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CHILD LABOUR IN BRICK KILNS IN PAKISTAN: LEGAL AND ENFORCEMENT CHALLENGES

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ABSTRACT

The problem of child labour in brick kilns in Pakistan is closely associated with peshgi (advance) debt, family-based production and weak enforcement. Pakistan has a significant legal framework in place, such as articles 11 and 25-A of the Constitution, the Bonded Labour System (Abolition) Act 1992, the Punjab Prohibition of Child Labour at Brick Kilns Act 2016 and the Punjab Labour Code 2026. It has also ratified the Convention on the Rights of the Child, the ILO Conventions Nos 29, 105, 138 and 182, and the Protocol to the Forced Labour Convention (2014). This article poses the question of why this framework has not been effective in protecting children. Using doctrinal legal research, it analyses constitutional provisions, statutes, treaties and superior court decisions, and uses Indian and European case law for functional comparison. Four criteria are used to assess the law: coherence, detectability, enforceability and remediability. The article concludes that Pakistan has only formally complied with its international obligations but not effectively. The 2016 Act left wage and debt records in the hands of the occupier, restricted its evidential presumption to school hours, introduced equal liability for bonded parents, and gave the labour inspector the only access to prosecution, and no remedy for rehabilitation. The 2026 Code brings greater consistency to the age standards, although the timing for the Code to come into effect and its connection with the kiln specific regime remains to be seen. The article suggests a five stage regulatory chain model and suggests a clear transition instrument, verifiable peshgi ledgers, risk based inspection, connected case management and differentiated parental liability and automatic channels from detection to education and social protection.

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Introduction

Child labour in brick kilns remains one of the most persistent labour and human rights problems in Pakistan. Brick-making is mostly informal and seasonal and work is typically organised around the family, not the individual worker. The laborers are paid based on output and many households rely on an advance given by the kiln owner (peshgi) which is paid back in labor (Ercelawn & Nauman, 2004; Iqbal, 2006). An advance, per se, is not unlawful. However, if not well kept or if deductions are made unfairly or borrowing is repeated, it can become a debt burden on the family and on the kiln. Then kids sit down next to their parents and help to increase production or pay off a debt. They are exposed to dust, heat, heavy loads and long hours which are detrimental to their health, education and development (Ali et al., 2017; Mayberry & Farrukh, 2024).

There is no such issue of non-existence of legal framework in Pakistan. The Constitution of the Islamic Republic of Pakistan (1973) bans slavery, the use of child labour (below 14 years) in dangerous jobs, and free and compulsory education (Articles 11 and 25-A). The Bonded Labour System (Abolition) Act, 1992, was enacted to eradicate bonded labour and cancel bonded debts. The Punjab Prohibition of Child Labour at Brick Kilns Act, 2016 established a sectorial regime in Punjab, while the Punjab Labour Code, 2026 aims to streamline the labour laws of the province. Pakistan has also ratified the Convention on the Rights of the Child (CRC), the key International Labour Organization (ILO) conventions on forced labour and child labour, and in March 2025, the Protocol of 2014 to the Forced Labour Convention (International Labour Organization [ILO], 2025). Bonded labour in kilns has been termed as an infringement of fundamental rights by the superior courts on several occasions.

However, it is still done. The UN Committee on the Rights of the Child (CRC) has also expressed concern about child labour in Pakistan, including hazardous and bonded child labour, and recommended increased monitoring and enforcement (CRC, 2026). The assessment conducted by ILO revealed that the agencies in charge of enforcement lack resources, training and coordination (ILO, 2023).

The primary problem with the law is not what it prohibits, but that there is no enforcement chain that is connected to it, this article argues. The law prohibits child labour, but the State is not able to reliably identify child labour in the family, the keeping of records of debt, take credible action, or make sure a rescued child is not engaged in child labour. The article makes three contributions. First, it provides a provision-wise evaluation of the enforcement design of the Brick Kilns Act, 2016, which is sparsely discussed by the existing studies. Secondly, it suggests a five-stage framework, called the "regulatory chain" to test the effectiveness of child labour law in practice. Thirdly, it explores the unclear transition between the 2016 Act and the Punjab Labour Code 2026, which has not been the subject of academic study.

The article proceeds through the research problem, questions and methodology, the legal and theoretical framework, the critical analysis, and the findings and recommendations.

Research Problem

The literature describes the reasons for children working in kilns, and less about why the law does not prevent them. Social science studies have been conducted that have correlated kiln child labour with poverty, household indebtedness, low adult wages, informal work and low access to schools (Ali et al., 2017; Latif et al., 2016; Shah et al., 2020). Research on bonded labour has focused on the immobility of labourers and their families, due to peshgi (Ercelawn & Nauman, 2004; De Lauri, 2017). Iqbal (2006) pointed out the lack of active vigilance committees, lack of records and coordination but his study was done before the 2016 Act. Sohail and Mahmood (2020) looked at the applicability of labour law in the kiln industry but did not discuss the enforcement clauses under Brick Kilns Act. Three gaps follow. First, there is limited doctrinal analysis of the operation in practice of provisions in the 2016 Act, including the written contract rule, the evidential presumption and parental liability and the inspector's complaint power. Second, Pakistan's record of fulfilling its international commitments is typically measured by the ratification and legislation and not by enforcement. Thirdly, the enactment of the Punjab Labour Code 2026 has posed a new question: does consolidation increase protection or does it take away sector specific protections. The research problem is thus the lack of a clear legal explanation for the failure of substantial law on kiln child labour to translate into effective protection, and what reforms would fill the gap.

Research Objectives and Questions

The article aims to evaluate the extent of compliance of the current legal framework of Pakistan with the CRC and relevant ILO instruments; examine the characteristics of the Brick Kilns Act 2016 that are hampering its implementation; and suggest some changes in the law that are essential to ensure Pakistan's obligations and are appropriate for the kiln sector.

These objectives correspond to three research questions. First, does Pakistan effectively fulfil its international human rights and labour law obligations to eliminate child labour in brick kilns? Second, do legal and administrative gaps hinder the effective enforcement of the Punjab Prohibition of Child Labour at Brick Kilns Act 2016? Third, what legal reforms are necessary to eliminate bonded child labour in this sector?

Methodology

Research Design

Doctrinal legal research is used in the article. Doctrinal research involves finding the applicable law, interpreting it and structuring it in a logical presentation of the law (Hutchinson & Duncan, 2012). It is the right approach here as the meaning, consistency and operation of legal rules is the focus of each research question. The research is also reform-oriented, asking if the law is working to fulfill its intended purpose, and what changes are necessary if it is not (McConville & Chui, 2017).

Sources and Selection

The Constitution of Pakistan 1973, Bonded Labour system (Abolition) Act 1992, Pakistan Penal Code 1860, Prevention of Trafficking in Persons Act 2018, Punjab Prohibition of Child Labour at Brick Kilns Act 2016, Punjab Restriction on Employment of Children Act 2016 and Punjab Labour Code 2026 are the primary sources. The international sources include the CRC, the ILO Conventions Nos 29, 105, 138 and 182 and the Protocol to Convention No 29, adopted in 2014. Statutory texts were sourced from official documents, and ratification information from the ILO and UN.

The cases were chosen based on three conditions: that they had to be decided by a superior court, that they had to involve bonded labour or child labour/bonded brick kilns, and that they had to be important in terms of the content of the right or the remedy. Judges have a hierarchy in Pakistan and follow it. Only peer reviewed articles, scholarly books and UN and ILO reports were used as secondary sources. News reports are used only to indicate recent official acts (e.g., rules approved) for which there is no other public record.

Analytical Framework

Four criteria were created for this study and used to determine if the law meets them. Coherence is the question of whether the rules are logically consistent, for example regarding age. Detectability is a question of whether the law affords the State the opportunity to find out about the violations without having to receive complaints from children. Enforceability: Does violation result in credible and escalating consequences? Remediability is a question of whether the law provides for the child's removal from the workforce and for preventing re-entry. These criteria are based on responsive regulation and risk-based regulation theory, which are discussed in Section 5.4.

Comparative Method

The article refers to decisions of the Supreme Court of India and the European Court of Human Rights (ECtHR). In Pakistan, these decisions are not binding and are used for functional purposes; to indicate how other courts have dealt with the same issue. India, like Pakistan, has a common-law tradition, and a large body of case law dealing with debt bondage. The ECtHR's case law outlines positive obligations on forced labour which are like Convention No 29 and its Protocol.

Limitations

The study does not involve any new field work or empirical data. There is no consolidated data on the kiln inspections, prosecutions and convictions in the public domain in Punjab and conclusions about enforcement are based on official assessments, judicial findings and published research. The study is conducted in Punjab where there is sector specific legislation and a significant proportion of kilns in Pakistan are located. The law is as of October 2026. Since the implementation of the Punjab Labour

Code 2026 is not explicitly mentioned in any official sources, the Act of 2016 is considered as the current law in operation and the Code is analysed as current law in transition.

Legal and Theoretical Framework

Constitutional Framework

Article 11(1) and (2) of the Constitution bans slavery, forced labour and trafficking in persons and Article 11(3) states that no child under the age of 14 shall be employed in any factory, mine or other dangerous work. The Eighteenth Amendment, 2010, added Article 25-A which mandates that the State provides free and compulsory education to all children between the ages of five and sixteen. These provisions are backed up by Article 9 (life and liberty), Article 14 (dignity) and Article 25(3) which allows for special provision to be made for children. In accordance with the Principles of Policy, the elimination of exploitation is mentioned in Article 3 and just and humane working conditions for children and ensuring that children are not engaged in vocations unsuited to their age is mentioned in Article 37(e) of the Constitution of the Islamic Republic of Pakistan (1973).

Article 11 prohibits child labour and hazardous child labour, and Article 25-A obligates the State to ensure that children are able to attend school. Work in a kiln, even by a 15-year-old child, may not fall under Article 11(3) but it still violates the right to education under Article 25-A. Thus, the constitutional requirement is cumulative: the State is required to take down the work that is prohibited and restore the conditions for education.

International Obligations

The CRC has a provision in Article 32 that guarantees that a child is not to be subjected to economic exploitation or to work which is harmful to their education or development or is hazardous to them. It is a functional and not contractual test. A child that moulds or carries bricks in a family unit is still under Article 32, even if he or she is not paid for the activity or if there is no individual contract (Cullen, 2007).

A national policy to eliminate child labour is called for by ILO Convention No 138. Article 2(3) refers to the end of compulsory education and Article 2(4) provides for a developing country to state fourteen at first. In 2006, Pakistan indicated fourteen 'on ratification'. The minimum age for hazardous work is 18 years old as per Article 3. Convention No 182 is applicable to all people under the age of 18 and debt bondage, forced labour and hazardous work are included in the list of the worst forms of child labour (Article 3). Under Article 7, effective and time-bound measures for prevention, removal, rehabilitation and access to free basic education (Humbert, 2009).

Forced labour is a form of labour that is not provided voluntarily but rather is extracted under the threat of punishment (Article 2(1) of Convention No 29) and is punishable as a penal offence (Article 25). The 2014 Protocol introduces prevention and victim protection and access to remedies, including

compensation (Articles 1–4). With its ratification in 2025, the standard to which peshgi will now be held (ILO, 2025). The main developments are given in Table 1.

Table 1: Timeline of Key Legal Developments on Forced and Child Labour in Pakistan

Year	Development	Legal significance
1957	Pakistan does implement ILO Forced Labour Convention, 1930 (No 29)	Obligation to take appropriate steps to eradicate forced labour and provide punishment for the forced labour exaction (art. 25)
1960	Pakistan has joined Abolition of Forced Labour Convention 1957 (No 105).	Prohibits forced labour as a method of using labour for economic development
1973	Constitution of the Islamic Republic of Pakistan	Art. 11 (forced labour); art. 37(e) (work unsuited to age)
1988 (rep. 1990)	Darshan Masih v. The State, Supreme Court	Bonded Kiln Labour as a Human Rights matter.
1990	Pakistan adopts CRC.	Art. 32 protection from economic exploitation
1992	Bonded Labour System (Abolition) Act	Abolition of bonded labour; extinction of bonded debt
2001	Pakistan signs Convention No 182.	Debt bondage and dangerous labour as the worst forms of child labour.
2005 (rep. 2006)	Syed Shabbir Hussain Kazmi, Federal Shariat Court	1992 Act upheld; Object not achieved.
2006	Pakistan adopts Convention No 138 with 14 years as age.	18 for hazardous work; minimum age for compulsory schooling.
2010	Eighteenth Amendment	Art. 25-A (education 5-16); devolution of labour regulation to provinces.
2016	Punjab Brick Kilns Act, Punjab Restriction on Employment of Children Act.	Child under 14 – sector specific regime; Child under 15 – general regime.
2018	Prevention of Trafficking in Persons Act	The crime of forced labour was criminalised (s.). 3)
2020	Muhammad Suleman v. SHO, Lahore High Court	Structural guidance to registration and contracts/advances
2025	Pakistan approves of Convention No 29, 2014 Protocol	The responsibilities of prevention, protection and remedy.
2026	February – CRC Concluding Observations; Punjab Labour Code assented (10 February); brick kiln rules approved (September).	Revitalisation of international vigilance; provincial law is consolidated; transitional insecurities.

Source: Created by the author from the cited legislation and case law, ILO (2025), International Labour Organization, United Nations, Committee on the Rights of the Child (2026) and 24 News HD (2026).

Compliance is thus a question of effect, rather than enactment. Alston (2004) notes that the effectiveness of the implementation of core labour standards is more important than their formal endorsement.

Statutory Framework

The Bonded Labour System (Abolition) Act 1992, abolished the bonded labour system (s. 4), and paid off bonded debts (s. The Bonded Labour System (Prevention) Act, 1976 (6 of 1976), declared bonded labour and the creation of bonded debt as offences. 11–12). The definitions include family members and dependants. However, the Act did not provide any specific provisions to identify unpaid child labour in a family unit or to send released children to school (Iqbal, 2006).

In 2016, Brick Kilns Act was shifted to sectoral regulation. A "child" is a person who has not reached the age of fourteen years (s.) A "worker" is defined as "any person who is directly or indirectly engaged in the business whether for wages or not" (s. 2(e)), and a "worker" includes anyone engaged directly or indirectly, "whether for wages or not" (s. 2(o)). All engagements should be on a written contract that details wages, any advance and how it will be repaid (s.). 3). If the engagement is not in writing, it is considered bonded labour (s. 3(4)). Section 4 allows for an advance, but limits it to fifty thousand rupees. Under Section 5, it is illegal for an occupier to use, hire or allow a child to work. Section 6 makes the presumption that a child over 5 years of age who is found at a kiln while school is in session is employed and the burden of proof that a person is not a child rests on the occupier. Inspectors have access to kilns, can inspect registers, can take evidence and complain to police (ss. 11–12). An inspector can seal a kiln for a maximum of 7 days (s. Violation of sections 3, 4 or 5 is punishable by simple imprisonment of seven days to six months and a fine of fifty thousand to five hundred thousand rupees (s. 13). Offences are heard summarily before a first class magistrate (s. They are only cognisable on an Inspector's written complaint (s. 15).

Punjab Restriction on Employment of Children Act 2016, defined child as a person under fifteen and adolescent as a person aged between 15 and 18 (s. 2). It banned child labour in establishments and adolescent labour in hazardous work (s. 3). The Punjab Labour Code 2026 increases the age of a child to sixteen, introduces the concept of a young person (aged 16 to 18) and allows for limited light work from the age of fourteen (s. 24). Table 2 shows the age thresholds.

Table 2: Comparison of Age Thresholds Relevant to Child Labour in Brick Kilns

Instrument	Provision	Age threshold	Scope
Constitution of Pakistan 1973	Art. 11(3)	Below 14	Work at a factory, in a mine or other dangerous jobs

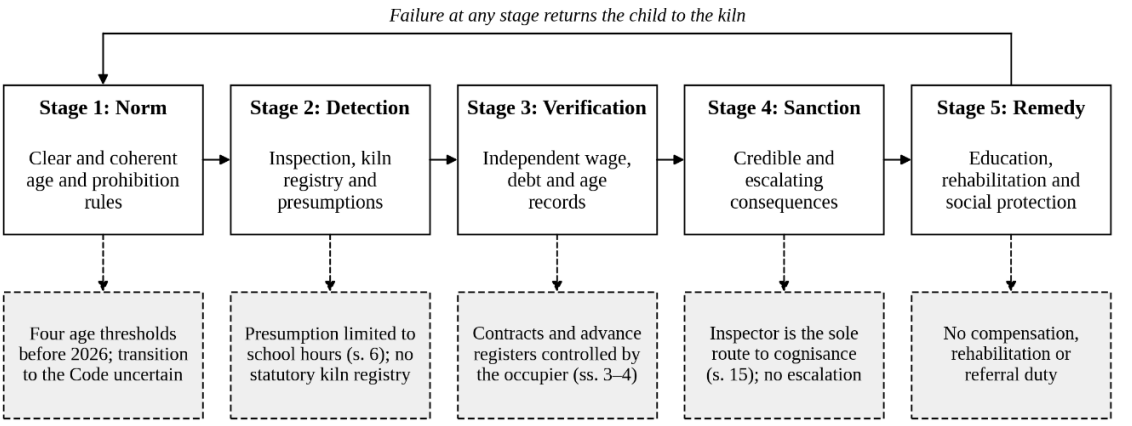
Constitution of Pakistan 1973	Art. 25-A	5 to 16	Compulsory and free education
Punjab Brick Kilns Act 2016	Ss. 2(e), 5	Has not completed 14 years	Labor at a Brick Kiln (any work)
Punjab Restriction on Employment of Children Act 2016	Ss. 2, 3	Child under 15; adolescent 15 to 18	Working in settings; dangerous jobs for youth
Punjab Labour Code 2026	Definitions; s. 24	Child under 16; young person 16 to 18; light work from 14	General work with some light duties.
ILO Convention No 138	Arts. 2(3), 2(4), 3	Not below end of compulsory schooling; 14 permitted initially; 18 for hazardous work	Age of 15 years as minimum age for national service.
ILO Convention No 182	Arts. 2, 3	Under 18	Worst forms: debt bondage and dangerous work
CRC	Arts. 1, 32	Under 18	Where children are exploited for economic gain, or for work that is detrimental to them.

Source: Created by the author from the instruments listed. A 14- or 15-year-old child working in a kiln might not be covered by either of the Punjab laws, but still be under the age of compulsory schooling and the international definition of hazardous work, before 2026.

Theoretical Framework

The assessment is based on two regulatory theories. Responsive regulation is an approach that assumes that regulators should start off by trying to persuade and move to more severe sanctions if compliance is not achieved, in an "enforcement pyramid" (Ayres & Braithwaite, 1992). Braithwaite (2006) believes that the model can be effective in a developing economy if the State establishes networks with civil society and other actors, as they have weak state capacity. Risk-based regulation focuses scarce inspection resources on the highest risks, but Black and Baldwin (2010) caution that it should adjust to regulated actions, institutional capabilities and changes in the environment. Both theories assume that the regulator is able to detect violations and credibly escalate. Kiln child labour is a test of both the assumptions. The resulting framework is presented in figure 1.

Figure 1 The Regulatory Chain: From Formal Prohibition to Effective Protection



Key: Solid boxes show what the law must secure. Shaded dashed boxes show the gaps identified in Punjab law.

Source: Created by the author. The model draws on responsive regulation (Ayres & Braithwaite, 1992) and risk-based regulation (Black & Baldwin, 2010). Gaps in the lower row are those identified in Section 6.

Critical Analysis

Judicial Development: From Release to Structural Supervision

In Pakistan, a definite trend is discernible. In Darshan Masih v. In the State (1990), the Supreme Court had responded to a telegram from the kiln workers and had decided that bonded labour is a matter of fundamental rights under Article 184(3). It did not agree with the "private" concept of debt recovery and suggested legislation which culminated in the Act of 1992. The Lahore High Court in Muhammad Siddique v. Mansha (1997) ruled that the kiln owners should not be allowed to use an advance as a means of labour compulsion. It was not the name given to the payment that was the deciding factor, but whether it was coerced.

The case of Syed Shabbir Hussain Kazmi v. Government of Pakistan (2006) saw the Kiln owners challenging the provisions of the 1992 Act as being contrary to the Injunctions of Islam. The Federal Shariat Court overturned the challenge and said the Act was good law that was meant to bring an end to bonded labour. It also noted that the goal of the Act had not been met. This illustrates how valid and effective can be different: the law was valid but made no impact due to the lack of judicial cooperation.

Muhammad Suleman v. Station House Officer (2020) is the shift towards structural supervision. Wide directions issued in a habeas corpus petition for recovery of eight persons who were detained. The Lahore High Court directed all the kilns to be registered under the Factories Act 1934, issue identity cards to workers, registration of their children's birth, written contracts under section 3 of the 2016 Act and health visits to workers' families (Riaz, 2020). The court acknowledged that single

commitments to release orders will not help to solve the repeated institutional failure. However, this was based on the need for ongoing judicial intervention; protection was due to the court, since the executive failed to act.

This is backed up by comparative case law. In People's Union for Democratic Rights v. Union of India (1982), Supreme Court of India had ruled that if the labour is provided under economic compulsion and at a wage less than minimum, it is forced labour. This is a response to the contention that if a family accepts peshgi then the work of the child is voluntary. In Bandhua Mukti Morcha v. Union of India (1984), the Court ruled that the State is bound to identify, release and rehabilitate bonded labourers and in Neeraja Chaudhary v. State of Madhya Pradesh (1984) it ruled that release without rehabilitation leaves the workers vulnerable to re-bondage. The ECtHR has come to a similar conclusion. In Siliadin v France (2005), it concluded that it was a violation of Article 4 of the European Convention as the criminal law failed to provide effective protection for a minor who was in servitude. In Chowdury v. Greece (2017), it stated that the initial consent of a worker cannot be seen as an exclusion of forced labour, where the employer was exploiting the vulnerability of the worker, and that the State must prevent, protect and effectively investigate. A comparison of these approaches is given in Table 3.

Table 3: Comparative Judicial Approaches to Bonded and Child Labour

Case	Court	Holding or approach	Significance for kiln child labour
Darshan Masih v. The State, PLD 1990 SC 513	Supreme Court of Pakistan	Acted on the telegram of kiln workers and suggested legislation under art. 184(3).	Bondage a constitutional issue, not a private debt.
Muhammad Siddique v. Mansha, PLD 1997 Lahore 428	Lahore High Court	Labour cannot be forced with an advance.	It is not the name that determines the legality of the substance, it's the substance itself.
Syed Shabbir Hussain Kazmi v. Government of Pakistan, PLD 2006 FSC 1	Federal Shariat Court	The 1992 Act is not repugnant to the Injunctions of Islam; object not yet achieved	Clearly distinguishes between legal and effective
Muhammad Suleman v. SHO, PLD 2020 Lahore 534	Lahore High Court (Bahawalpur Bench)	Directions on kiln registration, identity documents, contracts and advance registers	Structural supervision, reliance on courts.
People's Union for Democratic Rights v. Union of India, (1982) 3 SCC 235	Supreme Court of India	Labour under economic compulsion below minimum wage is forced labour	Responds to the objection of peshgi that makes work voluntary.

Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161	Supreme Court of India	Bonded labourers should be identified, released and rehabilitated by State.	A positive duty of identification.
Neeraja Chaudhary v. State of Madhya Pradesh, (1984) 3 SCC 243	Supreme Court of India	Those who are not rehabilitated are at risk of being re-bonded once released.	As part of the remedy, rehabilitation.
M.C. Mehta v. State of Tamil Nadu, (1996) 6 SCC 756	Supreme Court of India	Likewise surveys, employer compensation to a welfare fund, education.	Suggest a compensation program
Siliadin v. France, No. 73316/01	ECtHR	Art. 4 violated as criminal law provided no effective protection to a minor.	Criminalisation needs to be effective.
Chowdury v. Greece, No. 21884/15	ECtHR	Initial consent is not final; responsibilities to prevent, protect and investigate.	If someone is vulnerable, any consent can be withdrawn.

Source: Created by the author from the decisions cited. Indian and ECtHR decisions are persuasive only and are used for functional comparison.

One difference is shown in the comparison. In India and Europe, rehabilitation and effective investigation have been considered as part of the right, while in Pakistan, this has been left largely to the discretion of the administration, with the exception of Suleman.

Age Incoherence and International Compliance

Until 2026, there were at least four age thresholds in the law of Punjab. The definition of a child was: under 14 years in a kiln, under 15 years in other establishments, under 16 years of age in compulsory education and under 18 years of age in hazardous activities, according to Conventions Nos 138 and 182. It's not just a drafting error. The same legislature defined a fourteen-year-old to be a child under the general Act, but not under the kiln Act, although the preamble to the kiln Act specifically acknowledged that the occupation of a kiln is dangerous for children. Nor did the general Act include brick kilns in the list of hazards. A 15-year-old in a kiln might not be covered by either Acts, although the work was interfering with compulsory education and exposing the child to hazards. Humbert (2009) demonstrates that minimum age laws are only effective when they are in line with the compulsory education and hazardous work laws.

The Code's definition of a child as being under sixteen years of age largely resolves this issue, however if the Code is not in operation and/or if kiln work is not considered hazardous for those under 18 years of age. The implementation of Article 3 of Convention No 138 and Article 3(d) of Convention No 182 in Pakistan is still not complete, until both conditions are clearly met.

Peshgi, Records and the Limits of Documentation

The intention of sections 3 and 4 of the 2016 Act was to make the relationship between the parties more transparent and to document it. Section 3(4) was the deeming rule which put the pressure on occupiers. What was not, however, was the weakness that the occupier still controlled the records. The Act did not provide for any mechanism to settle the difference between the bricks produced, labour payments made, deductions made and the balance of the advance. A contract may show a legitimate upfront payment but also have under-recorded production and multiple loans and subsequent deductions.

Studies on Bondage in Kilns indicate that, besides the amount of loan, the control over wage-setting, deductions and accounts is also responsible for dependency (Ercelawn & Nauman, 2004; Iqbal, 2006). De Lauri (2017) illustrates that there is no real freedom when material dependence is still there even though the right to repay is formal. Thus, capping the amount of peshgi does not deal with coercive use of the peshgi, but only its amount. This is the same approach that the Code takes in regulating advances, and not banning them (s. 18). Although the provision could be pragmatic because credit is required for kiln households, it will be able to protect children only if the records can be verified independently.

Evidential Presumptions and Parental Liability

The 2016 Act's most successful aspect is Section 6. It assumes that if a child aged over 5 is found at a kiln during school hours, then they are working and shift the burden of proof of age onto the occupier, taking away the common defence that the child was accompanying a parent. This is a good reaction to the challenge of demonstrating unpaid work.

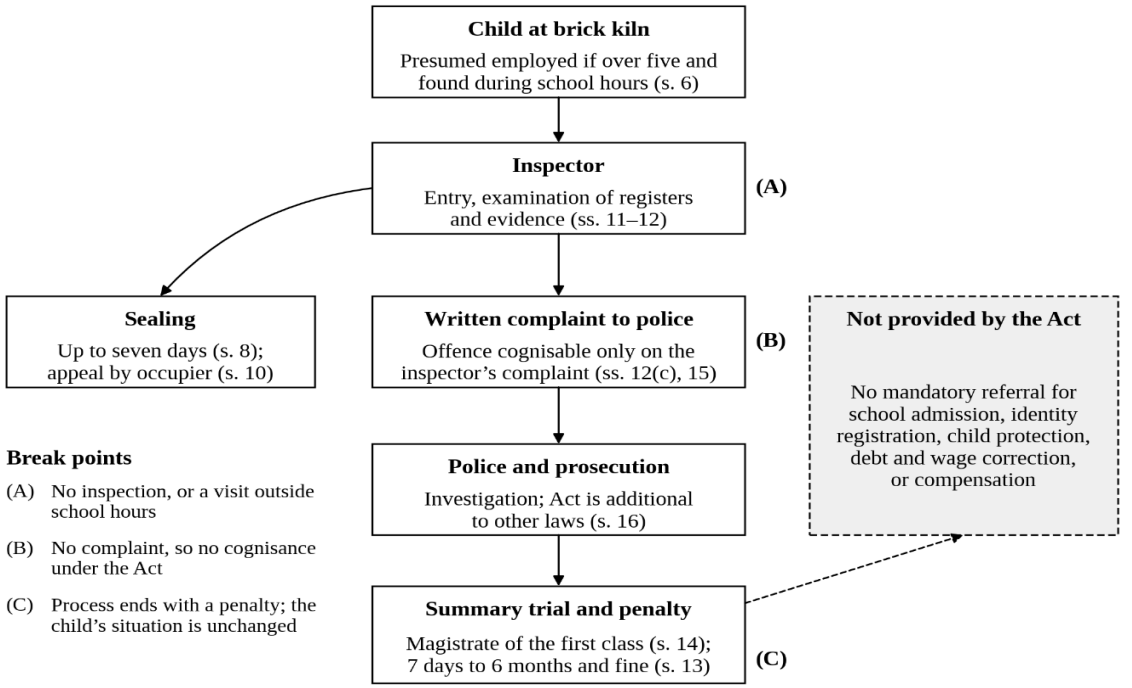
There are definite boundaries. It is based on a finding at school during school time. It doesn't come close to work done in the evening, on holidays or during busy times. Secondly, a child could be identified but the Act does not call for the child to be referred to by the education or registration authorities. While not conclusive, not being born registered can hinder access to social protection later in life and school admission.

The issue of parental liability brings up another issue. The Act as passed makes the parent/guardian liable for a child's employment, in addition to the occupier. Equal liability means that it does not take into account the differences in power. Having a parent who is indebted, who lives on the kiln premises and cannot leave is not the same as the occupier who is in control of the location and benefits from the labor. This makes it hard for the parent to cooperate and renders the bondage victim a defendant. This is not in harmony with the victim-protection clause in Article 4 of the 2014 Protocol, or with the argument in People's Union for Democratic Rights (1982) about economic compulsion.

Inspection and the Inspector as Gatekeeper

The inspection powers of sections 11 and 12 are very broad. Their challenge is to use them in a disorganized, informal and seasonal sector. The ILO has identified multiple institutions to have a role in child labour enforcement in Pakistan, such as labour departments, police, anti-trafficking units, courts, vigilance committees, and child protection bodies, but they face a lack of knowledge, resources and coordination (ILO, 2023). There were a lot of bodies out there that had powers, but no one had a case from start to finish. This weakness was focused on the design of the Act. An offence under the Act can only be cognisable on a written complaint by an inspector under section 15 of the Act. Thus, the inspector is the only one who can enter the criminal process. The prosecution under the Act cannot start if there is no inspection, the evidence is weak or no complaint is filed. This pathway and break points are shown in figure 2.

Figure 2 Enforcement Pathway under the Punjab Prohibition of Child Labour at Brick Kilns Act 2016



Sources: Created by the author from sections 6, 8 and 10 to 16 of the Act. Break points A to C mark where the process can fail.

There is also no escalation in the implementation of sanctions. Sealing is only for a period of 7 days, and no compliance plans, deadlines or verifications are required under section 18. Ayres and Braithwaite (1992) suggest that persuasion will only be effective if there are consequences for non-

compliance and if the regulated persons are aware of this. If there is no clear line of counseling, corrective order, re-inspection, sealing and prosecution, "counseling" turns into a kind of toleration, punishment becomes sporadic. The lack of public information on the progression of cases adds to the issue.

The Act is supplementary to other laws, as provided in section 16. The offence of a kiln case could also be a violation of the 1992 Act, s. 374 of the Pakistan Penal Code (prevention of unlawful compulsory labour) and/or the Prevention of Trafficking in Persons Act 2018 (s. 4, recruitment/movement for exploitation of a child). 3). The legal nature of a case may be determined by the agency that initially encounters the case, if there is no formal referral and joint assessment.

Remedies and the Rehabilitation Gap

There is no compensation fund or rehabilitation order or mandatory child-protection referral under the 2016 Act. The most common remedy in kiln cases is the writ of habeas corpus which secures physical release, but not to correct debt accounts, to recover wages or place a child in school.

Indian courts have considered these issues as a part of the remedy. The Supreme Court in M.C. Mehta v. State of Tamil Nadu (1996) ordered surveys of child labour, payment of compensation to the released children in a welfare fund and education for the released children. In Bachpan Bachao Andolan v. Union of India (2011), it made it a requirement for co-ordinated rescue and rehabilitation of exploited children. Economic analysis provides an explanation for why: a prohibition, in the absence of income support, may drive a child into other employment, instead of school (Basu & Van, 1998). Well-designed social protection was found to have a negative effect on child labour, as it helps households to cope with poverty and income shocks (ILO & UNICEF Office of Research–Innocenti, 2022). Beyond school enrolment, the health impacts reported by kiln children need to be addressed (Mayberry & Farrukh, 2024).

Transitional Uncertainty under the Punjab Labour Code 2026

The Punjab Labour Code 2026 was assented on 10 February 2026 and supersedes the previous laws, such as Brick Kilns Act 2016. It is dependent on a government notification. According to press reports in May 2026, the Code had been notified but according to legal commentators the commencement was still to be notified in the official Gazette (ABS & Co, 2026). In September 2026, the Punjab Government adopted new regulations on child labour in brick kilns which have kept the under 14 age limits, have included a sealing procedure, and written agreements and registers (24 News HD, 2026). These are part of the 2016 regime. The State thus seems to have two systems in place, involving different ages.

Inspectors, police and magistrates are thus uncertain about the statute under which they are operating, the age which is applicable, or how pending cases will be handled. Consolidation also can cause a dilution of sector-specific protection. The kiln Act was based on the concept of family production, piece rate wages and peshgi. These features can only be covered by a general code if

rules or a schedule cover them. According to Sohail and Mahmood (2020), the extension of labour law to the kiln sector will not work if it does not take care of the lack of bargaining power and administrative capacity.

Findings

The first research question was to find out if Pakistan is performing its international duties effectively. In Pakistan, there is a significant formal compliance, but the effective compliance has not been achieved. A solid normative foundation is provided by the Constitution, the 1992 Act, the provincial statutes and the ratification of all relevant instruments, such as the 2014 Protocol. However, the due diligence requirements under Conventions Nos 29, 138 and 182 and Article 32 of the CRC are not fulfilled in practice due to the lack of consistency in the age thresholds, weak inspection, limited prosecution and lack of rehabilitation.

The second research question was whether there are legal and administrative gaps that prevent the implementation of the 2016 Act. There were five gaps identified. For one thing, wage and debt records are in the hands of the occupier and can't be independently verified. Second, the presumption is evidential and only applies to children who are found during school hours. Thirdly, equal parental liability makes coerced parents criminals. Fourthly, the inspector is the only gatekeeper to prosecution and there is an unclear escalation sequence for sanctions. Fifth, no duty to compensate, rehabilitate or refer. The Act scores reasonably well on the four criteria in Section 4.3, with a poor score on detectability and remediability. There was little coherence prior to 2026, and it is unclear due to the transition. Lastly, judicial protection has transitioned from release to structural supervision but still relies on ongoing court supervision.

Recommendations

The recommendations are based on the steps of the regulatory chain in Figure 1 and are summarised in Table 4.

Table 4: Reform Matrix Linking Identified Gaps to Recommended Reforms

Stage	Gap identified	Recommended reform	Legal basis
Norm	Uncertain transition to the Code; inconsistent age thresholds	Commencement and transition instrument; brick making is explicitly included in the list of hazardous activities; no comments on unpaid family work;	Const. arts. 11, 25-A; C138 art. 3; C182 art. 3(d)
Detection	Presumption is only during school hours; no kiln registry.	Provincial Kiln Registry, Satellite mapping, Unannounced risk based inspection.	C182 art. 7; Black & Baldwin (2010)

Verification	Records of wages and debts under control of occupier	Normal ledger, official reconciliation, responsibility of occupier to document deductions on ledger	2016 Act ss. 3–4; Code s. 18; 1992 Act s. 6
Sanction	Inspector as the only gatekeeper; no escalation; equal parental liability	Multiple initiators and escalation sequence, joint charging and limited liability for knowing exploitation.	C29 art. 25; Protocol art. 1; Ayres & Braithwaite (1992)
Remedy	No compensation, rehabilitation or referral provided.	Automatic protection plan, social protection link, an employer financed compensation fund.	CRC arts. 28, 32; Protocol art. 4; M.C. Mehta (1996)

Source. Created by the author.

Firstly, it is necessary to have a clear instrument of commence and transition for the Code published by the Punjab Government. It should include a list of provisions that are applicable to kiln work, a list of pending cases, and a list of continuing inspectors, registers and committees. Kiln-specific protections should be retained in the rules under the Code and brickmaking should be included as a hazardous occupation for all 17 and under. There shall be an explicit reference to unpaid family work.

Secondly, peshgi records must be verifiable by themselves. A standard wage and debt ledger, detailing bricks produced, gross wages, lawful deductions, payments and the outstanding balance should be given to each worker. There should be regular reconciling of these records by the Labour Department. The law should also allow for a speedy and low-cost process of challenging entries and put the onus on the occupier to prove deductions. It should also include the following: No debt is transferred to children, and a child's work does not count towards a household advance.

Thirdly, inspections should be risk focused and expert. A provincial kiln registry could be a combination of licensing records, past violations, school non-attendance records and worker complaints. There is now a possibility of establishing a satellite mapping of kilns which can minimize the need for self-registration (Hamdani et al., 2024). To reduce risky behaviors among young people, risk scoring should be coupled with minimum coverage, unannounced visits at various times, and confidential interviews/ supervisory review as suggested by Black and Baldwin (2010).

Fourth, there should be linkage in enforcement. Cognisance should not be limited to a complaint by an inspector but could be done by the police and child protection officers as well. One identifier for each case is for inspection, investigation, prosecution, child protection and education. If any evidence exists of debt bondage or forced labour/trafficking, all the relevant crimes should be taken into account from the beginning. Parental liability should not extend to parents who are in bondage to exploit a child, but just to parents who knowingly exploit a child.

Fifth, protection should be automatically triggered when detection occurs. Child identified working – obtain identity papers, admission to school, health assessment and follow-up. Kiln households should be included in existing cash transfer programmes and in access to legal emergency credit, as evidenced in the social protection literature (ILO & UNICEF Office of Research–Innocenti, 2022). The remedies duty of the Protocol could be given flesh by establishing a compensation fund to be funded by punitive measures on the wrongdoers-occupiers, as suggested by M.C. Mehta (1996).

Conclusion

This article questioned the effectiveness of the protection of the large number of laws in Pakistan regarding child labour in brick kilns. It discovered that the issue is not the prohibition as much as the linkage that should be there between the prohibition and the detection, verification, sanction and remedy. The Brick Kilns Act of 2016 was a significant progress in a number of aspects including the deeming rule of written contract and presumption of employment. It did however leave records in the control of the occupier and only enabled the inspector to be the only means of prosecution, and bonded parents were treated as offenders, with no rehabilitation. The Punjab Labour Code 2026 enhances the consistency of age standards, however, due to its unclear date of coming into force and its general nature, it poses new risks for an industry with unique types of exploitation.

Institutions need to be in place to identify, address debt relationships, take actions and consequences and prevent children to drop out of school as per the constitutional and international commitments of Pakistan. In this regard the reforms proposed seek to shift the law from its reactive nature (abandoned children are found at work) to a preventive approach in which the factors that send children back to the kilns are tackled.

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