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Tackling the issue of Child Labour and Child Trafficking in India

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Why in News:

The United Nations World Day against Child Labour 2023 emphasises how social injustices, such as poverty and lack of education, create precarious conditions for children

About Child Labour and Child Trafficking

Child labour is a form of modern slavery which includes any work that deprives children of their childhood, their potential and their dignity, and that harms their physical or mental development, per the International Labour Organisation (ILO) definition.

The practice includes, and is not limited to, trafficking, sexual exploitation, debt bondage, and exploitation in armed conflicts. 12% of those in forced labour are possibly children, ILO noted.

Child trafficking manifests in the form of domestic labour, forced child labour across industries, and illegal activities such as begging, organ trade and commercial sex purposes.

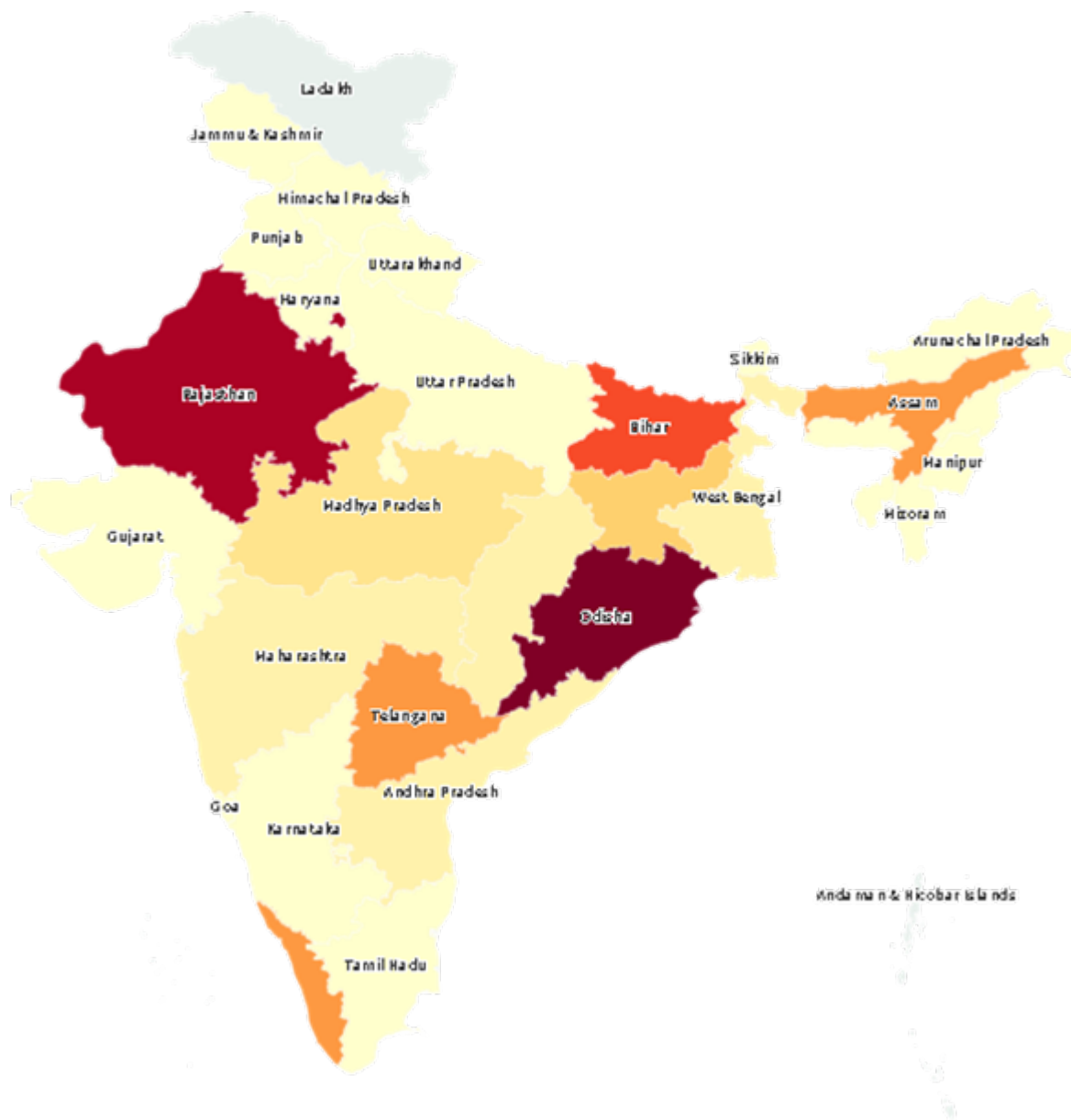
Several reports since the 2020 lockdown have noted that the pandemic created a second crisis of child trafficking, with children being pushed into a vortex of "despair, disease and death."

Estimates show that children account for one in every three detected victims of trafficking worldwide; this rises to one in two in low-income countries. India, meanwhile, has pledged to eliminate child labour by 2025.

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Status of Child labour and child trafficking in India

Eight children were trafficked every day in India in 2021 — for labour, begging and sexual exploitation — per data from the latest National Crime Records Bureau (NCRB).

These numbers stood at 2,834 cases in 2018; 2,914 in 2019; 2,222 in 2020. Out of the total 4,700 people trafficked in 2020, 1,377 were minor boys and 845 were minor girls.

95% of the reported cases in 2019 were of internal trafficking. The sale of children happens across borders too, with key routes being India to Gulf States and South East Asian countries.

One such practice happens in the name of ‘khadama’, where girls go to Gulf countries to work as housemaids.

This data only includes confirmed cases of trafficking, which does not account for “missing children.” One child goes missing every eight minutes in India — with millions ending up in domestic slavery, sex work and forced labour.

Global prevalence of child trafficking

Domestic work (21%)

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Begging (10%)

Hospitality sector (7%)

Street and small-scale retail (6%)

Illicit activities (6%)

Agriculture (5%)

These figures are a “gross underestimate” of the true extent since NCRB data only includes cases reported to each State and Union Territory’s Anti-Human Trafficking Unit. Cases often go unreported due to a lack of awareness about the modalities of trafficking, reluctance to seek police help and socio-economic deprivation. Moreover, less than 10% of the reported cases end up in convictions.

Minor girls in the age bracket 15-18 years are more vulnerable to trafficking, and believed to be in “greater demand” for the sex trade industry and domestic labour. “Poverty, hunger, and lack of work are the main reasons for this.

The caste and community-based discrimination and unfair treatment in rural areas are also at the root of this problem,” Prashant Dubey, from the Awaaz Foundation

Externalities such as the COVID-19 pandemic, armed conflict, and climate change catalyse precarity for children.

Text Box: Global prevalence of child trafficking • Domestic work (21%) • Begging (10%) • Hospitality sector (7%) • Street

Measure Taken by Indian Government

India doesn’t have a composite anti-trafficking law that addresses prevention, protection, rehabilitation and compensation of survivors. There are, however, separate regulations that address different crimes related to trafficking:

1 Legal Measures:

The Immoral Traffic (Prevention) Act, 1956 (PITA) is targeted at stopping immoral trafficking and sex work. It went through two amendments, in 1978 and 1986. Experts have criticised PITA for falsely presuming that all trafficking is done for sex work only, and say that it criminalises sex workers without providing sufficient legal recourse or scope for rehabilitation.

The Prohibition of Child Marriage Act, 2006, prohibits and penalises the act of child marriage. In August 2021, the NGO Save the Children warned of a rise in child marriage and sexual abuse during the COVID-19 pandemic. The Telangana government, for instance, has intervened to stop 1,355 child marriages between April 2020 and March 2021 — a 27% increase from the previous year.

The Child Labour (Prohibition and Regulation) Act, 1986, prevents children from partaking in certain employments and regulates the conditions of work for children in other fields. In 2016, an amendment completely banned the employment of children below 14 years; adolescents aged 14-18 years are allowed to work in family-related businesses but not in fields that have “hazardous” working conditions.

The Bonded Labour System (Abolition) Act, 1976, prohibits systems of labour where people, including children, work under conditions of servitude to pay off debt, and also provides a framework for rehabilitating released labourers. However, India’s anti-trafficking efforts against bonded labour, in particular, have invited scrutiny: 22 States and Union Territories did not report identifying any bonded labour victims or filing a case under the Bonded

Labour System (Abolition) Act, per a report.

The Juvenile Justice (Care and Protection of Children) Act 2015, which governs laws relating to children alleged and found to be in conflict with law.

The Transplantation of Human Organs and Tissues Act, 1994, makes commercial dealing in human organs a punishable offence.

Protection of Children from Sexual Offences (POCSO) Act, 2012, which seeks to prevent commercial sexual exploitation of children.

2Anti-Human Trafficking Units (AHTUs)

India set up Anti-Human Trafficking Units (AHTUs) in 2007. AHTUs are tasked with “addressing the existing gaps in the law enforcement response,” “ensuring a victim-centric approach which ensures the ‘best interest of the victim/ survivor’ and prevents ‘secondary victimization/ re-victimisation of the victim,’” and developing databases on traffickers.

For instance, an official at an AHTU would take a survivor to the destination State to identify the place of crime and the traffickers. As of 2022, 768 AHTUs are functional in the country; 20 out of 36 States and Union Territories have met the target of setting units across all districts.

The penalty for trafficking one minor involves imprisonment, from 10 years to life, along with a fine. For trafficking more than one minor, the penalty is life in prison and a fine.

3Revision of Section 370 of IPC

The Criminal Law (Amendment) Act, 2013, revised Section 370 of the Indian Penal Code, which deals with buying and selling of any person as a slave, to include the concept of human trafficking.

Two sections — 370 and 370A — form the framework “to provide a comprehensive definition of human trafficking and also provide for strict punishment,” the Ministry of Home Affairs noted.

However, the intervention has borne limited results: in 2016, India recorded a 25% increase in human trafficking cases in comparison to the previous year. India hasn’t yet amended Section 370 of the Penal Code to remove the requirement of “force, fraud, or coercion” to prove a child sex trafficking crime.

Moreover, experts caution that IPC’s Section 370 is centred around the punishment of offenders and neglects compensation and rehabilitation aspects.

Limitations of the Measures

Prevailing challenges include a lack of coordination among AHTUs and disjointed operations by State and Central Governments.

There is no comprehensive programme for tackling trafficking, an absent witness protection framework (the victim is also the witness) and challenges in accessing compensation.

Section 357-A of the Code of Criminal Procedure mandates that governments have to “provide funds to compensate victims or their dependents who have suffered loss or injury as a result of the [trafficking] crime and who require rehabilitation.”

A 2020 study, however, found that some States had not created the fund; other States had falsified their data and these funds were severely underutilised.

Victim compensation currently happens when a court recommends it or a trafficking victim files an application, but a lack of awareness about compensation and opaque documentation requirements bog down survivors.

The Way Ahead

Reintroduction of Trafficking in Persons (Prevention, Care and Rehabilitation) Bill

There is also a need to revisit existing laws, such as the Child Labour (Prohibition and Regulation) 1986 Act, to plug legal holes around the minimum working age.

This year's World Day Against Child Labour emphasised social injustices as the root causes of child labour and trafficking. Per ILO estimates, globally only 1.1% of GDP is spent on social protection for children.

Civil societies have advocated for the need to cultivate awareness about different trafficking crimes, form targeted child protection schemes, provide survivors with psychological and emotional support systems during rehabilitation, and offer incentives to keep children in school.