



**COUNTRY BASELINES UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2008)<sup>1</sup>: INDIA**

***THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)***

<b>REPORTING</b>	<b>Fulfillment of Government's reporting obligations</b>	<b>YES</b> , since the start of the Annual Review (AR) in 2000. No change report for the 2005 AR.
	<b>Involvement of Employers' and Workers' organizations in the reporting process</b>	<b>YES</b> , according to the Government: Involvement of the Council of Indian Employers; Employers' Federation of India (EFI); All India Organisation of Employers; Standing Conference of Public Enterprises; All India Manufacturers' Organisation (Lagdhu Udyog Bharati-AIMO); Bharatiya Mazdoor Sangh (BMS); Indian National Trade Union Congress (INTUC); Centre of Indian Trade Unions (Hind Mazdoor Sabha-HMS); All India Trade Union Congress; United Trade Union Congress (AITUC); and National Front of Indian Trade Unions through communication of Government's report.
<b>OBSERVATIONS BY THE SOCIAL PARTNERS</b>	<b>Employers' organizations</b>	<b>2008 AR:</b> Observations by the CIE and its 18 affiliates <b>2007 AR:</b> Observations by the Employers Federation of India (EFI)
	<b>Workers' organizations</b>	<b>2008 AR:</b> Observations by the AITUC Observations by the Bharatiya Mazdoor Sangh (BMS) <b>2007 AR:</b> Observations by HMS Observations by INTUC <b>2003 AR:</b> Observations by HMS Observations by the International Confederation of Free Trade Unions (ICFTU). <b>2002 AR:</b> Observations by the World Confederation of Labour (WCL).

<sup>1</sup> Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the Government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: [www.ilo.org/ilolex](http://www.ilo.org/ilolex)

<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Ratification</b>	<b>Ratification status</b>	<p><b>India has ratified neither the Minimum Age Convention, 1973 (No.138) (C.138), nor the Worst Forms of Child Labour Convention, 1999 (No.182) (C.182).</b></p>
	<b>Ratification intention</b>	<b>Ratification intention</b>	<p><b>YES, ratification of C. 138 and C. 182 will be considered once the national laws are in conformity with the provisions of these conventions.</b></p> <p><b>2008 AR:</b> The CIE, the AITUC and the BMS expressed their support to the ratification of C.138.</p> <p><b>2007 AR:</b> The Government of India reiterated its statement under the 2006 AR that ratification of C.138 and C.182 would be considered after enactment of national laws in conformity with the requirements of these Conventions.</p> <p>According to the EFI: C.138 and C.182 should be ratified by India at a later stage.</p> <p>According to HMS and INTUC: The ratification of C.138 and C.182 is supported by all trade unions of India. A tripartite committee regarding the ratification of C.138 and C.182 met in May 2006 in Delhi, and trade unions hope that ratification of these instruments will take place soon in India, together with ratification of all the remaining fundamental Conventions.</p> <p><b>2006 AR:</b> According to the Government: India is firmly committed to the elimination of all forms of child labour and particularly the worst forms of child labour. The matter of ratification of C. 182 is being taken seriously at the Government level and will be considered once the national laws are in conformity with the requirements of the Conventions. As far as Convention No. 138 is concerned the Government states that its ratification will be considered after enactment of central legislation for fixing the minimum age for admission to employment.</p> <p><b>2001 AR:</b> Based on information in GB.282/LILS/7 and GB.282/8/2 (Nov. 2001), the Government is considering ratification of C.138 and C.182.</p> <p>The Government stated that ratification of C.138 would be considered after the enactment of central legislation for fixing minimum ages for admission to employment and for undertaking hazardous work.</p>
<b>Recognition of the principle and right (prospect(s), means of action, basic provisions)</b>	<b>Constitution</b>	<b>Constitution</b>	<p><b>YES, 2006 AR:</b> The Constitution of India was amended. The Constitution (86<sup>th</sup>) Amendment Act, 2002, published in the Gazette of India on 13<sup>th</sup> December 2002, enshrines the right of education for children from 6 to 14 years as a fundamental right. It provides the following:</p> <ul style="list-style-type: none"> <li>-Insertion of New Article 21A. The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine».</li> <li>-Substitution of new article for article 45. The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.»</li> <li>-New clause to Article 51A after the clause (j) i.e. clause «(k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years».</li> </ul> <p><b>2000-2004 ARs:</b> According to the Government: Article 24 of the Constitution prohibits employment of children below the age of 14 years in factories, mines and other hazardous employments. Article 39 (Directive Principles) of the Constitution stipulates that the children should be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that childhood and youth be protected against exploitation and against moral and material abandonment. These articles have been complemented by article 45 (Directive Principles) stating that the State should endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they reach the age of 14 years. However, despite these constitutional provisions, India cannot achieve much progress towards the eradication of child labour and compulsory education for all children.</p>

EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Recognition of the principle and right (prospect(s), means of action, basic provisions)	Policy, Legislation and/or regulations	<ul style="list-style-type: none"> <li>• <b>Policy</b></li> </ul> <p><b>2000-2002 ARs:</b> According to the Government: Eradication of child labour is one of the important objectives in the social policy. Accordingly, India has all along followed a proactive policy in the matter of tackling the problem of child labour and a national policy on Education was adopted in 1986.</p> <p>-Article 39 (Directive Principles) stipulates that the State should in particular direct its policy towards securing the health and strength of workers, men and women and the tender age of children are not abused and that citizens are not forced by economic necessity to enter a vocation unsuited to their age and strength.</p> <p>-A National Policy on Child Labour was announced in 1987, which contains the action plan for tackling child labour. The India National Policy on Education, 1986 provides for free and compulsory education for all children up to the age of 14 years.</p> <ul style="list-style-type: none"> <li>• <b>Legislation</b></li> </ul> <p>According to the Government: The Government is actively considering enacting central legislation for fixing a minimum age of 14 years for admission to work in all occupations excluding agriculture in family and smallholdings; and of 18 years for admission to any work that jeopardizes the health, safety or morals of young persons.</p> <p>The Child Labour (Prohibition and Regulation) Act, 1986, prohibits employment of children below the age of 14 years in 13 hazardous occupations and 57 hazardous processes.</p>
		Basic legal provisions	(i) The Constitution of India, articles 21, 24, 39, 45 and 51; (ii) the Child Labour (Prohibition and Regulation) Act, 1986; (iii) the Factories Act 1948; (iv) the Mines Act; (v) the Motor Transport Workers' Act; (vi) the Immoral Trafficking Prevention Act (ITPA) 1956; (vii) the Indian Penal Code (IPC); (viii) Act No. 45 of 1860; (ix) the Code of Criminal Procedure, 1883; (x) the Evidence Act, 1872; (xi) the Juvenile Justice Act (JJA), 2000; and (xii) the Indian Information Technology Act 2000.
		Judicial decisions	<b>2000 AR:</b> In a Supreme Court judgment, dated 10 December 1996 (Writ Petition (Civil) No. 465/1986), the Honourable Court gave certain directions regarding the manner in which children working in hazardous occupations are to be withdrawn from work and rehabilitated, and in which the working conditions of children in non-hazardous occupations are to be regulated and improved.
	Exercise of the principle and right	Compulsory education	<b>The compulsory age for schooling of children in India is 6-14 years of age for both boys and girls. To complete compulsory education, 8 years/grades of instruction are required.</b>
		Minimum Age	<b>Legislation in India does not establish a general minimum age for admission to employment.</b>
		Worst Forms of Child Labour	<p><b>2005 AR:</b> According to the Government: The following worst forms of child labour are believed to exist in India for both boys and girls: (i) sale and/or trafficking; (ii) debt bondage, serfdom, (iii) forced or compulsory labour; (iv) prostitution; and (v) pornography.</p> <p><b>2003 AR:</b> According to the Government: Special efforts have been made to combat the trafficking of women and children. These include: (i) drawing up of a National Plan of Action (1998) and constitution of a National and State Advisory Committees to combat trafficking; (ii) review of the legal framework; (iii) awareness-raising of government departments, police and civil society; (iv) assistance schemes to NGOs to work in areas of origin and destination; (v) enhanced rescue operations since 2001; (vi) signature of the SAARC Convention against trafficking for prostitution.</p>

			<b>2002 AR:</b> According to the Government: The amendment of existing legislation to address the elimination of the worst forms of child labour was under examination.
<b>EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>Exercise of the principle and right</b>	<b>Special attention to particular situations</b>	<b>2003 AR:</b> According to the Government: Special measures have been undertaken to combat trafficking of women and children.
		<b>Information/Data Collection and Dissemination</b>	<p><b>2006 - 2007 AR:</b> According to the 2001 Census, the estimated figures of working children were 12.66 million.</p> <p><b>AR 2002-2005 ARs:</b> According to the Government: Every ten years, a census is undertaken providing information on the extent and/or nature of child work.</p> <p>-Surveys of working children are also undertaken by National Sample Survey Organisations at stipulated frequencies. The last Census was undertaken in 2001. The results are presented separately by sex, occupation and type of activity. The age groups are from 5 to 14 years old.</p> <p>-The Government records the number of children withdrawn from child labour, the number of ex-child labourers pursuing formal or non-formal education and the sanctions applied to users of child labour.</p> <p><b>2000 AR:</b> According to the 1991 census, the estimated figure of working children was 11.28 million.</p>
	<b>Monitoring, enforcement and sanctions mechanisms</b>	<p><b>2002 AR:</b> According to the Government: the following specific measures and programmes of action to eliminate the worst forms of child labour have been implemented: legal reform; inspection/monitoring mechanisms; penal sanctions; civil or administrative sanctions; and special institutional machinery.</p> <p><b>2000 AR:</b> According to the Government: The Child Labour Act provides for the appointment of inspectors. The Act also provides that an inspector or any other person or police officer may file complaints under the Act. The Act provides for penalties including imprisonment for terms ranging from three months up to one year and a fine.</p>	
	<b>Involvement of the social partners</b>	<p><b>2003 AR:</b> According to the Government: Hind Mazdoor Sabha's observation indicates that workers' organizations are involved in awareness raising, advocacy, ensuring a special clause in wage agreements, running some Non-Formal Education and Rehabilitation Centres for child labourers and pressuring the Government to adopt policies of compulsory and free education and employment creation and income generation schemes.</p> <p><b>2002 AR:</b> According to the Government: The employers' and workers' organizations involved in the development and implementation of measures and programmes of action are represented as members of the Central Advisory Board on Child Labour and the National Steering Committee, ILO/IPEC. They participate in the deliberations of the Committee and the Board, and are involved in the implementation of projects at the district level.</p>	
	<b>Promotional activities</b>	<p><b>2007 AR:</b> According to the Government: A joint project in partnership with the US Department of Labour (US DOL) for rehabilitation of working children called the INDUS Project is under implementation since 2004. The INDUS Project is funded by US \$ 40 million with equal contribution of Government of India and US DOL. At present, INDUS is functioning in 21 districts in 5 states of the country, and presently 956 Transitional Education Centres are covering 47,800 children. A financial support has been provided for the rehabilitation of child labour in the financial year 2005-06. Moreover, under the Grant-in-Aid (GIA) Scheme, funds are released by NGOs to set up special schools on the model of the National Child Labour Project (NCLP) schools. At present, 220 special schools are covering 11,000 children. Financial support has also been provided for the rehabilitation of child labour in the financial year 2005-06.</p> <p>The EFI is in favour of the eradication of child labour through tripartite fora, publication of labour market information including child labour and awareness raising activities on the PR.</p>	

		<p>According to HMS and INTUC: Under the Decent Work Country Programme, HMS and INTUC organized workshops on fundamental Conventions. Moreover, HMS, INTUC and AITUC opened schools and promoted schooling for poor children in tobacco industries (Beedi handmade cigars) in the framework of INDUS. Activities included distribution of books and posters for child labour prevention and a week celebration for the abolition of child labour. In addition, HMS and INTUC organize workers' awareness raising activities on fundamental Conventions, national laws and judicial decisions.</p> <p><b>2006 AR:</b> According to the Government: Special schools have been established for providing formal and vocational training through the 'National Child Labour Projects (NCLPs)'. Supplementary nutrition, stipend, health care, etc., are also provided to children withdrawn from the employment. Three main policies are pursued, namely legal action plan for strict law enforcement; use of ongoing development projects for contributing to elimination of child labour; and projects for the welfare of working children in areas of high concentration of child labour.</p> <p><b>2002-2005 ARs:</b> According to the Government: The following specific measures and programmes of action to eliminate the worst forms of child labour have been implemented: employment creation/ income generation; social assistance (e.g. stipends, subsidies, vouchers); child rehabilitation following removal from work; awareness raising/ advocacy; and international cooperation programmes or projects.</p> <p><b>2000 AR:</b> According to the Government: National Child Labour Projects (NCLPs) have been set up to rehabilitate child labourers, including the establishment of special schools to provide non-formal education, vocational training, supplementary nutrition, etc. to children withdrawn from employment. So far, 83 child labour projects had been approved, with 150,000 children enrolled in special schools. Under the NCLP Scheme, three main policies are pursued: legal action plan for strict law enforcement; use of ongoing development projects for contributing to elimination of child labour; and projects for the welfare of working children in areas of high concentration of child labour.</p>	
	<b>Special initiatives/Progress</b>	<p><b>2006 AR:</b> According to the Government: National Child Labour Projects (NCLPs) are implemented in 250 districts with 5394 special schools rehabilitating 2.77 lakh children. An amount of Rs. 93.158 crores have been spent on various schemes for rehabilitation of child labour in the financial year 2004-05. Over 3.23 lakh children have already been withdrawn and mainstreamed into the formal education system.</p> <p><b>2005 AR:</b> According to the Government: The National Child Labour Projects (NCLP), Grant-in-aid projects and projects under IPEC have yielded encouraging results. Civil society organizations have also played an important role. Specific measures taken include employment creation/income generation, vocational and skills training, social assistance programmes and child rehabilitation following removal from work.</p> <p><b>2003 AR:</b> According to the Government: NCLPs were functioning in 100 districts, covering 211,000 children (in 2001) with funding of over Rs2.5 billion. Over 150,000 children had already been withdrawn and mainstreamed into the formal education system.</p>	
<b>CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT</b>	<b>According to the social partners</b>	<b>Employers' organizations</b>	<p><b>2007 AR:</b> According to EFI: Child labour exists in the agricultural sector and the informal economy. It is almost non-existent in the formal sector.</p>
		<b>Workers' organizations</b>	<p><b>2008 AR:</b> The AITUC indicated that the same challenges mentioned by the HMS and INTUC in the 2007 AR and added that remunerations should therefore be increased in order to improve the rate of schooling among children. It added that the main difficulty lied in the informal economy.</p> <p><b>2007 AR:</b> According to HMS and INTUC: Poverty is the major obstacle to the abolition of child labour in India. A Poverty Reduction Strategy Programme (PRSP) is being conducted to fight against poverty in the country.</p>

		<p><b>2003 AR:</b> The ICFTU maintained that governmental efforts to reduce child labour had yet to have much impact, and that the problem remained enormous. Around half of India's child labourers are engaged in dangerous occupations and the other half work elsewhere in the informal sector. Some sectors with child labour produce for export (e.g., gem-stones, carpets and textiles). Further, ICFTU stated that the constitutional provision to provide free and universal primary education had not been put into effect.</p> <p><b>2003 AR:</b> According to HMS, the main obstacles are the political will of the Government, lack of free and compulsory education, poverty, unemployment, public apathy and land reforms.</p> <p><b>2002 AR:</b> According to the WCL, the main causes of child labour include poverty, especially in rural areas, lack of free educational facilities and consequent illiteracy, lack of labour inspectors and inadequate training and equipment for them, and lack of sufficient rehabilitation projects.</p>
	<b>According to the Government</b>	<b>2005 AR:</b> According to the Government: Poverty, unemployment and illiteracy are the main obstacles.
<b>TECHNICAL COOPERATION</b>	<b>Request</b>	<p><b>2008 AR:</b> The AITUC requested ILO assistance to fight against poverty. The BMS stated that a country assessment on the Declaration Follow-up is needed.</p> <p><b>2007 AR:</b> According to HMS and INTUC: More ILO support is required under the PRSP in India.</p> <p><b>2005 AR:</b> According to the Government. The ILO-IPEC Programme is approved until 31 December 2006.</p> <p><b>2002 AR:</b> The Government sees a need for continued technical cooperation with the ILO in the following areas (in order of priority): (1) employment creation, skills training and income generation; (2) sharing of experience across countries/regions; (3) strengthening capacity of employers' and workers' organizations; (4) capacity building of responsible government institutions; and (5) awareness raising, legal literacy and advocacy.</p>
	<b>Offer</b>	<p><b>2007 AR:</b> ILO/IPEC, UNICEF, US DOL, NGOs.</p> <p><b>2002-2005 ARs:</b> In addition to ILO/IPEC, the Department of Women and Child Development and the Ministry of Labour are working with UNICEF, and the Ministry of Rural Development is working with the United Nations Development Programme (UNDP).</p> <p><b>2000 AR:</b> India was the first country to join IPEC, through a Memorandum of Understanding (MOU) signed in 1992.</p>
<b>EXPERT-ADVISERS' RECOMMENDATIONS</b>		<b>2008 AR:</b> The ILO Declaration Expert-Advisers (IDEAs) were concerned that few governments, such as India (and three other governments), had indicated their current lack of effort to ratify C.138 and/or C.182 (Cf. Paragraph 57 of the 2008 Annual Review Introduction – ILO: GB.301/3).
<b>GOVERNING BODY RECOMMENDATIONS</b>		NIL