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Forced Labor Convention, 1930 (No. 29) - ***Pakistan*** *(Ratification: 1957)*
Protocol of 2014 to the Forced Labor Convention, 1930 - ***Pakistan*** *(Ratification: 2025)*

1. The Commission takes note of the Government's reports covering the periods from 1 July 1992 - 30 June 1993 and from 1 July 1993 - 30 June 1994, as well as the supplementary material received from the Government in November 1995 "on the most recent measures to address the problem of child servitude".

The Commission has also taken note of the observations on the application of the Convention made by the All-Pakistani Federation of Trade Unions, in a communication dated 13 October 1994, which was in turn communicated to the Government for its comments on 11 November 1994. The Government has not made any comments on these observations.

I. Child labor in the Forced Labour Convention

2. In its previous observations, the Commission had referred in detail to the problems of debt bondage and child servitude. In the supplementary material received in November 1995, the Government, addressing the dimensions of the problem of child servitude, indicated that: “There is a great difference between child labor and child servitude. The problem of child labor does indeed exist in Pakistan, but it is limited in scope. This problem is both visible and invisible. Visible child labor exists mainly in small industrial establishments, workshops, restaurants, etc. Invisible child labor exists possibly in cases of children helping their families in domestic industries and in the agricultural sector. Cases of child servitude are also invisible.”

3. The Commission takes due note of these indications. Before considering more deeply the issue of visibility as a key point in addressing the problem of child labor, the Commission would like to emphasize, from a more conceptual point of view, the difference between child labor and child servitude for the purposes of the Convention.

4. Forced labor, debt bondage, child bondage. Under the Convention, the Government has undertaken to eliminate the use of forced or compulsory labor, defined in Article 2(1) as "all work or service exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." Debt bondage, as defined in Article 2(e) of Act No. III of 1992, the "Bonded Labour System (Abolition) Act," is a form of forced labor covered by Article 2(1) of the Convention. Child servitude is an intrinsic and typical part of the bonded labor system, as recognized in Article 2(e) of the Act, which repeatedly refers to labor imposed on any member of the family of the "debtor" or alleged debtor, or on any person dependent on them. Debt bondage, including child bondage, will be considered in detail later in Part II.

5. Child Labour Other Than Debt Bondage. With regard to forms of child labour other than debt bondage, the question arises, in relation to Article 2(1) of the Convention, as to whether, if applicable, a child may be deemed to have offered himself "voluntarily" for work or service, or under what conditions parental consent is necessary or even sufficient in this respect, and what the penalties are in the event of refusal. In this respect, it should be noted that when regulating the use of compulsory labour during a transitional period following

the entry into force of the Convention (1 May 1932), the Conference expressly excluded in Article 11 the use of any person under the age of 18.

6. In its reports on the application of the Convention and in the supplementary material on the most recent measures, the Government presented information on a range of activities and programs related to child labor, including the signing of the Memorandum of Understanding with the ILO in June 1994 to eliminate child labor in the country and the launch of the 14 IPEC action programs; the establishment of a "National Commission on the Rights of the Child" and "special units on child labor" in the Ministry of Labor, Human Resources and Pakistanis Abroad and in the labor departments of the provincial governments; The nearly 3,000 inspections carried out last year resulted in approximately 1,000 legal proceedings being initiated under the 1991 Child Employment Act, which prohibits the employment of individuals under the age of 14 in a limited range of occupations (related to railways and the sale of firecrackers and fireworks) and in 14 listed manufacturing occupations (including the production of goods using metals and toxic substances), except in family businesses or government-recognized schools. Enforcement of the law is punishable by imprisonment or fines. The Commission notes that the Factory Act of 1934, as amended in 1977, already prohibited in a more general way the employment of children under the age of 14 in factories where ten or more people worked and in mines, but no information has been communicated concerning the monitoring of the application of that Act.

7. Referring to the document on the overall situation with regard to the implementation of the 1991 Child Employment Act and the 1992 Bonded Labour System (Abolition Act) (abolition of bonded labour) Act) communicated by the Government in November 1995, the Commission notes that under the 1991 Child Employment Act, in Punjab, 1,351 inspections led to the initiation of 699 legal proceedings, of which 48 convictions provisionally resulted; in Sindh, 407 inspections were followed by 47 legal proceedings, with no convictions reported to date; in the North-West Frontier Province, 270 irregularities were detected through 1,576 inspections, and decisions were taken in 16 cases; In Balochistan, measures were about to be taken concerning 1,921 children under the age of 14 working in various establishments. The Commission appreciates the Government's efforts to remove children from a number of occupations that are among the most dangerous or harmful. However, in the absence of further details on the cases referred to by the Government, which were brought under the 1991 law on child employment, the Commission is unable to assess its impact on the application of the Forced Labour Convention, or what remains to be done to protect children more generally from the exploitation of their labor. Nevertheless, the Commission can clearly see that the efforts made in practice are insufficient to combat the problem of child servitude, or indeed, the problem of debt bondage as such.

II. Easement for debts

8. Scope of the Problem. In previous comments, the Commission noted the allegations made to the United Nations that 20 million people were working in bonded labor, 7 million of whom were children. The Commission noted the Government's assertion that these figures did not reflect reality, an assessment shared by the All-Pakistani Federation of Trade Unions (APFTU). When comparing the aforementioned figures with statistical data on the labor force and the total population of Pakistan, the Government has not provided any figures of its own regarding the number of bonded workers. However, from the document submitted by the Government at the Asian regional seminar on child bonded labor (Islamabad, November 1992), the Commission notes that in Pakistan child labor persists primarily due to poverty, lack of public awareness, lack of educational opportunities, and the debt bondage of their parents. In regions where parents (peasants/day laborers) are forced to work for landowners/employers, their children are frequently trapped in debt bondage. Typically, a loan is given to the parents to meet some urgent need. Consequently, the debtor has to repay it through their labor. In practice, the debt does not decrease; it even grows larger. The entire family becomes permanently enslaved, and the lender demands repayment from successive generations. Thus, children are committed as laborers as partial payment of a debt. Children could also be enslaved independently. Relatives could send them to work in the house of a landowner or a moneylender. These children could remain for many years without knowing how long they would have to work or the magnitude of the debt they were paying. The Commission also notes the observation made by the All-Pakistani Federation of Trade Unions in its communication of 13 October 1994 that people are subject to forced labor under the system of debt bondage by feudal lords in rural and less developed regions and also in some coal mines and brick factories.

9. Practice in the area of investigation and enforcement measures. In its 1992-1994 reports on government implementation, the Government indicates that only one case of debt bondage was found in Punjab province and that legal proceedings had been initiated against the management. In the "Consolidated position of the implementation of the Employment of Children Act, 1991, and the Bonded Labour System (Abolition Act), 1992" received from the Government in November 1995 and already referred to in paragraph 7 above, there is no record of any inspections, prosecutions, or convictions having been carried out under the 1992 Bonded Labour Abolition Act. It is stated by way of explanation that reports supplied by district magistrates in Balochistan indicate that no cases of debt bondage have been recorded in the province and that the monitoring committees headed by the deputy commissioners in the districts of NWFP and Sindh have not detected any cases of debt bondage; in Punjab, it is explained that pursuant to section 15 of the law, monitoring committees have been formed in almost every district of that province and that the law provides that such committees have mainly an advisory and supervisory role, and that "it can be observed in a general way that aggrieved persons do not resort to monitoring committees, but prefer to resort to the High Court for quick help."

10. Visibility and perception of the problem. In its statement noted in paragraph 2, the Government, in assessing the extent of the problem of child bondage, had indicated that such cases were not visible. Apparently, this lack of visibility or perception is generally indicative of the difficulty in addressing the problem of debt bondage, a difficulty that has so far not been overcome by the established system, except in the singular case where the workers were able to organize themselves and, on their own initiative, invoked the jurisdiction of the High Court.

11. The Role of District Magistrates and Monitoring Committees. The Commission recalls that, pursuant to Article 9 of the 1992 Act on the Abolition of Bonded Labour, provincial governments may grant district magistrates the necessary powers and impose the necessary obligations to ensure proper implementation of the Act. Furthermore, pursuant to Article 15 of the Act, monitoring committees established at the district level are tasked not only with advising the district administration on matters relating to the effective implementation of the Act, but also with ensuring its proper application and providing bonded workers with the necessary assistance to achieve the objectives of the Act. To date, this does not appear to have been the case.

12. Trade Union Observations. The Committee recalls the observations on the application of the Convention made by the All-Pakistani Federation of Trade Unions in a communication dated 31 December 1993, transmitted to the Government for comment on 21 January 1994. In its observations, the Federation, referring to the composition of the supervisory committees, stated that the country's feudal lords had considerable control over the country's administrative machinery, which was consistently used to protect the debt-servitude system, and that every effort to abolish the system had met with vigorous resistance. The Federation had requested that trade unions should be compulsorily represented on the supervisory committees, a matter not currently provided for by law. The Committee notes that the Government has not responded to these observations.

13. Measures to be taken. The Commission expects that the necessary measures will now be taken to ensure the effective implementation of the 1992 Act on the Abolition of Bonded Labour, with regard to the identification, release and rehabilitation of bonded workers, as well as the strict punishment of offenders, including, as provided for in Article 14 of the Act and Article 107 of the Penal Code, the punishment of any public official or other person who, by any unlawful act or omission or deliberate concealment of a material fact that he or she is obliged to disclose, voluntarily assists or attempts to bring about the commission of an offense provided for by law. The Commission requests the Government to provide detailed information on the measures taken to this effect, or on any measures taken or planned to include in existing mechanisms representatives of trade unions and employers' associations, as well as representatives of the National Human Rights Commission and other non-governmental organizations engaged in the task of assisting bonded workers, and on the results obtained, including the number of bonded workers identified, freed and rehabilitated, and details relating to the prosecution, conviction and punishment of offenders.

III. Restrictions on the termination of the employment relationship

14. For many years, the Commission has noted that the provisions of the 1952 Pakistan Essential Services (Maintenance) Act 1952 establish that it is an offense punishable by imprisonment for up to one year for a person employed by the central government,

regardless of the nature of their employment, to terminate that employment without the employer's consent, even if their contract expressly or implicitly states that such termination is possible by simple prior notice. These provisions may be extended to other classes of employment (Articles 2, 3, paragraph 1(b) and Explanation 2, Article 7, paragraph 1 and Article 3). Similar provisions are found in the 1958 West Pakistan Maintenance of Essential Services Act in force in Balochistan and the North-West Frontier Province, and in the corresponding 1958 Punjab and Sindh Maintenance of Essential Services Acts.

15. The Government had repeatedly indicated its intention to amend the provisions of the Pakistan Essential Services Maintenance Act so that employees could terminate their employment in accordance with the express or implied terms of their contracts. In its latest report, the Government states that the Act is temporarily applied to essential jobs only for the purpose of ensuring the defense or security of the country and for the maintenance of supplies and services essential to the life of the community. While the right of association is not affected in these cases, only strikes and lockouts are prohibited, as the Government considers that disruption of essential services would endanger the life of the community as a whole. However, in all circumstances, workers retain the right to seek redress through appropriate forums (NIRC) for any grievances they may have suffered. The Government adds that the list of essential jobs covered by the Act is minimal. The Government has adopted a policy of ongoing review and monitoring of this list. It has also expressly amended the provisions of this Act to allow an employee to terminate their employment in accordance with the express or implied terms of their contract, but reiterates that the application of this Act to some industries is unavoidable due to the sensitive nature of those jobs. Furthermore, this has been done because the national interest requires appropriate checks and balances in such cases. However, the Government has decided that in the future the Act will not be extended to any industry unless absolutely warranted and justified. Nevertheless, the possibility of employees covered by the 1952 Act on the Maintenance of Essential Services terminating their employment unilaterally, and the exclusion of certain establishments from the application of the Act, has been considered by a tripartite special group on labor issues, which submitted its report to the Cabinet in light of the views expressed by workers' and employers' groups. The Cabinet established a committee within its structure to further examine the report, and the ILO will be informed of any developments.

16. The Commission has duly noted the various explanations. With regard to the Government's repeated statement that the Act applies temporarily only to essential jobs, the Commission is obliged to point out once again that the Essential Services Act applies permanently to all employment, whatever its nature, in the Federal Government, and to all employment in a provincial government or agency established by it or in a local authority or in any service related to transportation or civil defense; furthermore, it may be applied, upon notification by a provincial government with respect to jobs in any autonomous educational agency and upon notification by the Federal Government for specified and renewable periods of six months each, to such other jobs or types of employment as the Government considers essential.

17. With regard to the Government's assertion that the right of association remains intact and that only strikes and lockouts are prohibited, the Commission, referring also to point 4 of its observation on Pakistan under the Abolition of Forced Labour Convention, 1957 (No. 105), must again point out that even in genuinely essential services, the interruption of which could endanger the life, personal safety or health of individuals, the freedom of workers individually to terminate the employment relationship by giving reasonable notice remains an inalienable right; under provincial and federal laws on essential services, this same right is denied to a vast group of employees.

18. As regards the Government's indication of the possibility of restoring the right of employees covered by the 1952 Maintenance of Essential Services Act to terminate their employment unilaterally, which is being examined more closely by a Cabinet committee on the basis of a report prepared by the tripartite group on labour issues, the Committee also noted the observation made by the All-Pakistani Federation of Trade Unions, in its communication of 13 October 1994, that the repeal of these laws is necessary in light of Conventions Nos. 29 and 105, ratified by Pakistan. Recalling that the laws on essential services have been the subject of the Commission's comments for many years under the Convention, ratified by Pakistan in 1957, and that the Government had assured the Conference Commission in 1989 that it had already decided to comply with the stipulations of the Convention by amending the 1952 law, and that the draft amendment was to be submitted to the National Assembly, the Commission trusts that this will now be done and that similar provisions will be adopted for the relevant provincial laws, and that the Government will report on the measures taken in this regard.

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