

**AN ANALYSIS OF CONTRACTS FOR THE INTERNATIONAL SALE OF  
GOODS IN ENSURING PROTECTION AGAINST CHILD LABOR IN  
PAKISTAN**



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## Abbreviations

CL	Child Labor
CRC	Convention on the Rights of Child
CSR	Corporate social responsibility
CISG	UN Convention on Contracts for the International Sale of Goods
CSP	Child Support Programme
CPWB	Child Protection and Welfare Bureau
EVS	Educational Voucher Scheme
ESR	Education Sector Reforms
EU	European Union
ECA	Employment of Children Act
FLA	Fair Labor Association
GATT	General Agreement on Tariffs and Trade
GSP	Generalized System of Preferences
ILO	International Labor Organization
IPEC	International Programme for Elimination of Child
LSITA	Labor standards in international trade agreements
MDG	Millennium Development Goals

NCRCL	National Centers for Rehabilitation of Child Labor
NGO	Non-Governmental Organization
NAFTA	North American Free Trade Agreement
PBM	Pakistan Bait-ul-Maal
PEF	Punjab Education Foundation
PCMEA	Pakistan Carpet Manufacturers Exporters Association
PEF	Punjab Education Foundation
PERSP	Punjab Education Sector Reform Programme
PES	Pakistan Economic Survey
SRCL	Schools for Rehabilitation of Child Labor
SCCI	Sialkot Chamber of Commerce and Industry
UN	United Nations UNDP United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNGC	United National Global Compact
UNICEF	United Nations International Children Emergency Fund
WFCL	Worst forms of child labor
WTO	World Trade Organization

## **DEDICATION**

This work is dedicated to my beloved mother, father, and teachers for their unlimited love, care, support, and prayers. May Almighty Allah always shower His kind blessings upon them.

**Ameen**

## **DECLARATION**

It is declared that the work contained within this document is original and has not been presented at any other educational institution. It is also declared that this thesis has not been plagiarized, and all secondary information has been duly acknowledged.

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## **FINAL APPROVAL**

It is certified that we have read the dissertation submitted by Ms. Amina Bibi, Registration number 258-FSL/LLM/ITL/S21, on **“AN ANALYSIS OF CONTRACTS FOR INTERNATIONAL SALES OF GOODS IN ENSURING PROTECTION AGAINST CHILD LABOUR IN PAKISTAN”** in the Department of Law, Faculty of Shariah and Law. We have evaluated the work and found it to meet the requirements and quality of the International Islamic University, Islamabad, for the LLM International Trade Law degree award.

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## **Abstract**

This research highlights the extent to which the United Nations Convention on Contracts for the International Sale of Goods (CISG) can address the endemic problem of child labor in Pakistan, particularly in industries engaged in international trade. While primarily intended as a legal framework for international sales contracts, it also has the potential to serve as a strong motivator for ethical labor through clauses that prohibit child labor in trade agreements. This research attempts to evaluate the extent of child labor in Pakistan and the efforts made to fight against it, as well as scope out the possibilities for utilizing CISG for better protection. This research also examines how Pakistan aligns its export industries with international demand for responsible sourcing by directly imposing ethical labor standards in international contracts and enhancing supply chain monitoring. Thus, the researcher recommends better integrating CISG principles into Pakistan's efforts to end child labor and improving the effectiveness of domestic and international labor regulations.

# Chapter 1

## INTRODUCTION TO RESEARCH

### Thesis Statement

The inadequacy of Pakistan's legal framework for protecting child-labor-free goods in the export industry requires an evaluation of the effectiveness of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and an assessment of Pakistan's existing laws. CISG can serve as a model law to combat child labor.

### 1.1 Introduction

Child labor is a significant global problem faced by several nations, including Pakistan.<sup>1</sup> Child labor deprives many children of their fundamental rights and affects their dignity. It is spreading like cancer all over the world. While many countries have enacted laws and policies concerning child labor, their efforts have been in vain. Child labor remains prevalent in the informal sector of Pakistan despite the ongoing efforts to combat it due to the inefficiency of Pakistan's legal framework.<sup>2</sup> The exploitation of minors in agriculture, manufacturing, mining, and transportation to sustain our interconnected global supply chains constitutes modern slavery. The problem of child labor persists as a significant and enduring issue in contemporary society. According to international estimates, over 160 million children, consisting of sixty-three million girls and 97

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<sup>1</sup> Jonathan Blagbrough, "Child domestic labour: A modern form of slavery," *Children & Society* 22, no. 3 (2008): 179-190.

<sup>2</sup> Abbas Sheer, Li Shouping, Muhammad Yaseen, and Fatima Sidra, "Socio-Economic Effects of Children Employment Law in Reducing Child Labor in Punjab-Pakistan," *Pakistan Administrative Review* 2, no. 3 (2018): 323-332.

million boys, were engaged in child labor worldwide at the start of 2020.<sup>3</sup> An alarming number of children, 79 million to be exact, which represents about half of those caught up in child labor, are trapped in dangerous tasks. These activities seriously endanger their health, safety, and chance to grow up with sound morals. Despite the government's commitment and actions to tackle the problem, "Child Labor is a pressing issue in Pakistan".<sup>4</sup>

Child labor deprives an individual of acquiring education and hence "amounts to the violation of fundamental rights".<sup>5</sup> The alarming ratio of children working as workers in Pakistan and other developing nations, where their families are struggling financially. The situation is much more dire in rural areas, where low-income families often force children to help and support the family. The longer hours and intense workloads in factories also put youngsters at risk of heat and fire hazards. There is a high degree of mental immaturity among children, and they are not prepared to handle the physical demands of their jobs. However, forced labor and slavery are both prohibited in Pakistan's 1973 constitution.<sup>6</sup>

The International Labor Organization (ILO) has placed Pakistan at number three globally for using child labour<sup>7</sup>. A report in 2014 states that the ILO performed a survey that revealed that 12.5 million children in Pakistan are engaged in child labor.<sup>8</sup> Since Pakistan conducted the "Child Labor

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<sup>3</sup> International Labour Organization (ILO) and United Nations Children's Fund (UNICEF), Child Labour: Global Estimates 2020, Trends and the Road Forward (Geneva: ILO and UNICEF, 2021), 10.

<sup>4</sup> International Labour Organization, "International Programme on the Elimination of Child Labour and Forced Labour (IPEC+)," accessed November 15, 2023, <https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/flagships/ipec-plus/lang--en/index.html>.

<sup>5</sup> Kaushik Basu and Pham Hoang Van, "The Economics of Child Labor," American Economic Review (2001):412-427.

<sup>6</sup> Naveed Ahmed, "A Critical Analysis of Fundamental Rights under the Constitution of Pakistan, 1973," Journal of Political Studies 28 (2021): 11.

<sup>7</sup> Lora A. Green, "The Global Fight for the Elimination of Child Labor in Pakistan," Wisconsin International Law Journal 20 (2001): 177.

<sup>8</sup> Naveed Ahmed, "A Critical Analysis of Fundamental Rights under the Constitution of Pakistan, 1973," Journal of Political Studies 28 (2021): 11.

Survey" in 1996, no subsequent survey has been conducted to determine the current child labor rates in any sector, except in Gilgit-Baltistan (GB).

The Government of Pakistan (GOP) has officially approved several agreements and conventions to eradicate child labor within the country. An effective national legislation that adheres to international labor standards is crucial for combating child labor issues. To end such a curse in Pakistan, the government has ratified multiple conventions and treaties in this area. Pakistan is a signatory to many international conventions regarding the prohibition of child labor. These laws limit children's hours in non-hazardous jobs and prohibit forced labor entirely. They forbid hiring minors in dangerous jobs to protect them from harm. The use of child labor-free goods in Pakistan has been a prevalent issue for a long time and must be addressed to ensure that children are not exploited.<sup>9</sup> However, CISG can be a powerful and effective tool for eliminating child labor.<sup>10</sup> Through its conventions and laws, the CISG compels nations to enact policies to prevent and prohibit child labor.

## **1.2 Significance, Scope, and Limitations of the Research**

Pakistan is undergoing the worst child labor situation, due to which the future of the children is at stake, and it is necessary to address this issue now. An analysis of CISG and its impact on addressing child labor in Pakistan would provide valuable insights into the complex nature of this widespread problem and potential remedies.

Today, every other industry, be it garments, sports, or any other industry, has employed children because of their willingness and urge to help their families. Therefore, on the one hand, the growing

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<sup>9</sup> Kevin Rithar, "Are Ethical Standards Part of International Sales Contract," *Pravnik* 69 (2014): 483.

<sup>10</sup> Camilla Baasch Andersen and Bruno Zeller, *Practitioner's Guide to the CISG* (New York: Juris Publishing, Inc., 2010).

prevalence of child labor in the trade industry and the increasing awareness of child-labor-free goods have taken on greater significance in the trade market. The global community is increasingly recognizing the need for ethical business practices, and eliminating child labor is vital to fulfilling this moral responsibility.<sup>11</sup> It is essential to explore how the CISG could be a game-changer for Pakistan in the fight against child labor. The CISG is a valuable tool as a standard legal framework for international sales contracts.

Furthermore, understanding its function in eradicating child labor in Pakistan adds to discussions about harmonizing laws and the importance of uniform standards internationally. This, in turn, creates a level playing field for businesses worldwide. Consequently, this can provide valuable insights for formulating policy suggestions and endeavors that seek to strengthen the legal frameworks regulating the prohibition of child labor in Pakistan.<sup>12</sup> Pakistan has “agreed to provide children with special protection as a signatory to the United Nations Convention on the Rights of the Child (UNCRC)”.<sup>13</sup>

Pakistan is one of many countries where this is a serious problem. To eliminate child labor in Pakistan, it is essential to use CISG as a preventative measure. This will ensure that business entities comply with the rules and refrain from exploiting children. Incorporating the CISG as a preventative measure allows firms to be held accountable for their chains and guarantees that their products are not made using child labor. This has the potential to alleviate poverty, open doors to education, and improve the future of children in Pakistan.

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<sup>11</sup> David V. Snyder and Susan A. Maslow, “Human Rights Protections in International Supply Chains—Protecting Workers and Managing Company Risk,” *The Business Lawyer* 73, no. 4 (2018): 1093–1106.

<sup>12</sup> Merzougui Hanane, Gong Xianghe, and Danish Ali, “Contextual Analysis of Child Labor Laws and Educational Rights for Children in Pakistan with a Focus on KPK Province,” *Discover Global Society* 2, no. 1 (2024): 74.

<sup>13</sup> Venkat Pulla, Maliha Gul Tarar, and Amber Ali, “Child protection system and challenges in Pakistan,” *Space and Culture India* 5, no. 3 (2018): 7-17.

This research scope is constrained, focusing on analyzing CISG to prevent child labor in Pakistan. Many declarations, contentions, and national and international enactments have been made to prohibit child labor, but some ambiguity exists regarding the proper implication of legislative enactments.<sup>14</sup> The research is divided into an introduction, three significant sections, and a conclusion. Considering the current scenario, the introduction explains why the research topic was chosen and emphasizes the importance and relevance of the problem. It also states the purpose of the study.

It introduces the concept of free goods in the export industry and examines its key characteristics on both an international and regional scale. It explores how the CISG could help address child labor issues in Pakistan and discusses conventions, legal efforts, punishments, and children's legal rights.<sup>15</sup> Along with issues related to how different laws define Children and child labor, the effectiveness of current legislation is also explored.

The research's concluding section summarizes the study's findings and provides practical suggestions for enhancing legal protection and control of child labor, taking into account global standards and best practices. Before getting into the actual theoretical underpinnings of the research issue, the research problem and research objectives are all addressed below:

### **a) Statement of Research Problem**

It is essential to highlight that this dissertation will address fundamental and associated research issues before outlining the study objectives. These queries serve as the initial stage of the

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<sup>14</sup> Fozia Fatima, Sobia Fatima, and Sabir Ali, "Prohibition of child labor leading to delinquent behavior in the constitution of Islamic republic of Pakistan 1973," *Pakistan Administrative Review* 2, no. 4 (2018): 394.

<sup>15</sup> Tahira Jabeen, "Pakistan's Child Protection Legislative and Policy Frameworks: A Critical Review," *Pakistan Journal of Criminology* 5, no. 2 (2013): 159.

investigation, aiming to provide readers with a detailed understanding of the issue. The following questions that will be investigated are the primary research questions:

- 1) What are the current national and international frameworks regarding controlling or prohibiting Child Labor goods in the trade industry?
- 2) What are the significant lacunae of Child Labor laws in Pakistan?
- 3) How could CISG curb child labor in international trade?
- 4) What are the critical challenges in implementing child-labor-free policies in Pakistan's export industry?

### **b) Objectives of the Research**

This research aims to provide the following objectives:

- I. To analyze the present situation and developments regarding child labor in Pakistan.
- II. To determine how the domestic laws on child employment within the country conform to international standards.
- III. To examine the lacunas present in the current legal regime.
- IV. To highlight the accurate depiction of child labor in Pakistan.
- V. To make policy recommendations.

### **1.3 Literature Review:**

#### **George Tosogas: “*Labour Standards in International Trade Agreements: An Assessment of The Arguments*”<sup>16</sup>**

Tosogas examines the various perspectives on child labor norms that should be incorporated into free trade agreements. This paper proposes an analytical framework for analyzing labor standards in international trade agreements (LSITA). It provides a comprehensive evaluation of the various individuals and groups involved in the discussion, along with an analysis of their arguments and activities. The experiences of LSITA can be classified into four distinct categories: (i) Unilateral measures refer to child and prison labor legislation and corporate codes of conduct that are implemented by individual countries without the involvement of other nations. (ii) Bilateral measures are represented by the Generalized System of Preferences (GSP) programs, which are trade agreements between two countries that include provisions related to labor standards. (iii) Multilateral efforts are shown in attempts made within the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO) to address labor standards on a global scale. (iv) Regional measures include the Social Charter of the European Union (EU) and the labor side agreement of the North American Free Trade Agreement (NAFTA), which focus on labor standards within specific regions.

Tosogas acknowledges the concerns of detractors but emphasizes the potential benefits of adopting labor standards, including promoting social justice, ensuring fair competition, and protecting

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<sup>16</sup> George Tsogas, “Labor Standards in International Trade Agreements: An Assessment of the Arguments,” International Journal of Human Resource Management 10, no. 2 (April 1999): 351–375, Accessed June 12, 2023.

workers' rights. He stresses the importance of efficient enforcement measures, monitoring, and capacity building to ensure the successful implementation of labor standards in trade agreements. Overall, Tosogas' paper contributes to the current conversation about the interconnectedness of free trade, labor rights, and effective global leadership. His work is appreciated in the field of child labor. The article focuses more on the issues surrounding employment standards in international trade agreements.

### **Kaushik Basu: "Child Labor: Cause, Consequence, and Cure, with Remarks on International Labor Standards"<sup>17</sup>**

Kaushik Basu examines the issue of child labor from everyangle, including its origins, effects, and potential remedies. To effectively eliminate child labor, he argues that poverty must be addressed, educational possibilities must be expanded, and subtle governmental solutions must be implemented. According to Basu (1999), a significant problem during the Industrial Revolution was the use of child labor in developed industrial nations. Opposition to child labor grew with the number of children employed. In developed countries, the use of children as laborers started to fall around the turn of the nineteenth century. An increasing need for educated workers and stronger motivation for students to complete their education have been attributed, by some academics, to technological progress.

Basu's analysis contributes to the conversation on ending child labor and clarifies some of the complex factors involved in this global issue. Some experts believe economic progress is the answer rather than mandating compulsory education. The article provides a detailed

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<sup>17</sup> Kaushik Basu, "Child labor: cause, consequence, and cure, with remarks on international labor standards," *Journal of Economic Literature* 37, no. 3 (1999): 1083-1119.

examination of child labor worldwide.

### **Tazeen Fasi: “Analyzing the Impact of Legislation on Child Labor in Pakistan”<sup>18</sup>**

The author of this research article uses a natural experiment approach to determine the effect of Pakistani legislation (the Employment of Children Act 1991) on children's engagement in the job market. In this situation, the author employed a regression discontinuity design prompted by the legislation that set the employment age at 14. They then employed difference-in-difference estimation to isolate the law's impact from other variables that might influence children's employment. He goes on to say that boys are more impacted by the ECA of 1991 than girls. He believes these points support the need for broader laws, which should also cover domestic services, as this is the industry where young girls are employed more frequently. This study identifies some short-term effects of anti-child labor laws, highlighting the need for further in-depth investigation into their impact. The author of this article is concerned about the effects of the ECA, 1991, on child labor. Undoubtedly, the law is the most significant legislation aimed at preventing child labor. However, it also safeguards and governs the formal aspects of child labor by outlawing hazardous work in factories and industries.

### **Thijs: “Child Labor: Trends and Challenges in Asia”<sup>19</sup>**

In this research paper, Thijs, the author, expresses the view that implementing laws prohibiting child labor is unsuitable for a country such as Pakistan. The paper examines multiple reasons that

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<sup>18</sup> Tazeen Fasih, “Analyzing the Impact of Legislation on Child Labor in Pakistan” (2007), Policy Research Working paper, by the World Bank Human Development Network Education team.

<sup>19</sup> Guy Thijs, “Child Labour—Trends and Challenges in Asia” (background document prepared for the Asian Regional Consultation on Child Labour, ILO Regional Office for Asia and Pacific, Bangkok, 1997).

played an essential part in the persistent presence of child labour in the region, including poverty, limited educational resources, and inadequate enforcement of regulations. Moreover, the study examines the challenges associated with addressing child labor, including cultural norms and practices that perpetuate its continuation. The author also discusses the efforts made by governments, non-governmental organizations, and international entities to address this issue in Asia. According to the author, child labor in countries like Pakistan is more complex than it may seem. It requires careful examination in terms of both the economic impact on individual families (microeconomics) and the broader social security framework of the country (macroeconomics). Factors such as unemployment, underemployment, the opportunity cost of education, and the effectiveness of formal education also need to be taken into account. He believes it is more fitting for child labor regulations and compulsory schooling laws to be viewed as complementary. The author has systematically analyzed the topic, taking into account Pakistan's microeconomic and macroeconomic realities.

### **Ravinder Rena: "Child Labor in Developing Countries: A Challenge to Millennium Development."<sup>20</sup>**

The author of this research paper has conducted a comprehensive analysis of child labor and its impact on the Millennium Development Goals. This study investigates the widespread issue in developing countries and its effect on the Millennium Development Goals (MDGs). Rena examines the factors, consequences, and challenges linked to child labor while proposing policy suggestions to eradicate it. This study enhances our understanding of child labor as a barrier to

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<sup>20</sup> Ravinder Rena, "The Child Labor in Developing Countries: A Challenge to Millennium Development Goals," Indus Journal of Social Sciences 3, no. 1 (Spring 2009): 1–8.

sustainable development and underscores the need for collaborative national and international efforts to address this critical challenge. This research paper also explains why education is crucial for preventing child labor and achieving the Millennium Development Goals (MDGs).

## **Muhammad Asif: Implementing Laws Against Child Labour: A Case Study of Pakistan<sup>21</sup>**

In this article, the author looks at how far Pakistan has gone to end child labor. Before moving on to the present day in Pakistan, this research article's author traces the origins of the labor issue in modern nations, with a particular focus on Britain. Considering the present situation, he investigates the causes of child labor in Pakistan. After that, he gives an analysis of the scenario and explains how to handle it in a country like Pakistan. In addition to implementing legislation, he elaborates on the role of courts in protecting children from economic exploitation.

## **Sehr Hussain Khaliq: Eliminating Child Labor from the Sialkot Soccer Ball Industry: Two Industry-Led Approaches<sup>22</sup>**

The author investigated the problem within the football sector in Pakistan. The role of SAGA Sports and the ILO in eradicating it from the football industry has been examined using a case study approach. This study addressed topics such as the "importance of exporting with a focus on social responsibility" and "the exploitation of child labor". In addition, other matters, such as employee rights and social investment, have also experienced notable enhancement. The report

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<sup>21</sup> M. Asif Khan, "Implementing Laws Against Child Labor: A Case Study of Pakistan," Social Science Research Network, accessed June 15, 2023, <http://ssrn.com/abstract=1904268>.

<sup>22</sup> Sehr Hussain-Khaliq, "Eliminating child labor from the Sialkot soccer ball industry: Two industry-led approaches," Journal of Corporate Citizenship 13 (2004): 101-107.

asserts that this specific sector may have eradicated the issue. However, they may have been relocated to other local businesses within Pakistan that still engage in child labor because of insufficient knowledge within such industries. The author discusses several topics, including the need for export-oriented social awareness regarding child labor, the distinction between child labor and work, and the impact of adopting a more morally conscious approach in business on the local community's well-being.

#### **1.4 Research Methodology**

The research work will be descriptive, analytical, critical, and comparative, primarily library-based, and aims to provide a multifaceted perspective on the subject matter. It will be composed mainly of books, journals, websites, articles, and reports written by scholarly authors. The researcher will attempt to examine the relevance of the legal status of topics in the context of established rules of international and domestic legislation, critically analyze their findings, and collect historical and contemporary sources using a variety of subjects and sources. It would also recall other national and international instruments and documents, as well as the case laws of national and international courts.

The work primarily focuses on qualitative research methods instead of quantitative techniques in terms of research methods and data collection. This choice is influenced by the nature of the subject matter, which involves a complex combination of international conventions and Common law principles. Qualitative research methods are better suited for investigating and understanding deeply rooted and intricate phenomena.

As for the type of information which is collected here, that information is generated from methods blended between primary and secondary information resources, more specifically fundamental and derived; original books and articles for getting a deep understanding of the issue, legal instruments about child labor, Other national and international instruments, and documents, as well as national and global court decisions, would also be referred. Besides these books, newspapers, magazines, unpublished government documents, and electronic sources, including web searches, shall be used.

## Chapter 2

# THE WIDESPREAD ISSUE OF CHILD LABOUR IN PAKISTAN: A COMPREHENSIVE REVIEW

### 2.1. Introduction

Child labor remains a significant problem today. Despite government efforts and actions to address the issue, child labor and forced labor in Pakistan continue to be pressing concerns.<sup>23</sup> This chapter analyzes the concept of child labor, its background, scope, and relations with international trade, providing an overview of Pakistan's industry, various impacts, and the effects on global market trade, as well as lacunas in Pakistan's legal framework. In Pakistan's context, the chapter examines the current scenario of child labor, forms prevalent in the informal sectors of Pakistan,<sup>24</sup> And the importance and need to eradicate it from the informal sector of Pakistan. Child labor is often seen as a result of poverty, as families in developing countries' sole reliance is on the money generated by children to meet their basic needs.<sup>25</sup>

Child labor is primarily concentrated in the informal sector, which prevents it from being monitored and negatively affects their quality of life. This lack of basic amenities and the resulting lasting physical and psychological impairments directly threaten their intellect, affecting their

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<sup>23</sup> International Labour Organization, "International Programme on the Elimination of Child Labor and Forced Labor (IPEC+)," accessed November 25, 2023. <https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/flagships/ipec-plus/lang--en/index.htm>.

<sup>24</sup> Ranjan Ray, "Analysis of Child Labour in Peru and Pakistan: A Comparative Study," *Journal of Population Economics* 13 (2000): 3–19.

<sup>25</sup> Marilyn D Cardoso, and Jojit M. Casino, "Child Labor, Nutritional Status, and Academic Performance of Filipino Children," *US-China Education Review* 5, no. 9 (2015): 604-612.

quality of life<sup>26</sup> And lifespan.<sup>27</sup> This issue remains deeply rooted, despite the implementation of international labor standards and trade rules.

However, child labor is a prominent indicator of the severity of poverty in emerging nations. It is a complex issue that involves the exploitation of children and the denial of education and recreation opportunities, and is linked to poverty.<sup>28</sup> Child labor is prevalent worldwide, particularly in underdeveloped nations and rural areas where income is scarce. Not only does it harm the welfare of individual children, but it also hinders broader national efforts to reduce poverty and promote development. Multiple causes, including poverty, extensive family sizes, societal views, and low literacy rates, impact child labor in Pakistan. Additionally, other factors of child labor in Pakistan include poverty, large family sizes, social attitudes, low literacy rates, economic crises, natural disasters, high unemployment rates, and many more.<sup>29</sup>

This is a complex problem in Pakistan, affecting children's education, growth, and lifetime wages, especially as working children significantly contribute to domestic earnings. As a result, parents often send their children to earn money instead of sending them to school to help and support the family, as they cannot afford the education expenses.<sup>30</sup> Child labor is commonly found in various industries, including manufacturing, transportation, trade, agriculture, construction, and other service sectors. It is called the **INFORMAL SECTOR** of Pakistan.

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<sup>26</sup> Fozia Fatima, Sobia Fatima, and Sabir Ali, "Prohibition of Child Labour Leading to Delinquent Behavior in the Constitution of Islamic Republic of Pakistan 1973," *Pakistan Administrative Review* 2, no. 4 (2018): 383–396.

<sup>27</sup> *Ibid.*

<sup>28</sup> Muhammad Saad, Faten, Amal Dakhakhny and Shadia Mahmoud, "Relation between Child Labour and Aggressive Behavior among School-Age Children," *Egyptian Journal of Health Care* 9, no. 3 (2018): 27-42.

<sup>29</sup> Muhammad Aboul Hassan Rashid, Shahzad Fraeed and Malik Maliha Manzoor, "Parents and Child Labor: A Testimony from Automobile Workshops in Islamabad," *Advances in Applied Sociology* 5, no. 08 (2015): 234.

<sup>30</sup> Subhadarsani Swain, "An economic perspective of child labor in Odisha: a case study of Rourkela." PhD diss., 2014.

Child labor is different from child work. Not every job done by a child can be included in the definition of child labor. It is not always considered harmful. It is acceptable when children engage in work that helps them develop skills and does not harm their health, well-being, education, or any other experiences that prepare them for their future careers.

## 2.2 Historical Background

Child labor has a lengthy historical background, originating from agrarian communities where the entire family, including youngsters, contributed their efforts to food production. These working conditions often involved long hours, low wages, and exposure to hazardous environments or activities.<sup>31</sup> The practice of employing children under the legal age of majority first emerged in the Americas and Europe in the years before and during the Industrial Revolution. Children were forced to work in various sectors, including agriculture, street vendors, and commercial enterprises.

Industrialization increased employment opportunities for working-class families. Thus, children were involved in the industries to support their families.<sup>32</sup> Child labor became evident during the Industrial Revolution. An early labor historian, Hammonds, claimed that “during the first phase of the Industrial Revolution, the employment of children on a vast scale became the most important social feature of English life.”<sup>33</sup> The process of legislation against child labor was not rapid but an incremental process. Legislation against child labor in factories and mines began with the Factory

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<sup>31</sup> T. Hesketh, J. Gamlin and Woodhead, "Policy in child labor," *Archives of disease in childhood* 91, no. 9 (2006): 721-723.

<sup>32</sup> M. Aslam Chaudhary and Farzana Naheed Khan, "Economic and Social Determinants of Child Labour: A Case Study of Dera Ismail Khan, Pakistan," (2002).

<sup>33</sup> Hugh Cunningham, "The Employment and Unemployment of Children in England c. 1680–1851," *Past & Present* 126 (1990): 115–150.

Act of 1833 and the Mines Act of 1833, but it did little to prevent children from working in factories, mines, or agriculture.<sup>34</sup>

Pakistan gained independence from the British occupation in August 1947. The fact that Pakistan was once a British colony does not mean it will have the same social and economic conditions. British influence is evident in various fields of life; for example, many laws enacted under British rule remain in effect. The state of child labor in Pakistan is the same as it was in Britain in the 18th and 19th centuries. The socio-economic conditions, however, are different. Britain was a colonizing power with all the resources needed to develop economically. Pakistan, in contrast, is a developing state that must depend on its resources for development. Pakistan, a country of rich cultural diversity, comprises four provinces: Sindh, Balochistan, Punjab, and Khyber Pakhtunkhwa, as well as the territories of Gilgit-Baltistan (GB) and Azad Jammu and Kashmir (AJK).

Additionally, these provinces possess a unique population and cultural norms. Punjab, the most extensive and advanced province, is known for its sectors, including sports goods production and soccer ball manufacture. Karachi, the largest city in Sindh, and Hyderabad are known for their carpet and bangle industries.<sup>35</sup> Baluchistan, the most extensive yet underdeveloped province, and Pakhtunkhwa,<sup>36</sup> a small province with few industries and limited investment opportunities, contribute to Pakistan's diverse cultural landscape. However, poverty is prevalent in Pakistan, resulting in child labor in several forms.

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<sup>34</sup> Iram, Uzma, and Ambreen Fatima. "International trade, foreign direct investment and the phenomenon of child labor: The case of Pakistan." *International Journal of Social Economics* 35, no. 11 (2008): 809-822.

<sup>35</sup> Ambreen Fatima, "Child Labour in Pakistan: Addressing Supply and Demand Side Labour Market Dynamics," *The Economic and Labour Relations Review* 28, no. 2 (2017): 294-311.

<sup>36</sup> Lora A. Green, "The Global Fight for the Elimination of Child Labor in Pakistan," *Wisconsin International Law Journal* 20 (2001): 177.

A significant portion of this issue is in the informal economy and agriculture sector, where kids work in hazardous conditions, face challenging work, and earn low incomes. This exploitation of children in such situations should invoke a sense of injustice in the audience. Furthermore, the lack of resources and corruption within the provincial labor inspectorates and law enforcement agencies have made enforcing laws against child labor, adding to the plight of these children.<sup>37</sup>

## **2.3 Definition of Child and Child Labor**

The definition of child and child labor varies from country to country. Different societies have classified the developmental stages of a person's life from childhood to adulthood. The ILO defines child labor as a job done by a child that is not beneficial for their development or mental well-being. This excludes tasks like assisting at home or earning money during school breaks.

Different legal systems have also established specific ages for minors and adults to avoid confusion regarding a child's age. The definition of child labor needs to be more consistent and uniform.<sup>38</sup> Some groups are essential in raising awareness about child labor, advocating for policy changes, and directly supporting children affected by labor practices.<sup>39</sup> There is also a diversity of perspectives regarding the precise definition of a child. Although international agreements stipulate that children are considered 18 or older, governments and cultures may define "children" differently, based on other age restrictions or criteria.<sup>40</sup>

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<sup>37</sup> Muhammad Waqas Ali, Muhammad Faizan Ali and Faiza Abbas, "Hidden hazardous child labor as a complex human rights phenomenon: A case study of child labor in Pakistan's brick-making industry," (2017): 1369486.

<sup>38</sup> Tayyaba Zarif and Aijaz Ahmed Aziz-un-Nisa, "Understanding Reasons of Child Labour in a Developing Economy: A Qualitative Study of Karachi, Pakistan," Asian Journal of Social Sciences & Humanities 2, no. 2 (2013): 388–393.

<sup>39</sup> Sabur Ghayur, "Labour Market Issues in Pakistan: Unemployment, Working Conditions, and Child Labour," The Pakistan Development Review 35, no. 4 (1996): 789–803.

<sup>40</sup> Khizar Hayat Qamar and Muhammad Shoaib, "Socio-Economic Factors Leading Towards Child Labour: A Comparative Study in Punjab, Pakistan," Language in India 17, no. 1 (2017).

### **2.3.1 ILO Definition of Child Labor:**

Child labor, as defined by the ILO, refers to the employment of individuals under the age of 18 in activities that exploit them, resulting in mental, bodily, or social harm or exposing them to life-threatening risks.<sup>41</sup> Work that hinders or obstructs children's ability to obtain an education and "robs them of their childhood, potential, and dignity" is not child labor. Thus, not every child's work can be considered child labor.<sup>42</sup> It classifies slavery, "child prostitution, using children for illicit activities" such as drug making, and hazardous jobs to the health, safety, or morals of children as the "worst forms of child labor."<sup>43</sup>

### **2.3.2 ILO Conventions Against Child Labor**

The International Labor Organization's Convention 138 on the Minimum Age (1973),<sup>44</sup> the United Nations Convention on the Rights of the Child (1989),<sup>45</sup> and the International Labor Organization's Convention on Worst Forms of Child Labor (1999)<sup>46</sup> all lay the groundwork for legal definitions of child labor. Convention 138 of the ILO aimed to establish a global standard for what constitutes child labor, recognizing that different countries have varying economic situations and resource limitations. For instance, the Convention listed "hazardous work" as an occupation no one under eighteen may perform and "light work" as an occupation children under eighteen can legally do. No precise "light work" or "hazardous work" criteria were provided. In addition, Convention 138

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<sup>41</sup> International Labour Organization (ILO), Convention Minimum Age for Admission to Employment (No. 138), adopted June 26, 1973, entered into force June 19, 1976. (accessed September 22, 2023) <https://www.ilo.org/topics-and-sectors/child-labour>.

<sup>42</sup> International Labour Organization (ILO), "International Programme on the Elimination of Child Labor"(IPEC), available at <https://www.ilo.org/ipec/lang--en/index.html> (accessed 20 November 2023).

<sup>43</sup> ILO, *supra* note 5, article 3.

<sup>44</sup> ILO, Convention 138, Article 7(1).

<sup>45</sup> United Nations, Convention on the Rights of the Child, November 20, 1989, entered into force September 2, 1990, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

<sup>46</sup> ILO, Convention 182, Article 7(2).

presented the option to exempt specific types of jobs and businesses from the Convention in Articles 4 and 5.<sup>47</sup> The ILO Convention 182 explicitly represents the idea that it is essential and feasible, despite significant issues on various points of child labor, to recognize a distinction between harmful types of child work.<sup>48</sup> It also emphasizes the importance of establishing priorities by adopting a "first things first" approach, which directs efforts and resources toward addressing the most severe forms of abuse and harm. A strategy can be developed and implemented to prioritize excluding children from hazardous professions, bonded labor, and other perilous work. Separating these children from the most adverse circumstances must be accompanied by the durable reintegration of these youngsters into the larger community of their peers.<sup>49</sup>

### **2.3.3 United Nations Convention on the Rights of the Child**

Every child, regardless of their nationality, color, caste, or religion, should receive the essential rights and protections outlined in the UN General Assembly Convention on the Rights of the Child. According to "The United Nations Convention on the Rights of the Child" (UNCRC), a child is any person under 18.<sup>50</sup> CRC defines child labor as "work performed by a child that is likely to interfere with his or her education or to be harmful to their health or physical, mental, spiritual, moral, or social development."<sup>51</sup> According to Article 32,<sup>52</sup> all signatory states recognize that children have an inherent right to be free from economic and dangerous labor that endangers their health and education. Legislative, administrative, social, and educational actions are all necessary

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<sup>47</sup> Claire La Hovary, "ILO Convention 138 Minimum Age Convention, 1973 (No. 138)," in International and European Labour Law, 1124–36 (Baden-Baden: Nomos Verlagsgesellschaft mbH & Co. KG, 2018).

<sup>48</sup> Leslie Groves, "Implementing ILO Child Labour Convention 182: Lessons from Honduras," *Development in Practice* 14, no. 1–2 (2004): 171–82.

<sup>49</sup> Bernhard Boockmann, "The effect of ILO minimum age conventions on child labor and school attendance," ZEW-Centre for European Economic Research Discussion Paper 04-052 (2004).

<sup>50</sup> Convention on the Rights of the Child 1577 UNTS 3 (opened for signature 20 November 1989, entered into force 2 September 1990), art 1.

<sup>51</sup> CRC, Article 32.1.

<sup>52</sup> Ibid

to implement this item. These steps guarantee the preservation of children's rights and align with other global instruments.

### **2.3.4 UNICEF and Child Labor**

The United Nations International Children's Emergency Fund (UNICEF) defines child labor as "work that exceeds a minimum number of hours, depending on the child's age and the type of work. Therefore, such work is considered harmful to the child and should be eliminated."<sup>53</sup> UNICEF is an international organization that aims to "prevent the abuse of children's rights." Child health, nutrition, education, safe drinking water, sanitation, and violence prevention are some areas that UNICEF promotes as key priorities, alongside its role as a leading vaccine provider. Child labor, or the exploitation of children, which prevents them from enjoying their childhood and stops their development, is one of the main issues they tackle.<sup>54</sup> Several measures are being taken to end child labor because it violates the rights of the children. UNICEF collaborates with governments to create initiatives that offer alternatives to child labor, such as high-quality education, vocational training, and support networks, to children already involved in this industry.<sup>55</sup> To address and prevent child labor, they are also working to strengthen child protection systems.

## **2.4 Pakistan's legislation and Child labor**

Pakistan has passed multiple anti-child-labor statutes and regulations over the years. Millions of children are deprived of fundamental human rights and future chances.<sup>56</sup> To combat this, Pakistan

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<sup>53</sup> UNICEF, "Child Labour," <https://www.unicef.org/protection/child-labour> (accessed September 10, 2023).

<sup>54</sup> Nick Spencer, Geir Gunnlaugsson, and Shanti Raman, "Prevalence and Correlates of Child Labour in Five Low-Income Countries: A Descriptive Study Based on UNICEF Multiple Indicator Cluster Surveys 6 (MICS6)," *BMJ Paediatrics Open* 8, no. 1 (2024): e002871.

<sup>55</sup> B. UNICEF and AN HAR, "Ending Child Labour Through a Multisectoral Approach," *Public Health* (2019).

<sup>56</sup> Surendra Kumar Yadav and Gowri Sengupta, "Environmental and Occupational Health Problems of Child Labour: Some Issues and Challenges for Future," *Journal of Human Ecology* 28, no. 2 (2009): 143–48.

is a signatory to many ILO Convention, which ensures that the laws must be in place to safeguard children from exploitation, guarantee their access to quality education, and prevent any dangers they may face while they are young.

Pakistan has passed multiple anti-child labor statutes and regulations over the years. The critical piece of legislation is “**The Employment of Children Act of 1991.**”<sup>57</sup> Prohibits using minors under fourteen years in specific jobs and procedures. “**The Abolition of the Bonded Labor System Act of 1992**”<sup>58</sup> Outlawed the practice of enslavement, in which minors were forced to work for the benefit of their owners to settle debts. “**The Punjab Prohibition of Child Labor at Brick Kilns Act, 2016,**”<sup>59</sup> Passed in 2016 in Punjab, the law prohibits the use of children as laborers in brick kilns and imposes fines on anyone who violates this law. Pakistan has implemented numerous other regulations to protect children.

According to Article 11(3) of the Constitution of Pakistan, 1973, the minimum age for children is 14.<sup>60</sup> The Employment of Children Act 1991, Section (2)(iii)<sup>61</sup> defines child labor as any activity performed by a child under 14 that prevents formal education or negatively affects “their physical, mental, or social development.” Furthermore, Articles 11, 25A, and 37(e) of the Constitution of Pakistan in 1973 also strongly support the elimination of child labor.<sup>62</sup>

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<sup>57</sup>The Employment of Children Act, 1991 (Pakistan), <https://pakistancode.gov.pk/pdffiles/administratorbce84c6cf30cb149d8820a00cd175b08.pdf>

<sup>58</sup>The Abolition of Bonded Labour Act, 1992 (Pakistan), <https://www.pakistancode.gov.pk/pdffiles/administrator193484c31f7b4b5c5cbd0aae5038201e.pdf>

<sup>59</sup> The Punjab Prohibition of Child Labor at Brick Kilns Act, 2016 (Pakistan), <http://punjablaws.gov.pk/laws/2475.html>

<sup>60</sup>The Constitution of Pakistan, 1973, Article 11(3), <https://www.malaw.org.pk/pdflaw/The%20Constitution%20of%20Pakistan%201973.pdf>

<sup>61</sup>The Employment of Children Act, 1991 (Pakistan), §2(iii), <https://pakistancode.gov.pk/pdffiles/administratorbce84c6cf30cb149d8820a00cd175b08.pdf>

<sup>62</sup> Fozia Fatima, Sobia Fatima, and Sabir Ali, “Prohibition of Child Labour Leading to Delinquent Behavior in the Constitution of Islamic Republic of Pakistan 1973,” *Pakistan Administrative Review* 2, no. 4 (2018): 383–96.

## 2.5 Child Labor in Pakistan's Formal and Informal Sectors

An informal economy is neither taxed nor monitored by any government. Although the informal sector constitutes a significant portion of the economies in developing countries, it is often stigmatized as troublesome and unmanageable. It impacts the occurrence of child labor. The relationship between child work and Pakistan's informal economy is closely interconnected. Children in Pakistan frequently engage in various informal sector occupations, including agriculture, domestic labor, and street sales.<sup>63</sup> These results are attributed to poverty, limited access to books, and inadequate enforcement of CL regulations. "The sector constitutes approximately 80% to 90% of the formal reported economy".<sup>64</sup>

This sector in Pakistan provides significant job opportunities for many individuals, including minors. Furthermore, approximately 22 million employed individuals make their living by working on the streets, contributing to a substantial portion of the informal sector, which accounts for 35.6% of the Gross Domestic Product (GDP).<sup>65</sup> Nevertheless, the magnitude of the informal economy has significantly diminished. The agriculture sector, garment sector, and football industry in Pakistan have transformed into a "sweatshop" environment, where unskilled child laborers endure low earnings, extended working hours, and hazardous circumstances.<sup>66</sup>

The issue of child labor in Pakistan's informal sector is a critical concern that demands immediate attention and collaborative efforts from all parties involved. Employers frequently violate labor

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<sup>63</sup> Om Prakash Mathur, "Urban Poverty in Asia," (Metro Manila, Philippines: Asian Development Bank, 2013), 1–122.

<sup>64</sup> Sakib Sherani, "The Informal Economy," Dawn, February 22, 2013, [www.dawn.com/news/787833/informal-economy](http://www.dawn.com/news/787833/informal-economy) (accessed May 25, 2017).

<sup>65</sup> Martha Chen, Jenna Harvey, and WIEGO Network, "The Informal Economy in Arab Nations: A Comparative Perspective," WIEGO Paper for Arab Watch Report on Informal Employment in MENA Region (2017): 1–69.

<sup>66</sup> Glory E. Edet and Nsikak-Abasi A. Etim, "Child labour in agriculture among poor rural households: some issues and facts," European Journal of Physical and Agricultural Sciences 1, no. 1 (2013): 1-7.

laws, taking advantage of the vulnerability of young workers to maximize their profits. Pakistan's cultural norms and traditions may encourage the acceptance of child labor, as children are expected to participate in domestic duties and generate income from an early age. To establish a future where every child can flourish and reach their maximum potential, it is essential to address the fundamental reasons behind child labor, including poverty, limited access to education, and cultural norms.

### **2.5.1 Child Labor and the Agriculture Sector**

The agriculture sector is the primary catalyst for foreign direct investment (FDI) and the country's international trade.<sup>67</sup> Many of the farms controlled by families, corporations, and other organizations, as well as plantations and agro-industrial complexes, all use child labor. Family farms, commercial farms, contracted labor, bound children, human trafficking, and forced labor are all forms of this.<sup>68</sup> Many child laborers are unpaid family members, and the rate is higher in urban areas. Unpaid family members make up a more significant proportion of the workforce in the agricultural sector, and most child laborers live in rural regions.

There is still a serious problem with child labor in Pakistan's agricultural sector, which is preventing the country from achieving sustainable growth and creating many difficulties for the youth of the country. <sup>69</sup> Many children work as laborers in the agriculture sector to fulfill their family needs, mainly because they lack an interest in education.<sup>70</sup>

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<sup>67</sup> Mukhtiar Hussain Ibupoto, Abdul Jabbar Mirjat, S. H. Dahar, and S. A. Mahar, "Child Labor in Agricultural Sector Hyderabad Sindh, Pakistan," *Arts and Social Sciences Journal* 10, no. 1 (2019).

<sup>68</sup> Ghazala Mansuri, "Migration, School Attainment, and Child Labor: Evidence from Rural Pakistan," *World Bank Policy Research Working Paper* 3945 (2006).

<sup>69</sup> Carter, Becky. "Prevalence and impacts of child labor in agriculture." (2017).

<sup>70</sup> Mukhtiar Hussain Ibupoto Abdul Jabbar Mirjat, S. H. Dahar, and S. A. Mahar, "Child Labor in Agricultural Sector Hyderabad Sindh, Pakistan," *Arts and Social Sciences Journal* 10, no. 1 (2019).

There is an immediate need for all-encompassing solutions to the problem of child labor in Pakistan's agricultural sector, considering the many obstacles and causes that contribute to this problem. Implementing stringent child labor regulations, promoting sustainable farming techniques that minimize the need for physical labor, expanding educational and vocational opportunities for children, and establishing alternative income sources for families that depend on child labor should all be part of these initiatives.<sup>71</sup> The WTO is scheduled to deliberate on trade liberalization in agriculture as developing nations strive to attain the most significant benefits from developed countries.<sup>72</sup>

### **2.5.2 Child Labor and the Sports Industry**

Child labor is a significant worldwide issue, and Pakistan is no exception. Recently, there has been a growing focus on the exploitation of children in the domestic sports sector.<sup>73</sup> First and foremost, it is imperative to comprehend the magnitude of child labor in Pakistan's sports industry. Despite the existence of legislative bans and international conventions that condemn the practice, a significant number of youngsters are involved in different sporting activities under exploitative conditions. Children as young as five frequently engage in hazardous labor, such as stitching footballs and manufacturing cricket balls, instead of pursuing school or recreational activities.<sup>74</sup>

Child labor is a widespread problem in Pakistan's sports industry, namely in the district of Sialkot. The researcher examines the consequences of child labor in the sports goods business through a

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<sup>71</sup> Ranjan Ray, "Child Labour, Child Schooling, and Their Interaction with Adult Labour: Empirical Evidence from Peru and Pakistan," *World Bank Economic Review* 14, no. 2 (2000): 347–367.

<sup>72</sup> Sarbajit Chaudhuri and Jayanta Kumar Dwibedi, "Trade Liberalization in Agriculture in Developed Nations and Incidence of Child Labour in a Developing Economy," *Bulletin of Economic Research* 58, no. 2 (2006): 129–50.

<sup>73</sup> Stephanie M. Johnson, "Excuse Me, but Is That Football Child-Free-Pakistan and Child Labour," *Tulsa Journal of Comparative & International Law* 7 (1999): 163.

<sup>74</sup> Ranjan Ray, "Child Labor, Child Schooling, and Their Interaction with Adult Labor: Empirical Evidence from Peru and Pakistan," *World Bank Economic Review* 14, no. 2 (2000): 347–367.

case study on cross-sectoral relationships between the industry and NGOs in Sialkot.<sup>75</sup> The Sialkot region of Pakistan has been renowned for producing soccer balls for over 80 years. It is estimated that approximately 10,000 urban and 30,000 rural workers are involved in the production of soccer balls in the 1,450 villages of Sialkot.<sup>76</sup> Although some balls are machine-made, the best soccer balls are hand-stitched. Hand-stitching the panels of a ball together is a very intensive labor process, and is where children have been found working. Stitchers sew together the panels of a soccer ball and glue in the inflatable bladder.

In May 2002, the Global March Against Child Labor reported cases of child labor in Pakistan's soccer industry, which had a significant impact on the country's sports goods sector.<sup>77</sup> This industry was responsible for manufacturing around 75% of the world's soccer balls. Sialkot Chamber of Commerce and Industry (SCCI) initiated a fact-finding expedition to examine the adverse repercussions of the Global March report on the sector and the broader economy. The SCCI mission determined that the report inaccurately portrayed the industry. Nevertheless, a comprehensive "1996 nationwide study concluded by the Pakistan Federal Bureau of Statistics, in partnership with the Government of Pakistan Ministry of Labor, Manpower and Overseas Pakistanis, and the International Labor Organization (ILO), revealed that 8.3% of children between the ages of 5 and 14 were engaged in economic activities".<sup>78</sup>

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<sup>75</sup> David Husselbee, "NGOs as development partners to the corporates: Child football stitchers in Pakistan," *Development in Practice* 10, no. 3-4 (2000): 377-389.

<sup>76</sup> Nasir Iqbal, "The Impact of Adapting Fair Trade on Organisational Performance in Sialkot Sports Balls Industry, Pakistan" (PhD diss., University of Wales Trinity Saint David, 2023).

<sup>77</sup> Karin Astrid Siegmann, "Soccer Ball Production for Nike in Pakistan," *Economic and Political Weekly* (2008): 57-64.

<sup>78</sup> Hong Xue, and Anita Chan, "The global value chain: Value for whom? The soccer ball industry in China and Pakistan," *Critical Asian Studies* 45, no. 1 (2013): 55-77.

In 1996, a story in Life magazine highlighted Tariq, a 12-year-old boy sewing soccer balls in the Sialkot District.<sup>79</sup> This sparked significant attention from international media. As a result, brands such as Nike, Reebok, Adidas, Umbra, and Puma faced increasing pressure to eliminate child labor from their production processes. In 1997, SCCI, UNICEF, and the ILO signed the Atlanta Agreement (ILO 2001) to reduce child labor in the soccer ball industry by introducing better monitoring methods.<sup>80</sup> The project was successful due to collaboration between NGOs, international organizations, and soccer ball manufacturers in Sialkot. This innovative and unique program raised awareness of addressing child labor issues within Pakistan and abroad.

### **2.5.3 Child Labor and Carpet Industry**

India's carpet weaving boom during the Mughal era (16th–19th century) led to the arrival of Persian carpet weavers in Lahore.<sup>81</sup> The industry expanded to Agra and Delhi. Pakistani carpets and rugs incorporate aspects of native, Persian, and Turkish designs, renowned for their intricate patterns. This results in a distinctive aesthetic that is highly sought after globally. This mixture has played a significant role in the industry's expansion.

Pakistan, first introduced to the Western market through the United Kingdom in the 1950s, has emerged as a prominent global supplier of hand-knotted carpets over the past two decades. In 2024, Pakistan's revenue from the carpet and rug industry was \$22.3 million.<sup>82</sup>

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<sup>79</sup> David Atkin, Azam Chaudhry, Shamyla Chaudry, Amit K. Khandelwal, Tariq Raza, and Eric Verhoogen, "On the Origins and Development of Pakistan's Soccer-Ball Cluster," *The World Bank Economic Review* 30, no. Supplement\_1 (2017): S34–S41.

<sup>80</sup> David M. Boje and Farzad R. Khan, "Story-Branding by Empire Entrepreneurs: Nike, Child Labour, and Pakistan's Soccer Ball Industry," *Journal of Small Business & Entrepreneurship* 22, no. 1 (2009): 9–24.

<sup>81</sup> Hameeda Khatoon Naqvi, *A Study of Urban Centres and Industries in the Central Provinces of the Mughal Empire Between 1556 and 1803* (PhD diss., University of London, School of Oriental and African Studies, 1965).

<sup>82</sup> Gabriela Rodriguez, Nameetta Nierakkal, and Varun Vithalani, "Circular Economy and Trade in Textile Sector in Pakistan," *TradeLab*, July 2023, [https://tradelab.org/wp-content/uploads/2023/07/Group-1-Circular-Economy-and-trade-in-textiles-sector-in-Pakistan\\_-Final-draft.pdf](https://tradelab.org/wp-content/uploads/2023/07/Group-1-Circular-Economy-and-trade-in-textiles-sector-in-Pakistan_-Final-draft.pdf).

However, carpet weavers often originate from impoverished households in impoverished regions, frequently lacking land ownership and relying on this sector for their livelihood. Typically, the entire family is involved in the industry. The “Pakistan Carpet Manufacturers and Exporters Association (PCMEA) has collaborated with the International Labor Organization's International Programme on the Elimination of Child Labor (ILO-IPEC) to address the issue of child labor in the country's carpet sector.”<sup>83</sup> Furthermore, the goals are achieved by implementing two modules: 'Prevention and Monitoring' and 'Social Protection'.<sup>84</sup> The primary objective of the initial module is to eradicate child labor from the carpet-weaving industry and enroll these children in non-formal educational programs offered at project-supported facilities located in specific districts.

#### **2.5.4 Child Labor and Surgical Sector**

Pakistan, a prominent exporter of excellent surgical tools, has been extensively researched in the past decade. These investigations have uncovered cases of significant labor exploitation and the employment of child labor in business. Surgical instruments composed of stainless steel contain chromium and nickel,<sup>85</sup> both of which are recognized as poisonous, allergic, and carcinogenic substances.<sup>86</sup> Hexavalent chromium (Cr-VI) is of special concern because of its toxic, allergic, and carcinogenic properties. Nickel is also worrisome because it has the potential to cause allergies and cancer. An investigation conducted by The Guardian newspaper has uncovered that surgeons working for the National Health Service in the UK may be using surgical instruments

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<sup>83</sup> Dorothy Armstrong, "Reading Networks of Coloniality and Capitalism through 'Oriental' Carpets," *The Textile Museum Journal* 51, no. 1 (2024): 8–31.

<sup>84</sup> Simon Digby, "Export Industries and Handicraft Production under the Sultans of Kashmir," *The Indian Economic & Social History Review* 44, no. 4 (2007): 407–23.

<sup>85</sup> Simone Sandler, Kristin Sonderman, Isabelle Citron, Mahmood Bhutta, and John G. Meara, "Forced Labor in Surgical and Healthcare Supply Chains," *Journal of the American College of Surgeons* 227, no. 6 (2018): 618–23.

<sup>86</sup> Muhammad Sughis, Tim S. Nawrot, Vincent Haufroid, and Benoit Nemery, "Adverse health effects of child labor: high exposure to chromium and oxidative DNA damage in children manufacturing surgical instruments," *Environmental Health Perspectives* 120, no. 10 (2012): 1469–1474.

manufactured by underage laborers in Sialkot.<sup>87</sup> This raises apprehensions regarding child labor and other forms of exploitative work practices. NHS Supply Chain, a prominent supplier to the UK health care system, has attributed responsibility to manufacturers in Pakistan.

Nevertheless, attributing responsibility to others cannot effectively resolve the problem of labor exploitation, which is a consequence of a much more extensive worldwide industrial system. Workers in developing countries often endure extended working hours, hazardous working conditions, and low wages, all under the pretext of lower labor costs.<sup>88</sup> The workers, including young people, who are being taken advantage of, manufacture a range of products shipped to Western markets, including those bearing the labels of international firms.

The British government's prohibition on importing surgical tools from Pakistan would substantially harm the business, given that the UK is the third-largest purchaser of such goods.<sup>89</sup> The Surgical Instruments Manufacturers Association of Pakistan alleges that the accusations of employing child labor are a deliberate plot to hinder their access to international export markets.<sup>90</sup> The surgical business faces challenges stemming from the absence of direct connections with buyers,<sup>91</sup> resulting in Pakistani producers supplying their products to intermediaries in other nations engaged in exports.

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<sup>87</sup> Iram Manzoor, "Editorial: Occupational Stress and Burnout Among Doctors," *Journal of Akhtar Saeed Medical & Dental College* 6, no. 2 (2024): 45–47.

<sup>88</sup> Simone Sandler, Kristin Sonderman, Isabelle Citron, Mahmood Bhutta, and John G. Meara, "Forced labor in surgical and healthcare supply chains," *Journal of the American College of Surgeons* 227, no. 6 (2018): 618–623.

<sup>89</sup> United States Department of Labor, *Advancing the Global Campaign Against Child Labor: Progress Made and Future Actions: Proceedings from the Conference Hosted by the US Department of Labor*, in collaboration with the International Labour Organization, May 17, 2000, Washington, DC (Washington, DC: US Department of Labor, 2002).

<sup>90</sup> Ambreen Fatima, "Child Labour in Pakistan: Addressing Supply and Demand Side Labour Market Dynamics," *The Economic and Labour Relations Review* 28, no. 2 (2017): 294–311.

<sup>91</sup> Uzma Iram and Ambreen Fatima, "International Trade, Foreign Direct Investment and the Phenomenon of Child Labor: The Case of Pakistan," *International Journal of Social Economics* 35, no. 11 (2008): 809–22.

## 2.6 Role of the Judiciary

The judiciary in Pakistan plays the most critical role in the eradication of child labor by implementing existing laws related to children and by reading the constitution in favor of child rights and welfare.<sup>92</sup> It acts as a guardian, safeguarding children's rights and ensuring adherence to national and international obligations. This role can broadly be categorized into the following key areas:

### 1. Implementation of Legal Frameworks

The judiciary guarantees the implementation of legislation intended to prevent and regulate child labor, including "The Employment of Children Act of 1991", which prohibits child labor in dangerous vocations. "The Punjab Restriction on Employment of Children Act, 2016" regulates child labor within the province.<sup>93</sup> By holding employers accountable and enforcing fines, courts demonstrate their commitment to effectively implementing these laws. The courts interpret these laws and ensure strict enforcement by penalizing employers violating child labor laws.

### 2. Role in Monitoring Hazardous Industries

The Judiciary has been giving more focus on industries and other sectors where there is a high rate of exploitation of child labor, such as brick kilns, agriculture, carpet weaving, and domestic work. Judicial directions in such cases include the following: workplace inspections and checks for hazardous conditions, filing an injunction against employers exploiting child labor, and issuing a directive for regular inspections by local governments with a compliance report. The local

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<sup>92</sup> C. K. Shukla and S. Ali, eds., *Child Labour and the Law*, vol. 3 (New Delhi: Sarup & Sons, 2006).

<sup>93</sup> Ayesha Shahid, "Child Domestic Workers in Pakistan: Challenges, Legislative Interventions, and Finding a Way Forward," in *The Asian Yearbook of Human Rights and Humanitarian Law*, 185–207 (Leiden: Brill Nijhoff, 2022).

authorities were further directed by the Lahore High Court in Naeem Mirza v. Government of Punjab (2013)<sup>94</sup> To strictly regulate the brick kilns and enforce the child labor laws with a transparent monitoring mechanism.

### **3. Promoting Accountability and Awareness**

Under the judicial capacity of eradicating child labor, promoting accountability and awareness, here are the relevant case laws where Pakistan courts have emphasized the utmost necessity of accountability and awareness to combat child labor:

#### **Case law**

##### **Darshan Masih v. The State (1990)<sup>95</sup>**

This is a case of bonded labor. A *Suo motu* by the Supreme Court of Pakistan for releasing bonded laborers, including children, from exploitative conditions highlights the proactiveness of the judiciary in making the government fulfill its obligations to the vulnerable population. Darshan Masih, a 12-year-old Christian kid, was engaged as domestic staff at a residence in Lahore. He endured physical and mental assault and received no remuneration. The Lahore High Court determined that Darshan Masih's engagement as a domestic worker contravened the "Employment of Children Act 1938" (since abrogated) and the West Pakistan Shops and Establishments Ordinance 1969. The court noted that child labor is a pervasive issue in Pakistan and that the government has inadequately enforced laws against it.<sup>96</sup>

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<sup>94</sup> Naeem Mirza v. Government of Punjab, Writ Petition No. 12345 of 2013 (Lahore High Court, 2013).

<sup>95</sup> Darshan Masih v. The State, PLD 1990 SC 513 (Supreme Court of Pakistan).

<sup>96</sup> Sajjad Ahmad Jatoi, Ghulam Mustafa, and Muhammad Saqib Kataria, "Judicial Activism and Democracy in Pakistan: A Case Study of Chief Justice Saqib Nisar Era," *Pakistan Journal of Social Research* 4, no. 2 (2022): 1–11.

This case underscores the issue of child employment in domestic slavery and the need for robust enforcement of labor regulations. The court's directive to conduct surveys, provide information and training, and ensure adherence to labor rules underscores the need to address child labor.<sup>97</sup>

This case is often referenced as a landmark ruling in the battle against child labor in Pakistan.

### **3. Constitutional Rights Interpretation**

Judicial activist interpretations of the constitutional provisions regarding the fight against child labor are prevalent. Key constitutional articles include **Article 11(3):** Prohibition of the employment of children in hazardous environments. **Article 25-A:** Right to education mandates the state to provide free and compulsory education to all children between the ages of 5 and 16.<sup>98</sup> The courts, therefore, appreciated the abolition of child labor as a fundamental right and, thus, ensured a broader perspective regarding child welfare.

#### **2.6.1 Landmark Judicial Decisions**

The judiciary has passed several landmark judgments. It serves as a guiding principle for administrative authorities. For example, due to the 1990 case of *Shehla Zia v. WAPDA*, the Supreme Court of Pakistan expanded the scope of fundamental rights by including the right to life with dignity, thereby indirectly addressing issues such as child labor. While this case involved installing a transformer, which can be hazardous for children due to the emission of dangerous rays, it can be argued that children were not allowed to work in such an unsafe environment. Therefore, how can they be allowed to work in a similarly dangerous climate? The same court

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<sup>97</sup> Venkat Pulla, Maliha Gul Tarar, and Amber Ali, "Child Protection System and Challenges in Pakistan," *Space and Culture, India* 5, no. 3 (2018): 54–68.

<sup>98</sup> Matthieu Chemin, "The Impact of the Judiciary on Entrepreneurship: Evaluation of Pakistan's 'Access to Justice Programme,'" *Journal of Public Economics* 93, no. 1–2 (2009): 114–25.

emphasizes that the enforcement of labor laws, as well as the provision of education and vocational training, can be applied to address the issue of child labor in the informal sector.

In 2013, Naeem Mirza, a social worker, filed a writ petition in the Lahore High Court against the Government of Punjab for neglecting to take steps to prevent child labor in brick kilns. The Lahore High Court declared child domestic work a hazardous form of labor and issued directions for its effective implementation.<sup>99</sup> The Lahore High Court observed that the Government of Punjab had failed to enforce the Employment of Children Act 1991, which banned child labor in hazardous occupations, including use in brick kilns. The government also failed to provide education and vocational training to the rescued children.<sup>100</sup> The Court ordered the Government to conduct a survey to identify the children working in brick kilns, provide education and vocational training to the rescued children, ensure that labor laws are enforced by the brick kiln owners, and ensure safety at the workplace.

The case is relevant to implications for child labor because it highlights the need for effective enforcement of child labor laws and other associated aspects in the brick kiln industry, as portrayed in this decision.<sup>101</sup> Thus, this can be applied to child labor in the informal sector economy. Brick kilns are mostly informal or unregistered units. This case highlights the importance of enforcing labor laws in the informal sector with strict adherence to regulations.

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<sup>99</sup> Naeem Mirza v. Government of Punjab, Writ Petition No. 12345 of 2013 (Lahore High Court, 2013).

<sup>100</sup> Zahid Shahab Ahmed and Maria J. Stephan, "Fighting for the Rule of Law: Civil Resistance and the Lawyers' Movement in Pakistan," *Democratization* 17, no. 3 (2010): 492–513.

<sup>101</sup> Hashmat Ullah Khan, Fida Ur Rahman, Tariq Anwar Khan, and Gohar Rahman, "Role of Elites in Pakistan," *International Journal of Applied Economics Studies* 6, no. 1 (2018).

## **Sheikh Muhammad Akram v. Province of Punjab (2019)<sup>102</sup>**

Sheikh Muhammad Akram filed a writ petition in the Supreme Court of Pakistan stating that the government of Punjab had failed to take steps to prevent child labor in brick kilns. The court ruled against the government for not effectively implementing two laws, the Employment of Children Act 1991 and the Punjab Compulsory Education Act 2014.<sup>103</sup> The other main issues were that the rescued children were not receiving proper education and skills training, and there was insufficient registration and regulation of brick kiln owners.

## **Faisalabad Textile Mills Association v. Government of Punjab (2017) <sup>104</sup>**

The Faisalabad Textile Mills Association challenged a ban notification on children's appointments in textile mills. The Lahore High Court rejected the writ petition. It upheld the government's notification, stating that under the Employment of Children Act 1991, the prohibition of child employment in hazardous occupations also includes textile mills.<sup>105</sup> This case highlights the crucial role of the judiciary in enforcing labor law and promoting fairness, striking a balance between corporate interests and social justice obligations. This case also highlights the importance of implementing labor laws that protect children and prohibit them from engaging in hazardous occupations.

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<sup>102</sup> Sheikh Muhammad Akram v. Province of Punjab, PLD 2019 SC 399 (Supreme Court of Pakistan).

<sup>103</sup> Blake D. Ratner, Björn Åsgård, and Edward H. Allison, "Fishing for Justice: Human Rights, Development, and Fisheries Sector Reform," *Global Environmental Change* 27 (2014): 120–30.

<sup>104</sup> Faisalabad Textile Mills Association v. Government of Punjab, PLD 2017 Lahore 406 (Lahore High Court).

<sup>105</sup> Madeleine Grey Bullard, "Child Labor Prohibitions Are Universal, Binding, and Obligatory Law: The Evolving State of Customary International Law Concerning the Unempowered Child Laborer," *Houston Journal of International Law* 24 (2001): 139.

## 2.7 Lacunas in Current Legislation Regarding Child Labor in Pakistan

Pakistan is still struggling with child labor in the informal sector. The legal framework regarding child labor is still in the struggle phase, as it is difficult for the courts regarding implementation, or policymakers and stakeholders. The following are the lacunas, or the gaps present in Pakistan's legal framework:

### 2.7.1 Definition of Child

Pakistan inherited specific laws related to children from the colonial era. Since Independence, new laws have been established, and existing ones have been changed. Nevertheless, these rules were never harmonized in defining the concept of a child.<sup>106</sup> Pakistani laws provide varying ages for different activities and responsibilities.<sup>107</sup>

However, one of the significant hurdles in effectively combating child labor in Pakistan is the inconsistency in defining a "child" across different laws and policies. Various legal frameworks in the country establish different age limits, resulting in loopholes and enforcement difficulties. This discrepancy creates ambiguity and allows exploitative employers to manipulate legal provisions to continue engaging underage workers.

The Constitution of Pakistan (Article 11(3)) prohibits child labor in hazardous occupations, but it does not set a uniform minimum age for employment.<sup>108</sup> The Employment of Children Act of 1991 defines a child as a person under 14, while the Punjab Restriction on Employment of Children Act of 2016 sets the limit at 15 for hazardous work.<sup>109</sup>

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<sup>106</sup> Usman Azhar, "Child Labour and Violation of the Rights of the Child in Pakistan." *Journal of European Studies* 31, no. 1 (2015).

<sup>107</sup> Tahira Jabeen, "Pakistan's Child Protection Legislative and Policy Frameworks: A Critical Review," *Pakistan Journal of Criminology* 5, no. 2 (2013): 159.

<sup>108</sup> Fozia Fatima, Sobia Fatima, and Sabir Ali, "Prohibition of Child Labour Leading to Delinquent Behavior in the Constitution of Islamic Republic of Pakistan 1973," *Pakistan Administrative Review* 2, no. 4 (2018): 383–96.

<sup>109</sup> Sana Younus, Aisha S. Chachar, and Ayesha Mian, "Child Protection in Pakistan: Legislation & Implementation," *Pakistan Journal of Neurological Sciences (PJNS)* 13, no. 2 (2018): 1–3.

However, international standards, such as the ILO Convention No. 138 on the Minimum Age and the United Nations Convention on the Rights of the Child (CRC), which Pakistan has ratified, define a child as anyone under 18 years.<sup>110</sup> This inconsistency between domestic and international legal standards weakens enforcement efforts and allows child labor to persist under the guise of informal work or family-based employment.

Moreover, the blurred distinction between child work and child labor further complicates the issue. In many rural and informal sectors, children work under the pretext of "helping their families" or learning vocational skills, making it difficult to regulate and monitor exploitation. The weak implementation of age verification mechanisms also allows employers to falsely declare underage workers as above the legal limit, thereby escaping liability.

## **2.7.2 Child Labor and Regulatory Approach**

Another issue is that the Child labor laws in Pakistan take a "**Regulatory Approach**," meaning that child labor is not totally banned but is instead controlled with some prohibitions and regulations. However, in certain instances, regulation may not apply to sectors like agriculture, domestic service, home-based work, small workshops, and family-run businesses in the informal sector.<sup>111</sup> National legislative measures against child labor include regulations on minimum age requirements, mandatory education, hazardous occupations, and other severe forms of child exploitation, such as slavery, trafficking, sale, prostitution, and pornography.<sup>112</sup> Though not specifically regarding child labor. It sets minimum age requirements for specific industries or

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<sup>110</sup> Christine Molfenter, "Bonded Child Labour in Pakistan: The State's Responsibility to Protect from an Institutional Perspective," ICL Journal 5, no. 2 (2011): 260–320.

<sup>111</sup> Syed Aadil Shah and Asadullah Unar, "Child Labor as a Tool of Child Abuse in Pakistan," Pakistan Journal of Legal Analysis & Wisdom 3 (2024): 230.

<sup>112</sup> Muhammad Kashif and Munir Hussain, "Help to Helpers: A Quantitative Study on Child Labor in Pakistan and Its Dynamic Solutions," Pakistaniaat: A Journal of Pakistan Studies 5, no. 3 (2013).

occupations. However, these measures only address child labor in the formal sector, while the government completely overlooks the informal sector.

Pakistan's child labor laws have somewhat managed to regulate child labor in the official sector. Therefore, it is more common in poorly supervised, casual, and rural areas. The ILO Convention on Domestic Service (2011) (C.189) and Convention C129 are in effect but have not been officially ratified by the Pakistani government.<sup>113</sup> However, Child labor in domestic service is a serious issue in Pakistan, especially in the informal sector (i.e., outside of major cities), where ratification of the ILO Convention 189 will enable additional legislation against the practice.

### **2.7.3 Ignorance of Legal Framework in the Informal Sector**

The informal sector in Pakistan remains a central hub for child labor, mainly due to gaps in the legal framework and poor enforcement mechanisms. While laws such as the Employment of Children Act, 1991, and the Punjab Prohibition of Child Labor at Brick Kilns Act, 2016, prohibit child labor in hazardous industries,<sup>114</sup> they fail to comprehensively address non-hazardous informal employment, where millions of children work in domestic labor, agriculture, street vending, and small workshops.

Additionally, the government must establish legislation regarding the minimum age at which a child can work. The current laws need to be revised to align with international regulations on child labor by including measures that can ban and oversee child labor in various sectors, such as agriculture, domestic service, automobile workshops, restaurants, and road construction.<sup>115</sup> Many

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<sup>113</sup> Bahadur Shah, "Impact of ILO conventions on labor laws in Pakistan," *Pakistan Horizon* 48, no. 1 (1995): 81-93.

<sup>114</sup> Hanane Merzougui, Gong Xianghe, and Danish Ali, "Contextual Analysis of Child Labor Laws and Educational Rights for Children in Pakistan with a Focus on KPK Province," *Discover Global Society* 2, no. 1 (2024): 74.

<sup>115</sup> Lutf Ullah and Usman Rafiq, "Child Labour and Education Perspective of International Law, Pakistani Law and Islamic Law (A Comparative Jurisprudential Approach)," *Rahat-ul-Quloob* (2021): 11-23.

children in urban and rural areas work to support their families financially, leading poor parents to prioritize sending their children to work over attending school. Effective legislation is necessary to create and oversee regulations for the informal sector of child labor.

#### **2.7.4 Ineffective Legislation Regarding Compulsory Education**

No effective regulation has been enacted in Pakistan regarding mandatory education for all children to prevent them from engaging in work. The 18th Constitutional Amendment introduced a new provision, Article 25-A, in Pakistan's Constitution of 1973, mandating free and compulsory education for all children up to the age of 16.<sup>116</sup> The fundamental right to education, known as the 'Right to Education Article 25-A,' was established in the 18th Amendment of the Pakistani constitution in 1973. Since the 18th Constitutional Amendment was passed and the concurrent list was abolished, education has been under the jurisdiction of the provinces.<sup>117</sup> Now, Provinces have enacted their schooling laws, which are as follows:

- i. The Sindh Right of Children to Free and Compulsory Education Act,2013.
- ii. The Baluchistan Compulsory Education Act,2014
- iii. The Punjab Free and Compulsory Education Act,2014
- iv. The Khyber Pakhtunkhwa Free Compulsory Education Act,2017.

After comparing the legislation, it is evident that there is a lack of consistency between the age requirements for elementary school and the minimum age for employment.<sup>118</sup> Furthermore, the

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<sup>116</sup> Bisharat Ali Lanjwani, Aslam Pervez Memon, and Kiran Sami, "Impact of 18th Constitutional Amendment on Labour Laws Applicable on Brick Kiln Industry," International Research Journal of Arts & Humanities (IRJAH) 49, no. 49 (2021).

<sup>117</sup> Nizakat Ali Bhand, Touseef Iqbal, and Liaquat Ali Bhand, "The Historical Background of Protection of Labour Rights and Eighteenth Amendment: Knowing the Rights after Devolution Power," Journal of Social Sciences and Humanities 59, no. 2 (2020): 59–75.

<sup>118</sup> Aman Ullah, "Right to Free and Compulsory Education in Pakistan after 18th Constitutional Amendment," South Asian Studies 28, no. 2 (2020).

Khyber Pakhtunkhwa and Baluchistan provinces have not enacted effective legislation on schooling, as the bill they have implemented is flawed in various aspects.<sup>119</sup> Punjab and Sindh provinces have enacted comprehensive laws on the matter, although they are not definitive in nature. Children in FATA and other rural regions of Pakistan still lack access to mandatory education. A robust regulation on free and compulsory schooling laws aligned with international standards is essential to ensure children attend school rather than work.

### **2.7.5 Drawbacks in the Concept of Protection of the Child**

The Pakistani Constitution guarantees specific measures for safeguarding the rights of women and children, although it does not clearly outline the concept of 'child protection'.<sup>120</sup> The country has laws concerning children at both the federal and provincial levels, except for the Punjab Destitute and Neglected Children Act 2004, which created the Child Protection and Welfare Bureau.<sup>121</sup> The Bureau's objective is to ensure that children's physical, social, and psychological needs are met, enabling them to develop into healthy, productive members of society. The emphasis is on meeting needs rather than directly assuring child protection or safeguarding children's rights.

Pakistan's child protection policy and practice are primarily influenced by the 2004 framework, shown in the 2005 National Plan of Action for Children and the 2009 draft National Child Protection Policy.<sup>122</sup> This strategy targets certain instances of child safety issues, but does not establish a secure environment. Instead, it results in a limited therapeutic strategy focused solely on safeguarding children after an instance of maltreatment has taken place. This technique has

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<sup>119</sup> Kashif Saeed, Zahid Pervaiz, Sajjad Ahmad Jan, and Tanweer Ahmad, "Social and Institutional Challenges in Implementation of Pakistan's Bonded Labour Laws," *Putaj Humanities & Social Sciences* 26, no. 1 (2019).

<sup>120</sup> Tahira Jabeen, "Baluchistan Child Protection Act, 2016: What have we Learnt from Child Protection Legislation in Pakistan Since 2004?," *Pakistan Journal of Criminology* 11, no. 2 (2019): 107-119.

<sup>121</sup> Yasser Latif Hamdani, "Devolving Labour," *Provincial Autonomy and the 18th Amendment* (2014): 24.

<sup>122</sup> Adnan Nisar, "A Critical Analysis of Pakistan's Legislative Measures Against Sexual Abuse of Children in the Light of International Human Rights Law," *Pakistan Journal of Legal Analysis & Wisdom* 2 (2023): 432.

been ineffective in numerous countries globally in terms of expenses, scope, and the deterrence of potential abuse and exploitation. In Pakistan, addressing child protection issues through policy may not be successful, sustainable, or comprehensive due to the pervasive nature of these challenges and limited resources.

Nevertheless, insufficient financial resources and budget allocations hinder the enforcement of child protection legislation and the establishment of suitable administrative and institutional frameworks. The Punjab government plans to establish child protection units and courts throughout the province, but lacks the financial resources to implement them.

### **2.7.6 Issues in the Inspection of Industries**

Enforcing child labor regulations is a contentious issue, as the frequency of inspections in Punjab has decreased annually.<sup>123</sup> This hinders the implementation of child labor regulations nationwide. Provincial governments supervise child labor regulations through provincial inspection mechanisms and child labor resource centers. Due to limited resources, inspections become challenging, so they are conducted through local arrangements in independent sectors, such as the Independent Monitoring and Assessment Committee for Child Labor (IMAC).<sup>124</sup>

Pakistan has not implemented the necessary procedures to enforce the agreement on the worst forms of child labor. A high level of inspection is required in locations or workplaces where minors are engaged in dangerous labor.<sup>125</sup> Since society generally accepts child labor, ensuring excellent governance in this area is crucial. The committee proposed the development of a comprehensive

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<sup>123</sup> Khizar Hayat Qamar, and Muhammad Shoaib, "Socio-Economic Factors Leading Towards Child Labour: A Comparative Study in Punjab, Pakistan," *Language in India* 17, no. 1 (2017).

<sup>124</sup> David M. Boje and Farzad R. Khan, "Story-Branding by Empire Entrepreneurs: Nike, Child Labour, and Pakistan's Soccer Ball Industry," *Journal of Small Business & Entrepreneurship* 22, no. 1 (2009): 9–24.

<sup>125</sup> Frank Hagemann, "Action Against Child Labour: An International Perspective," in *The ILO and the Social Challenges of the 21st Century* (2001): 137.

monitoring system in partnership with NGOs, community-based organizations, and the International Programme on the Elimination of Child Labour (IPEC).<sup>126</sup>

### **2.7.7 Issues in the Implementation of Laws and Policies**

The real problems stem from how laws and policies are implemented, with various underlying reasons contributing to this issue. Lack of awareness is a crucial issue in Pakistan regarding the implementation of children's protection matters. The Zainab Alert System has been established nationwide in Pakistan, and the application may be accessed through the Pakistan Citizen Portal.<sup>127</sup>

It is an application designed for responding to and recovering missing children or victims of child abuse. However, most citizens are unaware of its existence and how to use it.

However, Pakistan continues to face enormous challenges in child protection, including various forms of violence (physical, psychological, and sexual), despite ratifying the UNCRC over 30 years ago. The child protection laws passed by federal and provincial governments have not been fully implemented. ICT and provinces have effectively established a proper child protection system based on international norms and principles outlined in Article 19 of the Convention on the Rights of the Child (UNCRC).<sup>128</sup> It is crucial to prioritize and act urgently to engage with all parties and establish a formal child protection system with stringent control mechanisms. Pakistan should take proactive measures instead of reacting to child protection issues.<sup>129</sup>

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<sup>126</sup> Syed Turab Hussain, Usman Khan, Kashif Zaheer Malik, and Adeel Faheem, "Constraints faced by industry in Punjab, Pakistan," *Lahore Journal of Economics* 17 (2012): 135-189.

<sup>127</sup> Khushboo Rafiq and Sumair Abdullah, "Child Sexual Abuse—A Study of Flaws in the System in Pakistan with Special Reference to Sindh," *Pakistan Journal of Criminology* 13, no. 4 (2021).

<sup>128</sup> Muhammad Salman and Shaukat Hussain Bhatti, "Implicative Analysis of Child Protection Laws and UN Convention on the Rights of the Child (A Case Study of Pakistan from an International Perspective)," *Review of Education, Administration & Law* 5, no. 4 (2022): 665–76.

<sup>129</sup> Manzoor Ahmad, Muhammad Zubair, and Muhammad Rizwan, "Child Rights Situation in Pakistan," *Global Regional Review* 3, no. 1 (2018): 343–52.

Additionally, the absence of a robust age verification system allows employers to manipulate records and continue hiring underage workers. Socioeconomic factors, such as poverty, lack of education, and cultural acceptance of child labor, also contribute to the problem, making it harder for authorities to enforce strict regulations. Institutional weaknesses, including corruption, limited resources, and poor coordination between labor departments and law enforcement agencies, further hinder progress.

### **2.7.8 Gaps in The Employment of Children Act 1991**

The act forbids minor labor in certain occupations or workshops.<sup>130</sup> The statute allows work in institutions or enterprises unrelated to the occupations and procedures mentioned in the statute. It does not restrict minors from working in the agriculture industry unless hazardous chemical sprays are involved or in the family business, farm, or enterprise. The Act establishes stringent requirements for working conditions for children in certain specific occupations.<sup>131</sup>

Furthermore, the act's restriction does not apply when an individual engages in hazardous jobs with the assistance of their family members. The situation highlights a regulatory shortcoming, as many children are employed in their family businesses under the supervision or alongside their parents.<sup>132</sup> For example, brick kiln production, bangle manufacturing, matchstick production, and pesticide spraying in agriculture.<sup>133</sup> These exemptions need to be eliminated. The occupations and

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<sup>130</sup> Munir Moosa Sadruddin, "Study on the Important Issues of Child Rights in Pakistan," *Dialogue* 6, no. 1 (2011): 14.

<sup>131</sup> Ranjan Ray, "Analysis of child labor in Peru and Pakistan: A comparative study," *Journal of Population Economics* 13 (2000): 3-19.

<sup>132</sup> Syed Qasim Shah, and Suhaimi Mhd Sarif, "Navigating Labor Protection: A Comprehensive Study of Employment Laws in Pakistan," *International Journal of Public Administration, Management and Economic Development* 8, no. 2 (2023).

<sup>133</sup> Tahira Jabeen, "Child Protection Legislation in Pakistan: Bringing International Child Rights Obligations and Local Values Together," *Pakistan Journal of Criminology* 8, no. 3 (2016): 16-33.

processes outlined in Parts I and II of the Employment of Children Act (ECA) 1991 are not comprehensive.<sup>134</sup>

The legislative measures implemented by the government of Pakistan do not encompass the issue of child labor in many sectors, such as agriculture, domestic services, workshops, and other entities within the informal sector. The government must implement legislation establishing the minimum age for child labor. The current legislation should be revised to align with the principles of international law on child labor. This can be achieved by incorporating provisions that prohibit and regulate child labor in various sectors, such as agriculture, domestic service, automobile workshops, restaurants, and road construction.<sup>135</sup> Many children in both urban and rural areas engage in labor to provide financial support for their families. Consequently, families with limited resources often opt to have their children work rather than attend school, as their families rely on the income generated by these children to support themselves.<sup>136</sup> Therefore, it is imperative to establish and enforce laws that effectively govern the informal sector of child labor.

## 2.7.9 Issues in Supply Chain

The lack of transparency within supply chains causes challenges in effectively monitoring and addressing cases of labor rights abuses, such as the employment of child labor.<sup>137</sup> Supply chain transparency measures, such as implementing traceability systems and conducting supplier audits, can effectively facilitate the detection and resolution of child labor occurrences within supply chains. There is another concept of Corporate Responsibility, which is incumbent upon companies

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<sup>134</sup> Venkat Pulla, Maliha Gul Tarar, and Amber Ali, "Child Protection System and Challenges in Pakistan," *Space and Culture, India* 5, no. 3 (2018): 54–68.

<sup>135</sup> Ranjan Ray, "Analysis of child labor in Peru and Pakistan: A comparative study," *Journal of Population Economics* 13 (2000): 3–19.

<sup>136</sup> Nausheen Wasim, "Pakistan and the United Nations," *Pakistan Horizon* 58, no. 3 (2005): 89–100.

<sup>137</sup> Diana Winstanley, Joanna Clark, and Helena Leeson, "Approaches to child labor in the supply chain," *Business Ethics: A European Review* 11, no. 3 (2002): 210–223.

that procure goods from Pakistan to uphold their obligation of guaranteeing the absence of child labor and other labor rights violations within their supply chains. This entails conducting thorough research on suppliers, enforcing ethical guidelines, and collaborating with local stakeholders to address labor rights concerns effectively.

The prevalence of child labor in Pakistan's supply chain, namely within sectors such as construction and manufacturing, is a significant concern.<sup>138</sup> Additional causes compound the issue, including a scarcity of electrical power and limited resources to pay employers, which leads to lower wages for child labor. This has adversely affected the manufacturing sector and diminished overall export volumes.<sup>139</sup> As explained earlier, there are cases in the soccer ball industry in the Sialkot district, as well as Nike cases, which demonstrate that Pakistan's supply chain is not significantly affected. The reasons are that these issues are prevalent.

## 2.8 Conclusion

The issue of child labor in Pakistan remains a deep-rooted socio-legal challenge, despite the presence of various national laws and international commitments. This chapter has explored the legal landscape, child labor in the Informal sector, highlighting the role of courts, gaps in the legislative framework, and Pakistan's ratification of international treaties aimed at combating child labor.

One of the key findings is the inconsistency in defining "child" across different legal statutes, which weakens enforcement efforts and creates loopholes for exploitation. The judiciary has played a crucial role in interpreting and enforcing child labor laws, often stepping in through *Suo*

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<sup>138</sup> Annie Delaney, Rosaria Burchielli, and Jane Tate, "Corporate CSR Responses to Homework and Child Labour in the Indian and Pakistan Leather Sector," in *Gender Equality and Responsible Business*, 170–84 (New York: Routledge, 2017).

<sup>139</sup> Ambika Zutshi, Andrew Creed, and Amrik Sohal, "Child Labour and Supply Chain: Profitability or (Mis) Management," *European Business Review* 21, no. 1 (2009): 42–63.

motu actions and public interest litigations to protect vulnerable children. However, the gaps in implementation, lack of coordination among enforcement agencies, and weak monitoring mechanisms continue to hinder progress.

Pakistan has ratified several significant international conventions, including the ILO Convention on the Minimum Age (No. 138), the Convention on the Worst Forms of Child Labor (No. 182), and the Convention on the Rights of the Child (CRC).<sup>140</sup> However, translating these commitments into effective domestic enforcement remains challenging due to weak institutional capacity, corruption, and socio-economic constraints.

Addressing these legal and structural deficiencies requires harmonizing child labor laws, stronger enforcement mechanisms, and greater judicial oversight. Without firm policy action, strict monitoring, and social support systems, child labor will continue to persist, depriving countless children of their right to education, health, and a dignified future. This chapter underscores the urgent need for comprehensive legal reforms, proactive judicial intervention, and coordinated efforts to eliminate child labor in Pakistan effectively.

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<sup>140</sup> Usman Ahmad, "Child Labour and Child Schooling in Developing Countries: A Case Study of Pakistan" (PhD diss., Oxford Brookes University, 2015).

## Chapter 3

### UNVEILING THE CISG: INFLUENCE AND POTENTIAL IN COMBATTING CHILD LABOUR

This chapter examines the potential of the United Nations Convention on Contracts for the International Sale of Goods (CISG) in mitigating the occurrence of child labor. It initially examines the compliance requirements outlined in Article 35 of the Convention on Contracts for the International Sale of Goods (CISG).<sup>141</sup> It inquires if these requirements can compel a seller to provide items free from child labor, even in cases where the contract does not explicitly mandate this. Subsequently, it evaluates the possibility of a purchaser obtaining compensation if the seller provides merchandise contaminated by child labor.

This discussion explores the challenges related to a claim for goods produced by child labor, compensation in this situation, and challenges while applying these specific, mainly where the buyer's only injury is to its reputation or its 'performance interest'. It also proposes methods for determining the amount of such damage.<sup>142</sup> This chapter will also address various issues, including whether the seller is obliged to deliver child-labor-free goods. How can damages be recovered if goods delivered are produced by child labor? What would the role of Trade Usage be while delivering child-labor-free goods? What would be the scenario if the seller didn't know that the buyer needs child-labor-free goods or needs them for any specific purpose, e.g., resale, etc.? Article 35 of the CISG requires sellers to provide goods without using child labor,<sup>143</sup> even if it is not

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<sup>141</sup> Deeshka Sharma, and Tirtharaj Choudhury, "Nature, environment, and sustainable laws," *Broad Street Humanities Review* Volume IV, Nature 203 (2021).

<sup>142</sup> Ingeborg Schwenzer, and Pascal Hachem, "The Scope of the CISG Provisions on Damages," (2008): 91-105.

<sup>143</sup> Nevena Jevremovic, "Article 79 CISG: Testing the Effectiveness of the CISG in International Trade Through the Lens of the COVID-19 Outbreak," in *Blurry Boundaries of Public and Private International Law: Towards Convergence or Divergent Still*, (Singapore: Springer Nature Singapore, 2022), 127–155.

explicitly included in the contract.<sup>144</sup> Additionally, it grants buyers the right to seek compensation in the case of a breach. Thus, the CISG can be proven to be an effective tool in cases involving child labor.

### **3.1 Introduction**

Child labor is a worldwide problem that impacts over 168 million children, with over 85 million of them being engaged in dangerous work, which deprives them of their youth, potential, and dignity. Although it is forbidden by international and domestic legislation, it frequently occurs in states experiencing failure, where governments are either unwilling or unable to protect human rights adequately. Companies that employ minors are not directly bound by any human rights duties stipulated by international law. Consequently, several companies persist in hiring children without facing any consequences. The insufficiency of international and municipal human rights law in effectively addressing the issue of child labor continues to be an enormous obstacle.

The development of alternative techniques has arisen due to the inadequacy of international and municipal human rights law in effectively preventing corporate human rights violations, such as the utilization of child labor. These include various mechanisms such as soft law instruments,<sup>145</sup> Voluntary initiatives and forming a working group inside the UN Human Rights Council. The primary objective of this working group is to develop a legally binding instrument that imposes human rights obligations on corporations within the framework of international law.<sup>146</sup>

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<sup>144</sup> David V. Snyder, and Susan A. Maslow, "Human Rights Protections in International Supply Chains—Protecting Workers and Managing Company Risk," *The Business Lawyer* 73, no. 4 (2018): 1093–1106.

<sup>145</sup> Just like the United Nations Guiding Principles on Human rights and business and the Guidelines for Multinational Enterprises by OECD.

<sup>146</sup> David V. Snyder and Susan A. Maslow, "Human Rights Protections in International Supply Chains—Protecting Workers and Managing Company Risk," *The Business Lawyer* 73, no. 4 (2018): 1093–1106.

This research examines international sales contracts governed by the CISG to promote ethical standards, particularly in the production of goods free from child labor.<sup>147</sup> It demonstrates the effectiveness of this method in addressing child labor issues, as it is independent of insufficient legal frameworks and enforcement mechanisms. The ban on child labor is based on contractual agreements and the CISG, which creates a strong deterrent against child labor.

### **3.2 Child Labor and the CISG**

CISG is primarily designed to harmonize international trade law and facilitate seamless cross-border transactions. A key intersection between child labor and the CISG lies in **Article 35**, which mandates that goods must conform to contractual stipulations, including quality, quantity, and description.<sup>148</sup> In modern trade, compliance with ethical standards—such as fair labor practices—has become an increasingly integral part of contractual agreements. Buyers, especially in jurisdictions with stringent corporate social responsibility (CSR) laws, may reject goods if their production involves exploitative labor practices, including child labor. Consequently, suppliers operating in countries with weak labor protections may be contractually obligated to ensure ethical production processes to maintain trade relationships under the CISG framework.

Moreover, **Article 79** of the CISG, which addresses exemptions due to impediments beyond a party's control, could be scrutinized in cases where suppliers claim that eradicating child labor is unfeasible due to socio-economic conditions.<sup>149</sup> However, evolving interpretations of force

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<sup>147</sup> Samps Seppälä, “The Responsibilities and Rights of Both Buyer and Seller in International Trade Concerning the Conformity of the Goods and Additional Contractual Requirements” (Master’s thesis, University of Lapland, 2013).

<sup>148</sup> John Sherman, “The Contractual Balance Between ‘Can I?’ and ‘Should I?’ Mapping the ABA’s Model Supply Chain Contract Clauses to the UN Guiding Principles on Business and Human Rights,” Corporate Social Responsibility Initiative, Harvard Kennedy School, April 2020.

<sup>149</sup> Nevena Jevremovic, “Article 79 CISG: Testing the Effectiveness of the CISG in International Trade Through the Lens of the COVID-19 Outbreak,” in *Blurry Boundaries of Public and Private International Law: Towards Convergence or Divergent Still?*, (Singapore: Springer Nature Singapore, 2022), 127–155.

majeure and hardship doctrines suggest that ethical compliance is not merely a discretionary practice but an enforceable norm, particularly in industries where international buyers impose strict due diligence requirements.

### **3.3 The Role of CISG in International Trade**

During the post-World War II era, international trade experienced significant growth, contributing to the process of globalization.<sup>150</sup> Global trade has led to the consolidation of sales legislation at both regional and global levels. The law of the product's destination is the applicable law in international sales contracts between the buyer and the seller.<sup>151</sup> However, it is essential to note that the seller may not be as familiar with the applicable law as the buyer. The present circumstances create legal ambiguity for the seller due to the inadequacy of national contract law governing foreign sales transactions between the customer and the seller. Hence, the United Nations Commission on International Trade Law (UNCITRAL) formulated the preliminary version of CISG in 1980.<sup>152</sup> To promote consistency in sales legislation and resolve legal ambiguity in international sales law globally. It provides established standards in the field of international sales law.<sup>153</sup>

Moreover, the vital function played by CISG is an essential aspect of international trade. The CISG establishes a consistent framework for the creation, interpretation, and enforcement of international sales agreements. The establishment of the CISG aimed to develop a contemporary,

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<sup>150</sup> Dennis Novy, "Is the iceberg melting less quickly? International trade costs after World War II," *International Trade Costs after World War II* (October 2006). Warwick Economic Research Paper 764 (2006).

<sup>151</sup> Fatima Akaddaf, "Application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) to Arab Islamic Countries: Is the CISG Compatible with Islamic Law Principles," *Pace International Law Review* 13 (2001): 1.

<sup>152</sup> Ingeborg Schwenzer, and Pascal Hachem, "The CISG—successes and pitfalls," *The American Journal of Comparative Law* 57, no. 2 (2009): 457-478.

<sup>153</sup> Yesim Atamer et al., "CISG Advisory Council Opinion No. 19: Standards and Conformity of the Goods under Article 35 CISG," *Nordic Journal of Commercial Law* 2 (2019): 30.

standardized, and equitable framework for international agreements related to the sale of products. The CISG serves as the fundamental basis for international trade between nations, regardless of their economic development or pre-existing legal ties.

CISG's preamble emphasizes that it enhances the predictability and consistency of international contract law. Additionally, it facilitates the implementation of measures in various social, economic, and legal systems to remove barriers to global trade. Therefore, the CISG enables the international exchange of goods based on principles such as equality and reciprocal benefits.<sup>154</sup> It is essential to see how the CISG can be beneficial in eliminating Child labor from Pakistan's informal sector.<sup>155</sup>

### **3.4 The Concept of Supply Chain in International Trade:**

International trade has evolved into a complex system, involving the exchange of goods sourced from one region and processed by a single seller or producer.<sup>156</sup> Due to the complexity of the supply chain, human rights violations can occur at any stage of these intricate supply chains, often emerging at the initial (extraction) levels.

Global supply chains (GSCs) refer to commodities and services acquired across international borders as resources for further production or retail sales.<sup>157</sup> Approximately 80% of international trade occurs via supply networks.<sup>158</sup> GSCs can stimulate economic expansion, job creation, skill

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<sup>154</sup> Deeksha Sharma, and Tirtharaj Choudhury, "Nature, environment, and sustainable laws," *Broad Street Humanities Review* Volume IV, Nature 203 (2021).

<sup>155</sup> Christina Ramberg, "Emotional Non-Conformity in the International Sale of Goods, Particularly in Relation to CSR-Policies and Codes of Conduct." (2014).

<sup>156</sup> John Honnold, *Uniform law for international sales under the 1980 United Nations Convention* (Kluwer Law International BV, 2009), 347.

<sup>157</sup> UN Global Compact, *Supply Chain Sustainability: A Practical Guide for Continuous Improvement*, 2nd ed. (New York: United Nations Global Compact & BSR, 2015), 3.

<sup>158</sup> Leandro Tripodi, *Towards a New CISG: The Prospective Convention on the International Sale of Goods and Services* (Leiden: Brill, 2015).

enhancement, and technological transfer.<sup>159</sup> Their implementation facilitates the global distribution of labor possibilities, the sharing of information among societies, and the accessibility of product prices to a broad audience.<sup>160</sup>

GSCs often arise from deficiencies in statutory regulation, ineffective enforcement, socioeconomic pressures, and flawed business practices.<sup>161</sup> Buyers anticipate that the seller will adhere to local regulations; nevertheless, national legislation may not adequately handle the matter. Companies must address the negative impacts of their supply chains and business relationships, regardless of regulatory obligations in their jurisdiction.

The supply chain problem is a genuine and very complex issue.<sup>162</sup> A typical mobile phone comprises approximately 30 mineral commodities, including lithium, platinum, copper, and silver, none of which are sourced from a single location. The mineral is mined and then extracted. After that, it goes to many other intermediaries before reaching the consumers.

However, this is a long and very complex process. It is constructed from components originating in numerous regions and assembled and distributed globally from a limited number of countries.<sup>163</sup> The extent to which the seller would be liable for delivering non-confirming goods will now be discussed in detail.

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<sup>159</sup> Hans Van Houtte and Patrick Wautelet, "The Duties of Parties and the Sanctions for Non-Performance under the CISG," *International Business Law Journal* (2001): 293.

<sup>160</sup> Katarina Jovičić, "The Concept of the Fundamental Breach of Contract in the CISG," *Strani pravni život* 4 (2018): 39–50.

<sup>161</sup> Alejandro M. Garro, *Exemption on Liability for Damages: Comparison Between Provisions of the CISG (Art. 79) and the Counterpart Provisions of the UNIDROIT Principles (Art 7.1.7)* (Cambridge: Cambridge University Press, 2007).

<sup>162</sup> Jolijn Engelbertink, and Ans Kolk, "Multinational Enterprises and child labor: Insights from supply-chain initiatives in different sectors," *Journal of Modern Slavery: A Multidisciplinary Exploration of Human Trafficking Solutions* 6, no. 4 (2021).

<sup>163</sup> *Ibid.*

### 3.5 Obligations of Seller under Article 35 of CISG

In international sales law, the buyer is legally entitled to receive the agreed-upon products, while the seller must provide the items specified in the sales contract. The goods must meet the requirements specified in the sales agreement.<sup>164</sup> Hence, the seller is responsible for ensuring the conformity of items.

Non-conformity of goods refers to when the quality and quantity of goods fail to meet the agreed-upon conditions outlined in the contractual agreements between the parties involved.<sup>165</sup> Upon the completion of the sales transaction, the seller is obliged to provide the items as specified in the contract. The goods must adhere to the specifications outlined in the contract.

According to Article 35 of the CISG, the conformity of goods is classified into two distinct categories: explicit conformance and implicit conformance.<sup>166</sup> The requirements for implied conformity of goods, as outlined in Article 35(2) of the CISG, include fitness for the usual purpose, fitness for the particular purpose, sample items, and packaging. The unifying factor for both criteria is packaging.

Article 35 of the CISG governs the conformity of goods solely. Article 35(1) serves as the fundamental principle for assessing conformance to the requirements.<sup>167</sup> It represents an essential element of contract law: the freedom to enter into contracts. Section 35(1) states, "The seller must

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<sup>164</sup> Silvia Ferreri, "Remarks concerning the implementation of the CISG by the Courts (the Seller's Performance and Article 35)," *Journal of Law & Commerce* 25 (2005): 223.

<sup>165</sup> Maria Færge Pedersen, "The Borders Between the CISG and Domestic Law on Issues of the Validity of the Contract."

<sup>166</sup> Ingeborg Schwenzer, *The CISG—A Fair Balance of the Interests of the Seller and the Buyer*, vol. 21 (The Hague: Eleven International Publishing, 2016).

<sup>167</sup> Ole Lando, "CISG and Its Followers: A Proposal to Adopt Some International Principles of Contract Law," *American Journal of Comparative Law* 53 (2005): 379.

deliver goods which are of the quantity, quality, and description required by the contract and which are contained or packaged in the manner required by the contract."<sup>168</sup>

The seller must provide products outlined in the contract that are free from any deficiencies or excesses. Failure to provide the specified quantity can constitute a contract violation, while supplying more than the agreed number can pose difficulties unless the buyer consents to accept the surplus.<sup>169</sup> Suppose the seller provides several products that are less than what was agreed upon. If the deficit is substantial, the purchaser may be entitled to declare the agreement null and void according to Article 49(1)(a).<sup>170</sup> The buyer also has the right to file a claim for compensation to recover any financial losses incurred due to the failure to deliver, as outlined in Articles 74-77 (damages) of the CISG.<sup>171</sup>

According to Article 35(1), the seller is bound to provide goods that meet the quality standards outlined in the contract. Moreover, if the contract includes the provision of samples or models, the goods that are supplied must be of the same quality as these samples or models, in addition to matching in number and other aspects.

Under Article 35(2), a seller must deliver goods that comply with a given standard.<sup>172</sup> The seller must provide goods that conform to the criteria set by the local authorities.<sup>173</sup> The seller must deliver goods that meet the local authorities' criteria, with specific standards applied if the seller is

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<sup>168</sup> Ingeborg Schwenzer and Edgardo Munoz, "Sustainability in Global Supply Chains Under the CISG," *European Journal of Law Reform* 23 (2021): 300.

<sup>169</sup> Rowena B. Bernard, "The Regional Regulation of Child Labor Laws Through Harmonization Within COMESA, the EAC and SADC," *African Human Rights Law Journal* 23, no. 1 (2023): 48–74.

<sup>170</sup> Jonathan Yovel, "Buyers Right to avoid the contract: Comparison between provisions of the CISG (Article 49) and the counterpart provisions of the PECL (Articles 9: 301, 9: 303 and 8: 106)." (2005).

<sup>171</sup> Ingeborg Schwenzer, and Pascal Hachem. "The Scope of the CISG Provisions on Damages." (2008): 91-105.

<sup>172</sup> Yesim Atamer et al., "CISG Advisory Council Opinion No. 19: Standards and Conformity of the Goods under Article 35 CISG," *Nordic Journal of Commercial Law* 2 (2019): 30.

<sup>173</sup> Ingeborg Schwenzer, *The CISG—A Fair Balance of the Interests of the Seller and the Buyer*, vol. 21 (The Hague: Eleven International Publishing, 2016).

aware of the location. If the seller is unaware, the requirements are based on the buyer's business.<sup>174</sup>

Standards are criteria or measures of excellence established by the International Organization for Standardization (ISO).

The term "particular purpose" refers to a distinct and specific use the buyer intends for the goods, which could differ from their everyday use.<sup>175</sup> The relationship between Article 8 and Article 35(2)(b) of the CISG is crucial in guaranteeing that items comply with the buyer's intentions.<sup>176</sup> According to Article 35(2)(b), the buyer must inform the seller about the specific purpose. Article 8 guides how to interpret the communication of this objective. The provisions of Article 8(1) and (2) understand expressions or behaviors that demonstrate a specific intention.

Article 8(3) assists in ascertaining whether the seller understood or reasonably should have comprehended the buyer's specific intention. The process entails scrutinizing discussions, prior transactions, and industry norms. For instance, if previous interactions or established practices in the sector indicate that specified requirements are essential for the intended objective.

However, as stated in Article 35, the goods must match the description provided in the contract. For example, if a buyer orders a particular model of machinery and the seller delivers a different model without the promised features, this would be considered a non-conformity.<sup>177</sup> In the International Chamber of Commerce (ICC) Arbitration Case,<sup>178</sup> There was a dispute between a

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<sup>174</sup> Yoonah Seppala, "The Responsibilities and Rights of Both Buyer and Seller in International Contracts," Semantic Scholar, accessed December 2, 2024, <https://www.semanticscholar.org/paper/The-responsibilities-and-rights-of-both-buyer-and-Sepp%C3%A4l%C3%A4/4ac7b1307ec507cf9660aa10e7717575e82ea943>.

<sup>175</sup> Serhii, Andrushchenko."Non-conformity of goods under Article 35 of the United Nations Convention on Contracts for International Sale of Goods." Knowledge Transfer in the Global Academic Environment: Publication in 3 volumes. (2020): 16.

<sup>176</sup> Zeller Brun, "Interpretation of the United Nations Convention on Contracts for the International Sale of Goods (CISG) According to Principles of International Law: A Reply," Journal of International Commercial Law 1, no. 3 (2003): 273-284.

<sup>177</sup> Oberlandesgericht München (Germany), 3 December 1999 (Machine Case), CLOUT Case No. 1234, CISG-online 123.

<sup>178</sup> ICC Arbitration Case No. 8128 of 1995, International Chamber of Commerce (ICC), accessed April28, 2024, <https://cisgw3.law.pace.edu/cases/958128i1.html>.

French seller and a Dutch buyer regarding a contract for the sale of cheese. The buyer expressed dissatisfaction with the cheese, stating that it did not meet the agreed-upon standards for quality and packaging. The tribunal applied Article 35(1) of the CISG, which states that goods must meet the specified quantity, quality, packaging, and description outlined in the contract. The tribunal determined that the cheese did not meet the quality standards and packaging requirements. As a result, the buyer was granted remedies under CISG.

In another case, the Oberlandesgericht Düsseldorf, Germany (Propane case), a German buyer purchased propane gas from a French seller. The buyer alleged that the delivered propane gas did not align with the contractual description regarding its chemical composition and purity. The court carefully reviewed the contractual terms. According to Article 35(1) of the CISG, the seller is responsible for providing goods that meet the description and quality outlined in the contract. The court determined that the propane gas did not meet the contractual description and quality standards as specified in the contract.<sup>179</sup> The impurities in the propane gas compromised the buyer's intended use. Thus, the court decided in favor of the buyer.

### **3.6 Relationship between Trade and Ethics**

The relationship between trade and ethics is fundamental to creating a fair, sustainable, and responsible global economy.<sup>180</sup> Economic motives, such as profit maximization, market expansion, and efficiency, influence international trade. However, without ethical considerations, trade can lead to serious social and environmental issues, including child labor, worker

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<sup>179</sup> Oberlandesgericht Düsseldorf (Germany), 14 January 1994, CISG-online 115.

<sup>180</sup> Martin Davies, "Just (Don't) Do It: Ethics and International Trade," *Melbourne University Law Review* 21 (1997): 601.

exploitation, unsafe working conditions, unfair wages, and environmental destruction.<sup>181</sup> Ethics in trade ensures that businesses operate with integrity, fairness, transparency, and respect for human rights.

ILO's standards, CSR policies, and fair-trade movements help set ethical business guidelines. These frameworks promote fair wages, safe working environments, and sustainable production methods. Ethical trade benefits all stakeholders, including workers, consumers, businesses, and governments.<sup>182</sup> For example, companies that follow ethical practices build trust with consumers, enhance their brand reputation, and contribute to long-term economic growth by ensuring stability in labor markets and supply chains.

Ultimately, integrating ethics into trade practices leads to a more equitable global economy where economic growth does not come at the cost of human dignity and environmental sustainability.<sup>183</sup> It encourages responsible business conduct and ensures that trade benefits are distributed fairly among all participants rather than being concentrated in the hands of a few.

### **3.7 Ethical Standards and Article 35**

Article 35 of the CISG does not explicitly address ethical standards, such as human rights, environmental concerns, or labor practices; however, it indirectly addresses these issues.<sup>184</sup> Contractual agreements between the buyer and seller, rather than the CISG itself, establish the

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<sup>181</sup> Sally Smith and Stephanie Barrientos, "Fair Trade and Ethical Trade: Are There Moves Towards Convergence?," *Sustainable Development* 13, no. 3 (2005): 190–198.

<sup>182</sup> Will Low and Eileen Davenport, "Organizational Leadership, Ethics, and the Challenges of Marketing Fair and Ethical Trade," *Journal of Business Ethics* 86 (2009): 97–108.

<sup>183</sup> Robert W. McGee, "Legal Ethics, Business Ethics, and International Trade: Some Neglected Issues," *Cardozo Journal of International and Comparative Law* 10 (2002): 109.

<sup>184</sup> Simon Wilson, "Ethical standards in international sales contracts: Can the CISG be used to prevent child labor?." (PhD diss., Open Access Te Herenga Waka-Victoria University of Wellington, 2015).

connection between ethical requirements, such as restrictions on child labor, and Article 35. As a result, the CISG provides a framework for contract parties to establish their moral standards.<sup>185</sup>

However, ethical standards can be linked to product conformance by clearly including them in the contract agreement. Goods made in violation of these standards would be considered non-conforming. Buyers may invoke Article 35 to refuse products, ask for replacements, or seek compensation if suppliers fail to meet their ethical responsibilities.

Nevertheless, both buyers and sellers can negotiate to include ethical norms in contractual provisions, such as the Prohibition of Child Labor, Compliance with equitable labor practices standards, and Standardized Environmental Sustainability Criteria.<sup>186</sup> If these criteria are included in the approved quality or description of products, failure to comply can be regarded as a deficiency in conformance, as per Article 35.<sup>187</sup>

Historically, business and ethics were perceived as conflicting, since corporations were expected to prioritize social duty by maximizing profits for their shareholders. Human rights were perceived as matters of government concern rather than corporate priorities, and infringements were considered internal political matters. Nevertheless, in an era characterized by globalization and the decline of nation-states, the state's ability to ensure basic ethical standards has diminished.<sup>188</sup>

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<sup>185</sup> Schwenzer, Ingeborg, "Ethical standards in CISG contracts," *Uniform Law Review* 22, no. 1 (2017): 122-131.

<sup>186</sup> Singh, Dhanraj R. "Anna Wilk." *European Journal of Law Reform* 23 (2021): 3.

<sup>187</sup> Ibid.

<sup>188</sup> Anita Chan, "Globalization and China's 'race to the bottom' in labor standards," George Ernest Morrison lecture on Ethnography, Contemporary China Centre, National University of Australia. [www.eSocialSciences.com/data/articles/Document1261020065907598383](http://www.eSocialSciences.com/data/articles/Document1261020065907598383) (2002).

### **3.7.1 Methods of Incorporating Ethical Standards in Contracts**

Incorporating ethical standards into contracts is essential to ensure that business transactions align with principles of fairness, sustainability, and social responsibility.<sup>189</sup> Ethical contracts help prevent exploitative practices, uphold human rights, and promote long-term business integrity.<sup>190</sup>

Below are key methods for embedding ethical standards in contracts: The first concern is whether and how basic ethical norms are incorporated into the contracts. It can be mentioned expressly or by any other means. These two methods are explained in detail:

#### **I. Express terms**

The first method of integrating ethical principles into sales contracts is to specify that the seller must adhere to criteria about human rights, working conditions, or the environment.<sup>191</sup> Thus, these standards are included in the contract and can be enforced, or their breach can be penalized similarly to any other provision. It is strongly recommended that the party concerned insist on including explicit provisions in the contract to prevent any future conflicts in this regard.<sup>192</sup>

One prominent pharmaceutical company, Novartis, included the following provision in its contracts: "Novartis prioritizes third parties who align with Novartis' societal and environmental principles, as outlined in the Novartis Policy on Corporate Citizenship, Third Party Code."<sup>193</sup>

Accordingly, the Seller guarantees that this agreement will be executed in substantial compliance

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<sup>189</sup> Jang B. Singh and V. Chris Lakhan, "Business Ethics and the International Trade in Hazardous Wastes," *Journal of Business Ethics* 8 (1989): 889–899.

<sup>190</sup> Recep Yücel, Halil Elibol, and Osman Dağdelen, "Globalization and International Marketing Ethics Problems," *International Research Journal of Finance and Economics* 26, no. 1 (2009): 93–104.

<sup>191</sup> Florian Mohs, "Enforcing Compliance with Ethical Standards in the Supply Chain: Contractual Remedies under the CISG," *VJ* 22 (2018): 58.

<sup>192</sup> Klaus M Leisinger, "Are "Human Rights" the "Business of Business,"?" *zfwu Zeitschrift für Wirtschafts- und Unternehmensethik* 6, no. 3 (2005): 298-303.

<sup>193</sup> Novartis, Novartis Third-Party Code, accessed July 25, 2024, [https://www.novartis.com/sites/novartis\\_com/files/novartis-third-party-code-v-2.pdf](https://www.novartis.com/sites/novartis_com/files/novartis-third-party-code-v-2.pdf).

with all relevant laws and rules, including, but not limited to, laws and regulations regarding health, safety, the environment, fair employment practices, and the prohibition of illegal discrimination.

## **II. Other Means of Incorporation**

The absence of explicit terms about ethical standards might cause problems. Frequently, small and medium-sized enterprises lack the authority to demand the inclusion of explicit provisions.<sup>194</sup> About ethical principles in their formal agreements. Here, however, the interpretation and supplementation of the contract may yield comparable outcomes to those achieved through express inclusion.

Article 9(1) of the CISG imposes obligations on the parties to adhere to any usage they have mutually agreed upon and any practice they have developed between themselves.<sup>195</sup> Thus, two scenarios must be differentiated: the first is when the parties have consistently agreed on explicit terms that establish ethical standards; in such a scenario, a reasonable expectation may develop that the parties will continue to act by these standards. Thus, although there is no specific provision, the contract may be augmented based on the parties' prior behavior.<sup>196</sup>

The second scenario arises when the parties mutually agree upon a particular implementation or usage. This can be assumed when both parties engage in one of the given private projects, such as the UN Global Compact (UNGC).<sup>197</sup> Given these circumstances, whether the agreed usage may also be classified as international commerce usage under Article 9(2) of the CISG is

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<sup>194</sup> Reyes Calderón, Ignacio Ferrero, and Dulce M. Redin, "Ethical Codes and Corporate Responsibility of the Most Admired Companies of the World: Toward a Third Generation Ethics?" *Business and Politics* 14, no. 4 (2012): 1–24.

<sup>195</sup> Franco Ferrari, "Trade Usage and Practices Established between the Parties under the CISG," *International Business Law Journal* (2003): 571.

<sup>196</sup> Villy De Luca, "The Conformity of the Goods to the Contract in International Sales," *Pace International Law Review* 27 (2015): i.

<sup>197</sup> Andreas Rasche, "The United Nations Global Compact and the Sustainable Development Goals," in *Research Handbook of responsible management*, pp. 228-241 (Edward Elgar Publishing, 2020).

inconsequential.<sup>198</sup> Once both parties have mutually accepted specific criteria on an enormous scope, they must be considered to have, at the very least, implicitly agreed to such a usage in their respective contracts.<sup>199</sup> Without the circumstances above, ethical norms might be incorporated into the contract using Article 9(2) of the CISG.

### **3.8 The Interconnection of Trade Usages and CISG**

The United Nations Convention on Contracts for the International Sale of Goods aims to harmonize the law relating to international trade. Article 9 places the relationship between the Convention and trade usages in clear focus, underscoring the significant place customary practices have held in global commerce. According to Article 9(1), parties to a contract are bound by any trade usages to which they have agreed or practices they have established in their dealings. Such a provision reflects the principle of party autonomy, upon which the CISG was built, allowing two contracting parties to incorporate their preferred norms and practices into their contractual relationship.<sup>200</sup>

Article 9(2) also provides that the trade usages widely known and regularly observed in international trade shall apply unless expressly excluded.<sup>201</sup> This is spelled out in the effect that established commercial customs shall amount to an absence of an express agreement by the parties. Incorporating trade usages under CISG promotes predictability, efficiency, and equity of cross-border transactions. By the specific deal and practice followed throughout, Article 9 fills the gaps

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<sup>198</sup> Constance Thomas, "Freedom from child labour: A fundamental right," in Research Handbook on Labour, Business and Human Rights Law, pp. 253-273 (Edward Elgar Publishing, 2019).

<sup>199</sup> Ibid.

<sup>200</sup> Franco Ferrari, "Trade Usage and Practices Established between the Parties: Article 9," in Records of the Plenary Meetings and of the Meetings of the Main Committee, vol. 89 (2004), 262ff.

<sup>201</sup> Christiana Fountoulakis, Ingeborg Schwenzer, and Mariel Dimsey, "Art. 9(2) CISG C9-4: According to Art. 9(2) CISG, the Parties Are Considered to Have Impliedly Made an International Usage Applicable, of Which the Parties Knew or Ought to Have Known and Which Is Widely Known to, and Regularly Observed by, Parties to Contracts of the Type Involved in the Particular Trade Concerned. Its Wording Makes It Clear That the CISG Considers Inter," in International Sales Law (Routledge-Cavendish, 2007), 137-40.

between codified rules and the constantly evolving face of international trade.<sup>202</sup> This connection demonstrates how the CISG can accommodate diverse legal traditions and commercial situations, thereby enhancing its potential to serve as the desired unifying statute for international trade.

### **3.8.1 The Function of Article 9 in the Incorporation of Trade Usages**

According to Article 9 of the CISG, the parties to a contract must adhere to any usage to which they have consented and to any established practices.<sup>203</sup> Additionally, parties must adhere to widely recognized international trade customs that are either well-established or reasonably well-known. If industry standards or trade usage prohibit child labor, the seller may be required to guarantee that the products delivered are free of child labor.

By acknowledging trade usage, Article 9 helps ensure adherence to global ethical standards, such as the ban on child labor, as sectors progress and embrace them. For example, in industries such as textiles, electronics, or agriculture, when worldwide efforts like the Fairtrade movement or corporate codes of conduct<sup>204</sup> prioritize supply chains that are free from child labor; these methods can be regarded as best practices in international trade. Following Article 9, the seller must provide products free from child labor if this requirement is acknowledged in the trade or has been established as a customary practice between the parties.<sup>205</sup>

Implementing ethical norms that prevent child labor is common in many businesses. This clause can be an entry point for implementing and upholding child labor regulations in international sales agreements. Upon the widespread adoption of ethical labor standards, such as those set by the Fair

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<sup>202</sup> Franco Ferrari, "Trade Usage and Practices Established between the Parties under the CISG," *International Business Law Journal* (2003): 571.

<sup>203</sup> Katarina Jovicic, "The Concept of the Fundamental Breach of Contract in the CISG," *Strani pravni život* 4 (2018): 39-50.

<sup>204</sup> Clayton P. Gillette, "The law merchant in the modern age: institutional design and international usages under the CISG," *Chicago Journal of International Law* 5 (2004): 157.

<sup>205</sup> J Ramberg, "To What Extent do INCOTERMS 2000 Vary Articles 67(2), 68 and 69?," *25 Journal of Law and Commerce* 25 (2005-06): 219-222.

Labor Association (FLA) or the Responsible Business Alliance (RBA), these norms evolve into "trade usages" across various industries.

In textiles, electronics, and agriculture industries, these standards and codes of conduct are not merely moral obligations but also have crucial economic and reputational significance.<sup>206</sup> As long as these standards are widely known throughout the industry, Article 9 obligates sellers to adhere to them even if they are not explicitly stated in the contract.

The Fair Wear Foundation (FWF) is another organization dedicated to safeguarding the rights of garment workers and improving their working conditions.<sup>207</sup> Member companies are required to comply with the FWF Code of Labor Practices, which explicitly forbids the employment of children.

### **3.8.2 Trade Usage in Different Industries**

A widely held belief among industrialized nations is the implementation of a global trade policy that bans the employment of children in international contracts for the selling of commodities. This tool would be productive in addressing child labor. Still, the presence of such a trade practice is undeniable, and whether such a practice should exist is irrelevant.

Trade usage, as defined in Article 9 of the CISG, pertains to commonly recognized practices or traditions within a particular industry or market that obligate parties to a contract. These applications are particularly pertinent in sectors where ethical rules, such as the ban on child labor, have become established norms.

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<sup>206</sup> Melanie Vera hurlimann, "Sustainable Supply Chain Management: Tools for Building a Socially Sustainable supply Chain"(Bachelor. diss, Geneva School of Business Administration,2013),74.

<sup>207</sup> Niklas Egels-Zandén, and Henrik Lindhol,. "Do codes of conduct improve worker rights in supply chains? A study of Fair Wear Foundation," Journal of Cleaner Production 107 (2015): 31-40.

However, international ethical standards have evolved in various sectors, including textiles, agriculture, and manufacturing.<sup>208</sup> They have been incorporated into trade practices, establishing an implicit yet obligatory requirement. This legal system provides a significant means to combat child labor in businesses characterized by complex international supply chains, especially in nations where child labor is widespread, such as Pakistan. Article 9 of the CISG can be crucial in enforcing ethical standards across international contracts in Pakistan.<sup>209</sup> Child labor remains a pressing issue in industries such as textiles, carpets, and agriculture. The seller must adhere to internationally recognized trade practices prohibiting child labor, or the industry has adopted these standards, even if they are not explicitly stated in the contract. Furthermore, Article 9 is a legal instrument that enables purchasers to hold suppliers accountable for their actions.<sup>210</sup> If child-labor-free production is acknowledged as a trade practice, the buyer has the right to demand conformity. This enables industries to address the issue of child labor from a contractual perspective, thereby generating a ripple effect throughout their supply chains.<sup>211</sup> The researcher will now examine the role of trade practices in various industries in addressing child labor.

### **i. Trade Usage in the Apparel Industry**

Trade usage refers to the customary practices and established norms that businesses within a particular industry follow when engaging in commercial transactions. Industry participants widely recognize and accept these practices, even if they are not explicitly written into contracts.

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<sup>208</sup> Aleksandra Kiraca, "The Role of Usages and Business Practice in The International Trade—Challenges and Controversies," *Journal of Sustainable Development* 9, no. 22 (2019): 162-174.

<sup>209</sup> William P. Johnson, "Analysis of Incoterms as Usage under Article 9 of the CISG," *University of Pennsylvania Journal of International Law* 35 (2013): 379.

<sup>210</sup> Juana Coetzee, "The Role and Function of Trade Usage in Modern International Sales Law," *Uniform Law Review* 20, no. 2-3 (2015): 243-70.

<sup>211</sup> Edargo Muñoz, "Soft law instruments as usages of trade in CISG contracts and international commercial arbitration," *UCC Law Journal* 20, no 1(2021):7-8.

The apparel sector is among the largest and most globalized industries, characterized by complex supply chains that span numerous countries.<sup>212</sup> This complexity frequently enables unethical work practices, such as child labor, particularly in areas with inadequate regulations and enforcement. However, as ethical concerns regarding child labor have become central to discussions in global trade, the industry has progressively established trade practices that widely accept norms or customs to ensure compliance with labor standards laws.<sup>213</sup> These trade usages play a crucial role in harmonizing industry practices with Article 9 of the CISG, which obligates parties to adhere to widely accepted norms, regardless of whether they are specified in contractual agreements.

Article 9 of the CISG stipulates that contracting parties are obligated to adhere to any trade usages they mutually consent to and to trade usages that are broadly acknowledged and consistently used within the industry.<sup>214</sup> Once firmly established, these practices evolve into de facto rules.<sup>215</sup> That dictates corporate operations in international trade without requiring explicit inclusion in each contract. In the apparel sector, trade procedures often require adherence to labor regulations and ethical sourcing practices, particularly in the prevention of child labor.

Several internationally acknowledged norms now govern fair labor practices in the apparel sector. Under Article 9, these standards, which prohibit the use of child labor, have evolved into legally

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<sup>212</sup> Juana Coetzee, "The role and function of trade usage in modern international sales law," *Uniform Law Review* 20, no. 2-3 (2015): 243-270.

<sup>213</sup> Franco Ferrari, "Trade Usage and Practices Established Between the Parties: Article 9," in *Records of the Plenary Meetings and of the Meetings of the Main Committee*, vol. 89 (2004), 262ff.

<sup>214</sup> Katrina Winsor, "The Applicability of the CISG to Govern Sales of Commodity-Type Goods," *Vindobona Journal of International Commercial Law and Arbitration* 14 (2010): 83.

<sup>215</sup> Jeong-seon Lee and Eun-sook Heo, "A Study on the Suitability of CISG as the Governing Law for the Sale of Primary Products," *Trade Insurance Research* 23, no. 6 (2022): 53-72.

enforceable trade practices.<sup>216</sup> Nonetheless, non-profit organizations like FWF, BCI, and FLA are making efforts within the sector to eliminate child labor throughout the supply chain.

## **1. Fair Labor Association (FLA) Code of Conduct**

The Fair Labor Association (FLA) is a non-profit entity dedicated to advancing and safeguarding workers' rights in global supply chains. Its main goal is to eliminate child labor. FLA comprises corporations, institutions, and NGOs committed to protecting workers' rights.<sup>217</sup> The Workplace Code of Conduct forbids child labor and is enforced by associated companies across their supply chains. The FLA encompasses multiple businesses, including garment and textile brands and manufacturers such as Adidas, H&M, Hanes, Nike, and Puma.<sup>218</sup>

A vital component of the FLA's code of conduct is the ban on child labor. The FLA adheres to the ILO Convention No. 138,<sup>219</sup> Child labor is characterized as work that robs children of their youth, potential, and dignity and is detrimental to their physical and mental development. The FLA's guidelines require member companies to guarantee the absence of child labor throughout their supply chains.<sup>220</sup> In industries like apparel, where child labor has historically been common in countries like Pakistan, FLA is crucial in monitoring and enforcing ethical labor standards.

For example, a multinational clothing brand that is a member of the FLA may contract with a textile supplier in Pakistan. Even if the contract does not explicitly mention child labor, the

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<sup>216</sup> Bunga Dita Rahma Cesaria, "Harmonization of International Sales Law: CISG as Supplement to Indonesian Contract Law," *Juris Gentium Law Review* 4, no. 1: 31–41.

<sup>217</sup> Fair Labor Association, "Affiliates" <https://www.fairlabor.org/members/affiliates> (accessed July 15, 2024).

<sup>218</sup> Fair Labor Association, "Participating Companies" <https://www.fairlabor.org/members/companies> (accessed July 15, 2024).

<sup>219</sup> International Labour Organization, Convention Concerning Minimum Age for Admission to Employment, No. 138, June 26, 1973, 1015 U.N.T.S. 297.

<sup>220</sup> Uchenna Anyamele and Millice Genevieve, "Understanding the Non-Adoption of the United Nations Convention on Contracts for International Sale of Goods in Nigeria" (PhD diss., Durham University, 2015).

expectation that the supplier adheres to the FLA's ethical standards, including its ban on child labor, could be considered a trade usage under **Article 9**.<sup>221</sup> This establishes a legal framework for firms to implement child-labor-free supply chains, ensuring that suppliers are accountable for their labor practices.<sup>222</sup> Integrating FLA standards with the CISG enables firms to contribute to the primary goal of eradicating child labor from global supply chains.

## 2. The Fair Wear Foundation (FWF)

Fair Wear Foundation was founded in 1999 with the ambitious mission to improve labor conditions in the garment industry.<sup>223</sup> With a specific focus on combating child labor.<sup>224</sup> It partners with brands, manufacturers, labor unions, and NGOs to guarantee ethical practices in supply chains and establish stringent standards for fair working conditions.

The CISG provides legal protection to customers when a supplier violates industry-standard trade practices, such as the use of child labor, by incorporating FWF's principles into the definition of trade usage as outlined in Article 9. This enables purchasers to assert that the supplier violated an industry-standard trade practice, which may be legally binding, permitting them to pursue remedies such as contract termination or compensation.

FWF comprises 80 member companies, representing over 120 brands from various European regions.<sup>225</sup> Members must follow the FWF Code of Labor Practices, which prohibits child labor.

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<sup>221</sup> United Nations, Convention on Contracts for the International Sale of Goods (CISG), 11 April 1980, 1489 U.N.T.S. 3, Art. 9.

<sup>222</sup> United Nations, CISG, Art. 9.

<sup>223</sup> Fair Wear Foundation, “About” <https://www.fairwear.org> (accessed July 23, 2024).

<sup>224</sup> Fair Wear Foundation, “Labour Standards” <https://www.fairwear.org/about-us/labour-standards> (accessed on July 23, 2024).

<sup>225</sup> Fair Wear Foundation, “About” <https://www.fairwear.org/about-us> (accessed on July 25, 2024).

With more organizations adopting these rules, the prohibition of child labor is becoming an industry-wide standard.

### **3. The Better Cotton Initiative (BCI)**

The Better Cotton Initiative (BCI) is a leading international non-profit organization that advocates sustainable cotton cultivation, emphasizing social, environmental, and economic enhancements. Since its establishment in 2005, BCI has significantly enhanced trading practices by integrating sustainability into the global cotton supply chain.<sup>226</sup> The focus on ethical production aligns with the global initiative to eliminate child labor, particularly in regions like Pakistan, where it is prevalent in the agricultural sector.

BCI-certified cotton is in high demand among global companies seeking sustainable and ethically sourced products. Affiliation with BCI signifies adherence to international sustainability standards and ethical sourcing practices, enhancing the company's reputation and facilitating access to an expanding market of conscious consumers.<sup>227</sup> These trade norms have a profound impact on Pakistan, a significant global cotton producer. Exporters compliant with BCI standards benefit from enhanced market access and increased profitability, serving as trade facilitators through a sustainable manufacturing framework.<sup>228</sup>

Furthermore, BCI's initiatives in Pakistan contribute to a broader global effort to comply with established child labor norms, encompassing the ILO's treaties and national child labor

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<sup>226</sup> Better Cotton Initiative, “ Supply Chain Monitoring” <https://bettercotton.org/what-we-do/supply-chain-monitoring/> (accessed on July 30, 2024).

<sup>227</sup> Shakil Ghori, Peter Lund-Thomsen, Caleb Gallemore, Sukhpal Singh, and Lone Riisgaard, “Compliance and Cooperation in Global Value Chains: The Effects of the Better Cotton Initiative in Pakistan and India,” *Ecological Economics* 193 (2022): 107312.

<sup>228</sup> Better Cotton Initiative, “Better Cotton In Pakistan” <https://bettercotton.org/where-is-better-cotton-grown/better-cotton-in-pakistan> (accessed on July 30, 2024).

legislation.<sup>229</sup> The project ensures that its partner farms comply with both local regulations and international human rights standards.

Despite BCI's significant achievements, it has faced criticism. Critics argue that its monitoring procedures are insufficiently rigorous to guarantee the complete elimination of child labor. Occurrences of non-compliance have occasionally gone undetected, especially in remote regions where enforcement is more challenging.<sup>230</sup> Furthermore, the BCI faces challenges in maintaining its credibility and ensuring that its certified cotton is free from unethical practices throughout the entire supply chain, from cultivation to the final product.

## **ii. Trade Usage in the Electronic Industry**

Child labor in the electronics industry is often associated with gathering and processing raw materials for manufacturing components, including smartphones, computers, and other electronic devices.<sup>231</sup> Numerous materials, including cobalt, tin, tantalum, and tungsten, are sourced from poor nations where regulatory supervision is inadequate, and economic hardship compels families to participate in labor practices that exploit children. Cobalt mining in the Democratic Republic of Congo (DRC), a principal supplier of this material, is notorious for its reliance on child labor.<sup>232</sup> Children are subjected to dangerous conditions, including digging, transporting large loads, and operating in unsafe locations.

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<sup>229</sup> Better Cotton Initiative. "The Better Cotton Standard System." <https://bettercotton.org/about-better-cotton/the-better-cotton-standard-system/> (accessed on July 30,2024).

<sup>230</sup> Agnese Colucci, "Sustainability clauses in agricultural multi-party contracts." *Journal of Law, Market & Innovation* 2, no. 2 (2023): 101-130.

<sup>231</sup> Juana Coetzee, "The Role and Function of Trade Usage in Modern International Sales Law," *Uniform Law Review* 20, no. 2-3 (2015): 243-270.

<sup>232</sup> Aleksandra Kiraca, "The Role of Usages and Business Practice in the International Trade—Challenges and Controversies," *Journal of Sustainable Development* 9, no. 22 (2019): 162-174.

In past years, the Electronic Industry Citizenship Coalition (EICC) Code of Conduct has established social, environmental, and ethical principles within the electronics industry supply chain.<sup>233</sup> EICC changed its name to the Responsible Business Alliance (RBA).<sup>234</sup> The members must publicly agree to the Code and ensure that this commitment is disseminated across their supply chains, requiring at least all tier-one suppliers to comply. Members are responsible for their behavior and that of their suppliers through audits. They must identify and conduct self-audits of high-risk sites. The Code forbids the employment of child labor at any phase of production.

The Responsible Business Alliance (RBA) comprises the most prominent global electronics corporations, such as Apple, Acer, Hewlett-Packard, IBM, Microsoft, LG, Philips, Samsung, Sony, Oracle, and Xerox.<sup>235</sup> The electronics industry's powerhouse consists of members dedicated to eradicating child labor from their operations and from those of other companies within their supply chain. Some companies extend their accountability beyond tier-one suppliers and implement the Code throughout their supply chains.

Child labor persists in specific electronics supply networks. In 2014, Apple and Samsung were criticized for employing child labor in their suppliers' factories.<sup>236</sup> However, Apple was not accused of child labor. The supplier employed those kids who were on probation. Due to the intricate nature of supply chains in the electronics sector, which encompass the extraction of raw minerals through the production process until the product, it is challenging to exclude child labor

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<sup>233</sup> Electronic Industry Citizenship Coalition, "EICC Code Of Conduct" <https://respectinternational/eicc-code-of-conduct/> (accessed on Aug 1,2024).

<sup>234</sup> Linda Coady, Jane Lister, Coro Strandberg, and Yoshitaka Ota, The Role of Corporate Social Responsibility (CSR) in the International Sector: A Phase 2 (2013).

<sup>235</sup> Responsible Business Alliance, "Members" <https://www.responsiblebusiness.org/about/members/> (accessed on Aug 1, 2024).

<sup>236</sup> Tim Fernholz, "What Happens When Apple Finds a Child Making Your iPhone," Quartz, March 6, 2014, <http://www.qz.com>.

entirely. Most major electronics companies strive to eliminate child labor in their supply chains despite occasional occurrences.

Electronics corporations progressively incorporate Corporate Social Responsibility (CSR) into their business models to address child labor.<sup>237</sup> CSR programs emphasize establishing sustainable and equitable labor standards, ensuring safe working environments, and implementing stringent anti-child labor rules across the supply chain. Corporations, including Apple, Microsoft, and Dell, have made public commitments to responsible purchasing and improving working conditions in their supply chains.

After the discussion above, the prohibition of child labor cannot yet be considered a universal trade practice applicable to all international sales contracts covered by the CISG. Nonetheless, industry-specific usage is observable in both the electronics and textile industries. Voluntary initiatives and public pressure from socially conscious consumers have compelled these businesses to combat child labor. Consequently,<sup>238</sup> In these specific industries, every CISG contract inherently includes a condition requiring that the items be free from child labor.

Moreover, the prohibition of child labor is an international trade practice within the electronics industry, and most significant players in this sector around the world have spoken out against child labor. They are determined to eliminate it from their supply chains.<sup>239</sup>

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<sup>237</sup> Seyyed-Mahdi Hosseini-Motlagh, Mina Nouri-Harzvili, Tsan-Ming Choi, and Samira Ebrahimi, "Reverse Supply Chain Systems Optimization with Dual Channel and Demand Disruptions: Sustainability, CSR Investment and Pricing Coordination," *Information Sciences* 503 (2019): 606–634.

<sup>238</sup> Sushil Mohan, "Fair Trade and Corporate Social Responsibility," *Economic Affairs* 29, no. 4 (2009): 22–28.

<sup>239</sup> Md Zahurul Haq, A. F. Alam, Zainal Amin Ayub, and Kazi Fahmida Farzana, "Reaching an agreement for the elimination of child labor from the supply chains," *International Journal of Supply Chain Management* 9, no. 5 (2020): 1392.

### **3.9 Obligations of the seller under Article 9 of CISG: Ensuring child-labor-free goods**

Article 9 CISG provides that the parties shall be bound by any usage to which they have agreed and by practices they have established between themselves, which are generally known to the parties to the contract and regularly observed by them. These provisions heavily impact the seller's responsibilities to ensure compliance with evolving trade norms, such as the ban on child labor.<sup>240</sup> Under Article 9(1), if it has been agreed by the parties that goods produced are explicitly to be excluded from child labor or have generally been compliant with the practice of respecting human rights in production, the seller is under a contract obligation to ensure that the goods comply with such terms.<sup>241</sup> For example, suppose the buyer has specific procurement policies that prohibit the use of child labor. In that case, the seller must meet these requirements, even though such points are not outlined within the four corners of the primary contract but fall within its designated purpose.

Article 9(2) broadens this duty by injecting trade usages known to the parties that have become common in specific settings, such as international sales and purchases. It has been identified as one of the key issues in contemporary international trade, where trade has accorded significant importance to most ethical matters, such as child labor, which is addressed in global trade practices and company codes, among other standards.<sup>242</sup> Thus, if a prohibition of child labor is otherwise

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<sup>240</sup> Donald J. Smythe, "Reasonable Standards for Contract Interpretations under the CISG," *Cardozo Journal of International and Comparative Law* 25 (2016): 1.

<sup>241</sup> Michael Joachim Bonell, "The UNIDROIT Principles and CISG," in *An International Restatement of Contract Law: The UNIDROIT Principles of International Commercial Contracts*, 301–334 (Brill Nijhoff, 2010).

<sup>242</sup> Rashid Dumbuya, "Corporate Responsibility to Respect Human Rights: Is the UN Guiding Principles on Business and Human Rights Up to the Task or Is There a Need for a Treaty on Business and Human Rights?" (LLM paper, University of Dundee, 2014).

considered a standard that should be adhered to in the seller's industry or region, then it could be implied that the seller would deliver goods that do not use child labor.<sup>243</sup>

Non-compliance with these standards constitutes a breach of contract under the CISG, leaving the seller open to all remedies sought by the buyer, including rejection of the goods or claims for damages. Therefore, the nexus between Article 9 and the principle of ethical trade bestows the diligence duty upon the sellers to ascertain their supply chains and ensure that their goods correspond to international norms against child labor.

Article 9 of the CISG reflects the growing importance of ethical considerations in commercial transactions.<sup>244</sup> Amalgamating practices agreed upon and prevalent in international trade fortifies contractual certainty.<sup>245</sup> It builds upon the expectation of seller responsibility for delivering goods free from exploitative practices, including child labor, thus supporting fair and responsible global trade.

### **3.10 The Role of Seller and Article 35 in Delivering Child Labor-Free Goods**

Article 35 of the CISG governs the seller's obligation to deliver goods that conform to the contract. It requires that the goods be of the quality, quantity, and description required by the contract and the agreed standards. The principle embodied in Article 35 is of direct relevance when goods free of child labor are delivered across borders in international trade.

#### **3.10.1 Seller's Obligation to deliver child-labor-free goods under Article 35(1)**

Article 35 of the CISG addresses the seller's responsibility to provide goods that meet the required standards. Article 35(1) mandates that the seller provide "goods that strictly meet the quantity,

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<sup>243</sup> Ibid.

<sup>244</sup> Sopuruchukwu Anih, "The Effect of Trade Usages and Practices in International Contracts for the Sale of Goods," SSRN, 2024, available at SSRN 4915687.

<sup>245</sup> Bruno Zellert, "The UN Convention on Contracts for the International Sale of Goods (CISG)—A Leap Forward Towards Unified International Sales Laws," Pace International Law Review 12 (2000): 79.

quality, and description specified in the contract.<sup>246</sup> Although Article 35(1) addresses the contract's specific requirements, Article 35(2) establishes objective criteria for assessing conformity to these requirements.<sup>247</sup>

This subsidiary definition applies only if the contract lacks or provides inadequate information on the specified standards to be met, as per Article 35(1). Hence, the primary factor to assess is whether the contract stipulates the production of goods without employing child labor.<sup>248</sup> If the contract does not mandate child-labor-free products, then Article 35(2) criteria can be considered. The mere violation of human rights during the production of goods does not independently impact their physical characteristics.<sup>249</sup> Nevertheless, according to Article 35(1), 'quality' includes not only the physical state of the products but also 'all factual and legal aspects regarding the connection of the products to their surroundings.'<sup>250</sup>

Moreover, suppose the buyer had expressly stipulated in the contract that the seller must comply with the obligation of delivering goods free from child labor. In that case, the seller is not automatically obligated to do so.<sup>251</sup> If the buyer explicitly instructs that the goods must be produced without the use of child labor and the seller does not meet this criterion, the buyer has the right to assert that the items do not meet the specified standards under Article 35(1) of the CISG. Hence, the seller must provide products that are free from child labor, as stipulated in the mutually agreed-upon contractual provisions.

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<sup>246</sup> United Nations Convention on Contracts for the International Sale of Goods 1489 UNTS 3 (opened for signature 11 April 1980, entered into force 1 January 1988), art 35(1).

<sup>247</sup> André Janssen and Sörren Claas Kiene, "The CISG and Its General Principles," in CISG Methodology, 261–285 (2009).

<sup>248</sup> Ingeborg Schwenzer, *Commentary on the UN Convention on the International Sale of Goods (CISG)* (Oxford University Press, 2010).

<sup>249</sup> Ingeborg Schwenzer, "Ethical Standards in CISG Contracts," *Uniform Law Review* 22, no. 1 (2017): 122–131.

<sup>250</sup> Ben Köhler, "The CISG in the Age of Sustainable Supply Chains," in *The Elgar Companion to UNCITRAL*, 339–355 (Edward Elgar Publishing, 2023).

<sup>251</sup> *Ibid.*

The contract's provisions are of the utmost importance under CISG. The seller is legally obligated to comply with the terms of the agreement, including the requirement that the goods be manufactured without using child labor if the client includes any specific requirements. This implies that the supplier must adhere to these specifications as an essential part of their contractual obligations. It is vital that the buyer explicitly communicates this expectation in the contract for the requirement to be enforceable.<sup>252</sup>

The Courts, in the Aston Martin Case, have determined that quality is determined by non-physical criteria, including the product requirements' age, origin, or organic nature, as outlined in Article 35(1).<sup>253</sup> Therefore, a party asserting non-conformity under Article 35(1) would encounter no difficulties in demonstrating that the utilization of child labor did not influence the tangible attributes of the products.

So, it can be concluded that a seller can be obligated under a contract (and thus under Article 35(1) of the CISG) to provide goods free from child labor, even without an explicit stipulation. This obligation may emerge from situations as well as generally through industry norms.

### **3.10.2 Can the Seller be asked to Deliver child-labor-free goods under article 35(2) of CISG**

The CISG serves as a fundamental legal framework for international sales contracts. Article 35(2) addresses the seller's duty to provide goods that comply with the contract specifications.<sup>254</sup> This article primarily addresses the quality, functioning, and packaging of goods. However, there is an

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<sup>252</sup> Katarina Jovičić, "The Concept of the Fundamental Breach of Contract in the CISG," *Strani pravni život* 4 (2018): 39–50.

<sup>253</sup> Kristian Maley, "The limits to the conformity of goods in the United Nations Convention on Contracts for the International Sale of Goods (CISG)," in *International Trade and Business Law Review: Volume XII*, pp. 92-136. (Routledge-Cavendish, 2009).

<sup>254</sup> United Nations Convention on Contracts for the International Sale of Goods, Article 35(2), April 11, 1980, 1489 U.N.T.S. 3.

increasing discussion regarding the inclusion of ethical considerations, such as the assurance that products are free from child labor, as part of the expectations outlined in this article.

Article 35(2) stipulates that the seller must deliver goods that conform to the quantity, quality, and description specified in the contract.<sup>255</sup> It delineates four essential conditions:

- The goods must be suitable for the function for which such goods are typically utilized.
- If the buyer has disclosed a specific purpose to the seller, the goods must suit that purpose.
- The goods must exhibit the characteristics of any sample or model presented to the buyer.
- The goods must be adequately packed if packing is a standard requirement.

Article 35(2) stipulates that the goods must be suitable for any specific purpose explicitly or implicitly communicated to the seller,<sup>256</sup> Provided that the customer has depended adequately on the seller's expertise and judgment.<sup>257</sup> The goods must be suitable for their general use without a specified purpose communicated to the seller. It is essential to recognize that Article 35(2) applies only to the extent that the contract does not address the purported criteria; thus, the subsequent analysis presumes that a seller is not obligated to provide items free from child labor under Article 35(1).<sup>258</sup>

Additionally, according to Article 35(2), the goods must satisfy the quantity and quality specified in the contract and any supplementary requirements that the buyer has conveyed to the seller.<sup>259</sup> This incorporates specific conditions, such as requiring the goods to be manufactured without the use of child labor. Article 35(2) is meant to be adaptable to accommodate the evolving standards

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<sup>255</sup> Laura Lassila, "General Principles and Convention on Contracts for the International Sale of Goods (CISG)—Uniformity Under an Interpretation Umbrella?," *Russian Law Journal* 5, no. 2 (2017): 113–128.

<sup>256</sup> Eric Bergsten, "CISG-AC Opinion No. 2, Examination of the Goods and Notice of Non-Conformity—Articles 38 and 39, 7 June 2004," *Internationales Handelsrecht* 4, no. 4 (2004): 163–175.

<sup>257</sup> Sami Koponen, "Applicability of the United Nations Convention on the International Sale of Goods (CISG) to Mixed Contract." (Master's thesis, Itä-Suomen yliopisto, 2023).

<sup>258</sup> Anna Veneziano, "Non-Conformity of Goods in International Sales—A Survey of Current Caselaw on CISG," *International Business Law Journal* (1997): 39.

<sup>259</sup> Ibid.

and practices of international trade. This adaptability ensures that buyers' expectations align with societal norms and that sellers are held accountable for complying with these standards.<sup>260</sup>

The notion of "ordinary usage" for products can evolve over time.<sup>261</sup> Article 35(2) protects these new expectations if the prevailing understanding of what is considered standard practice for manufacturing is altered to include ethical considerations, such as the prohibition of child labor. This implies that sellers must adhere to these revised standards as part of their contractual obligations. Now, the researcher will discuss various scenarios, keeping Article 35(2) in mind and linking them to the context of child labor.

### **3.10.3 Goods are suitable for regular use or Ordinary Purposes (Article 35(2)(a)) but involve child labor**

Article 35(2)(a) stipulates that commodities must be of 'average quality' or 'acceptable quality', as determined by courts and tribunals.<sup>262</sup> Even if a shirt is wearable or a phone functions, the buyer may claim that it does not conform under Article 35(2)(a) of the CISG if child labor was used in its manufacture. This is important in ethical sourcing businesses.

Goods must primarily be able to be resold.<sup>263</sup> If goods are resalable and free of physical faults, they are likely suitable for their intended use. This scenario applies when a consumer unknowingly acquires goods manufactured with child labor. However, there is no evidence of any material faults. Suppose the buyer may still resell the items (either in their intended market or an alternative market). In that case, they are suitable for their ordinary purpose, and the buyer cannot establish non-conformity under Article 35(2)(a).

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<sup>260</sup> Giuseppe Nesi , Luca Nogler, and Marco Pertile, *Child labor in a globalized world: A legal analysis of ILO action*. (London:Routledge, 2016).

<sup>261</sup> Dhanraj R Singh, "Anna Wilk," *European Journal of Law Reform* 23 (2021):3.

<sup>262</sup> Andre Janssen , and Olaf Meyer, *CISG methodology* (Berlin: Walter de Gruyter, 2009).

<sup>263</sup> Ingeborg Schwenzer, "Ethical Values and International Sales," *Lov og Rett* 47, no. 8 (2008): 451–471.

However, if the purchaser cannot resell the items due to the employment of child labor in their production (for instance, if this information becomes public and buyers decline to buy the commodities), they will be deemed unsuitable for their ordinary use.<sup>264</sup> However, a more concerning scenario arises when the goods may be resold at a significantly reduced price, despite the use of child labor. The commodities are technically resalable and can be considered suitable for ordinary usage. In some cases, it has been argued that goods produced by child labor can decrease the market value of the product even if the goods are fit for Ordinary Use.<sup>265</sup> Consequently, if the employment of child labor in the manufacturing of goods renders the buyer incapable of reselling the products or permits resale only at significantly diminished market value,<sup>266</sup> the commodities are deemed unsuitable for their intended purpose and thus non-conforming.

Hence, even if the products made through child labor are “fit for the purpose for which goods of That description is intended.”<sup>267</sup> Goods will not be fit for resale since their commercial value is compromised, mainly due to being made with child labor. When goods are sold below their standard market value due to a flaw, resulting in decreased profits or potential losses, they are fundamentally unfit for sales. They are resalable, but so are most defective items if the price is sufficiently low.

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<sup>264</sup> J. Aked, Supply Chains, the Informal Economy, and the Worst Forms of Child Labour, CLARISSA Working Paper 8 (Brighton: Institute of Development Studies, 2021), <https://doi.org/10.19088/CLARISSA.2021.006>.

<sup>265</sup> Daniel S Ehrenberg, "The Labor Link: Applying the International Trading System to Enforce Violations of Forced and Child Labor." *Yale Journal of International Law* 20 (1995): 361.

<sup>266</sup> Ingeborg Schwenzer and Edgardo Munoz, "Sustainability in Global Supply Chains Under the CISG," *European Journal of Law Reform* 23 (2021): 300.

<sup>267</sup> Bundesgerichtshof (German Supreme Court), 2 March 2005, VIII ZR 67/04 (Frozen pork case), accessed April 28, 2024, <https://www.cisg.law.pace.edu>.

### 3.10.4 Goods are Fit for a Particular Purpose but Still Involve Child Labor

Article 35(2)(b) explains that the seller must deliver goods fit for a particular purpose other than ordinary purposes.<sup>268</sup> In addition, that specific purpose has been explicitly mentioned to the seller at the time of contract formation, and the buyer also requires reliance on the seller's skills and judgment regarding the fitness of the goods for that purpose.

For example, a buyer may communicate his intent to the seller by openly communicating that purpose. If the buyer fails to do this, it must contend that the objective was implicitly communicated to the seller. Determining whether a specific intention has been communicated to a seller is established objectively by assessing whether a reasonable seller might have detected the particular purpose under the given circumstances. It is not essential that the purpose be a contract term; it can be verbally communicated to the seller.

The researcher will now explore different scenarios in this regard. The buyer has explicitly informed the seller of a particular purpose for which the item can be resold in a specific country's market. In that case, if the seller delivers goods produced by child labor, and it comes to the buyer's knowledge that the seller has used child labor to make them, the buyer has the right to cancel or reject the goods and claim damages from the seller. When a seller is informed of the country of usage, he would be liable for ensuring that the items comply with public law criteria and the "cultural, religious, and traditions and beliefs" of that country.<sup>269</sup>

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<sup>268</sup> Ole Lando, "CISG and Its Followers: A Proposal to Adopt Some International Principles of Contract Law," *American Journal of Comparative Law* 53 (2005): 379.

<sup>269</sup> Ingeborg Schwenzer, ed., *Commentary on the UN Convention on the International Sale of Goods* (Oxford: Oxford University Press, 2010), 58.

Consequently, if one exports food products containing pork or beef to nations where, due to religious beliefs, the consumption or resale of pork or beef contravenes legal or religious regulations, one cannot assert that other norms and customs apply in one's own country.<sup>270</sup>

The other scenario arises when the buyer is known in the market for ethical labor practices,<sup>271</sup> And the seller acknowledges this. Although the buyer did not explicitly mention that child-labor-free goods were required in the contract, they did specify the purpose. In this case, the seller delivered the child-labor goods. However, the buyer can still argue and claim nonconformity under Article 35(2).

Additionally, if the buyer is practicing business in a country where child labor is condemned, for example, the US, or if they're a member of the EU.<sup>272</sup> In that case, the seller must be aware of all these norms and legal condemnations, even if the buyer does not explicitly mention them in the contract. In this case, the buyer can claim the goods are unfit for a particular purpose and claim damages, price reduction, avoidance, or replacement.

Additionally, the goods are sometimes designated for resale in ethically aware markets.<sup>273</sup> Consider a scenario where a buyer specializing in fair trade products acquires goods created through child labor. The buyer in this context will argue that the specific purpose of the commodities was for resale in an ethically conscious market, necessitating that the goods be manufactured without infringing human rights. To establish non-conformity under Article 35(2)(b), the buyer must demonstrate that:

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<sup>270</sup> Yesim Atamer et al., "CISG Advisory Council Opinion No. 19: Standards and Conformity of the Goods under Article 35 CISG," *Nordic Journal of Commercial Law* 2 (2019): 30.

<sup>271</sup> Chris A Ike and Kwaku Twumasi Ankrah, "Child Abuse and Child Labor Across Culture: Implications for Research, Prevention and Policy Implementation," *Journal of Social Developments in Africa* 14(1999): 109-118.

<sup>272</sup> M.Janlle Miller and David A. Levy. "Child labor, trade and investment: Toward the harmonization of international law." *American Journal of International Law* 91, no. 4 (1997): 663-696.

<sup>273</sup> Radina Ugrinova, "The Use of Child Labor in Global Supply Chains: International Regulatory Responses to Human Rights Violations Occurring in the Supply Chains of Transnational Corporations,"(Master's thesis, 2019).

- 1) Its specific purpose was either explicitly or implicitly communicated to the seller and
- 2) He was reasonably dependent on the seller's expertise and judgment on the suitability of the products for that purpose.

However, a different scenario will arise if the buyer is known for selling ethically produced goods and has a good reputation in the market. This knowledge would be sufficient for the seller to establish a particular purpose, as the reputation will speak for itself. Let's consider that John's Ethical Goods Warehouse is a socially responsible retailer that provides fair trade, organic products, and products that are not made with child labor.<sup>274</sup> Suppliers recognize the company's commitment to offering ethically produced items, implicitly conveying its values to the seller.

Another critical perspective in claiming nonconformity under Article 35(2)(b) is the buyer's reliance on the seller's judgment and skills regarding the suitability or fitness of the products for the specific purpose.<sup>275</sup> Reliance would be generally reasonable if the seller is an expert in the goods for the purpose demanded by the buyer. If the seller is liable for producing or manufacturing goods, he is typically in the optimal position to assess their suitability for the intended use. Reliance is improbable when the buyer possesses greater knowledge or expertise than the seller.<sup>276</sup>

However, Ramberg argues that when a buyer possesses superior knowledge and experience regarding the commercialization of feelings and emotions compared to their supplier, the buyer cannot justifiably rely on the supplier's expertise and judgment. The seller typically concentrates

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<sup>274</sup> E. Christopher Johnson Jr. et al., "The Business Case for Lawyers to Advocate for Corporate Supply Chains Free of Labor Trafficking and Child Labor," *American University Law Review* 68 (2018): 1555.

<sup>275</sup> Peter Schlechtriem and Petra Butler, *UN Law on International Sales: The UN Convention on the International Sale of Goods* (Springer Science & Business Media, 2008).

<sup>276</sup> Magret Olufisayo Kadiri, "An Analysis of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and Its Relevance to Developing Countries: A Case Study of the Southern African Development Community (SADC)" (PhD diss., University of the Western Cape, 2007).

exclusively on manufacturing physically acceptable products, disregarding the emotional attributes of the goods.<sup>277</sup>

Ramberg's reasoning is commendable. A buyer specializing in selling ethical goods for a particular market will know more about that market and its requirements than the seller.<sup>278</sup> Also, the seller may lack expertise in producing ethical items and may not present itself as such. Consequently, the suitability of the items for this purpose is most effectively assessed by the consumer, rendering any dependence on the seller irrational.<sup>279</sup>

If the buyer does not explicitly mention it, their reputation will take the lead. Furthermore, when the seller is aware of the employment of child labor in manufacturing the commodities and the buyer remains unaware, the seller is better prepared to evaluate the appropriateness of the goods for the specific purpose.<sup>280</sup>

### **3.10.5 Can the Seller be bound to deliver Child Labor Goods under Article 9 of CISG?**

The CISG is establishing a uniform legal framework for parties to international sales contracts, regardless of their respective legal systems.<sup>281</sup> A prominent characteristic of this system is its ability to identify trade usages, which refer to commonly acknowledged traditions or practices within businesses or markets.

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<sup>277</sup> David V. Snyder and Susan A. Maslow, "Human Rights Protections in International Supply Chains Protecting Workers and Managing Company Risk," *The Business Lawyer* 73, no. 4 (2018): 1093–1106.

<sup>278</sup> Ibid.

<sup>279</sup> Deeksha Sharma and Tirtharaj Choudhury, "Nature, Environment, and Sustainable Laws," *Broad Street Humanities Review* 4 (2021): 203.

<sup>280</sup> Ibid.

<sup>281</sup> Leandro Tripodi, *Towards a New CISG: The Prospective Convention on the International Sale of Goods and Services* (Leiden: Brill, 2015).

Trade usage can substantially impact contractual duties, even if they are not expressly mentioned in a contract. The incorporation of trade practices within the framework of the CISG, primarily through Article 9, offers flexibility while ensuring equity and uniformity in global commerce.

Trade usage often reflects the ethical, technical, or practical norms that have developed within a specific commercial sector. Trade examples include the textile industry, where ethical norms, such as restrictions on child labor and environmental safeguards, are recognized. Ethical standards in trading may require sellers to provide products that adhere to these norms, even if not explicitly stated in the contract.<sup>282</sup> Another example is shipping practices in marine shipping, which refer to established procedures concerning the allocation of risks and the documentation of shipping, such as Incoterms, which are acknowledged as trade regulations.<sup>283</sup>

In a flour sale case,<sup>284</sup> A court held the seller responsible for non-compliance with well-recognized international regulations that bar the use of specific hazardous chemicals in food manufacturing. Although the contract did not expressly identify these criteria, the court invoked Article 9 of the CISG to oblige the seller to adhere to the trade practices of the food business. Due to the seller's failure to meet these criteria, the items were deemed non-conforming under Article 35, resulting in a breach of contract.<sup>285</sup>

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<sup>282</sup> Franco Ferrari, "CISG Case Law: A New Challenge for Interpreters?" in *The Creation and Interpretation of Commercial Law*, 445–461 (Routledge, 2022).

<sup>283</sup> William P. Johnson, "Analysis of Incoterms as Usage under Article 9 of the CISG," *University of Pennsylvania Journal of International Law* 35 (2013): 379.

<sup>284</sup> Appellate Court's-Gravenhage (Netherlands). "Decision on Sale of Flour." April 23, 2003. CISG Case No. 030423n1. Available at Pace Law School, Institute of International Commercial Law. <http://cisgw3.law.pace.edu/cases/030423n1.html>.

<sup>285</sup> Djakhongir Saidov, "Article 35 of the CISG: Reflecting on the Present and Thinking About the Future," *Villanova Law Review* 58 (2013): 529.

### **3.10.6 Extent of Seller's Liability in Case of Child Labor in Supply Chain:**

Supply chains often span multiple countries, and suppliers typically have limited knowledge and control over the tiers below them in the chain. Under CISG, the seller's obligations regarding the involvement of child labor in the supply chain can be complex.<sup>286</sup>

Suppose the seller owns ABC Ltd and delivers mobile phones to XYZ Ltd. The manufacturing and assembly of mobile phones include many supply chains. Now, the question arises: If the mineral extracted for the capacitor was obtained using child labor, would this make the seller responsible? What if phones were directly supplied to the seller by the next-tier supplier, and the supplier used child labor to manufacture phones? What would the scenario be in this case?

Moreover, the answer to the above questions depends on ABC Ltd's contractual obligation. Holding ABC Ltd liable for human rights violations or non-conforming goods would be unfair to the seller.<sup>287</sup> As the suppliers are not under the seller's control, it would be a burden on the seller to hold them liable for the acts of other suppliers.

However, if ABC Ltd is contractually obligated to provide items free from child labor, it must fulfill this obligation. Under the CISG, a seller is responsible for ensuring that the items delivered conform to the terms of the contract. ABC Ltd will be in violation if child labor has been employed at any phase of the items' manufacturing. XYZ Ltd can guarantee the absence of child labor in its supply chain by carefully analyzing each tier and demanding adherence to ethical standards.

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<sup>286</sup> Diana Winstanley, Joanna Clark, and Helena Leeson, "Approaches to child labor in the supply chain," *Business Ethics: A European Review* 11, no. 3 (2002): 210-223.

<sup>287</sup> David V. Snyder and Susan A. Maslow, "Human Rights Protections in International Supply Chains Protecting Workers and Managing Company Risk," *The Business Lawyer* 73, no. 4 (2018): 1093-1106.

Nevertheless, although a seller is theoretically accountable for using child labor across the supply chain, its responsibility will be limited.<sup>288</sup> This is due to the increasing difficulty in demonstrating that products are contaminated by child labor as one progresses deeper down the supply chain. The seller's liability would be limited.<sup>289</sup> However, if the buyer claims nonconformity and damages, the seller must pay the damages or provide a replacement. Later, they can recover the cost from the supplier.<sup>290</sup>

Sellers may be held accountable for employing child labor throughout the supply chain when an international obligation exists to provide goods free from child labor.<sup>291</sup> Nonetheless, establishing a breach in practice will hinge on the buyer's ability to demonstrate that child labor was used in manufacturing specific items.

### **3.10.7 Can the obligation for child-labor-free goods be established from different circumstances?**

The obligation arises from the negotiations between the parties at the time the contract was formed.<sup>292</sup> In specific circumstances, a court may interpret the language and actions of the parties as necessitating the seller to provide goods free from child labor. For instance, imagine a scenario where a buyer emphasizes during discussions that the products must be made without involving

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<sup>288</sup> Ans Kolk, and Rob Van Tulder, "The effectiveness of self-regulation: Corporate codes of conduct and child labor," *European Management Journal* 20, no. 3 (2002): 260-271.

<sup>289</sup> Md Zahurul Haq, A. F. Alam, Zainal Amin Ayub, and Kazi Fahmida Farzana, "Reaching an agreement for the elimination of child labor from the supply chains," *International Journal of Supply Chain Management* 9, no. 5 (2020): 1392.

<sup>290</sup> Czan Ven, "Seller's obligation to deliver goods free from rights of third parties based on intellectual property under the United Nations Convention on Contracts for the International Sale of Goods." (2022).

<sup>291</sup> Fabrizio Cafaggi and Paola Iamiceli, "Supply Chains, Contractual Governance, and Certification Regimes," *European Journal of Law and Economics* 37 (2014): 131–173.

<sup>292</sup> Nevi Agapiou, "Buyer's Remedies Under the CISG and English Sales Law: A Comparative Analysis" (PhD diss., University of Leicester, 2015).

child labor. The seller, understanding the importance, agrees to this ethical condition. Whether this agreement holds up depends mainly on the specifics of the situation and how well both parties can demonstrate their commitment to this moral standard.

The knock-out rule establishes that the mutually agreed terms develop the contract, specifically the individually negotiated provisions, the commonly applicable norms of behavior, and the relevant practices and trade usages. The remaining gaps in the agreement are addressed by the provisions of the CISG or by domestic legislation.

This method is founded on party autonomy, as outlined in Article 6 of the CISG, which is essential for defining the contract's content and allows the parties to modify or alter the implications of any CISG provisions.<sup>293</sup> This approach assumes that the parties deviated from the Convention's rules on formation, which are inherently dispositive, and specifically from Article 19 of the CISG, which necessitates the application of one party's code of conduct.<sup>294</sup>

The obligation can also arise from prior transactions between buyer and seller and would be dealt with under Article 9(1).<sup>295</sup> If a seller has previously delivered products to a buyer without utilizing child labor, it creates an expectation that future products will similarly be produced without using child labor. This ongoing pattern can lead to an implicit understanding or an informal agreement between the buyer and seller, establishing an anticipated practice for the seller to adhere to, as specified in Article 9(1). Another circumstance that would establish child-labor-free goods is when

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<sup>293</sup> Katarina Jovičić, "The Concept of the Fundamental Breach of Contract in the CISG," *Strani Pravni Život* 4 (2018): 39–50.

<sup>294</sup> Ingeborg Schwenzer and Edgardo Munoz, "Sustainability in Global Supply Chains Under the CISG," *European Journal of Law Reform* 23 (2021): 300.

<sup>295</sup> André Janssen and Sörren Claas Kiene, "The CISG and Its General Principles," in *CISG Methodology*, 261–285 (2009).

both parties to the contract are part of the United Nations Global Compact (UNGC). <sup>296</sup> This means they have agreed to the ten principles of UNGC, including Human Rights. One of these principles demands that those participating businesses "ensure the effective abolition of child labor." If both parties have consented to specific standards in a broader spectrum, they must, therefore, be seen to have, at a minimum, implicitly consented to such usage in their contracts.

Trade usage also proves the seller's obligation to deliver child-labor-free goods. Consequently, the usage becomes an implied term of the contract if it is well-known and consistently practiced by industry participants, and the parties either were aware of it or should have been aware of it. Trade usage does not require an explicit agreement between the parties; their widespread recognition and practice create a presumption of reliance, unless stated otherwise.

However, Article 9(2) does not necessitate widespread awareness or adherence to the practice. It is adequate that most individuals operating within a specific industry acknowledge and adhere to it.<sup>297</sup> The determination of a trade usage and its prerequisites are essential factual inquiries.

### **3.11 Damages**

The remedies available under the CISG pertain to physical defects. Many problems concern damages for emotional non-conformity, CISG Articles 74–77;<sup>298</sup> is there a causal link between the supplier's production of the goods and the harm caused to the purchaser's brand name? How is the value of a harmed brand name determined? Was the loss foreseeable to the supplier? What

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<sup>296</sup> United Nations Global Compact, "The Ten Principles of the UN Global Compact." <https://unglobalcompact.org/what-is-gc/mission/principles> (accessed on September 24, 2023).

<sup>297</sup> William P. Johnson, "Analysis of Incoterms as Usage under Article 9 of the CISG," University of Pennsylvania Journal of International Law 35 (2013): 379.

<sup>298</sup> John Felemegeas, "An Interpretation of Article 74 CISG by the US Circuit Court of Appeals," Pace International Law Review 15 (2003): 91.

mitigating actions should the buyer take, and what is the supplier's liability for reimbursing the buyer for such actions? This heading will consider when an aggrieved buyer can recover damages when it purchases non-conforming goods produced using child labor, and whether damages would be available to an aggrieved buyer in the following three situations.

- i. The goods are delivered to the buyer at the buyer's premises, and before the buyer has resold the goods, the buyer becomes aware of the non-conformity.
- ii. The buyers discover the non-conformity after resale, which becomes widely known to the public and damages the buyer's reputation.
- iii. The buyer identifies the non-conformity after reselling the items, which remain undisclosed to the public.

Article 74 of the CISG addresses damage in various situations. The principle of full compensation is accepted under Article 74.<sup>299</sup> It must be interpreted as an obligation to make good the full loss the other party has suffered because of a breach of contract.<sup>300</sup>

Article 74 states that Damages for breach of contract by one party shall be the sum that would restore the loss, including loss of profit, that the other party underwent because of the breach committed by the first party.<sup>301</sup> That damage shall not exceed the loss the breaching party realized or should have realized when the contract was concluded.<sup>302</sup> This proved that the loss at the time

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<sup>299</sup> Jennifer Offermanns, "Damages Arising out of a Cover Purchase within the Framework of Articles 74 to 77 CISG," *Vindobona Journal of International Commercial Law and Arbitration* 10 (2006): 1.

<sup>300</sup> Ali Talip Pınarbaşı, "Are Attorney Fees Recoverable Under Article 74 of CISG?," *Yıldırım Beyazıt Hukuk Dergisi* 1 (2018): 177–205.

<sup>301</sup> CISG Advisory Council, "Calculation of Damages under CISG Article 74," CISG Advisory Council Opinion No. 6 (Stockholm, 2006), [1.1].

<sup>302</sup> Joseph M. Lookofsky, "Consequential Damages in CISG Context," *Pace International Law Review* 19 (2007): 63.

of contracting was not too remote a possibility based on the facts and matters he had become aware of or ought to have known.<sup>303</sup>

Now, the researcher will discuss the above situations in detail:

### **3.11.1 Buyer got to know the non-conformity before resale:**

If the buyer learned about the non-conformity before resale, he could claim damages. However, if the buyer decides to resell the products on the market, they will receive a lower price for the products, as dictated by market value. In this case, the buyer can claim the loss of profits, expenditure on the product to enhance its value, or any other loss incurred from the seller. Lost profits can be claimed if the goods cannot be resold on the market due to their condition. If the buyer decides not to sell the goods, the seller can argue that the buyer has failed to mitigate its damages.<sup>304</sup>

However, Article 74 also explains that the buyer should attempt to mitigate the loss, and the party that depends on a breach of contract shall take such steps as are reasonable in the circumstances to offset the damage, including loss of profit, resulting from the breach.<sup>305</sup> If he fails to take such steps, the party in breach may seek a reduction in the damages by which the loss should have been minimized.

However, it is urged that a reasonable buyer would not resell the goods if doing so would likely hurt their reputation. This is particularly relevant for consumers with a highly ethical reputation and socially conscious marketing objectives. However, it is equally valid for buyers selling on 'mainstream' markets. Thus, a buyer will have little issue claiming damages in this first situation.

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<sup>303</sup> Yasutoshi Ishida, "What Does 'Foreseeable' Mean? The Scope of Damages under CISG Articles 74–77: Reasonability Principle of Foreseeability—We Don't Need a Crystal Ball," *Journal of Law and Commerce* 40 (2021): 235.

<sup>304</sup> Alain Dupont, *Non-Pecuniary Loss in Commercial Contracts: With Special Emphasis on the United Nations Convention on Contracts for the International Sale of Goods (CISG)* (Thesis, University of Cape Town, 2014), 48.

<sup>305</sup> *Ibid.*

### 3.11.2 Buyer discovers the nonconformity after resale, and it affects Goodwill

In some circumstances, the loss of goodwill may be equated with the loss of profits.<sup>306</sup> However, such cases entail the possibility of double recovery, as there is an overlap between the damage to goodwill and the loss of profits. Damages that compensate for the reduction in the value of the plaintiff's commercial interest would coincide with the amount for which the injured party would receive the lost future profits.

There are many practical problems with damage to goodwill. The first problem lies in assessing and evaluating the loss. The second problem is determining how damage for loss of goodwill aligns with that for other losses. There is a risk that the purchaser may receive double compensation because it has succeeded in claiming lost profits as damages and, simultaneously, obtains compensation for loss of goodwill, often expressed as an amount agreed upon between the parties. The buyer has the right to claim damages for loss of goodwill. The CISG Advisory Council expressly provides that a violation of goodwill is a pecuniary loss.<sup>307</sup> To be compensated under CISG Article 74 if the conditions of this provision, particularly such losses' foreseeability, are met.<sup>308</sup>, are fulfilled. In a case the French Cour d'appel decided, the court determined that the decline of a business's reputation is not compensable unless demonstrable financial losses accompany it.<sup>309</sup> In a German lawsuit, the purchaser sought compensation for lost profits and damages to its goodwill.<sup>310</sup> The court ruled that the buyer cannot simultaneously demand

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<sup>306</sup> Djakhongir Saidov, "Damage to Business Reputation and Goodwill under the Vienna Sales Convention," in Contract Damages: Domestic and International Perspectives, ed. Djakhongir Saidov and Ralph Cunningham (Oxford: Hart Publishing, 2008), 393.

<sup>307</sup> CISG Advisory Council, CISG Advisory Council Opinion No. 6: Calculation of Damages under CISG Article 74, 2006, Rapporteur: Professor John Y. Gotanda, accessed 28 August, 2024 <https://www.cisgac.com>.

<sup>308</sup> Ibid.

<sup>309</sup> Cour d'appel (Court of Appeal) Grenoble, 21 October 1999, 97/03974 (Calzados Magnanni v. Shoes General International), accessed September 20, 2024, <https://www.cisg.law.pace.edu>.

<sup>310</sup> Landgericht Darmstadt [District Court] (LG) Darmstadt, Germany, 9 May 2000, 10 O 72/00, CISG-online No. 560, accessed September 20, 2024, <https://www.unilex.info/case.cfm?id=501>.

compensation for lost turnover, which may be compensated as lost profits, and seek further restitution for reputational damage.

In simple terms, the usual measure for damages related to loss of goodwill is the difference in the value of goodwill or reputation before and after the incident. Schwenzer and Leisinger argue that loss of goodwill will always be reasonably foreseeable due to a breach of ethical standards.<sup>311</sup> It has been shown above that child labor is a serious violation of human rights, which is outlawed by both international law and the municipal laws of most nations. A seller should, therefore, appreciate that harm to a buyer's reputation, for example, by being associated with child labor, is at least one of the possible reciprocations of his breach.

### **3.11.3 The buyer got to know about the non-conformity after resale, but it did not become public knowledge**

In this situation, the breach does not cause financial loss, which means the buyer does not suffer pecuniary damage. Under this scenario, the buyer would be entitled to no damages under CISG. It is recommended that damages be awarded in this respect despite the non-pecuniary nature of the loss. In this case, one must see damage suffered by a claimant in this respect before arguing that this loss should attract compensation in the form of damages under Article 74.

Moreover, the breach did not damage the buyer's economic position; he paid the price of something from which he could not get the hoped-for benefits. The buyer shall receive goods in conformity with the contract relating to their 'performance interest.' In this case, the buyer did not receive the promised goods, thereby failing to attain the promised performance interest. So, the question is

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<sup>311</sup> Ingeborg Schwenzer, *The CISG—A Fair Balance of the Interests of the Seller and the Buyer*, vol. 21 (Eleven International Publishing, 2016).

whether this is the sort of loss that a buyer ought to be compensated for or whether, as is the case at present, compensation under Article 74 should be strictly limited to financial loss.

Here, two important principles are the Economic Principle and the Performance Principle, which include performance interest.<sup>312</sup> The economic benefits and performance principles express two contradictory views about contract damage. According to the economic benefits principle, a claimant should be compensated for the financial loss suffered due to the breach. Under the performance principle, contract damages should also include safeguarding the aggrieved party's performance interest. In other words, the aggrieved party will receive a dual recovery concerning the economic value of performance and the performance itself.<sup>313</sup>

Schlechtriem warns against recovering non-monetary losses in cases of ethical non-conformity. Doing so would force the buyer's morals on the seller, punishing it for offending the buyer's feelings.<sup>314</sup> He also warns that the recovery of such damage would depend on the individual judge's or arbitrator's opinion, resulting in different outcomes across jurisdictions. When a buyer compensates more than the standard market price of the items, it guarantees that their production adheres to human rights standards.

In other words, at least in this situation, damages must be awarded, which is necessary to give effect to the performance interest of the aggrieved party. Thus, even though a buyer has not suffered any economic loss because the seller delivered the goods supplied through child labor, they must still entitle the buyer to damages based on their right to performance. Schwenzer and Hachem contend that they are entitled to damages equivalent to the difference between the market

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<sup>312</sup> Ingeborg Schwenzer and Pascal Hachem, "The Scope of the CISG Provisions on Damages," in *Contract Damages: Domestic and International Perspectives*, ed. Djakhongir Saidov and Ralph Cunningham (Oxford: Hart Publishing, 2008), 93.

<sup>313</sup> Ingeborg Schwenzer, Pascal Hachem, and Christopher Kee, *Global Sales and Contract Law* (Oxford: Oxford University Press, 2012), 583.

<sup>314</sup> Peter Schlechtriem, "Non-Material Damages," *Commentary on the UN Convention on the International Sale of Goods (CISG)*, ed. Peter Schlechtriem and Ingeborg Schwenzer, 2nd ed. (Oxford: Oxford University Press, 2005), 98.

worth of the products and the amount paid.<sup>315</sup> Consequently, if a purchaser pays \$X120 over the market price of products to guarantee that they are produced without child labor, they are entitled to reclaim \$X120 if this condition is violated. This is the correct approach since it compensates the buyer directly for the value of its lost right to receive the goods it paid for. This method can be beneficial if the buyer pays an extra amount, mainly when the goods are produced ethically.

However, a buyer who purchased non-conforming goods has been able to recover from the loss of the value of its performance interest. Where it is impossible to ascertain to what extent the value of the goods is impaired, damages should be assessed under a measurement of 'hypothetical negotiation' and not the account of profits.<sup>316</sup> In this way, the buyer and the seller will be adequately compensated for their loss. Consistent with the nature of compensation under Article 74.

### **3.12 Conclusion**

In conclusion, although the CISG claims its primary objective is to unify international trade law proposals, it offers a great deal more, considering the basic principles on which it is founded: good faith and fair conduct. The modification of the CISG to include child labor considerations underscores the interpretation and application process of this agreement by its stakeholders, ensuring a commercial environment that prioritizes not only economic efficiency but also respects the fundamental principles of human rights.<sup>317</sup>

This chapter argues that the CISG could be used to consider child labor. This is because, in not only many cases can buyers require goods to be child-labor-free, but in many situations, the

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<sup>315</sup> Ingeborg Schwenzer and Pascal Hachem, *The Scope of the CISG Provisions on Damages* (University of Basel, 2008).

<sup>316</sup> Chong-Seok Shim, "A Study on the Legal Assessment and Cases of Damages under CISG," *The International Commerce & Law Review* 55 (2012): 3–32.

<sup>317</sup> Silvia Ferreri, "Remarks Concerning the Implementation of the CISG by the Courts (the Seller's Performance and Article 35)," *Journal of Law and Commerce* 25 (2005): 223.

conformity requirements in Art 35 CISG can be used to require child-labor-free goods even if the contract does not expressly require this.<sup>318</sup>

In summary, the explanation clarifies that the global rejection of child labor is primarily demonstrated by its prohibition under international law. Schwenger and Leisinger contend that CISG Article 9(2) applies ethical criteria to international sales contracts, including child labor and humane labor conditions, as implicit obligations owing to trade practice.<sup>319</sup> Through Article 35, which mandates that goods must conform to contractual specifications, businesses engaged in international trade can be held accountable for ensuring that their supply chains remain free from exploitative labor practices, including child labor.<sup>320</sup>

However, this provision enables buyers to reject goods produced through unethical labor conditions, creating a commercial deterrent against child labor. Similarly, Article 9, which recognizes established trade usages and industry norms, allows the progressive incorporation of ethical labor standards into business contracts, reinforcing CSR and ethical sourcing practices.

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<sup>318</sup> David V. Snyder and Susan A. Maslow, “Human Rights Protections in International Supply Chains—Protecting Workers and Managing Company Risk,” *The Business Lawyer* 73, no. 4 (2018): 1093–1106.

<sup>319</sup> Katerina Peterkova Mitkidis, “Sustainability Clauses in International Supply Chain Contracts: Regulation, Enforceability and Effects of Ethical Requirements,” *Nordic Journal of Commercial Law (NJCL)* (2014): i.

<sup>320</sup> Anna L. Linne, “Burden of Proof Under Article 35 CISG,” *Pace International Law Review* 20 (2008): 31.

## Chapter 4

# EVALUATING THE EFFECTIVENESS OF CISG IN ERADICATING CHILD LABOUR AND CHALLENGES WHILE IMPLEMENTATION IN PAKISTAN

This chapter discusses the indirect impact of the United Nations Convention on Contracts for the International Sale of Goods (CISG) while combating child labor in Pakistan. Although the CISG was not explicitly designed to address labor issues or ethical standards, it aims to establish an international legal framework for the formation of commercial contracts. Still, it promotes ethical standards in commerce and business, particularly in the fight against child labor.<sup>321</sup> This chapter thoroughly examines the effectiveness of the CISG in mitigating child labor through the lens of market dynamics, case studies, and the influence of international trade agreements.

Incorporating ethical trade terms into global agreements is essential to enhance the effectiveness of the CISG in reducing child labor exploitation.<sup>322</sup> These provisions would directly address labor standards and establish measures to ensure compliance with them. The efficacy of the CISG concerning child labor in international trade is a significant concern, particularly for nations such as Pakistan, where child labor is widespread.<sup>323</sup> Nonetheless, its stipulations can be employed to inhibit child labor in global commerce.

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<sup>321</sup> Peter Schlechtriem, and Petra Butler, *UN Law on international sales: The UN Convention on the international sale of goods* (Springer Science & Business Media, 2008).

<sup>322</sup> Ibid.

<sup>323</sup> Rao Qasim Idrees, Zaheer Iqbal Cheema, and Jawwad Riaz, "Analysis of China-Pakistan Cross Border Trade Conflicts Resolution Mechanism," *Journal of Advanced Research in Law and Economics* 11, no. 2 (48) (2020): 382–393.

## 4.1 Introduction

CISG is an international treaty that harmonizes trade laws and facilitates smoother commercial transactions across borders. While its primary objective is to govern the formation and performance of international sales contracts,<sup>324</sup> Its provisions indirectly influence ethical business practices, including labor standards in global supply chains. The eradication of child labor is one such ethical concern that has gained significant attention in the international legal framework.<sup>325</sup>

Pakistan, a developing country with a significant portion of its economy reliant on industries where child labor is prevalent, such as textiles, agriculture, and manufacturing, faces immense challenges in aligning its trade practices with international labor standards.<sup>326</sup> Although Pakistan is not a contracting party to the CISG, many of its trade partners are, which raises questions about whether CISG principles can indirectly contribute to curbing child labor within Pakistan's supply chains.<sup>327</sup>

This section explores how CISG's principles, particularly those related to contract enforcement and ethical sourcing, can contribute to reducing child labor in global supply chains. It will examine in detail the role of CISG in ensuring that international contracts uphold fair labor practices, either directly through contractual obligations or indirectly via ethical sourcing requirements. Furthermore, this section will highlight how businesses and policymakers can leverage CISG to promote ethical labor standards within Pakistan's trade sector.

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<sup>324</sup> Breen Creighton, "Combating Child Labour: The Role of International Labour Standards," *Comparative Labor Law Journal* 18 (1996): 362.

<sup>325</sup> Mona Ahadi, *The United Nations Convention on Contracts for the International Sale of Goods: Should Developing Nations Such as Iran Adopt the CISG?* (PhD diss., University of Durham, 2013).

<sup>326</sup> Ingeborg Schwenzer and Edgardo Munoz, "Sustainability in Global Supply Chains Under the CISG," *European Journal of Law Reform* 23 (2021): 300.

<sup>327</sup> Ben Köhler, "The CISG in the Age of Sustainable Supply Chains," in *The Elgar Companion to UNCITRAL*, 339–355 (Edward Elgar Publishing, 2023).

## 4.2 Understanding the Effectiveness of the CISG in Reducing Child Labor

The CISG has demonstrated efficacy in mitigating child labor in international trade. By instituting uniform standards and contractual requirements, the CISG helps prevent child labor in production and supply chains. This analysis seeks to understand the extent to which the CISG can contribute to mitigating child labor in global supply chains, particularly in developing countries like Pakistan, where child labor remains a systemic issue.

However, the CISG promotes international collaboration and the standardization of sales legislation, thereby enhancing enforcement and compliance. Stakeholder involvement, child labor-free contract provisions, and regular audits contribute to the efficacy of CISG. Nike's advancements in its supply chain and Apple's supplier code<sup>328</sup> serve as notable examples that highlight the potential of CISG in combating child labor. According to statistics, following the implementation of such codes by Apple and Nike, child labor has decreased by 20%, and compliance among employers has increased by 80%.<sup>329</sup>

Enhancing enforcement, broadening its scope, and encouraging international collaboration further enhance the CISG's effect.<sup>330</sup> The CISG is essential for safeguarding children worldwide, promoting ethical trade practices, and ending child labor. It is a modern commercial law designed to provide uniformity in the conduct of goods sold in international trade. However, in a global world that is gradually embracing the principles of ethical business, the CISG can become a

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<sup>328</sup> Richard Locke, "Can global brands create just supply chains?" *Boston Review* 38, no. 3 (2013).

<sup>329</sup> Daniel Berliner et al., "Labor Standards in International Supply Chains: Aligning Rights and Incentives," in *Labor Standards in International Supply Chains* (Edward Elgar Publishing, 2015).

<sup>330</sup> Richard Locke, "We live in a global supply chain world," In *Business and Human Rights*, pp. 299-315 (Routledge, 2016).

significant instrument for promoting ethical trade, especially in combating practices such as child labor.

### **4.3 CISG's Indirect Role in Combating Child Labor**

The CISG was formulated to regulate the obligations of both buyers and sellers in international sales transactions. This highlights an important point: although not a human rights document per se, the CISG enables international buyers to incorporate legally enforceable provisions into their contracts, including labor standards. Here's how the CISG can impact labor practices, with real-world examples explained below:

#### **4.3.1 Ethical Trade Clauses:**

Modern buyers in developed countries are more concerned about the place of supply for their goods than about the manner of production.<sup>331</sup> Most of these buyers include ethical clauses in contracts that apply to the CISG. This means that they ban child labor and, therefore, exert pressure on the suppliers from countries like Pakistan to observe it.<sup>332</sup> Thus, the CISG promotes labor standards by enhancing efficiency.

These are the parameters established by law within which, while the CISG examines the commercial aspects comprising delivery, payment, and risk to the loser, these are supported by a legal regime that binds international buyers and sellers to the agreement. Within this legal framework, buyers introduce ethical trade clauses that include requirements regarding labor

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<sup>331</sup> Peter Schlechtriem and Petra Butler, "Part III of the CISG," in *UN Law on International Sales: The UN Convention on the International Sale of Goods* (Berlin: Springer Berlin Heidelberg, 2009), 91–241.

<sup>332</sup> Ambreen Fatima, Ambreen, "Child labor in Pakistan: Addressing supply and demand side labor market dynamics," *The Economic and Labor Relations Review* 28, no. 2 (2017): 294–311.

standards and working conditions, as well as prohibitions on the use of child labor.<sup>333</sup> The article of incorporation into the sale terms by the buyer is not a provision of CISG.

International companies can shift the burden of labor-related demands to their suppliers in countries where labor laws may be weaker or enforcement is less effective. Such companies include clauses within legal agreements to create pressure points that ensure the delivery of goods under proper working conditions.<sup>334</sup> Even if the supplier is identified as not following such clauses (such as employing children), it would still breach the contract obligation to execute it.

#### **4.3.2 CISG Enforcement:**

As the CISG applies to the contractual relationship, the buyer is entitled to legal action concerning the supplier's breach of these ethical clauses. This could include the refusal of goods, the rescission of the contract, or damages. Those legal actions or the loss of business will likely pressure suppliers to improve their labor practices. Curbing child labor, especially in Pakistan, would be very helpful in this regard. The researcher provides an example below to clarify the concept.

#### **Example:**

Ethical sourcing in Pakistan's textile sector, which has historically been one of the most significant violators of child labor laws, often leads European and North American companies to enter highly detailed contracts that include the application of the CISG.<sup>335</sup> And automatic termination of

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<sup>333</sup> Peter Schlechtriem and Ingeborg Schwenzer, *Commentary on the UN Convention on the International Sale of Goods (CISG)*, 4th ed. (Oxford: Oxford University Press, 2016), 23-24.

<sup>334</sup> Nicolas Carette, "Direct Contractual Claim of the Sub-buyer and International Sale of Goods: Applicable Law and Applicability of the CISG," *European Review of Private Law* 16, no. 4 (2008).

<sup>335</sup> Bruno Zeller, *CISG and the Unification of International Trade Law* (London: Routledge, 2007), 45-46.

contracts in cases involving child labor. Due to this, the seller is vigilant and aware that if he uses child labor, the contract will be void, and he may be held liable for damages.

Suppose A European fashion brand orders textiles from a Pakistani factory. The contract, performed by the provisions of CISG, explicitly stated that no child labor would be employed in the production process. The legal right conferred by the CISG, if the buyer discovers that the factory uses child labor, allows them to reject the shipment, cancel the contract, or claim damages. As a result, the factory has a strong economic incentive to make sure no child labor is used (to avoid financial penalties and loss of future business).<sup>336</sup> The result can lead to better labor practices within the Pakistani textile industry.

Ultimately, the factories that supply European brands may meet these standards; however, the issue of subcontracting remains a significant challenge. A larger supplier can outsource some parts of their production to some informal, smaller workshops where child labor may still exist.<sup>337</sup> In response to this, European brands can demand extended audits, so they now want to monitor the entire supply chain, including the smallest links and subcontractors, for compliance, which is another reasonable effort to reduce the use of child labor.

#### **4.3.3 Market Pressure and Reputational Risk:**

Due to increasing pressure from consumers, activists, and the media, international buyers are now more compelled than ever to ensure that their supply chains, particularly those of products, are free

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<sup>336</sup> Ali Reza Ghaderi, and C. Basavaraju, "Buyers' remedies under CISG (Convention of international sale of goods)." (2019): 55-59.

<sup>337</sup> Andhre Janssen, and Soren Claas Kiene, "The CISG and its general principles," CISG methodology (2009): 261-285.

from exploitative practices.<sup>338</sup> A good example is the pressure that carries a significant level of reputational risk for companies whose decisions are thus affected. Buyers can influence suppliers to enhance labor standards by adhering to international labor regulations, the CISG, and related contracts. In a global market, a company's reputation<sup>339</sup> holds immense value. Consumer concerns, such as fears of negative press, media scrutiny, and potential boycotts resulting from corporate product sales, are as powerful as legal consequences in motivating suppliers to improve labor conditions.

Companies operating in countries with rampant child labor, like Pakistan, risk considerable backlash if consumers discover unethical practices in their supply chains. The CISG framework empowers members to impose strict regulations requiring sellers to guarantee that the goods conform to international standards.

#### **4.3.4 Fear of Reputational Damage:**

In the current global economy, companies are increasingly focusing on their corporate reputation, particularly regarding labor practices. As consumer awareness grows and international regulations become stricter, businesses that fail to maintain ethical labor standards face significant reputational risks, leading to financial losses, legal challenges, and exclusion from global markets.<sup>340</sup>

For instance, A Pakistani exporter faces pressure to meet the demands of his buyers, who primarily base their commercial relationships on CISG contracts and loudly declare that they will not accept

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<sup>338</sup> Schwenzer, Ingeborg, and Edgardo Munoz. "Sustainability in Global Supply Chains Under the CISG." *Eur. JL Reform* 23 (2021): 300.

<sup>339</sup> Henning Lutz, "The CISG and Common Law Courts: Is There a Problem," *Victoria U. Wellington Law Review* 35 (2004): 711.

<sup>340</sup> Obaid Khalfan Almutawa, "The role of good faith in the United Nations Convention on contracts for the international sale of goods (CISG)." (PhD diss., University of Leicester, 2015).

goods if the factory follows a child labor policy.<sup>341</sup> Furthermore, the supplier has two choices: to uphold child rights by supplying products that respect children's fundamental rights, or to continue providing goods that fail to safeguard these rights. This transition may lead to long-term positive changes in labor practices, as companies will eliminate child labor due to economic necessity.

The Sialkot Football Industry Scandal, perhaps the most well-known example of reputational risk driven by labor practices, originates from Sialkot, Pakistan, a center where footballs are manufactured.<sup>342</sup> Even after that, multinational brands such as Nike and Adidas came under massive pressure from consumers and human rights groups at the time, and many of these contracts were canceled as international laws empowered buyers to impose reform measures on the units producing their goods. The long-term effects can be seen in the past.<sup>343</sup> The scandal's aftereffects were such that international buyers, in turn, began to introduce clauses within contracts that prohibited the use of children in the production process.

#### **4.4 Strengthening CISG Enforcement Mechanisms for Combating Child Labor**

Strengthening CISG enforcement mechanisms is a principal pathway in the fight against child labor.<sup>344</sup> One principal means is to organize an international enforcement body modeled after the ILO's Committee of Experts, which can coordinate compliance with and enforcement of the CISG.

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<sup>341</sup> Thomas A Hemphill, Thomas A., and Keith J. Kelley, "Socially responsible global supply chains: The human rights promise of shared responsibility and ISO 45001." *Journal of Global Responsibility* 7, no. 2 (2016): 163-180.

<sup>342</sup> David M. Boje and Farzad R. Khan, "Story-Branding by Empire Entrepreneurs: Nike, Child Labour, and Pakistan's Soccer Ball Industry," *Journal of Small Business & Entrepreneurship* 22, no. 1 (2009): 9–24.

<sup>343</sup> Denny Saputra, Handoyo Djoko Waluyo, and Sari Listyorini, "Effect of product quality, promotion, and brand image on purchase decision of Nike sports shoes (case study on S1 fisip undip students)," *Jurnal Ilmu Administrasi Bisnis* 3, no. 4 (2014): 209-220.

<sup>344</sup> Yinyin Cao, Benn Lawson, and Frits K. Pil, "Social sustainability and human rights in global supply chains." *International Journal of Operations & Production Management* 44, no. 1 (2024): 370-390.

This is because, by the end of 2020, direct ILO monitoring was able to free 13,000 garment factories in Bangladesh from the use of child labor.<sup>345</sup>

Moreover, one of the most effective ways to strengthen CISG's enforcement mechanisms is by incorporating ethical labor clauses into international trade agreements. Buyers can require suppliers to adhere to international labor standards, including prohibitions on child labor, as part of the contractual terms.<sup>346</sup> If a supplier engages in exploitative labor practices, the contract can be terminated, penalties imposed, or damages claimed under CISG's provisions on non-conforming goods.<sup>347</sup> Additionally, businesses can demand third-party labor audits and ethical certifications to ensure suppliers maintain ethical sourcing standards.<sup>348</sup>

Another approach to strengthening CISG's role in combating child labor is through CSR. Businesses engaged in international trade under CISG should proactively implement CSR policies that prioritize ethical labor practices. Encouraging companies to adopt child labor-free supply chain policies and offering incentives, such as tax benefits and trade facilitation, can create economic advantages for ethical business practices.<sup>349</sup>

Governments can also play a vital role in enhancing CISG enforcement by integrating ethical labor standards into national trade policies. Countries can link CISG compliance with bilateral and multilateral trade agreements, enforcing import restrictions on goods produced with child labor.

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<sup>345</sup> Ferdous Ahamed, "Child labor and Bangladesh: To what extent can Bangladesh remove child labor, particularly in the Bangladesh Ready-made Garment (RMG) sector," *International NGO Journal* 8, no. 2 (2013): 31-37.

<sup>346</sup> Francesco G. Mazzotta, "Reconsidering the CISG Article 95 Reservation made by the United States of America," *International Trade & Bus Law Review* 17 (2014): 442.

<sup>347</sup> Samir Islam, "The Negative Effects of Ill-Advised Legislation: The Curious Case of the Evolution of Anti-Sharia Law Legislation into Anti-Foreign Law Legislation and the Impact on the CISG," *Howard Law Journal* 57 (2013): 979.

<sup>348</sup> Mathias Reimann, Mathia., "The CISG in the United States: Why It has been neglected and why Europeans should care," *Rabels Zeitschrift für ausländisches und internationales Privatrecht/The Rabel Journal of Comparative and International Private Law* H. 1 (2007): 115-129.

<sup>349</sup> Petra Butler, "The CISG-A Secret Weapon in the Fight for a Fairer World?" (2016).

More substantial penalties, such as trade sanctions or import bans, against businesses that violate child labor laws can further strengthen enforcement.<sup>350</sup> Moreover, collaboration with international labor institutions, such as the ILO and WTO, can help align the CISG's principles with global labor protection frameworks, ensuring stricter compliance.

#### **4.5 Enforcement of CISG In Pakistan**

CISG is a globally recognized legal framework that standardizes international trade laws. Despite its significance, Pakistan has yet to ratify the CISG, which limits its direct enforcement within the country. However, given Pakistan's growing role in international trade and its ongoing efforts to enhance labor and commercial regulations, the potential adoption and enforcement of the CISG could provide significant legal and economic advantages.<sup>351</sup> Strengthening CISG enforcement mechanisms in Pakistan would facilitate smoother international trade transactions and indirectly influence ethical labor practices, including efforts to combat child labor.

Pakistan's lack of CISG enforcement poses challenges for businesses, as they must navigate complex contractual disputes under fragmented legal frameworks. This creates barriers to foreign investment, trade efficiency, and dispute resolution, making Pakistani exporters less competitive on the global market.<sup>352</sup> Furthermore, CISG enforcement could serve as an indirect tool for promoting ethical labor practices, as many international contracts increasingly include clauses on fair labor standards, including prohibitions on child labor. Particularly regarding the elimination

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<sup>350</sup> Mona Ahadi, *The United Nations Convention on Contracts for the International Sale of Goods: Should Developing Nations Such as Iran Adopt the CISG?* (PhD diss., University of Durham, 2013).

<sup>351</sup> Jennifer S. Martin, "Private Law Remedies, Human Rights, and Supply Contracts," *American University Law Review* 68 (2018): 1781.

<sup>352</sup> Ibrahim Mansour Alwehaibi, *The Legal Feasibility of Ratification of the United Nations Convention on Contracts for the International Sale of Goods (CISG) by Saudi Arabia: A Comparative Study Between CISG and Islamic Law* (2020).

of child labor, with real-world practical examples and legal frameworks, CISG enforcement could serve as an indirect tool for promoting ethical labor practices.<sup>353</sup> The following are the ways in which the CISG can be enforced in Pakistan.

#### **4.5.1 Utilization of CISG in Contracts**

Even though Pakistan is not a contracting state to the CISG, a business in Pakistan trading with a country that is a contracting party to the CISG may become bound by it, provided the buyer is in a CISG country and has included the CISG in their contract terms. In the agreement between the parties, an express provision has been incorporated that the CISG shall govern the contract.<sup>354</sup>

#### **Example: European Buyer and Pakistani Textile Supplier**

Let us take, for example, a European fashion brand located in Germany (a CISG contracting state), which enters a contract with a Pakistani textile manufacturer. The agreement may stipulate that the CISG will govern the contract for the sale of goods. Although Pakistan is not a signatory to the CISG, the Pakistani supplier will be bound by the CISG since the agreement expressly subjects it to the CISG. The CISG regulates the relationship between the parties regarding obligations, delivery, quality, and other terms related to the sales contract.<sup>355</sup>

If, for example, a buyer from Europe includes in its contract agreement a provision explicitly stating that child labor is not to be used anywhere in the supply chain, then any contravention of

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<sup>353</sup> Jennifer.S. Martin, "Private law remedies, human rights, and supply contracts." American University of law Review 68 (2018): 1781.

<sup>354</sup> Ekaterina Pannebakker, "Sustainable development clauses in international contracts through the lens of the Unidroit principles," Uniform Law Review (2024): 31.

<sup>355</sup> Gary F. Bell, "Harmonisation of Contract Law in Asia—Harmonising Regionally or Adopting Global Harmonisations: The Example of the CISG," Singapore Journal of Legal Studies (2005): 362.

this provision could amount to a breach of contract as per the CISG, entitling such a buyer to rescind the contract or treat its presentation as being without obligation.

#### **4.5.2. Choice of Law and International Arbitration Clauses**

Implicitly, and perhaps most frequently, the CISG is indirectly applied in non-member states, such as Pakistan, through choice of law and arbitration clauses in international contracts.<sup>356</sup> Most parties to international trade have adopted a country that is a member of the CISG or one of the many international conventions from neutral jurisdictions.<sup>357</sup> They have favored these to apply expressly to contractual relationships even where one or both parties hail from non-signatory countries.

However, it also means that, although CISG may not apply to Pakistan, the arbitration would be constituted under certain principles of CISG, and the parties would be required to adhere to the Convention's provisions.<sup>358</sup> In such a situation, if a buyer learns that a Pakistani supplier has employed child labor, he can claim breach and seek redress through arbitration applying CISG and contractual clauses.<sup>359</sup>

#### **Example: Contract with Arbitration in a CISG Signatory State**

A sports equipment manufacturing company in Pakistan contracts with an American buyer; the U.S.A. is a CISG signatory nation. The contract terms could establish that any arising disputes will be resolved by international arbitration in a country party to the CISG, such as Switzerland. This

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<sup>356</sup> Brooke Marshall, "The Hague Choice of Law Principles, CISG, and PICC: A Hard Look at a Choice of Soft Law," *The American Journal of Comparative Law* 66, no. 1 (2018): 175–217.

<sup>357</sup> Ingeborg Schwenzer and David Tebel, "The Word Is Not Enough—Arbitration, Choice of Forum, and Choice of Law Clauses Under the CISG," *ASA Bulletin* 31, no. 4 (2013).

<sup>358</sup> Francesca Ragno, "The CISG and the Choice of Law: Two Worlds Apart?," *Journal of Law and Commerce* 38 (2019): 245.

<sup>359</sup> Ingeborg Schwenzer, and David Tebel. "The Word is not Enough—Arbitration, Choice of Forum and Choice of Law Clauses Under the CISG," *ASA bulletin* 31, no. 4 (2013).

would mean that even though the CISG is not automatically applied in Pakistan, this arbitration would have used its principles as per the parties' application to the terms of the agreement.

In such a scenario, if, for instance, the buyer later discovers that the Pakistani supplier had engaged children to supply the goods, he may initiate a claim of breach and invoke the arbitration process based on the principles enshrined under CISG and the terms of the agreement.

#### **4.5.3 CISG in Practice Through Trade Partners**

Pakistan's major trading partners are signatories to the CISG. For example, China, Germany, the United States, and Japan are convention members.<sup>360</sup> The provision of contracts under the CISG is standard in commercial agreements between Pakistani exporters and companies within these nations. Therefore, even if the country is not a formal party to the convention, Pakistani businesses must still strive to comply with its terms.<sup>361</sup> Germany is Pakistan's most important trading partner in terms of textile exports. A German fashion retailer concludes a contract with a Pakistani textile exporter.<sup>362</sup> The contract stipulates the nonapplication of child labor and designates the CISG as the applicable law.

Although Pakistan has not acceded to the CISG, the German firm will be able to invoke it by including this in the contractual terms, thereby ensuring that the Pakistani supplier complies with the convention's rules.

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<sup>360</sup> Eun Ok Park, "CISG as a Governing Law to an Arbitration Agreement," *Journal of Korea Trade* 25, no. 7 (2021): 108-121.

<sup>361</sup> Henry Mather, "Choice of Law for International Sales Issues Not Resolved by the CISG," *Journal of Law and Commerce* 20 (2000): 155.

<sup>362</sup> Md Habib Alam, "Harmonizing Trade Laws in South Asia: A Future Thought," *Malaysian Journal of Law & Society* 25 (2019).

#### **4.5.4 Voluntary Compliance and Best Practices**

Though Pakistan is not a state party to CISG, voluntary compliance by the business community is gaining ground. Many Pakistani exporters view adherence to international standards, such as the CISG, as crucial to sustaining their competitive position in the global market.<sup>363</sup> Best practices from around the globe will help Pakistani firms win the confidence of their foreign buyers, attract more business, and circumvent some of the disputes that are likely to arise.

Pakistani businesses are voluntary adherents to the CISG, which they generally export to markets such as China, Japan, or countries within the European Union; they typically incorporate the terms of the CISG into their contracts.<sup>364</sup> A Pakistani rug exporter might, for example, voluntarily choose to incorporate CISG-like provisions into contracts to sell rugs to buyers in Europe to evidence a contractual requirement to avoid using child labor.

Thus, voluntary compliance builds confidence among foreign buyers and creates, through their demands, a market-driven push toward significantly improved labor standards, including the elimination of child labor.

#### **4.6 The Role of Courts**

The successful implementation of the CISG in Pakistan hinges significantly on the judiciary's role. Courts can serve as the primary institutions responsible for interpreting, enforcing, and ensuring

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<sup>363</sup> Samir Islam, "The Negative Effects of Ill-Advised Legislation: The Curious Case of the Evolution of Anti-Sharia Law Legislation into Anti-Foreign Law Legislation and the Impact on the CISG," *Howard Law Journal* 57 (2013): 979.

<sup>364</sup> Garry F Bell, "Harmonization of contract law in Asia-harmonizing regionally or adopting global harmonization-the example of the CISG," *Singapore Journal of Legal Studies* (2005): 362.

compliance with international trade laws, including the CISG.<sup>365</sup> If Pakistan ratifies the CISG, its courts must proactively harmonize domestic commercial laws with the international legal framework, ensuring that trade disputes are resolved efficiently in accordance with global best practices.<sup>366</sup>

Suppose Pakistan ratifies the CISG. In that case, its courts will be responsible for interpreting and applying its provisions in international commercial disputes.<sup>367</sup> This means that when a dispute arises between Pakistani businesses and foreign trading partners, courts must ensure that CISG principles take precedence over conflicting domestic laws, such as the Contract Act of 1872 and the Sales of Goods Act of 1930, in cases where CISG is applicable.<sup>368</sup>

However, to do this effectively, Pakistani judges must develop a thorough understanding of CISG provisions and apply them consistently to trade-related cases. Legal interpretations must align with global judicial practices, ensuring that decisions reflect internationally accepted standards rather than localized approaches that could create legal uncertainty for businesses. Additionally, courts must ensure that contractual obligations under CISG are upheld, particularly in cases where Pakistani exporters and importers are involved in cross-border disputes.

One of the key roles of courts in this process is to determine when CISG should apply over domestic laws in trade disputes. If the CISG is adopted, Pakistani courts must ensure that international commercial contracts falling within its scope are resolved by CISG principles rather

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<sup>365</sup> Mbalenhle Pearl Simelane, *Unification of International Sales Law in the SADC Region: The Role and Significance of the CISG* (PHD diss, University of Johannesburg, 2019).

<sup>366</sup> Bruno Zeller, "Private International Law in South Asia—A Few Pointers for Harmonization." *Private International Law: South Asian States' Practice* (2017): 435-442.

<sup>367</sup> Lisa Spagnolo and Maria Bhatti, "Conflicts of Interest Between Sharia and International Sale of Goods: Does CISG Interest Fit with Islamic Law?," *Monash University Law Review* 49, no. 1 (2023): 151–196.

<sup>368</sup> Afrasiab Ahmed Rana, "Formation of International Contracts and Formation of Contract in Pakistan: A Comparison," available at SSRN 3918467 (2019).

than outdated domestic statutes. This requires a clear legal framework that defines which contracts fall under CISG jurisdiction and how disputes should be adjudicated. Courts must also clarify how CISG interacts with Pakistan's existing commercial regulations, ensuring a smooth transition without creating legal uncertainty for businesses.<sup>369</sup>

## **4.7 Challenges While Implementing CISG in Pakistan against Child Labor**

CISG provides unification for multiple aspects of the legal infrastructure of international trade, the application of which does not extend to social matters such as child labor, because of the enormous role that it plays in the world export market, especially with its exports of textiles, sports goods, and agriculture, Pakistan poses some formidable problems for any international effort to deal with child labor.<sup>370</sup> This perspective offers an in-depth exploration of the issues involved. The following are the challenges that would be faced in the implementation of child labor.

### **4.7.1 Pakistan's Non-Signatory Status and Limited Applicability**

Therefore, the major challenge is that Pakistan is a non-signatory to the CISG; hence, its provisions do not automatically apply in Pakistan's legal framework. The implications are critical because unless CISG is made an integral part of contracts between Pakistani companies and foreign buyers, it cannot be used as a legal tool to combat child labor directly. Another issue is jurisdiction. Since Pakistani courts can freely operate without any obligation from non-signatories, the CISG has little bearing on local labor practices. The CISG can only affect Pakistan if international buyers demand

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<sup>369</sup> Rao Qasim Idrees, Zaheer Iqbal Cheema, and Jawwad Riaz, "Analysis of China-Pakistan Cross Border Trade Conflicts Resolution Mechanism," *Journal of Advanced Research in Law and Economics* 11, no. 2 (48) (2020): 382-393.

<sup>370</sup> Michael Joachim Bonell, "The CISG, European Contract Law and the Development of a World Contract Law," *The American Journal of Comparative Law* 56, no. 1 (2008): 1-28.

that it include such labor legislation within their commercial contracts. Even then, it would only govern issues related to the sale of goods and not directly address labor violations such as child labor. Without Pakistan's formal adoption of the CISG, the framework remains an indirect tool, reliant on voluntary adoption by businesses and buyers, making it difficult to use as an enforcement mechanism against child labor.

#### **4.7.2 Weak Enforcement of Labor Laws and Judicial Framework**

One key factor is that Pakistan is constrained in enforcing existing labor laws due to, among other things, limited resources, corruption, and a lack of government will.<sup>371</sup> This leads to weak enforcement that runs contrary to the essence of the fight against child labor and might render the impact of certain international agreements, such as the CISG, void.<sup>372</sup> The next equally important challenge for the realization of the objectives of the CISG about eliminating child labor is institutional weakness regarding regulatory and judicial enforcement in Pakistan. This includes several other individual and institutional problems, such as high rates of corruption, bureaucratic inefficiency, and a scarcity of knowledge in international commercial law.<sup>373</sup> Even if such provisions were to be implemented in the contracts as per the requirements, the provisions of this law would, in practice, be somewhat problematic for Pakistan's courts and regulatory bodies to implement, given that child labor is often hidden and systemic throughout the entire value chain.

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<sup>371</sup> Yu ShuHong, and Malik Zia-ud-Din, "Analyzing the Labour Issues in Pakistan: A Historical Background of Labour Laws and Labour Unions," *Labour & Law Issues* 3, no. 2 (2017): C-21.

<sup>372</sup> Amna Hassan, "Developing Pakistani Contract Law Regarding Gender Equality Issues" (PhD diss, University of Pecs, 2022).

<sup>373</sup> Uzma Iram and Ambreen Fatima, "International Trade, Foreign Direct Investment and the Phenomenon of Child Labor: The Case of Pakistan," *International Journal of Social Economics* 35, no. 11 (2008): 809–822.

The Pakistani judicial system struggles to manage the complexities of international commercial disputes, particularly the complex ethical issues surrounding child labor.<sup>374</sup> Often, it is overburdened, slow, and under-resourced. Thus, corruption within local law enforcement and regulating bodies undercuts attempts at the effective control of child labor.<sup>375</sup> Hence, little faith can be placed in the legal system to ensure that the CISG clause prohibits child labor in supply chains.

In addition, a basic understanding of the convention or its provisions among judges and legal practitioners could lead to some rather inexact or flawed applications of CISG clauses in addressing issues such as child labor. Enforcement institutions, strict contracts that adopt CISG principles related to ethical labor practices, could also be lacking in robustness.<sup>376</sup> Since their enforcement is usually quite sporadic or even absent.

#### **4.7.3 Socio-Economic Pressures and Informal Economy**

These factors reflect the deep socio-economic roots of child labor in Pakistan, constituting a significant impediment to the applicability and efficacy of the CISG in curbing such a practice. According to this view, poverty, illiteracy, and a vast informal sector of the economy compel children to work, particularly in rural areas and the textile, agricultural, and brick-making industries.

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<sup>374</sup> Syed Qarrar Hussain Shah, Shaukat Hussain Bhatti, and Vagiha Naz, "The Impact of Child Labour Laws in Pakistan," *Pakistan Social Sciences Review* 6, no. 2 (2022): 840–848.

<sup>375</sup> Maren Heidemann, "Supply Chain Laws Update: Ethics in Global Commerce Through Contract and Regulation," in *Quo vadis Commercial Contract? Reflections on Sustainability, Ethics and Technology in the Emerging Law and Practice of Global Commerce*, ed. Maren Heidemann and Joseph Lee (Cham: Springer International Publishing, 2023), 1–29.

<sup>376</sup> Ingeborg Schwenzer, "Ethical Values and International Sales." *Lov og Rett* 47, no. 8 (2008): 451–471.

Poverty and Economic Survival are other issues. Very saliently, many families tend to depend on monetary value in their children's work. Even if pressured through international advocacy and binding covenants, economic imperatives make it an impractical possibility to completely do away with child labor unless there is accompanying comprehensive support for the affected families.

A lack of Education and Awareness among workers is also a significant issue in the informal economy.<sup>377</sup> Many informal workers are unaware of their labor rights and international legal principles, such as those outlined in the CISG. This might be due to companies and contracts that either maintain or avoid labor standards, depending on how well they package information for staff at the lower level.

Complex supply chains are compounded through multiple layers of subcontracting in the textile sector.<sup>378</sup> Child labor often occurs at the very base of these supply chains, which is also the most challenging part to control and monitor. This also implies that such clauses based on the CISG would be difficult to enforce throughout the supply chain if child labor is deeply ingrained in it.<sup>379</sup> In Pakistan, monitoring labor standards is nearly impossible due to the presence of multiple subcontractors and unofficial enterprises.<sup>380</sup> Even with the CISG, which lays down the basic rules, effectively implementing such regulations at the varied production levels would be elusive without effective monitoring mechanisms.

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<sup>377</sup> Garry F. Bell, "Harmonization of contract law in Asia-harmonizing regionally or adopting global harmonization-the example of the CISG," *Sing Journal of Legal Studies* (2005): 362.

<sup>378</sup> Diana Winstanley, Joanna Clark, and Helena Leeson, "Approaches to Child Labour in the Supply Chain," *Business Ethics: A European Review* 11, no. 3 (2002): 210–223.

<sup>379</sup> Md Zahurul Haq, A. F. Alam, Zainal Amin Ayub, and Kazi Fahmida Farzana, "Reaching an Agreement for the Elimination of Child Labour from the Supply Chains," *International Journal of Supply Chain Management* 9, no. 5 (2020): 1392.

<sup>380</sup> Francesca Scamardella, "Law, globalization, governance: Emerging alternative legal techniques. The Nike scandal in Pakistan," *The Journal of Legal Pluralism and Unofficial Law* 47, no. 1 (2015): 76-95.

#### 4.7.4 Global Market Dynamics and Pressure

Although international buyers may make it a condition under the CISG that there is no child labor, global market forces can be both a barrier and an enabler to dealing with child labor in Pakistan. On the one hand, global brands, facing public scrutiny, may pressure their Pakistani suppliers to adhere to international labor standards.

On the other hand, competitive pressure at the global level, where cutting costs to survive is rule number one, may lead firms to overlook such breaches in labor standards.<sup>381</sup> In the competition, the low enforcement of CISG-related child labor clauses may result from pressure on suppliers to intuitively find the most expeditious ways to reduce costs.<sup>382</sup> Including child labor.

This remains a concern despite the emergence of ethical consumerism, as only a few brands and markets prioritize the aspect of sourcing ethically. In contrast, other international markets do not give the same weight to the concept of ethical sourcing, thereby perpetuating child labor in violation of contractual obligations under the CISG. This suggests that the legal effectiveness of the CISG, a crucial measure in limiting child labor, depends on factors beyond its global market configuration. The downside risk relates to any new strict enforcement of labor standards that could raise costs, including those potentially imposed through the CISG.<sup>383</sup> Such high costs could erode the competitiveness of Pakistani exports, especially given their vulnerability to price fluctuations in international markets.

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<sup>381</sup> Ans Kolk and Rob Van Tulder, "The Effectiveness of Self-Regulation: Corporate Codes of Conduct and Child Labour," *European Management Journal* 20, no. 3 (2002): 260–271.

<sup>382</sup> Deeksha Sharma, and Tirtharaj Choudhury, "Nature, environment, and sustainable laws," *Broad Street Humanities Review* Volume IV, *Nature* 203 (2021).

<sup>383</sup> Bozena Maria Celek, "The International Response to Child Labor in the Developing World: Why Are We Ineffective," *Georgetown Journal on Poverty Law & Policy* 11 (2004): 87.

#### **4.7.5 Voluntary Nature of CISG Compliance**

Even if Pakistan adopts the CISG, its application to child labor issues remains largely voluntary unless explicitly integrated within the confines of a trade contract. The scope of the CISG does not address child labor or labor standards; instead, it regulates the principles of the sale of goods, including conformity of goods according to international standards. Therefore, businesses and trade partners may or may not voluntarily include ethical labor clauses in their actions against child labor; however, that may depend significantly on market pressure.<sup>384</sup> Conversely, the efficacy of the CISG would depend on how far businesses are willing to adopt decent labor practices.

Even when no-child-labor clauses are present in contracts, enforcement is spotty. It often covers only those companies that are more concerned with their public image than with consistently rooting out child labor throughout all parts of their supply chains.<sup>385</sup> Such voluntariness of application makes the Convention on International Sales' effect on reducing child labor dependent on market compulsion rather than any immediate legal compulsion.<sup>386</sup>

#### **4.7.6 Lack of Corporate Accountability Mechanisms**

Although some companies conduct at least some form of supply chain audit to ensure compliance with ethical labor standards, these audits tend to be infrequent and limited in scope.<sup>387</sup> Child labor often goes unnoticed, especially when it is well-hidden in the informal sector or the subcontracted

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<sup>384</sup> Sabur Ghayur, "Labor market issues in Pakistan: unemployment, working conditions, and child labor," *The Pakistan Development Review* 35, no. 4 (1996): 789-803.

<sup>385</sup> Marga Peeters, Marga, and Loek FM Groot, "A global view on demographic pressure and labour market participation," *Journal of Global Economy* 8, no. 2 (2012): 165.

<sup>386</sup> Ali Reza Ghaderi, and C. Basavaraju., "Buyers' remedies under CISG (Convention of International Sale of goods)," (2019): 55-59.

<sup>387</sup> Diana Winstanley, Joanna Clark, and Helena Leeson, "Approaches to Child Labour in the Supply Chain," *Business Ethics: A European Review* 11, no. 3 (2002): 210–223.

parts of the supply chain. In such companies, respect for labor norms should be well maintained by applying corrective measures for violations.

Companies without supply chain audits often rely on self-reports or other indirect means to obtain information that can help identify child labor.<sup>388</sup> Due to its limited scope and frequency, even child labor can go undetected by hiding in informal sectors or subcontracting parts of supply chains.

Additionally, buyers can terminate contracts or refuse to pay,<sup>389</sup> Beyond that, there is little recourse to hold violators legally accountable. Without strong corporate governance and accountability, the clause regarding child labor in CISG contracts is more symbolic.<sup>390</sup> than an actual implementation used to enforce it.

#### **4.7.7 Resistance from the local business community**

The practical implementation of child labor laws and policies faces strong resistance from the local business community, posing a formidable challenge, especially in developing economies, where child labor is deeply ingrained within the economic and social structures. Financial necessity is the claim many businesses, especially those in the informal sector, have over child labor, as it presents them with a means to cut costs and remain competitive both locally and globally.<sup>391</sup> However, further complexities to this resistance are the cultural norms and socio-economic realities, where most forms of child labor are considered a tradition or necessary for household income.

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<sup>388</sup> Md Zahurul Haq, A. F. Alam, Zainal Amin Ayub, and Kazi Fahmida Farzana, "Reaching an Agreement for the Elimination of Child Labour from the Supply Chains," *International Journal of Supply Chain Management* 9, no. 5 (2020): 1392.

<sup>389</sup> Ibid.

<sup>390</sup> Eun Sook Huh, "A Study on the Seller's Obligation to Hand over Documents under the CISG," *International Commerce and Information Review* 13, no. 3 (2011): 459-485.

<sup>391</sup> Laurie Sadler Lawrence, "The Spoiled Supply Chain of Child Labor," in *The Palgrave International Handbook of Human Trafficking* (2020): 371–382.

However, a low-risk strategy for non-compliance, at the cost of weak enforcement mechanisms, yet again aggravates the issue, with small and medium-sized enterprises arguing that their increased operational costs threaten their viability. A lack of positive stimuli supports this resistance. Much of the business fails to see any tangible benefits by following good labor practices because they do not have access to the premium markets or receive subsidies. Ironically, the global market can both alleviate and exacerbate the problem. At the same time, some buyers demand ethically sourced goods, and child labor is indirectly perpetuated through other buyers who, to meet efficiency targets, drive a value chain that sustains it. Such resistance needs to be addressed through awareness campaigns, vigorous enforcement, financial and technical support, and market-based incentives that can draw compliance.<sup>392</sup> In the face of these challenges, stakeholders will challenge entrenched practices and enable a more just and sustainable economic framework that protects children's rights.

## 4.8 Conclusion

Implementation of CISG as an effective tool for child labor within a country like Pakistan would still face several hurdles. From non-signatory status to underdeveloped legal structures and deep-rooted socio-economic conditions, the scope of applying CISG for the eradication of child labor is thereby confined under definite limitations.<sup>393</sup> This chapter critically evaluates the effectiveness of the CISG in combating child labor, with a particular focus on its implementation and enforcement challenges in Pakistan.

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<sup>392</sup> Martijn Boersma, "Global Supply Chains Link Us All to Shame of Child and Forced Labour," *The Conversation*, 2014.

<sup>393</sup> Joshua D.h Karton and Lorraine De Germiny, "Has the CISG Advisory Council come of age." *Berkeley Journal of International Law* 27 (2009): 448.

Moreover, CISG primarily governs international commercial transactions and has an indirect impact on labor standards through contractual obligations.<sup>394</sup> Ethical sourcing and corporate accountability can significantly impact child labor practices within supply chains.

The analysis emphasizes that the effective enforcement of the CISG in Pakistan is crucial for integrating ethical labor standards into trade policies and corporate practices. However, significant structural, legal, and socio-economic challenges hinder its full implementation. The absence of stringent monitoring mechanisms, the reluctance of local businesses to comply with international labor norms, and the informal nature of supply chains exacerbate the issue. Moreover, the gap between domestic labor laws and global trade regulations weakens the CISG's impact on curbing child labor in Pakistan.

Given the urgency of eradicating child labor, this chapter underscores the need for stronger institutional frameworks, enhanced enforcement strategies, and a more cohesive legal approach that aligns Pakistan's trade practices with global ethical standards.<sup>395</sup> Strict contractual clauses, corporate due diligence obligations, and greater international cooperation could significantly strengthen the CISG's role in promoting ethical labor practices. Ultimately, the effectiveness of CISG in combating child labor depends not only on its adoption but also on the political will, legal reforms, and active participation of businesses and civil society in ensuring compliance.<sup>396</sup>

To maximize the potential of the CISG in curbing child labor, its enforcement in Pakistan must be strengthened through legal harmonization, judicial capacity building, corporate responsibility, and international cooperation. Courts and policymakers must work toward aligning domestic trade

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<sup>394</sup> Genevieve LeBaron, "The Role of Supply Chains in the Global Business of Forced Labour," *Journal of Supply Chain Management* 57, no. 2 (2021): 29–42.

<sup>395</sup> Franco Ferrari, "Gap-Filling and Interpretation of the CISG: Overview of International Case Law," *Vindobona Journal of International Commercial Law and Arbitration* 7 (2003): 63.

<sup>396</sup> Ulrich G. Schroeter, "Contract Validity and the CISG," *Uniform Law Review* 22, no. 1 (2017): 47–71.

laws with CISG, ensuring that businesses recognize their legal and ethical obligations in global supply chains. Additionally, raising awareness among stakeholders, integrating ethical sourcing clauses in CISG contracts, and implementing stricter monitoring mechanisms will further enhance its role as a trade-driven deterrent against child labor.

# Chapter 5

## RECOMMENDATIONS AND CONCLUSION

### 5.1 Recommendations

#### **Revitalize Domestic Laws and Enforcement to Align with CISG Requirements**

To combat child labor in Pakistan, it is suggested that domestic laws and enforcement mechanisms be revitalized to align with international trade and ethical standards. While Pakistan has ratified ILO conventions and enacted laws such as the Employment of Children Act (1991) and the Punjab Restriction on Employment of Children Act (2016), enforcement remains weak due to resource constraints, corruption, and inadequate monitoring. This creates a gap between legal commitments and actual practices, allowing child labor to persist in industries that export goods under contracts governed by the CISG.

To ensure compliance with global trade standards, Pakistan must modernize its contract, labor, and corporate accountability laws in line with the principles of the CISG and international human rights norms. Incorporating explicit legal provisions that explicitly recognize labor violations, especially child labor, as factors affecting contractual conformity under CISG Article 35 would enhance enforcement. This would enable international buyers to legally reject goods produced with child labor and provide more substantial grounds for contract termination. Additionally, harmonizing Pakistan's Sale of Goods Act (1930) with CISG provisions could create a legal environment where unethical production methods are explicitly treated as breaches of contract, leading to economic repercussions for non-compliant businesses.

Beyond legislative changes, strengthening institutional enforcement mechanisms is essential. Pakistan must enhance labor inspections, introduce mandatory supply chain audits, and implement

stricter penalties for child labor violations, particularly in export-oriented industries. Collaboration between government bodies, trade associations, and international stakeholders should also be encouraged to facilitate better monitoring and compliance reporting. Establishing a national child labor task force with direct oversight of supply chain regulations would ensure greater accountability and transparency.

Ultimately, aligning domestic legal and enforcement frameworks with CISG principles and international ethical trade obligations will help eliminate child labor from Pakistan's export industries and enhance the country's reputation in global markets. By ensuring that local businesses operate within internationally accepted legal and ethical frameworks, Pakistan can establish sustainable trade relationships, attract ethical foreign direct investment (FDI), and make a meaningful contribution to the global effort against child labor.

## **Ratification of CISG**

This recommendation emphasizes Pakistan's need to adopt the CISG to align its trade practices with global standards. The CISG provides a universal legal framework for international sales contracts, fostering consistency and ethical trade. While it primarily governs contractual obligations, it indirectly promotes fair labor practices by allowing ethical considerations to be embedded in trade agreements. By becoming a signatory, Pakistan could use the CISG to strengthen its commitment to eradicating child labor in export industries. However, this adoption would enhance Pakistan's credibility in global markets as foreign buyers increasingly demand compliance with ethical labor standards. It would also create opportunities for harmonizing Pakistan's domestic laws with international norms, ensuring stricter accountability for child labor violations. Ultimately, adopting the CISG would benefit Pakistan's trade relationships and reinforce its efforts to build a more responsible and sustainable export industry.

## **Mandating No-Child-Labor Clauses in Supply Chain Contracts**

This recommendation is essential because it creates accountability and sets clear expectations for businesses operating in global markets. It also acts as a strong deterrent, as companies risk losing valuable international clients if they fail to comply. Foreign buyers from countries where labor standards are effectively enforced may even demand that no child labor clauses be included in their agreements with Pakistani suppliers. A foreign buyer may require that a Pakistani supplier not use child labor in the production of goods under a CISG-governed contract. Noncompliance with these terms (for example, employing children in hazardous work) would constitute a breach of contract, thereby giving the buyer the right to terminate the contract. It can also entitle him to claim rejection of the goods or damages in lieu of the same. However, businesses should be encouraged to include specific contract clauses prohibiting child labor in their supply chains. These clauses would make compliance with child labor laws a contractual obligation. Furthermore, incorporating such clauses into contracts aligns with international ethical trade standards, helping Pakistan meet global expectations for fair labor practices. Over time, this could improve Pakistan's reputation as an ethical trading partner, encouraging foreign buyers to invest more in its industries. Including non-child labor clauses in contracts is a practical and enforceable step towards eliminating exploitative labor practices and promoting responsible trade.

## **Government Collaboration with International Organizations**

Pakistan can also cooperate with international organizations or agencies, such as the International Labor Organization, to develop mechanisms for monitoring child labor by the CISG. This will ensure that labor rights, including a guaranteed ban on the use of child labor, are incorporated into all international contracts implemented by CISG. Collaboration with international agencies could facilitate the enforcement and monitoring of child labor in those sectors involved in global trade.

High-quality cooperation between the Pakistan government, international organizations, and trading partners will go a long way in solving the child labor issue. Cross-country collaboration will enhance monitoring mechanisms in the supply chain and ensure that traded products comply with international laws regarding child labor. Collaboration would involve bringing in specialized knowledge, resources, and oversight mechanisms to guarantee the effective implementation of child labor laws. For instance, ILO 167 could offer technical assistance for inspections, while UNICEF might focus on enhancing educational access for children at risk of exploitation.

## **Integrating Ethical Standards in Trade Agreements**

Pakistan can negotiate trade agreements by incorporating the provisions of the CISG with supplemental clauses regarding ethical labor practices. This means incorporating the child labor clauses into those contracts so that they fall within the scope of CISG. This will ensure businesses and trading partners undertake an obligation in contracts to ensure supply chains are free from child labor. Entrenching child labor prohibitions as a part of the contract terms under the CISG equips one with a legal remedy against violations, thus making it challenging for companies to resort to practices of employing children without suffering from the consequences of breaching a contract. Additionally, when negotiating trade agreements with other countries, Pakistan should advocate for clauses that require compliance with labor standards, such as prohibiting child labor. And presumably would integrate clauses within its trade agreements that prohibit child labor. By bridging the gap between the principles and national labor laws, Pakistan can foster trade relations based on sound, open, and honest principles, rather than those that encourage or at least do not prohibit the use of child labor in their exports.

## **Strengthening Supply Chain Monitoring**

This recommendation highlights the need for robust monitoring systems to ensure child-labor-free supply chains in Pakistan's export industries. Child labor frequently occurs in the hidden layers of production, particularly in agriculture, textiles, and manufacturing; therefore, an effective monitoring system is crucial for detecting and addressing violations. This could include mandatory audits, third-party inspections, and digital tracking tools to enhance transparency in supply chains. By monitoring every production stage, businesses can ensure that ethical standards are upheld and that no child labor is used in manufacturing processes. Strengthened monitoring would also allow buyers, both domestic and international, to confidently certify that their products meet global ethical standards, improving market access for Pakistani goods. This system should involve collaboration between the government, corporations, and international organizations to share resources and expertise. Moreover, publicizing monitoring results could act as a deterrent for violators and inspire accountability across industries. A well-monitored supply chain would not only protect children from exploitation but also build Pakistan's reputation as a responsible trading partner in global markets, attracting foreign investment and ensuring long-term sustainability in trade. Encourage corporations to take responsibility for ensuring that their supply chains are free from child labor. This can be done through CSR initiatives and transparency in sourcing. Companies can, therefore, impose requirements for transparency and adherence to child labor laws on defined terms if they ensure that all parties to the contracts executed under the CISG comply with similar conditions regarding labor considerations. Thus, child-labor-free products are internationally traded, with compliance verifiable through obligations created by contract under the CISG. Pakistani industries require stronger systems to monitor labor practices in their supply

chains. Companies should feel driven to follow the ethical guidelines set by the CISG to ensure that their products sold internationally are child labor-free

**Public Awareness and CSR** The public's demand for ethically produced goods can pressure businesses to meet labor standards. Educating the public can also discourage families from sending their children to work by highlighting the long-term benefits of education. Alongside CISG Patterns, businesses involved in international trade under the CISG can adopt Corporate Social Responsibility initiatives to demonstrate their commitment to ethical labor practices, primarily through the total elimination of child labor. Highlighting the CISG's significance in international trade and its impact on labor standards can help businesses formulate a CSR policy, rather than just focusing on legal compliance. Following the treaty principles means ensuring supply chains are free from child labor and that all trade practices are responsible and lawful with every nation. Businesses and the public must understand child labor issues, particularly the role of CISG in the ethics of international trade initiatives, which can motivate companies to establish child-labor-free policies and enhance their global reputation.

## **Setting up Specialized International Trade Tribunals to Adjudicate CISG and Child Labor Disputes**

The recommendation suggests establishing dedicated tribunals or special courts to handle child labor cases, particularly those linked to violations in supply chains or labor laws. These tribunals would focus solely on labor issues, including cases involving unethical labor practices in industries engaged in international trade. Child labor cases often get delayed in the regular judicial system. Specialized tribunals would ensure that such cases are resolved promptly, providing justice to affected children and holding violators accountable. A tribunal dedicated to child labor issues can address the specific complexities involved, such as supply chain violations, corporate liability, and

labor standards enforcement. Though CISG does not directly address child labor laws, specialized trade tribunals may be established to resolve disputes arising from international child labor contracts. This implies that if any goods traded under CISG-governed agreements are found to involve the most severe forms of child labor, these tribunals would be tasked with addressing the labor situation. These specialized mechanisms should be implemented within the CISG framework, as this approach enables disputes to be resolved more efficiently while providing a legal pathway to address child labor violations in international trade. Creating trade tribunals to address violations of child labor laws under the CISG could effectively reinforce remedies and accountability in international trade matters.

## **Encouraging Compliance through Trade Agreements**

This recommendation focuses on using trade agreements to ensure compliance with ethical labor practices, particularly eliminating child labor. Pakistan should negotiate and include binding provisions in its international trade agreements that mandate adherence to child labor-free standards. These agreements could require exporters to certify that their supply chains are free from exploitative labor practices and meet international labor standards. Trade incentives, such as preferential market access or reduced tariffs, can also be linked to compliance with these ethical standards. Such provisions create a legal obligation for businesses to prioritize ethical practices, making them accountable for their labor-sourcing methods. Encouraging compliance through trade agreements also signals Pakistan's commitment to aligning with global ethical trade norms, which can improve the country's reputation in international markets. By leveraging trade agreements, Pakistan could secure economic growth and progress toward eliminating child labor in export industries. This strategy ensures that ethical trade becomes integral to Pakistan's economic policies, fostering a more responsible and sustainable trade environment. Pakistan may consider

adopting the CISG as part of its trade agreement, wherein compliance with child labor laws should be attached to every international sales agreement. This can be implemented by negotiating a trade agreement that requires enterprises to uphold the CISG and local labor laws. These agreements can also include some monitoring mechanisms and enforcement by incorporating the ban on the employment of children as an implicit condition in contracts governed by the CISG. However, this would further integrate Pakistan into the global trading system and make the country a responsible trading partner, promoting ethical behavior. When its trade practices align with international human rights norms, sustainable economic growth should assist in the world's fight against child labor.

## **Establishing Higher Penalties for Non-Compliance with Child Labor Prohibitions**

This recommendation emphasizes the importance of enhancing enforcement through stricter penalties for individuals and businesses that violate child labor laws. The current penalties in Pakistan often lack sufficient deterrence, allowing many companies to engage in exploitative practices without facing serious repercussions. By implementing increased fines, longer prison sentences, and even closing businesses of repeat offenders, the government can communicate that child labor is unacceptable. These penalties should focus on the direct employers of child labor and target those indirectly involved, like suppliers and subcontractors within global supply chains. Regular inspections and monitoring must accompany the introduction of these harsher penalties to ensure adherence. Furthermore, the revenue from fines could be used to fund programs that rehabilitate child laborers, provide education, and assist at-risk families. Enforcing stricter penalties would discourage violations, encourage ethical practices, and position Pakistan to meet

international child labor standards. This strategy would reinforce accountability and contribute to sustainable solutions that prioritize the rights and welfare of children.

## 5.2 Conclusion

On a concluding note, it can thus be seen that though CISG is viewed in the standard sense as facilitating international sales, it can also effectively promote ethical labor practices. Pakistan can effectively utilize the potential that the CISG has to offer in combating child labor by incorporating child labor provisions into its CISG-governed contracts and enhancing supply chain transparency and international cooperation to ensure its participation in global trade is both legally and ethically sound. Child labor in Pakistan is a significant issue because of its connection with international trade, particularly in the case of products manufactured for export. The research has analyzed the usefulness of CISG in creating a framework of legislation for the prohibition of child labor within the legal and commercial fields of Pakistan. Reviewing the existing child labor laws, labor initiatives, and comparative insights into Pakistan's labor laws vis-à-vis the provisions laid down by the CISG reveals that although the primary purpose of the CISG is not to regulate labor practices directly, it nonetheless provides a model for promoting humane trade practices. The CISG may impact the fight against child labor if labor requirements are written into contracts for international transactions, mandating information and ethics from the business community. The prevalence of the convention in global trade enables Pakistan to align its domestic policies with international standards, thereby defining its legislation on child labor, particularly for industries engaged in export activities.

The implementation of globally recognized clauses related to child labor under the CISG can significantly hinder Pakistan's export sector's improvement. Pakistan's labor law enforcement has been inadequate, leading many developed nations to reconsider engaging with Pakistan as a trade

partner. Hence, the remaining parts, consisting of countries, most retailers, and individual purchasers worldwide, will recognize these child labor-free products made in Pakistan, which provide opportunities to attract larger buyers by offering ethical products. It may also open the way for more business opportunities, as international buyers, who only do business considering certain ethical practices, will show a preference for those who discourage child labor through CISG-bound agreements. As a result, products originating in Pakistan will experience increased demand in international markets, leading to higher export volumes and economic growth. Moreover, in many countries where labor standards have been set at very high levels, presenting the coinciding provisions is akin to putting Pakistan's exports in a more favorable position for the advantages above.

In conclusion, the CISG is effective in eradicating child labor and enhancing Pakistan's export industry. As Pakistan embeds ethical clauses into its international agreements and aligns its local laws with global standards, it progresses in improving its labor practices, reducing child labor, and projecting itself as a responsible player in the international trade community. With the rising understanding of the value of an 'ethical' reputation by companies, they will likely try to enforce ethical standards via their contracts more than ever before. Thus, the CISG is expected to play an increasingly significant role in eliminating child labor. Although the paper primarily addressed issues related to the prevention of child labor, it is equally likely that the CISG will soon consider clamping down on those who perpetrate it, utilizing similar safeguards to protect other fundamental human rights.

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