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Foreign Labor Trends Report: 2006 India

Abstract

An overview of recent trends in India's labor market, government, economy and trade.

Keywords

India, labor trends, Department of Labor, social indicators

Comments

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**FOREIGN LABOR TRENDS REPORT
INDIA 2006**

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I. KEY LABOR INDICATORS¹ INDIA 2006

| Indicator | 2005 | 2006 | % Change |
|---|--------------------|-------|----------|
| 1. Per capita GDP, current prices (US\$) ² | 3,100 | 3,400 | 9.7 |
| 2. Consumer prices (inflation rate, est.) (%) | 4.2 | 4.6 | 9.5 |
| 3. GDP generated in agriculture (%) | 23.6 | 20.6 | -12.7 |
| 4. --, in industry (%) | 28.4 | 28.1 | -1.1 |
| 5. --, in services (est. %) | 48.0 | 51.3 | 6.4 |
| 6. Population, total (millions, est.) | 1.080 | 1.095 | 1.4 |
| 7. -- by major ethnic groups (%) (2000 est.) | | | |
| Indo-Aryan | 72 | 72 | 0.0 |
| Dravidian | 25 | 25 | 0.0 |
| Mongoloid and others | 3 | 3 | 0.0 |
| 8. --, in major urban areas (%) ³ | 28 | 28 | 0.0 |
| 9. Population beneath the poverty level (est. %) | 25 | 25 | 0.0 |
| 10. Birth rate (per thousand population) | 22.23 | 22.01 | -1.0 |
| 11. Life expectancy at birth, total (year) | 64.35 | 64.71 | 1.0 |
| 12. --, male | 63.57 | 63.90 | 0.6 |
| 13. --, female | 65.16 | 65.57 | 0.6 |
| 14. Adult literacy rate (%) | 59.5 | 64.8 | 8.9 |
| 15. Labor force, civilian, total (millions, est.) | 482.2 | 496.4 | 2.9 |
| 16. --, agriculture (%) | 60 | 60 | 0.0 |
| 17. --, industry (%) | 17 | 17 | 0.0 |
| 18. --, services (%) | 23 | 23 | 0.0 |
| 19. --, in the informal economy (%) | 93 | n/a | ~ |
| | <u>2004</u> | | |
| 20. Employment, civilian, total (millions) | 18.6 | n/a | ~ |
| 21. --, in industry (%) | 11.7 | n/a | ~ |
| 22. --, in special economic zones (est.%) | 0.1 | n/a | ~ |
| 23. --, in agriculture (%) | 7.2 | n/a | ~ |
| 24. --, in services (%) | 81.0 | n/a | ~ |
| 25. --, in government (%) | n/a | n/a | ~ |
| | <u>2005</u> | | |
| 26. Unemployment rate (2004 & 2005 est.%) | 9.2 | 9.9 | 7.6 |
| 27. Underemployment rate (%) | n/a | n/a | ~ |
| 28. Level of unionization of workforce (2003 est. %) | 7 | n/a | ~ |
| 29. Labor productivity, manufacturing (2003 & 2004 est.%) | 6.0 | 7.4 | 23.3 |

n/a = not available

Exchange rate: US\$ = 45.01 rupees (April 2006); 44.101 rupees (2005) 45.8692 rupees (2004)

Please Note: The labor force figure relates to the formal sector in India – defined by law – it does not include all industries. Authentic figures for all industries are not available and the Government provides figures only for the formal sector – as defined by it. Informal economy includes the booming software industry and other services not included in the formal sector.

¹ U.S. Embassy-New Delhi source for Indicators 8, 14, 19-25, 28 and 29; *CIA World Factbook* 2005 and 2006, source for Indicators 1-7, 9-13, 15-18, 26 and 27.

² U.S. Department of State, *Background Notes* 12/05 reports that India's per capita GDP is \$640 (2004) available from <http://www.state.gov>

³ *Ibid*, reports over 70 percent Indians live in the rural area (in more than 550,000 villages.)

II. SUMMARY OF MAJOR DEVELOPMENTS

Government

The Government is a federal republic made up of three branches at the federal level: the Executive Branch, consisting of the President (Chief of State), the Prime Minister (Head of Government), and the Council of Ministers (Cabinet); the Legislative Branch, which has a bicameral Parliament, consisting of a lower house (Lok Sabha) with 545 members and an upper house (Rajya Sabha) with no more than 245 members; and the Judicial Branch, which is independent. At the state level, each of India's 28 states and 7 union territories has its own state assembly, council of ministers, and court system.

In 2004, India held national parliamentary elections that resulted in a change of government. A United Progressive Alliance (UPA) government led by the Congress Party under Prime Minister Dr. Manmohan Singh took office in May 2004 replacing the Bharatiya Janata Party (BJP) led National Democratic Alliance (NDA) government. The BJP is now the main opposition party, with 131 seats. A group of regional and communist parties does not belong formally to the UPA but supports the UPA government from the outside. The UPA depends on the cooperation of these outside parties to maintain its control of Parliament, a situation that has sometimes produced tension between Congress and its allies, particularly over economic and labor policies.

Economy

India's economy encompasses traditional village farming, modern agriculture, handicrafts, a wide range of modern industries, and a multitude of support services. The agricultural sector employs the largest percentage of the workforce, although it generates only 20.6 percent of GDP. Major crops include wheat, rice, coarse grains, oilseeds, cotton, jute, and tea. Major industrial products include textiles, processed food, steel, machinery, transportation equipment, cement, aluminum, fertilizers, mining, petroleum, chemicals, and computer software. India is capitalizing on its large numbers of well-educated people skilled in the English language to become a major exporter of software services and workers.

India's impressive growth rate is largely attributable to increased agricultural production, robust merchandise exports, a booming stock market, and the steady pace of reforms. The Government would like to increase the growth rate, but most economists believe it will not be possible without further structural reforms. Wages and benefits kept pace with inflation.

Workforce

In 2006, there are an estimated 496.4 million workers in the Indian economy. Only seven percent of the work force is in the formal, organized sector. Growth in this sector remains sluggish. Employer organizations attribute this to the presence of labor laws that restrict downsizing. To circumvent such laws, private sector companies continue hiring workers on a contract basis. The informal sector, where the workforce generally does not

enjoy legal protection, has witnessed more growth. Official statistics put the unemployment rate at 9.9 percent, but unofficial estimates suggest it could be as high as 20 percent.

HIV/AIDS in the Workplace

According to the National AIDS Control Organization (NACO), a government agency under the Ministry of Health and Family Welfare, nearly 90 percent of the 5.13 million Indians currently estimated to be infected with HIV/AIDS are in the 15-49 age group, the prime of their working years. HIV/AIDS has a negative impact on individual workers and their families as well as on the economy as a whole. NACO and the International Labor Organization (ILO) [with funding from USDOL], in conjunction with industrial, workers' and employers' organizations, are collaborating to respond to the problem of HIV/AIDS in the workplace, using the ILO Code of Practice on HIV/AIDS as a guideline. The code includes the following: recognition of HIV/AIDS as a workplace issue, non-discrimination, gender equality, social dialogue, no screening of HIV/AIDS at the workplace, confidentiality, continuing the employment relationship, prevention, and care and support.

The Steel Authority of India, the Employees State Insurance Scheme, and Indian Railways are among the organizations and associations that NACO has worked with to implement HIV/AIDS programs in the workplace. In addition, the Confederation of Indian Industries (CII) founded an "Indian business trust" to combat HIV/AIDS in the workplace and has begun programs in its 22 branches across India. The Lawyers' Collective, an NGO, has successfully defended workers who lost their jobs due to their HIV/AIDS status.

III. DESCRIPTION OF THE LABOR SCENE

Government

The central and state governments share jurisdiction over labor issues. Both may enact legislation concerning the following: trade unions, industrial and labor disputes; social security, insurance, employment, and unemployment; and welfare of labor, including conditions of work, provident funds, pensions, and maternity benefits. Only the central government may enact legislation concerning regulation of safety in mines and oil fields, industrial disputes concerning central government employees, and central government agencies and institutions for vocational training.

The Ministry of Labor, a Cabinet-level ministry, is the lead central governmental agency on labor issues. The Ministry is headquartered in New Delhi and has subsidiary offices throughout the country. The Main Secretariat of the Ministry consists of eight divisions: social security, emigration, industrial relations, child and women labor, labor welfare, economics and statistics, international labor affairs, and labor conference. Each state government also has a labor ministry that may implement labor laws within its jurisdiction.

The Labor Bureau, created in 1946 as part of the Ministry of Labor, is responsible for the collection, collation, and publication of statistics and related information on wages, earnings, productivity, absenteeism, labor turn-over, industrial relations, and working and living conditions. It also tracks important economic indicators like the Consumer Price Index, data concerning industrial, agricultural and rural laborers; wage rate indices; and data on industrial relations and socio-economic conditions in the organized and unorganized sectors of industry.

In April 2000, USDOL signed a Memorandum of Understanding with the Indian Ministry of Labor to provide technical assistance in five areas: the elimination of child labor, prevention of HIV/AIDS in the workplace, improvement in mines safety, provision of decent employment for women, and labor market information systems. A subsequent agreement between the two governments resulted in the INDUS project, a U.S.-India partnership to eliminate hazardous and exploitative child labor, towards which each government has contributed 20 million dollars. The project is focused on removing children from 10 specific industries in India: bidi cigarettes, brassware, bricks, fireworks, footwear, bangles, locks, matches, quarried stones and silk. Thus far, the joint project has enrolled more than 71,000 child laborers and at-risk youths in education and training programs. The only area of the MOU without a funded technical assistance program is labor market information systems. This was originally due to U.S. sanctions after India's 1998 nuclear tests, but now reflects a lack of resources.

Employers

The Council of Indian Employers (CIE) is a confederation of three smaller employer organizations: the All India Organisation of Employers (AIOE), the Employers' Federation of India (EFI), and the Standing Conference of Public Enterprises (SCOPE). The CIE is not registered under any Act of the Government, but AIOE, EFI, and SCOPE are all registered as individual organizations. Total membership in AIOE and EFI consists of 80 regional associations of employers or chambers of commerce and 322 public and private companies. SCOPE covers 240 public sector undertakings (PSUs).

The CIE's primary objective is to interact with the government in formulating labor, economic, and social welfare policies that concern workers and employers. It also aims for increased cooperation between employers' and workers' organizations and holds regular meetings with the trade union centrals to accomplish this. The CIE is represented on almost all Government Advisory Boards, is affiliated with the International Organization of Employers, and represents India at the ILO.

Employers in some industries have taken steps to combat child labor. The Carpet Export Promotion Council (CEPC), a quasi-governmental organization that receives funding from the Ministry of Textiles, has a membership of 2,500 exporters who subscribe to a code of conduct barring them from purchasing hand-knotted carpets knowingly produced with child labor. The CEPC conducts inspections to insure compliance and allows members to voluntarily use a government-originated label to signify adherence to a code of conduct. However, the CEPC has stated that even with its programs, it is impossible to ensure that a carpet has been produced without child labor, given the difficulties of monitoring a decentralized and geographically dispersed industry. A private sector research and consulting firm conducts the inspections, which cover only 10 percent of registered looms. The inspectors have had difficulty locating unregistered looms.

Trade Unions

Approximately 496.4 million persons constitute India's active work force. Approximately seven percent of these workers are employed in the formal, or organized, sector. The rest are overwhelmingly agricultural workers, and to a lesser extent, urban non-industrial workers. While some trade unions represent agricultural and informal sector workers, the majority of India's estimated 13-15 million union members are part of the formal sector.

Of these 13 to 15 million unionized workers, some 80 percent are members of unions affiliated with one of the five major trade union centrals. These include the Bharatiya Mazdoor Sangh, Indian National Trade Union Congress, Center of Indian Trade Unions, Hind Mazdoor Sabha, and the All India Trade Union Congress. By U.S. standards, all of these major trade union centrals are "politicized," i.e., they are either directly linked or ideologically associated with a political party. However, since many Indians now view party identification as detrimental to trade union interests, all centrals stress their independence and in some cases are attempting to reduce or sever previously tight party control.

Total membership in unions affiliated with the national centrals has remained essentially static in the face of an annual growth in the work force of seven to eight million. Union members account for approximately two percent of the overall work force. Unions remain concentrated in the public sector, and although labor leaders have tried, they have been unable to organize workers in the new Indian and foreign companies in the private sector. Although a few significant examples exist, independent unions are not a major factor.

All five major trade union centrals participate in ILO activities. In addition, local unions participate in ILO programs such as Organizing in the Informal Sector, Campaigns on Eradication of Child Labor, Tripartite Response on Discrimination at the Workplace on HIV, and Promotion of the Core Labor Standards in Enterprises.

Regional Reviews

Industrial and employment growth in the northern region of India has been sluggish, due primarily to the absence of reforms in the agricultural sector. Infrastructure shortfalls and concerns regarding effective governance have kept investment low in the region, particularly in Uttar Pradesh, India's most populous state. The Delhi state government has relaxed working conditions for women in the IT sector by permitting them to work night shifts. Punjab and Haryana have subsequently adopted the same measure.

Barring Assam, where there is public sector investment in the oil sector, state governments continue to be the biggest employers throughout the northeast region.

West Bengal has continued its ongoing process of selling government-owned assets by privatizing 16 ailing public sector units. The West Bengal State Government estimates that children make up 3.1 percent of the state's total workforce, with about 11 percent, or 1.2 million, of the children in the 5-14 age group. With the help of UNICEF, the Government has developed an Action Plan to address the problem. In West Bengal and elsewhere in the region, children continue to be employed in brick making, "bidi" (tobacco) binding, and agricultural labor. In the urban areas, they are employed as domestic workers, in shops and offices, in the large informal service sector (tea stalls, wayside restaurants and kiosks), or in hazardous jobs such as scavenging and rag picking. The U.S. is giving financial support to leading NGOs such as Child-in-Need Institute (CINI), Asha, and Tiljala Shed to provide these children with preparatory coaching and to enroll child laborers and potential child laborers in school. All states in the region have strict laws banning the use of child labor, but enforcement remains poor.

The Center of Indian Trade Unions (CITU) -- the trade union wing of the Communist Party of India (Marxist) -- has been subdued in recent years, as West Bengal Chief Minister Buddhadeb Bhattacharjee has discouraged "aggressive unionism" to create an industry-friendly atmosphere. Although CITU membership has increased in West Bengal, CITU noted a 10 percent decline in its Calcutta membership.

The South Indian states have experienced a generally peaceful labor situation with no major prolonged strikes in any sector. Home to leftist parties and trade unions, Kerala, the smallest southern state, experienced several general strikes in 2005. Although courts have declared general strikes to be illegal, activists have sometimes paralyzed economic activity by organizing work stoppages under other names.

Regional state governments have initiated some significant labor reform measures. In Tamil Nadu, Karnataka and Kerala, state governments have implemented provisions allowing women to work night shifts, particularly in the IT industry. In Andhra Pradesh and Tamil Nadu, new provisions allow industries to hire contract labor even in core areas for temporary periods to meet market demand.

Although achievement of this goal seems unrealistic, the international community, particularly the ILO, is supporting the efforts of the southern states to end all child labor by 2007, in hopes that this will set an example for other states. As part of their programs to combat child labor, the southern states are increasing education programs for working children, particularly those in the informal sector.

The Tamil Nadu Government hopes to eradicate child labor in non-hazardous employment by 2007. It prepared an Action Plan, established a state authority on the eradication of child labor headed by the Chief Secretary, is reviewing proposals submitted by district collectors, and has allotted \$333,332 (Rs. 15 million) in funds.

Tamil Nadu has created an additional Commissioner position in its Labor Department to head a Child Labor Monitoring Cell. It also has organized a Child Labor Monitoring System Workshop in collaboration with the ILO, demonstrated a web-based monitoring system, and observed an "Anti Child Labor Day." The state is also considering an incentive scheme to encourage village-level administrators to establish child-labor-free areas, and it introduced a state award for the district collector who operates the best program for the rescue and rehabilitation of child laborers. The Women's Development Corporation also formed about 1,000 self-help groups for mothers of child laborers.

The Government of Maharashtra has established a new labor policy for the IT industries which permits 24-hour-a-day operations, forbids the closure of units employing up to 1,000 workers without prior government permission, and allows self-certified reports of compliance with labor laws.

IV. LABOR LAWS AND SYSTEM

India is a founding member of the ILO and has ratified a total of 39 ILO Conventions. Of the eight core ILO Conventions, India has ratified four: the Conventions on Forced Labor (No. 29), Equal Remuneration (No. 100), Abolition of Forced Labor (No. 105), and Discrimination (Employment and Occupation) (No. 111). India has not ratified the remaining four core conventions on Freedom of Association and Protection of the Right to Organize (No. 87), Right to Organize and Collective Bargaining (No. 98), Minimum Age (No. 138), and Worst Forms of Child Labor (No. 182).

Industrial Disputes Act: The Industrial Disputes Act (1947) regulates reductions in force (RIF) and plant closures. It requires state approval 90 days before large firms (more than 100 employees) lay off employees. Likewise, no plant employing more than 100 employees can shut down without obtaining approval 90 days before the closure date. Laws also prohibit firms from employing contract laborers for extended periods of time without extending permanent employment.

Labor Law Reforms: Many observers believe that India's labor laws are antiquated and in need of reform. The second National Labor Commission (NLC), established by the

government in September 1999, submitted its report in June 2002. It recommended reviews of Indian labor laws and the social security system and the strengthening of governmental programs to eradicate child labor. Although the NLC recommendations are not binding on the government, the Ministry of Labor has begun consulting various social partners on their possible implementation. Unlike the previous NDA government, the UPA has not made labor law reform a top priority. Considering the lack of consensus within and outside the government to reform, most observers do not expect large-scale changes to existing labor legislation.

V. LABOR STANDARDS AND WORKER RIGHTS

The Right to Association

The Constitution provides for the right of association, and the Government generally respects this right in practice. Workers may establish and join unions of their own choosing without prior authorization.

In practice, legal protections of worker rights are effective only for the organized industrial sector. Outside the modern industrial sector, laws are difficult to enforce. The authorities generally prosecute and punish those persons responsible for intimidation or suppression of legitimate trade union activities when the victims are members of nationally organized unions. Unaffiliated unions are not able, in all instances, to secure for themselves the protections and rights provided by law.

The Trade Union Act prohibits discrimination against union members and organizers, and employers are penalized if they discriminate against employees engaged in union activities.

The Right to Organize and Bargain Collectively

The law provides for the right to organize and bargain collectively. Collective bargaining is the normal method used to set wages and settle disputes in unionized plants in the organized industrial sector. Trade unions vigorously defend workers' interests in this process. Although a system of specialized labor courts adjudicates labor disputes, there are long delays and a backlog of unresolved cases. When the parties are unable to agree on equitable wages, the Government may establish boards of union, management, and government representatives to determine wages. The legislation makes a clear distinction between civil servants and other workers. Public service employees have very limited organizing and collective bargaining rights.

Trade unions often exercise the right to strike, but public sector unions are required to give at least 14 days notice prior to striking. Some states have laws requiring workers in certain nonpublic sector industries to give notice of a planned strike.

The Essential Services Maintenance Act allows the Government to ban strikes in government-owned enterprises and requires conciliation or arbitration in specified

essential industries; however, essential services never have been defined in law. Legal mechanisms exist for challenging the assertion that a given dispute falls within the scope of this Act. The Act thus is subject to varying interpretations from state to state. State and local authorities occasionally use their power to declare strikes illegal and force adjudication. The Industrial Disputes Act prohibits retribution by employers against employees involved in legal strike actions, and this prohibition is observed in practice.

The Supreme Court has upheld a Kerala High Court verdict that all general strikes are illegal and protest organizers are liable for losses caused by shutdowns. The verdict is drawing attention to the difference between a complete closedown of all activities and a general strike. While it is likely that the ruling was aimed at discouraging political strikes, unions have stated that it remains a potential threat to their activities. Other court rulings have also declared such strikes illegal and made striking workers pay damages to consumers and the public who suffered due to the strikes. In August 2004, the Supreme Court declared all strikes by government employees illegal; however, in practice this has not been enforced.

Prohibition of Forced or Compulsory Labor

The Bonded Labor System (Abolition) Act (1976) prohibits all bonded labor by adults and children; however, such practices remain widespread primarily among the agricultural and rural unorganized workforce. Offenders may be sentenced up to three years in prison, but prosecutions are rare. Enforcement of this statute, which is the responsibility of state and local governments, varies from state to state and often is not effective due to inadequate resources and societal acceptance of bonded or forced labor. On the occasions when inspectors have referred violations for prosecution, long court backlogs and inadequate funding for legal counsel have frequently resulted in acquittals.

The Government does not publish official statistics on bonded labor, but it claims to have identified, rescued and rehabilitated about 266,000 bonded laborers since the advent of the Act. Many NGOs, however, claim that these numbers do not reflect the actual magnitude of the problem. They estimate that there are 20 to 65 million bonded laborers in the country, including a large number of children. According to a Government report, more than 85 percent of bonded laborers belong to scheduled castes and scheduled tribes.

Female bondage, forced prostitution, and trafficking in women and children for the purpose of prostitution are widespread problems. According to press reports from 2004, *Devadasis*, defined as prepubescent girls given to a Hindu deity or temple as “servants of God,” were taken from their families and required to “work” for priests and high caste Hindus.

Status of Child Labor Practices and Minimum Age for Employment

The Government prohibits forced and bonded child labor; however, this prohibition is not effectively enforced, and forced child labor continues to be a problem. The law prohibits

the exploitation of children in the workplace. However, National Human Rights Commission (NHRC) officials have admitted that implementation of existing child labor laws is inadequate, that administrators are not vigilant, that children are particularly vulnerable to exploitation, and that the Commission is focusing on the adequacy of existing legislation.

There is no overall minimum age for employment. However, work by children under 14 years of age is barred completely in “hazardous industries,” which include passenger goods and mail transport by railway, and in factories and mines. Work in some other hazardous industries, as defined by the Child Labor Act of 1986, is regulated. Such industries include glass, brassware, locks and carpet weaving, among others. The NDA government has resolved to end child labor in hazardous industries by the year 2007, and the UPA government is working towards that goal. In occupations and processes in which child labor is permitted, work by children is permissible only for 6 hours between 8 a.m. and 7 p.m., with one day’s rest weekly and two hours of education provided by the employer.

Estimates of the number of child laborers varies widely. The 2001 national census puts the number of child workers at 12.7 million. However, the ILO has estimated the number at 44 million and Global March Against Child Labor, an NGO, claims there are 60 million.

The Government has submitted their commitment to eliminate all forms of child labor starting with hazardous occupations. This is identified under the Child Labor (Prohibition and Regulation) Act, 1986. The Government notes that their scheme of intervention was extended in 2004 from 100 to 250 districts, across 21 states. Over 320,000 working children have been mainstreamed into the formal education system in approximately 4,000 special schools for child workers. The government plans to increase these special schools to about 10,000, providing funds to voluntary organizations and non-governmental organizations. The Government also plans to combine various poverty alleviation and income generation programs to raise income levels of families of working children.

Through the Child Labor (Prohibition and Regulation) Act, 1986, the Government convicted 1,799 offending employers in 2001-02, 325 in 2002-03 and 3,910 in 2003-04. Most, if not all of the 87 million children not in school did housework, worked on family farms alongside their parents as paid agricultural workers, or worked as domestic servants. In 2000, the Government issued a notification prohibiting government employees from hiring children as domestic help. However, this did not prevent non-government employees from hiring children as domestic help.

The working conditions of domestic servants and children in the workplace often amount to bonded labor. Children are often sent away to work because their parents cannot afford to feed them or in order to pay off a debt incurred by a parent or relative. There is evidence that child labor is used to produce hand-knotted carpets, gemstone polishing, leather goods, sari weaving, beadwork and sporting goods. In addition, there is

reasonable basis to believe that industries such as brassware, explosive fireworks, hand-blown glass bangles, hand-broken quarried stones, hand-spun silk thread and cloth and hand-made bricks among others exposed children to particularly hazardous conditions.

The Government does not provide free, compulsory, and universal primary education. Government statistics from 2003 claim that 165 million of the 200 million children between the ages 6-14 attend school. However, UNICEF has reported that approximately 120 million of the primary school-age population of approximately 203 million attended school. The Government launched its ambitious universal elementary education program -- Sarva Shiksha Abhiyan -- in 2000. The program aims to provide elementary education to all children in the age group 6-14 by the year 2010.

The enforcement of child labor laws is the responsibility of the state governments; however, enforcement is inadequate and uneven among states, especially in the informal sector in which most children are employed. The continuing prevalence of child labor is attributable to social acceptance of the practice, the failure of the state and federal governments to make primary school education compulsory, ineffective state and federal government enforcement of existing laws, and economic hardships faced by families. In addition, over-worked and ill-trained local magistrates have many competing responsibilities, many of which receive greater priority and attention than child labor enforcement.

The INDUS project -- jointly funded by the U.S. Department of Labor and the Government and implemented by the ILO -- is designed to complement the National Child Labor Program and States programs. It hopes to remove 80,000 children from hazardous work situations in 21 districts of the country by September 2007.

The Government also cooperates with UNICEF, the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Development Program (UNDP), and the ILO in their efforts to eliminate child labor. The Government participates in the ILO's International Program on the Elimination of Child Labor (IPEC). Approximately 145,000 children have been removed from work and received education and stipends through IPEC programs since they began in the country in 1992. The NHRC, continuing its own child labor agenda, has organized NGO programs to provide special schooling, rehabilitation, and family income supplements for children in the glass industry in Firozabad. In addition, employers in some industries have taken steps to combat child labor.

Acceptable Conditions of Work

Occupational safety and health (OSH) remains a problem area in India. Extensive legislation covering various aspects of OSH notwithstanding, industrial accidents continue to occur frequently due to lack of proper enforcement. The chemical sector is the most prone to accidents. The lack of awareness regarding occupational health has resulted in many deaths throughout the country. OSH in

the state-controlled mining industries is of significant concern. The USDOL has funded an approximately US\$ 1.5 million project to improve safety standards in selected public sector mines and to provide training to mine inspectors. The project has improved working conditions in five selected pilot mines and drastically reduced accident rates. In addition, the project has helped the Indian Directorate General of Mines Safety establish for the first time a computerized mine inspection system that significantly reduces the time needed by mine inspectors to inspect a mine.

The Factories Act (1948) mandates an 8-hour workday and 48-hour workweek, as well as minimum working conditions. Workers are to be paid twice their regular wage rate for working overtime. State government laws set minimum wages, hours of work, and safety and health standards. These standards are generally enforced and accepted in the modern industrial sector, but are not observed in less economically stable industries. However, the large number of industries covered by a small number of factory inspectors and the inspectors' limited training and prevalence of bribery result in lax enforcement.

Minimum wages vary according to the state and sector of industry. Such wages are inadequate to provide a decent standard of living for a worker and his/her family. Most workers employed in units subject to the Factories Act receive more than the minimum wage, including mandated bonuses and other benefits. The state governments set a separate minimum wage for agricultural workers but do not enforce it effectively. Some industries, such as apparel and footwear, do not have a prescribed minimum wage in any of the states in which they operate.

Safety conditions are better in the Special Economic Zones (SEZs) than in the manufacturing sector. Legal foreign workers (but not illegal foreign workers) are protected under the law. The law does not provide workers the right to remove themselves from work situations that endanger health and safety without jeopardizing their continued employment.

Discrimination in Employment

The Constitution prohibits discrimination on the basis of a person's race, sex, religion, place of birth, or social status. Government authorities work to enforce these provisions with varying degrees of success. Despite laws designed to prevent discrimination, social and cultural practices as well as other legislation have a profound discriminatory impact, and discrimination against women, persons with disabilities, indigenous people, homosexuals, and national, racial, and ethnic minorities is a problem. The traditional caste system, as well as differences of ethnicity, religion, and language, deeply divide the society.

Women: The participation of women in the formal labor force is much lower than that of males (33 percent vs. 67 percent). The rate of promotion of women to managerial positions within businesses often is slower than that of males. The Equal Remuneration Act of 1976 mandates that men and women performing the same job receive the same payment; however, enforcement is often weak, especially in rural areas where traditions

encouraging discrimination against females are deeply rooted. In both rural and urban areas, women are paid less than men are for the same job. Women experience economic discrimination in access to employment and credit, which acts as an impediment to women owning businesses. In a positive development, state-supported microcredit programs for women have begun to have an impact in many rural districts.

Sexual harassment is common, with a vast majority of cases unreported to authorities. In June 2004, the National Commission for Women (NCW) and the Press Institute of India jointly released a report that found that a majority of women experienced gender discrimination at their workplaces. Often, attempts by women to report harassment have resulted in further problems or dismissal. In 2004, the Supreme Court determined that a victim of sexual harassment could be awarded compensation based on the findings of an internal departmental report or investigation of the case.

Dalits, Scheduled Castes, and Scheduled Tribes: The Constitution and the 1955 Civil Rights Act outlaw the practice of untouchability, which discriminates against Dalits (formerly called “untouchables”) and other people defined as Scheduled Castes. According to the 2001 census, scheduled castes, including Dalits, make up 16 percent of the country’s population, and scheduled tribes (members of indigenous groups outside the caste system) comprise 8 percent of the population. Despite longstanding efforts by the Government to eliminate the discriminatory aspects of caste, discrimination based on the caste system still occurs throughout the country.

The Government uses a system of “reservations,” similar to affirmative action programs in the U.S., in an attempt to decrease employment-based discrimination towards these scheduled castes and scheduled tribes. The Anti-Untouchability Act of 1955 and the Prevention of Atrocities Act of 1989 give further protection; however, Dalits are often relegated to the most menial of jobs. Employment discrimination against Dalits is widespread in rural areas; many rural Dalits work as agricultural laborers for upper caste landowners without remuneration. The majority of bonded laborers are Dalits. Those who attempt to change the status quo regularly face violence. Low caste Hindus who converted to Christianity lost their eligibility for affirmative action programs. Some states reserved government jobs for Muslims of low caste descent.

Persons with Disabilities: Although the Persons with Disabilities Act provides equal rights to all persons with disabilities, advocacy organizations admit that its practical effects have so far been minimal, in part due to a clause that makes the implementation of programs dependent on the “economic capacity” of the Government. Widespread discrimination occurs against persons with physical and mental disabilities in employment, education, and in access to health care.

VI. SOCIAL SAFETY NET

India lacks a comprehensive social security system. In the informal sector, which employs the vast majority (93 percent) of Indian workers, there is no social security protection for unemployed or retired workers.

The Employees' State Insurance Corporation (ESIC) provides social protection to workers (and their dependents) in the organized sector in case of sickness, maternity, and death or disablement due to an employment injury or occupational hazard. In most states, employees in the following classes of establishments are eligible for coverage: non-seasonal factories using power and employing 10 or more persons; non-seasonal and non-power using factories, shops, hotels, restaurants, cinemas, preview theatres, motor transport undertakings and newspaper establishments employing 20 or more persons.

Employees covered under the scheme are entitled to medical facilities for themselves and their dependents, as well as cash benefits in the event of specified contingencies resulting in loss of wages or earning capacity. Insured women are entitled to maternity benefits to cover the period of confinement. When an employment injury causes the death of an insured employee, the dependents are entitled to a family pension.

The ESI Scheme is financed by contributions from covered employees and their employers. The State Governments bear one-eighth of the share of expenditure on medical benefits within the per capita ceiling of Rs. 600 (\$14) per year and all additional costs beyond the ceiling. Employee contributions are tied to a fixed percentage of the workers' wages, but benefits are provided according to individual needs regardless of employee contributions.

VII. FOREIGN INVESTMENT POTENTIAL

Tariffs and poor infrastructure present the biggest obstacles to foreign investment and growth, but India's infrastructure requirements also present trade and investment opportunities for American companies. Although the average level of Indian tariffs has declined significantly since the early 1990s, India's economy remains among the most protected in the world. India's average non-agricultural tariff is about 22 percent, compared to the 11 percent median for other emerging markets, according to the World Bank. India controls foreign investment with limits on equity and voting rights, mandatory government approvals, and capital controls. Although the Government has gradually relaxed some of these constraints, foreign direct investment is still prohibited in some sectors or sub-sectors.

The communist and socialist parties that support the UPA government oppose the privatization of state-owned companies and increasing foreign direct investment, and have blocked or slowed UPA attempts to relax restrictions in these areas. Other factors that inhibit an otherwise "business-friendly" environment include India's vast and still largely unreformed bureaucracy and various forms of social tension (some manifested violently) in a huge and extremely diverse population, much of which suffers from extreme poverty and the burdens of underdevelopment.

Sectoral Issues: Labor-management relations have been calm in the government-owned airlines, with pilots in both government-run carriers -- Air India

(international) and Indian Airlines (domestic) -- receiving pay and benefit increases. The Government initially planned to offer low equity participation to private partners, with restrictions on foreign investment, which would have deterred private partners from bidding for the national carriers. Now, the Government has changed its policy and is no longer planning to sell equity in the airlines. The banking and insurance sectors are highly unionized and predominantly state-owned.

Special Economic Zones: In 2000, the Government converted India's seven government-controlled Export Processing Zones to Special Economic Zones (SEZs), and the private sector set up an eighth SEZ. All SEZs must follow labor laws. While SEZ workers enjoy freedom of association and collective bargaining, trade union activity in the zones has been negligible. Entry into the SEZs ordinarily is limited to employees, and union organizers claim that such restrictions make it difficult for them to organize workers. In addition, unions have not vigorously pursued efforts to organize private-sector employees since SEZs were established. Women constitute the majority of the work force in the SEZs. The International Confederation of Free Trade Unions has reported that industries in the SEZs have compelled their workers to work overtime, often employed them on temporary contracts with fictitious contractors, and have threatened dismissal to those that complained about substandard working conditions.

VIII. DIRECTORY OF LABOR CONTACTS

GOVERNMENT

Ministry of Labor and Employment

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Secretary of Labor: Mr. K. M. Sahni

Labor Bureau

Shri Balram
Director General
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<http://labourbureau.nic.in/>

Census of India

Office of the Registrar General, India
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<http://www.censusindia.net/>

EMPLOYERS

Council of Indian Employers (CIE)

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Secretary: Mr. B.P. Pant

Employers' Federation of India (EFI)

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Standing Conference of Public Enterprises (SCOPE)

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TRADE UNIONS**Indian National Trade Union Congress (INTUC)**

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Hind Mazdoor Sabha (HMS)

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General Secretary: Mr. Umraomal Purohit

Center of Indian Trade Unions (CITU)

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NONGOVERNMENTAL ORGANIZATIONS

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