



Allegations of Child Labour in Trade Negotiations with Australia

For Prelims: [India-Australia Economic Cooperation and Trade Agreement](#), [Bonded labour](#), [Child labour](#), [International Labour Organization](#), [Article 24](#), [Article 23](#)

For Mains: Child labour and forced labour in India, Issues Related to Children, Forced labour in India.

Source: [IE](#)

Why in News?

The Indian Ministry of Commerce and Industry has firmly refuted allegations of [child labour](#) made in a recent report by **Australia's Joint Standing Committee on Trade and Investment Growth**.

- The allegations surfaced amid ongoing negotiations between **India and Australia for the Comprehensive Economic Cooperation Agreement (CECA)**, which aims to broaden the existing [Economic Cooperation and Trade Agreement \(ECTA\) signed in 2022](#).

What are the Allegations Made by the Australian Panel?

- The Australian committee's report, highlighted concerns about child and forced labour in India, based on claims by the Community and Public Sector Union (CPSU) and the State Public Services Federation (SPSF Group).
- The report recommended that the Australian Government include human rights, labour, and environmental chapters in its trade agreements, aligning with [United Nations](#) and [International Labour Organisation conventions](#) and declarations signed by Australia.
- **Facts Supporting Australia's Claim:**
 - According to the [2023 Global Slavery Index](#) estimates by **Walk Free**, an international human rights group focused on the eradication of modern slavery, there were **11 million people living in modern slavery in India** on any given day in 2021, the highest number of any country.
 - As per **Census 2011**, the total child population in India in the **age group (5-14) years is 259.6 million**.
 - Of these, **10.1 million (3.9% of total child population) are working**, either as 'main worker' or as 'marginal worker'. In addition, more than 42.7 million children in India are out of school.

How has India Responded?

- **Child Labour is Prohibited:** The Indian government has categorically refuted the allegations, stating that existing rules and regulations **prohibit child labour and bonded labour**.
- **Constitutional Protection:** India's Constitution protects labour rights and empowers **both central and state governments to enact laws like the Bonded Labour System (Abolition)**

- **Act, 1976 to safeguard workers' rights**, including forming unions and preventing harassment.
- **Strict Licensing and Compliance:** All business entities in India are licensed by local governing bodies and must comply with **labour welfare laws prescribed by the union and state governments.**
- **Comprehensive Records:** Processing units maintain comprehensive records related to processing, quality checks, employee training, and compliance with applicable rules and regulations.

What does India's Legal Framework Say About Child Labour and Forced Labour?

- **Constitutional Rights:**
 - **Article 23:** It prohibits **trafficking in human beings and forced labour**, ensuring protection against exploitation and degrading work conditions.
 - It allows for **compulsory service for public purposes, with no discrimination based on religion, race, caste, or class.**
 - The article aims to eradicate practices that exploit individuals and uphold principles of equality, justice, and respect for human rights.
 - **Article 24:** Of the Indian Constitution **prohibits the employment of children under 14 in factories, mines, or hazardous occupations.**
 - The aim is to protect children from exploitation, ensure their health and development, and provide access to education.
 - The government can determine specific hazardous occupations and enforce this provision through legislation and regulations.
 - Article 24 is closely connected to **Article 21A**, which **ensures the right to education for children aged 6 to 14.**
 - By banning child labour, Article 24 supports the fulfilment of the right to education and ensures that children can develop their potential and skills through proper schooling.
 - **Article 39:** It **outlines principles that the State should follow**, including ensuring equal rights to livelihood for men and women, equal pay for equal work, **protection of workers' health and children's well-being, and opportunities for children to develop in a healthy and dignified manner.**
- **Legislations Against Child Labour:**
 - **Child Labour (Prohibition & Regulation) Act, 1986 (amended in 2016):**
 - Bans employing children under 14 in all work. However, **it makes an exception for work in family businesses, outside of school hours** and during vacations, and in the entertainment industry (subject to safety measures), provided it does not affect their school education.
 - Restricts adolescents (14-18) from hazardous occupations.
 - Lists expand progressively based on recommendations.
 - **Factories Act, 1948:** No children under 14 in factories.
 - **Mines Act, 1952:** No children under 18 in mines.
 - **Juvenile Justice (Care and Protection of Children) Act, 2015:**
 - Working children are considered "in need of care and protection."
 - A child in need of care and protection is defined as a child who is **homeless, engaged in illegal labour**, living on the streets or begging, living with an abusive guardian, at risk of drug abuse or trafficking, facing exploitation, suffering from incurable diseases or disabilities, a victim of armed conflict or natural disasters, or at risk of early marriage.
 - **National Policy on Child Labour (1987):** Focuses on rehabilitation of children already working.
 - **The Right of Children to Free and Compulsory Education (RTE) Act, 2009:** Ensures free education and **indirectly prevents child labour by keeping children in school.**
 - In 2001, there were **1.26 crore working children aged 5-14 out of a total child population of 25.2 crore.** A survey in 2004-05 estimated the number of working children at 90.75 lakh.
 - By 2011, the number of working children in the **same age group had further reduced to 43.53 lakh**, indicating successful government efforts.

▪ **Legislations Against Forced Labour:**

- **Bonded Labour System (Abolition) Act, 1976:** Criminalises bonded labour (debt traps).
 - The act freed all bonded labourers, liquidated their debts, and made the **practice of bondage punishable by law.**
 - The Act is being **implemented by the State Governments.** District Magistrates have been given responsibilities for implementing the Act, and vigilance committees are required to be formed at district and sub-divisional levels. Offences under the Act can result in imprisonment for up to three years and fines of up to two thousand rupees.
- **Central Sector Scheme for Rehabilitation of Bonded Labourer, 2021:**
 - Launched in 1978, by the Ministry of Labour, **provides financial assistance for the rehabilitation of freed bonded labour,** shared by Central and State Governments.
 - The scheme was later modified and revamped in 2016 and 2022, **offering financial assistance of Rs. 1-3 lakhs per beneficiary.**
 - State Governments are not required to pay matching contributions for cash rehabilitation assistance.
 - A total of 315,302 bonded labourers have been released till date, and from 1978 to January 2023, a total of 296,305 bonded labourers have been rehabilitated.

Note:

- Bonded labour, defined by the [National Human Rights Commission of India](#), is a form of slavery called **debt bondage** that has persisted for centuries.
- It is considered the most severe form of modern slavery, where workers are forced to **work for long periods with little pay.** This can include being coerced to work without pay for a specific period by an employer as a way to settle a debt.
- In 1983, the [Supreme Court](#) ruled in the **People's Union For Democratic Rights (PUDR) vs. Union of India** case that the **right against forced labour includes the right to a minimum wage.**
 - The Court recognised that migrant and contract labourers often had no choice but to accept work for less than the minimum wage, and held that this economic compulsion was a form of forced labour.
- The Court emphasised the need for a constitutional guarantee of the minimum wage to address this issue.

What are International Labour Organisation Conventions Regarding Child Labour?

- The Core Conventions of the ILO (also called fundamental/human rights conventions) are:

Convention	Key Provisions	Status in India
Forced Labour Convention, 1930 (No. 29)	Prohibits all forms of forced or compulsory labour, including debt bondage.	Ratified
Equal Remuneration Convention (No. 100)	Outlines principles for equal remuneration for work of equal value, regardless of gender. Focuses on gender discrimination in employment.	Ratified
Minimum Age Convention, 1973 (No. 138)	Stipulates that the minimum age for work should not be below the age of compulsory schooling and in any case	Ratified

	not less than 15 years, with possible exceptions for developing countries.	
Worst Forms of Child Labour Convention, 1999 (No. 182)	Prohibits hazardous work likely to jeopardize children's physical, mental, or moral health, aiming at the immediate elimination of the worst forms of child labour for children below 18 years.	Ratified
Right to Organise and Collective Bargaining Convention (No. 98)	Establishes rules for freedom of unionisation and collective bargaining, protecting workers from discrimination for union activities. Requires promotion of voluntary negotiations between governments and workers.	Not Ratified

Drishti Mains Question:

Q. Examine the relationship between economic cooperation agreements and human rights obligations. Should human rights, labour, and environmental chapters be included in trade agreements? Justify your answer with examples.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Prelims:

Q. International Labour Organization's Conventions 138 and 182 are related to (2018)

- (a) Child Labour
- (b) Adaptation of agricultural practices to global climate change
- (c) Regulation of food prices and food security
- (d) Gender parity at the workplace

Ans: (a)

Q. Consider the following countries: (2018)

1. Australia
2. Canada
3. China
4. India
5. Japan
6. USA

Which of the above are among the 'free-trade partners' of ASEAN?

- (a) 1, 2, 4 and 5
- (b) 3, 4, 5 and 6
- (c) 1, 3, 4 and 5
- (d) 2, 3, 4 and 6

Ans: (c)

Mains:

Q. Examine the main provisions of the National Child Policy and throw light on the status of its implementation. (2016)

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