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# Lecture-27



## Child labour in India

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In 2011 the national census of India found the total no. of child labourers, aged 5–14, to be at 10.1 million, and the total to be 259.64 million in that age group.<sup>[2]</sup> The child labour problem is not unique to India; worldwide, about 217 million children work, many full-time.<sup>[3]</sup>

**As per the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986**, amended in 2016 ("CLPR Act"), a "Child" is defined as any person below the age of 14, and the CLPR Act prohibits employment of a Child in any employment including as a domestic help. It is a cognizable criminal offence to employ a Child for any work. Children between age of 14 and 18 are defined as "Adolescent" and the law allows Adolescent to be employed except in the listed hazardous occupation and processes which include mining, inflammable substance and explosives related work and any other hazardous process as per the Factories Act, 1948.<sup>[4]</sup> In 2001, an estimated 1% of all child workers, or about 120,000 children in India were in a hazardous job.<sup>[5]</sup> Notably, the Constitution of India prohibits child labour in hazardous industries (but not in non-hazardous industries) as a Fundamental Right under Article 24.<sup>[6]</sup> UNICEF estimates that India with its larger population, has the highest number of labourers in the world under 14 years of age, while sub-Saharan African countries have the highest percentage of children who are deployed as child labourers. The International Labour Organization estimates that agriculture, at 60 percent, is the largest employer of child labour in the world,<sup>[10]</sup> while the United Nations Food and Agriculture Organization estimates 70% of child labour is deployed in agriculture and related activities.<sup>[11]</sup> Outside of agriculture, child labour is observed in almost all informal sectors of the Indian economy.

In addition to the constitutional prohibition of hazardous child labour, various laws in India, such as the Juvenile Justice (care and protection) of Children Act-2000, and the Child Labour (Prohibition and Abolition) Act-1986 provide a basis in law to identify, prosecute and stop child labour in India.

### Definition of child labour

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The term 'child labour', suggests ILO, is best defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. Interferes with their schooling by depriving them of the opportunity to attend school; obliging them to leave school prematurely; or requiring them to attempt to combine school attendance with excessively long and heavy work.

UNICEF defines child labour differently. A child, suggests UNICEF, is involved in child labour activities if between 5 and 11 years of age, he or she did at least one hour of economic activity or at least 28 hours of domestic work in a week, and in case of children between 12 and 14 years of age, he or she did at least 14 hours of economic activity or at least 42 hours of economic activity and domestic work per week. UNICEF in another report suggests, "Children's work needs to be seen as happening along a continuum, with destructive or exploitative work at one end and beneficial work – promoting or enhancing children's development without interfering with their schooling, recreation and rest – at the other. And between these two poles are vast areas of work that need not negatively affect a child's development."

India's Census 2001 office, defines child labour as participation of a child less than 17 years of age in any economically productive activity with or without compensation, wages or profit. Such participation could be physical or mental or both. This work includes part-time help or unpaid work on the farm, family enterprise or in any other economic activity such as cultivation and milk production for sale or domestic consumption. Indian government classifies child labourers into two groups: Main workers are those who work 6 months or more per year. And marginal child workers are those who work at any time during the year but less than 6 months in a year.

After its independence from colonial rule, India has passed a number of constitutional protections and laws on child labour. The Constitution of India in the Fundamental Rights and the Directive

Principles of State Policy prohibits child labour below the age of 14 years in any factory or mine or castle or engaged in any other hazardous employment (Article 24). The constitution also envisioned that India shall, by 1960, provide infrastructure and resources for free and compulsory education to all children of the age six to 14 years. (Article 21-A and Article 45).

India has a federal form of government, and labours being a subject in the Concurrent List, both the central and state governments can and has legislated on child labour. The major national legislative developments include the following:<sup>[31]</sup>

**The Factories Act of 1948:** The Act prohibits the employment of children below the age of 14 years in any factory. The law also placed rules on whom, when and how long can pre-adults aged 15–18 years be employed in any factory.

**The Mines Act of 1952:** The Act prohibits the employment of children below 18 years of age in a mine.

**The Child and Adolescent Labour (Prohibition and Regulation) Act of 1986:** A "Child" is defined as any person below the age of 14 and the CLPR Act prohibits employment of a Child in any employment including as a domestic help (except helping own family in non-hazardous occupations). It is a cognizable criminal offence to employ a Child for any work. Children between age of 14 and 18 are defined as "Adolescent" and the law allows Adolescent to be employed except in the listed hazardous occupation and processes which include mining, inflammable substance and explosives related work and any other hazardous process as per the Factories Act, 1948.<sup>[32]</sup>

**The Juvenile Justice (Care and Protection) of Children Act of 2015:** This law made it a crime, punishable with a prison term, for anyone to keep a child in bondage for the purpose of employment.

**The Right of Children to Free and Compulsory Education Act of 2009:** The law mandates free and compulsory education to all children aged 6 to 14 years. This legislation also mandated that 25 percent of seats in every private school must be allocated for children from disadvantaged groups and physically challenged children.(It is not applied through)

## Causes

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For much of human history and across different cultures, children less than 17 years old have contributed to family welfare in a variety of ways. UNICEF suggests that poverty is the biggest cause of child labour. The report also notes that in rural and impoverished parts of developing and undeveloped parts of the world, children have no real and meaningful alternative. Schools and also teachers are unavailable. Child labour is the unnatural result.

Between boys and girls, UNICEF finds girls are two times more likely to be out of school and working in a domestic role. Parents with limited resources, claims UNICEF, have to choose whose school costs and fees they can afford when a school is available. Educating girls tends to be a lower priority across the world, including India.

The unintended effect of Indian complex labour laws is the work has shifted to the unorganised, informal sector. As a result, after the unorganised agriculture sector which employs 60% of child labour, it is the unorganised trade, unorganised assembly and unorganised retail work that is the largest employer of child labour.

Cigno et al. suggest the government planned and implemented land redistribution programs in India, where poor families were given small plots of land with the idea of enabling economic independence, have had the unintended effect of increased child labour. They find that smallholder plots of land are labour-intensively farmed since small plots cannot productively afford expensive farming equipment. In these cases, a means to increase output from the small plot has been to apply more labour, including child labour.

## Bonded child labour in India

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Bonded child labour is a system of forced, or partly forced, labour under which the child, or child's parent enter into an agreement, oral or written, with a creditor. The child performs work as in-kind repayment of credit.<sup>[48]</sup> In the 2005 ILO report, debt-bondage in India emerged during the colonial period, as a means of obtaining reliable cheap labour, with loan and land-lease relationships implemented during that era of Indian history. This was regionally called Hali, or Halwaha, or Jaura systems; and was named by the colonial administration as the *indentured* labour system. These systems included bonded child labour. Over time, claims the ILO report, this traditional forms of long-duration relationships have declined.

### Consequences of child labour

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The presence of a large number of child labourers is regarded as a serious issue in terms of economic welfare. Children who work fail to get necessary education. They do not get the opportunity to develop physically, intellectually, emotionally and psychologically.

### Diamond industry

In the year 1999, the International Labour Organization co-published a report with Universal Alliance of Diamond Workers, a trade union.<sup>[59]</sup> The ILO report claimed that child labour is prevalent in the Indian diamond industry. International Confederation of Free Trade Unions (ICFTU) in a separate 1997 press release observed that child labour continued to flourish in India's diamond industry.

### Fireworks manufacture

The town of Sivakasi in South India, known for its fireworks and matchsticks industries, has been reported to employ child labour in the production of fireworks. In 2011, Sivakasi, Tamil Nadu was home to over 9,500 firecracker factories and produced almost 100 percent of total fireworks output in India.<sup>[66]</sup> The fireworks industry employed about 150,000 people at an average of 15 employees per factory. Most of these were in unorganized sector, with a few registered and organized companies.

### Domestic labour

Official estimates for child labour working as domestic labour and in restaurants is more than 2,500,000 while NGOs estimate the figure to be around 20 million.<sup>[75]</sup> The Government of India expanded the coverage of The Child Labour Prohibition and Regulation Act and banned the employment of children as domestic workers and as workers in restaurants, dhabas, hotels, spas and resorts effective from 10 October 2006.

### Non-governmental organisations

Many NGOs like Bachpan Bachao Andolan, Child Fund, CARE India, Talaash Association, Child Rights and You, Global march against child labour, Bundelkhand matra bhumi samaj sevi sansthan project stop working with child labour in India, Good Weave, RIDE India, Child line etc. have been working to eradicate child labour in India.<sup>[79]</sup>

Child labour has also been a subject of public interest litigations in Indian courts.<sup>[84][85]</sup>

### Demography of child labour

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As reported by Save the Children, children between the ages of 14–17 years engage in hazardous work and account for 62.8% of India's child labour workforce in which more boys than girls (38.7 million vs. 8.8 million) are forced into doing more hazardous work.<sup>[86]</sup> Child labour used to be most ubiquitous in rural India in which 80% of working children found work.

### Bonded Labor System (Abolition) Act, 1976

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Under Article 23 of The Constitution of India, Prohibition is imposed on the practice of Traffic in Human Being and of Forced Labor. It also provides that contravention of said prohibition is an offense under law. The practice of bonded labor was prevalent in the Indian society. Under this system when an elder of an Indian family took a loan mostly for agriculture and fails to repay the

same, his descendants or dependents have to work for the creditor without reasonable wages until the loan is repaid. This system is commonly known as Bandhua Mazdoori). Also it is to be mentioned here that because of illiteracy and backwardness the loan structure was made in a way that the interest over a small period of time will be greater than the principal sum and then there was interest charged on the already existing interest. Hence the loans were made in a way that they cannot be repaid. Several generations are made to work in degradable condition and extreme poverty under this system. Even after India got independence and Indian Constitution came to power that enshrines the principal of Equality and Dignity. The practice of Bandhua Mazdoori) continued.

With an aim to end this practice, Indian Parliament enacted Bonded Labor System (Abolition) Act, 1976.

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#### Child and Adolescent Labour (Prohibition and Regulation) Act, 1986

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The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 is a Law enacted on 23 December 1986 by the Parliament of India and Ministry of Labour and Employment.

The Act prohibits private, government or semi-government companies, organizations, civil departments or child's family from employing a Child or Adolescent in any occupation or process, intended to aid his family or guardian. Any occupier or employer caught doing such thing in which a child is being used as a Laborer, is regarded a serious offensive crime.