and resolved.

5. Recommendations

- The Punjab ordinance of January 2016, which revived the system of *peshgi* and fixed its limit at Rs50,000 per person, should be reversed.
- Labour inspections should be regularised to improve working conditions and the implementation of labour laws. This includes implementing minimum wage standards, ensuring safe working environments, and curbing forced labour and child labour at workplaces. Sufficient labour inspectors should be recruited without further delay.
- All DVCs should be made functional and accountable so that they can monitor the implementation of labour laws consistently and effectively.
- The government should launch a countrywide drive to ensure that all workers are issued CNICs so that they can be registered as employees and provided with social security cards.
- The minimum wage should be implemented in letter and spirit.
- Labour laws should be amended to ensure that child labourers work only up to a certain number of hours a day to give them the chance to attend school.
- All employers should be held accountable for ensuring that they meet the minimum workplace health and safety standards.
- The Population Control Department should strengthen efforts to encourage family planning so that fewer families rely on child labour to support the household.
- The police should be held accountable for addressing complaints filed by labourers in relation to wages and working conditions.
- The loan facilities provided by agricultural banks should be extended to peasants.
- There should be special schooling arrangements for the children of bonded labourers.
- In addition to ratifying the Safety and Health in Mines Convention 1995, the Government of Pakistan should observe the Safety and Health Code 2006 for underground coalmines. Mining accidents should be thoroughly investigated and the contractors penalised with heavy fines and their licenses cancelled if they are found guilty of negligence. Moreover, health provisions must be made whereby labourers are examined regularly to protect them from tuberculosis and other skin diseases.

Annex

^[1]THE PUNJAB BONDED LABOUR SYSTEM (ABOLITION) ACT, 1992 (III of 1992)

[11 March 1992]

An Act to provide for abolition of^[2] [bonded and forced labour] system.

Whereas clause (2) of Article 11 of the Constitution of the Islamic Republic of Pakistan prohibits all forms of forced labour.

And whereas it is necessary to provide for abolition of ^[3][bonded and forced labour] system with a view to preventing the economic and physical exploitation of the labour class in the country and for matters connected therewith or incidental there to;

It is hereby enacted as follows:-

1. Short title, extent and commencement.– (1) This Act may be called the ^[4][Punjab] Bonded Labour System (Abolition) Act, 1992.
 - (2) It extends to the whole of ^[5][the Punjab].
 - (3) It shall come into force at once.
2. Definitions.– In this Act, unless there is anything repugnant in the subject or context–

^[1] This Act received the assent of the President on 11 March 1992 and was published in the Gazette of Pakistan, Extraordinary, Part I, dated 17 March 1992.

This Act was originally in the Federal ambit, however, the subject on which this law was enacted devolved to the provinces by virtue of 18th Amendment in the Constitution, hence it was adopted, with amendments, for the province of the Punjab by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2012 (XXIV of 2012).

^[2] Substituted for the words “bonded labour” by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

This Act was originally in the Federal ambit, however, the subject on which this law was enacted devolved to the provinces by virtue of 18th Amendment in the Constitution, hence it was adopted, with amendments, for the province of the Punjab by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2012 (XXIV of 2012).

^[3] Substituted for the words “bonded labour” by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

^[4] Inserted by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

This Act was originally in the Federal ambit, however, the subject on which this law was enacted, devolved to the provinces by virtue of 18th Amendment in the Constitution, hence it was adopted, with amendments, for the province of the Punjab by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2012 (XXIV of 2012).

^[5] Substituted for the word “Pakistan” by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2012 (XXIV of 2012).

(a) “advance (peshgi)” means an advance (peshgi) whether in cash or in kind, or partly in cash or partly in kind, made by one person (hereinafter referred to as the creditor) to another person (hereinafter referred to as the debtor);

^[6] [(aa) “authorised officer” means an officer authorized under subsection (1) of section 9 of the Act;]

(b) “bonded debt” means an advance (peshgi) obtained, or presumed to have been obtained, by a bonded labourer under, or in pursuance of, the ^[7][bonded and forced labour] system;

(c) “bonded labour” means any labour or service rendered under the ^[8][bonded and forced labour system];

(d) “bonded labourer” means a labour who incurs, or has, or is presumed to have, incurred, a bonded debt;

(e) “bonded labour system” means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered into an agreement with the creditor to the effect that–

(i) in consideration of an advance (peshgi) obtained by him or by any of the members of his family [whether or not such advance (peshgi) is evidenced by any document)] and in consideration of the interest, if any, due on such advance (peshgi), or

(ii) in pursuance of any customary or social obligation, or

(iii) for any economic consideration received by him or by any of the members of his family;

he would,–

(1) render, by himself or through any member of his family, or any person dependent on him, labour or service to the creditor or for the benefit of the creditor, for a specified period or for an unspecified period either without wages or for nominal wages, or

(2) forfeit the freedom of employment or adopting other means of livelihood for a specified period or for an unspecified period, or

^[6] Inserted by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

^[7] Substituted for the words “bonded labour” by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

^[8] Substituted for the words “bonded labour System” by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

- (3) forfeit the right to move freely from place to place, or
- (4) forfeit the right to appropriate or sell at market value any of his property or product of his labour or the labour of a member of his family or any person dependent on him;

and includes the system of forced, or partly forced, labour under which a surety for a debtor enters, or has or is presumed to have, entered, into an agreement with the creditor to the effect that, in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor;

⁹⁹[(ea) “designated officer” means an officer designated under subsection (2) of section 9 of the Act;

(eb) “employer” means a person owning or having charge of the business of an establishment and includes an agent or manager or any other person acting on behalf of such person for the general management or control of such establishment;

(ec) “establishment” means:

(i) an establishment as defined under the Punjab Shops and Establishments Ordinance, 1969 (*VIII of 1969*);

(ii) a factory as defined under the Factories Act, 1934 (*XXV of 1934*); and

(iii) a mine as defined under the Mines Act, 1923 (*IV of 1923*);]

(f) “family” means,—

(i) in the case of a male bonded labourer, the wife or wives, and in the case of a female bonded labourer, the husband of the bonded labourer; and

(ii) the parents, children, minor brother, and unmarried, divorced or widowed sisters of the bonded labourer wholly dependent on him;

¹⁰⁰[(fa) “forced labour” means the work extracted from a person under threat of penalty or the work for which a person has not offered himself voluntarily but does not include:

(I) penalty imposed by a court;

⁹⁹ Inserted by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

¹⁰⁰ Inserted by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

- (ii) compulsory military service;
- (iii) action taken in an emergency;
- (iv) normal civil and social obligations; and
- (v) minor communal services;]

^[11][(ff) “Government” means Government of the Punjab;]

^[12][(ffa) “inspector” means any person appointed as inspector:

- (i) in case of a factory, under section 10 of the Factories Act, 1934 (*XXV of 1934*);
- (ii) in case of an establishment, under section 25 of the Punjab Shops and Establishment Ordinance, 1969 (*VIII of 1969*); and
- (iii) in case of a mine, under section 4 of the Mines Act, 1923 (*IV of 1923*);]

(g) “nominal wages”, in relation to any labour, means a wage which is less than,-

- (a) the minimum wages fixed by the Government, in relation to the same or similar labour, under any law for the time being in force; and
- (b) where no such minimum wage has been fixed in relation to any form of labour, the wages that are normally paid, for the same or similar labour, to the labourers working in the same locality; and
- (h) “prescribed” means prescribed by rules made under this Act.

3. Act to override other laws, etc.– The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.

4. Abolition of bonded labour system.– (1) On the commencement of this Act, the bonded labour system shall stand abolished and every bonded labourer shall stand freed and discharged from any obligation to render any bonded labour.

(2) No person shall make any advance under, or in pursuance of, the bonded labour system or compel any person to render any bonded labour or other form of forced labour.

^[11]Inserted by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2012 (*XXIV of 2012*).

^[12]Inserted by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (*XXIV of 2018*).

^[13] [(3) An employer shall not make or receive any advance (*peshgi*) inconsistent with, or in violation of, any law for the time being in force or beyond the prescribed limit.

(4) The advance (*peshgi*) under subsection (3) shall be recovered in such manner as may be prescribed.

(5) The employer shall maintain a record in respect of the advance (*peshgi*) made or received by him under subsection (3) in such manner as may be prescribed.]

5. Agreement, custom, etc., to be void.— Any custom or tradition or practice or any contract, agreement or other instrument, whether entered into or executed before or after the commencement of this Act, by virtue of which any person, or any member of his family, is required to do any work or render any service as a bonded labourer, shall be void and inoperative.

6. Liability to repay bonded debt to stand extinguished.— (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.

(3) Every decree or order for the recovery of bonded debt, passed before the commencement of this Act and not fully satisfied before such commencement, shall be deemed, on such commencement, to have been fully satisfied.

(4) Where, before the commencement of this Act, possession of any property belonging to a bonded labourer or a member of his family was forcibly taken by any creditor for the recovery of any bonded debt, such property shall be restored, within ninety days of such commencement, to the possession of the person from whom it was seized.

(5) Every attachment made before the commencement of this Act for the recovery of any bonded debt shall, on such commencement, stand vacated; and, where, in pursuance of such attachment, any movable property of the bonded labourer was seized and removed from his custody and kept in the custody of any court, tribunal or other authority pending sale thereof, such movable property shall be restored, within ninety days of such commencement, to the possession of the bonded labourer. Provided that, where any attached property was sold before the commencement of this Act, in execution of a decree or order for the recovery of a

^[13] Inserted by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

bonded debt, such sale shall not be affected by any provision of this Act.

(6) Subject to the proviso to sub-section (5), any sale, transfer or assignment of any property of a bonded labourer made in any manner whatsoever before the commencement of this Act for recovery of bonded debt shall not be deemed to have created or transferred any right, or interest in or encumbrance upon any such property and such property shall be, restored, within ninety days of such commencement, to the possession of the bonded labourer.

(7) If restoration of the possession of any property referred to in sub-section (4) or sub-section (5) or sub-section (6) is not made within ninety days from the commencement of this Act, the aggrieved person may, within such time as may be prescribed, apply to the prescribed authority for the restoration of the possession of such property and the prescribed authority may, after giving the creditor a reasonable opportunity of being heard, direct the creditor to restore to the applicant the possession of the said property within such time as may be specified in the order.

(8) An order made by any prescribed authority under sub-section (7) shall be deemed to be an order made by a civil court and may be executed by the court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction the creditor voluntarily resides or carries on business or personally works for gain.

(9) Where any suit or proceeding for the enforcement of any obligation under the bonded labour system, including a suit or proceeding for the recovery of any advance (peshgi) made to a bonded labourer, is pending at the commencement of this Act, such suit or other proceeding shall, on such commencement, stand dismissed.

(10) On the commencement of this Act, every bonded labourer who has been detained in civil prison, whether before or after judgment, shall be released from detention forthwith.

7. Property of bonded labour to be freed from mortgage, etc.- (1) All property vested in a bonded labourer which was, immediately before the commencement of this Act, under any mortgage, charge, lien or other encumbrance in connection with any bonded debt shall, in so far as it is relatable to the bonded debt, stand freed and discharged from such mortgage, charge, lien or other encumbrance; and where any such property was, immediately before the commencement of this Act, in the possession of the mortgagee or the holder of the charge, lien or encumbrance, such property shall, except where it was subject to any other charge, on such commencement, be restored to the possession of the bonded labourer.

(2) If any delay is made in restoring any property referred to in sub-section (1) to the possession of the bonded labourer, such labourer shall be entitled,

on and from the date of such commencement, to recover from the mortgagee or holder of the lien, charge or encumbrance, such mesne profits as may be determined by the civil court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction such property is situated.

^[14][7A. Eviction.– (1) Notwithstanding the provisions of any other law, a bonded labourer, whether released, resigned, retired, retrenched, discharged, dismissed, terminated or otherwise, occupying residential accommodation provided by his employer, shall not be evicted by the employer for a period of two months from the date of occurrence of any of the above eventualities, failing which the employer, without prejudice to any other liability, shall pay to the labourer compensation at such rate as may be prescribed.

(2) If the employer fails to discharge his obligations or if a labourer fails to vacate any residential accommodation provided by the employer after the expiry of the period specified in subsection (1), the employer or, as the case may be, the labourer may lodge a complaint to the Magistrate of the first class having jurisdiction in the area where such residential accommodation is located.

(3) The Magistrate may, after hearing the parties, notwithstanding anything contained in any other law, summarily decide the case and may pass an order directing the employer to pay compensation to the labourer or directing the labourer to vacate the premises within such time as the court may determine.

(4) Where a labourer occupying a residential accommodation provided to him by the employer, dies, the provisions of subsections (1), (2) and (3) shall, with such modifications as may be necessary, apply to the dependents of the deceased labourer, occupying such accommodation.]

8. Creditor not to accept payment against extinguished debt.– (1) No creditor shall accept any payment against any bonded debt which has been extinguished or deemed to have been extinguished or fully satisfied by virtue of the provisions of this Act.

^[15] [(2) A person, who contravenes the provisions of subsection (1), shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to one hundred thousand rupees but which shall not be less than twenty thousand rupees or with both.]

^[14] New section inserted by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

^[15] Substituted by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018) for the following:

“(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term, which may extend to three years, or with fine, which shall not be less than fifteen thousand rupees, or with both.”

(3) The court convicting any person under sub-section (2) may, in addition to the penalties which may be imposed under that sub-section, direct such person to deposit, in court, the amount accepted in contravention of the provisions of sub-section (1), within such period as may be specified in the order for being refunded to the bonded labourer.

^[16]9. Implementation of the Act.– (1) The Government may, by notification, authorize any officer in a District to exercise such powers and perform such duties as may be necessary for the effective implementation of the Act.

(2) The authorized officer may further designate any officer subordinate to him to perform such of his functions and duties as may be delegated to him and specify the local limits for the purpose.]

^[17]10. Duties of Authorized Officer etc.– (1) The authorized officer shall, as far as practicable, take necessary measures to promote the welfare of the persons freed from bonded or forced labour by securing and protecting the economic interests of such persons.

(2) The designated officer shall inquire whether any ongoing bonded labour system or any other form of forced labour is being continued by or on behalf of any person who is resident within the local limits of his jurisdiction and if, as a result of such inquiry, any person is found to be continuing the bonded labour system or any other system of forced labour, he shall forthwith submit the matter to the authorized officer for such action as may be necessary under the Act.

(3) An inspector shall, during the course of inspection of an establishment,

^[16]Substituted by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018) for the following:

“9. Authorities who may be specified for implementing the provisions of this Act.– The Government may confer such powers and impose such duties on a District Coordination Officer as may be necessary to ensure that the provisions of this Act are properly carried out and the District Coordination Officer may designate an officer subordinate to him to exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and specify the local limits within which such powers or duties shall be carried out by such officer.”

^[17]Substituted by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018) for the following:

“10. Duty of District Coordination Officer and other officers designated by him.– (1) The District Coordination Officer authorised by the Government under section 9, and the officer designated by the District Coordination Officer under that section, shall as far as practicable, try to promote the welfare of the freed bonded labourer by securing and protecting the economic interests of such bonded labourer so that he may not have any occasion or reason to contract any further bonded debt.

(2) It shall be the duty of every District Coordination Officer and every officer designated by him under section 9 to inquire whether, after the commencement of this Act, any bonded labour system or any other form of forced labour is being enforced by, or on behalf of, any person resident within the local limits of his jurisdiction and if, as a result of such inquiry, any person is found to be enforcing the bonded labour system or any other system of forced labour, he shall forthwith take such action as may be necessary to implement the provisions of this Act.”

inquire whether any bonded labour system or any other form of forced labour is being continued by or on behalf of the employer, within the local limits of his jurisdiction and if, as a result of such inquiry, any person is found to be continuing the bonded labour system or any other system of forced labour, the inspector shall forthwith submit the matter to the authorized officer for such action as may be necessary under the Act.

(4) The authorized officer may refer the matter to the District Vigilance Committee for resolution of the dispute, or may direct the designated officer or the inspector to lodge a complaint in the court of competent jurisdiction.

(5) If the emigrant labourers are involved in the bonded or forced labour, the authorized officer may refer the matter to the Federal Investigating Agency established under the Federal Investigation Agency Act, 1974 (*VIII of 1975*) for taking cognizance of the matter.]

11. Punishment for enforcement of bonded labour.– Whoever, after the commencement of this Act compels any person to render any bonded labour shall be punishable with imprisonment for a term which shall not be less than two years nor more than five years, or with fine which ^[18][which may extend to two hundred thousand rupees but] shall not be less than fifty thousand rupees, or with both.

^[19]12. Punishment for extracting bonded labour.– (1) A person who enforces any custom, tradition, practice, contract, agreement or other instrument by virtue of which any person or any member of his family is required to render any service under the bonded labour system, shall be punished with imprisonment for a term which may extend to five years but which shall not be less than two years and with fine which may extend to one hundred thousand rupees but shall not be less than three hundred fifty thousand rupees.

(2) The Government may make arrangements for payment to the bonded labourer at the rate of minimum wages notified by the Government for that category of work or similar work out of the fine recovered under subsection (1).]

13. Punishment for omission or failure to restore possession of property to bonded labourer.– Whoever, being required by this Act to restore any property to

^[18] Inserted by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

^[19] Substituted by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018) for the following section:

“12. Punishment for extracting bonded labour under the bonded labour system.– Whoever enforces, after the commencement of this Act any custom, tradition, practice, contract, agreement or other instrument, by virtue of which any person or any member of his family is required to render any service under the bonded labour system, shall be punishable with imprisonment for a term which shall not be less than two years nor more than five years or with fine which shall not be less than three hundred and fifty thousand rupees, or with both; and out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of not less than fifty rupees for each day for which bonded labour was extracted from him.”

the possession of any bonded labourer, omits or fails to do so, within a period of ninety days from the commencement of this Act shall be punishable with imprisonment for a term which may extend to ^[20][five] year, or with fine which may extend to ^[21][twenty thousand] rupees, or with both; and out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of ^[22][five hundred] rupees for each day during which possession of the property was not restored to him.

14. Abetment to be an offence.– Whoever abets any offence punishable under this Act shall, whether or not the offence abetted is committed, be punishable with the same punishment as is provided for the offence which has been abetted.

Explanation.– For the purpose of this section, “abetment” has the same meaning as is assigned to it in the Pakistan Penal Code (Act XLV of 1860).

15. Vigilance Committees.– (1) Vigilance Committees shall be set up at the District level in the prescribed manner, consisting of elected representatives of the area, representatives of the District Administration, Bar associations, press, ^[23][social services organizations, representatives of recognized workers' organizations, representatives of recognized employers' organizations; and Public Prosecution and Labour and Human Resource Departments of the Government].

(2) The following shall be the functions of the Vigilance Committees, namely:-

- (a) to advise the District Administration on matters relating to the effective implementation of the law and to ensure its implementation in a proper manner;
- (b) to help in the rehabilitation of the freed boned labourer;
- (c) to keep an eye on the working of the law; ^[24][*]
- (d) to provide the bonded labourers such assistance as may be necessary to achieve the objectives of the law ^[25][;]

^[20]Substituted for the word “one” by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2012 (XXIV of 2012).

^[21]Substituted for the words “one thousand” by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

^[22]Substituted for the words “one hundred” by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

^[23]Substituted for the words “recognized Social Services and [Labour Department of the Government]” by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018); the words in crotchets were earlier substituted for the words “Labour Departments of the Federal and Provincial Governments” by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2012 (XXIV of 2012).

^[24]The word “and” omitted by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

^[25]Substituted for the full-stop by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

- ^[26] (e) to create awareness amongst the labourers and the employers about their rights and liabilities under this Act; and
- (f) to resolve the disputes amongst the labourers and the employers referred to it by the authorized officer.]

^[27] (3) A Vigilance Committee may constitute a Sub-Committee from amongst its members for carrying out the functions assigned to it under subsection (2).]

^[28] 15A. Provincial Vigilance Committee.– (1) The Government shall constitute a Provincial Vigilance Committee consisting of such members as the Government may appoint.

(2) The Provincial Vigilance Committee shall:

- (a) review the implementation of this Act and the action plan relating to abolition of bonded or forced labour and the rehabilitation of persons freed from bonded labour;
- (b) monitor the working of the District Vigilance Committees constituted under the Act and the rules made thereunder; and
- (c) address the concerns of national and international bodies on matters relating to the bonded or forced labour.

16. Offences to be tried by the Magistrate.– ^[29] [(1) A Magistrate of the first class may, within the local area of his jurisdiction, try any offence under the Act.]

(2) An offence under this Act may be tried summarily.

17. Cognizance of offences.– ^[30] [(1)] Every offence under this Act shall be cognizable and bailable.

^[26] New clauses inserted by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

^[27] New subsection added by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

^[28] New subsection added by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

^[29] Substituted by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018) for the following:

“(1) A Magistrate of the first class empowered in this behalf by the [* * *] Government may try any offence under this Act.”

The word “Provincial” was previously omitted by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2012 (XXIV of 2012).

^[30] Section 17 renumbered as subsection (1) by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

^[31](2) An offence under the Act, except an offence punishable under section 12, shall be compoundable with the permission of the court of competent jurisdiction.]

18. Offences by companies.– (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager or other officer of the company, such director, manager or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.– For the purposes of this section,–

(a) “company” means any body corporate, and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

19. Protection of action taken in good faith.– No suit, prosecution or other legal proceeding shall lie against Government or any officer of the Government for any thing which is in good faith done or intended to be done under this Act.

20. Jurisdiction of Courts barred.– Save as otherwise provided in this Act, no court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any court in respect of anything which is done or intended to be done under this Act.

21. Power to make rules.– The ^[32][* * *] Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

^[31] New subsection inserted by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2018 (XXIV of 2018).

^[32] The word “Federal” omitted by the Punjab Bonded Labour System (Abolition) (Amendment) Act 2012 (XXIV of 2012).



**Human Rights Commission
of Pakistan**