



Core Labor Standards

Afghanistan • Australia • Brazil • China
India • Jordan • Malaysia • Singapore

October 2007

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MULTINATIONAL

CORE LABOR STANDARDS

I. Summary

All countries surveyed complied with the core labor standards; in several instances, however, these standards were not provided as an absolute right but were permitted and provided (either directly or indirectly) within a country's legislation. For example, the right to organize and bargain collectively is rarely an absolute right but is often permitted and provided for within legislation.

In other instances, prohibitions are not found within a single legislative source but exist due to a combination of sources. For example, within Australia, the minimum age of employment is provided within state and territory legislation. Some states and territories do not provide for a minimum age of employment in all industries but do impose a legal obligation that a child attends school, not be employed during school hours, and/or not be placed in a situation that would be detrimental to his or her ability to perform at school.

In addition some states, such as China, provide for rights and prohibitions within their legislation. In practice, however, it appears that such rights and prohibitions are routinely ignored.

II. Core Labor Standards - Summary

Core standard	Afghanistan	Australia	Brazil	China	India	Jordan	Malaysia	Singapore
Right of association	Yes	Yes	Yes	Yes limited to approved associations	Yes	Yes	Yes	Yes (for Singapore Citizens)
Right to organize and bargain collectively	Yes	Yes Not absolute right but provided within legislation	Yes	Yes Limited because no process is provided for collective bargaining	Yes Not an absolute right but provided within legislation	Yes	Yes Not an absolute right but provided within legislation	Yes Not an absolute right but provided within legislation
Prohibition on forced or compulsory labor	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Employment of children.	Yes	Varies across states/territories.	Yes	Yes	Yes	Yes	Yes	Yes

LAW LIBRARY OF CONGRESS**AFGHANISTAN****CORE LABOR STANDARDS**

Core labor standards	Afghanistan
The right of association	Yes. Labor Law of 1987, articles 6, 7, and 154, as well as the Law of the Representatives of the Guild Union of July 22, 1990.
The right to organize and bargain collectively	Yes. Labor Law of 1987, articles 6, 7, and 154, as well as the Law of the Representatives of the Guild Union of July 22, 1990.
A prohibition on the use of any form of forced or compulsory labor	Yes. Labor Law of 1987, article 11.
Minimum age for the employment of children.	Yes. The minimum age for employment of children is thirteen. Labor Law of 1987, article 21.

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AUSTRALIA

CORE LABOR STANDARDS

I. Core Labor Standards

Core Standard	Australia
The right of association	Yes Workplace Relations Act 1996 (Cth) §§ 778-813.
The right to organize and bargain collectively	Yes No absolute right per se but collective bargaining is permitted and provided in both federal and state legislation. <ul style="list-style-type: none"> • Workplace Relations Act 1996 (Cth), Part 8 Division 2; • Industrial Relations Act 1996 (NSW), Part 2, Division 1; • Industrial Relations Act 1999 (Qld), Chp. 6; • Industrial Relations Act 1984 (TAS), Pt IV; • Industrial Relations Act 1979 (WA), Div 2B; and • Fair Work Act 1994 (SA) §§ 73-88.
A prohibition on the use of any form of forced or compulsory labor	Yes Forced labor or slavery may be considered both a crime and/or a breach of human rights. <ul style="list-style-type: none"> • Criminal Code Act 1995 (Cth) §§ 73.2, 268.10, 268.15, 268.60, 268.83, Div. 270. • Human Rights and Equal Opportunity Commission Act 1986 (Cth) Div 3. In some instances state or territory laws may also be applicable. E.g., Human Rights Act 2004 (ACT) § 26.
Minimum age for the employment of children.	Varies, not always directly legislated upon. The minimum age of employment and regulation of children in employment varies across each state and territory. ¹ For example, New South Wales (NSW) has no minimum age of employment and employment of children is only regulated in certain industries. Children and Young Persons (Care and Protection) Act 1988 (NSW) §§ 221-226. In contrast, Victoria has a minimum age of employment and children below the

¹ Workplace Relations Act 1996 (Cth) § 16(2)(c), (3)(e).

Core Standard	Australia
	<p>age of thirteen may not be employed, subject to specific exemptions. Any employed child (including children within family businesses) must only perform ‘light work,’ work certain hours, and be granted specified rest periods.</p> <p>Child Employment Act 2003 (Vic).</p> <p>In instances where there is no minimum age of employment, full time employment may be limited indirectly by a legal requirement that a child attend school.</p> <p>Other state and territory laws include:</p> <ul style="list-style-type: none"> • Children and Community Services Act 2004 (WA); • Child Employment Act 2006 (Qld); • Education Act 1979 (NT); Community Welfare Act 1983 (NT); • Education Act 1972 (SA); • Children and Young Peoples Act 1999 (ACT); and • Education Act 1994 (Tas).

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LAW LIBRARY OF CONGRESS**BRAZIL****CORE LABOR STANDARDS**

Core Labor Standards	Brazil
The right of association	Yes. Federal Constitution of October 5, 1988, Article 5, (XVI), and (XVII).
The right to organize and bargain collectively	Yes. Federal Constitution of October 5, 1988, Article 8.
A prohibition on the use of any form of forced or compulsory labor	Yes. Federal Constitution of October 5, 1988, Article 5, (XLVII), (c). Penal Code, Decree Law No. 2,848 of December 7, 1940, Articles 149 and 197.
Minimum age for the employment of children.	Yes. Federal Constitution of October 5, 1988, Article 7, (XXXIII).

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CHINA

CORE LABOR STANDARDS

Core standard	China
The right of association	<p>Limited.</p> <p>The Labor Law¹ provides workers the right of association. The workers, however, are in fact, deprived of the right to organize freely or to form an independent trade union under The Trade Union Law².</p> <p>[Labor Law art. 7 (1): “Laborers shall have the right to participate in, and organize, trade unions in accordance with the law.” Labor Law art. 7 (2): “Trade unions shall represent and safeguard the legitimate rights and interests of laborers, and independently carry out their activities in accordance with the law.”</p> <p>Trade Union Law art. 10 (5): “Trade union organizations across the country form the uniform All-China Federation of Trade Unions (ACFTU).” Trade Union Law art. 11 (1): “Establishment of grassroots trade unions, regional trade union federations at various levels and national or regional industrial trade union organizations must be approved by trade unions at a higher level.”]</p>
The right to organize and bargain collectively	<p>Limited.</p> <p>The Labor Law provides collective contracts. There is no law governing collective bargaining procedures, however, other than concluding such collective contracts. Additionally, the right to strike is not recognized by law.</p> <p>[Labor Law art. 33 (1): “The staff and workers of an enterprise as one party may conclude a collective contract with the enterprise on matters relating to labor remuneration, working hours, rest and vacations, occupational safety and health, insurance and welfare. The draft collective contract shall be submitted to the congress of the staff and workers or to all the staff and workers for discussion and adoption. Labor Law art. 33 (2): “A collective contract shall be concluded by the trade union on behalf of the staff and workers with the enterprise; in an enterprise where the trade union has not yet been set up, such contract shall be concluded by the representatives elected by the staff and workers with the enterprise.”</p> <p>With regards to the practice of the worker’s right to association and the right to collective bargaining, “The ACFTU has a monopoly over union organization,” according to An International Confederation of Free Trade Unions (ICFTU)</p>

¹ Zhonghua Renmin Gongheguo Laodong Fa [Labour Law of The People’s Republic of China] (promulgated by the Standing Committee of the National People’s Congress, effective Jan. 1, 1995), 1994 FAGUI HUIBIAN 91. English translation available at the online Chinese law database ISINOLAW (Isinolaw Reference ID: 290-131681).

² Zhonghua Renmin Gongheguo Gonghui Fa [Trade Union Law of The People’s Republic of China] (promulgated by the Standing Committee of the National People’s Congress, effective Oct. 27, 2001), 2001 FALÜ HÜBIAN 302. English translation available at ISINOLAW (Isinolaw reference ID: 290-2002617).

Core standard	China
	<p>report, and “The state and government use a variety of anti-union tactics to control workers, including crack downs on industrial actions and imprisonment of those fighting for worker’s rights.” (ICFTU, INTERNATIONAL RECOGNIZED CORE LABOUR STANDARDS IN THE PEOPLE’S REPUBLIC OF CHINA: REPORT FOR THE WTO GENERAL COUNCIL REVIEW OF THE TRADE POLICIES OF THE PEOPLE’S REPUBLIC OF CHINA, 4 and 6 April 2006, <i>available at</i> http://www.icftu.org/www/pdf/clschinacor2006.pdf, hereinafter ICFTU Report.)</p>
<p>A prohibition on the use of any form of forced or compulsory labor</p>	<p>Yes.</p> <p>The Labor Law provides punishment for compelling forced labor or compulsory labor.</p> <p>[Labor Law art. 96: “Where the employing unit commits one of the following acts, persons who are held responsible shall be punished by the public security organ with a detention of 15 days or less, or a fine, or a warning; where the case constitutes a crime, persons who are held responsible shall be investigated for criminal responsibility according to law: (1) compelling laborers to work by means of violence, intimidation or illegal restriction of personal freedom; or (2) humiliating, imposing corporal punishment upon, beating, illegally searching, or detaining laborers.”]</p> <p>Prospects for ending the practice are not believed optimistic. The ICFTU Report asserts that, “Forced labour exists in such forms as prison labour, legal punishment in the form of re-education-through-labour, and forced prostitution of women.”</p>
<p>Minimum age for the employment of children.</p>	<p>Yes.</p> <p>Employment of minors under the age of sixteen is illegal and violation may result in a fine or revocation of business license.</p> <p>[Labor Law art. 15(1): “No employing unit is allowed to recruit minors under the age of 16.” Labor Law art. 94: “Where the employing unit illegally recruits minors under the age of 16, the administrative department of labour shall order it to make corrections, and impose a fine thereon. If the circumstances are serious, the administrative department for industry and commerce shall revoke its business license.”]</p> <p>According to the ICFTU Report, “Child labour remains a problem in China, in particular in rural areas and in some industrial parts of the country, where regulations are applied lightly and where children, thus, are exposed to hazardous working conditions.”</p>

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INDIA

LABOR STANDARDS

Executive Summary

The Constitution of India guarantees the right of association as a fundamental right and prohibits forced labor. The Trade Unions Act, 1926, allows the formation of unions by labor and the right to bargain collectively and settle a trade dispute with the industry. Since 2006 the employment of children below fourteen years of age has not been permitted.

I. Introduction

As a parliamentary democracy, the Constitution of India has divided legislative subjects between the Central and State Government.¹ Because trade and labor matters are part of the Concurrent List of legislative subjects, both the Indian Parliament and state legislatures can make laws on these subjects.² The state law, however, shall, where inconsistent, be subject to the central law when both bodies legislate on the same subject.³ In most labor matters, The Parliament has enacted laws.

II. Overview

Core standard	India
The right of association	Yes Fundamental right, Indian Constitution Arts. 245 and 246, Seventh Schedule.
The right to organize and bargain collectively	Yes Not an absolute right but provided within legislation. Trade Unions Act, 1926.
A prohibition on the use of any form of forced or compulsory labor	Yes <ul style="list-style-type: none"> • Constitution of India, Art. 23. • Bonded Labour System (Abolition) Act, 1976.
Minimum age for the employment of children.	Yes Children below the age of fourteen may not be employed. Child Labour (Prohibition and Regulation) Act, 1986.

¹ India Const. art. 245 and 246, Seventh Schedule.

² *Id.* Seventh Schedule, Concurrent List Entries 22 and 24.

³ *Id.* Art. 254.

III. Right of Association

The right of association is guaranteed as a fundamental right by the Constitution of India.⁴ Thus, any law enacted in violation of this provision is void.⁵ The Government generally respects this right in practice. Therefore, strong labor unions exist in the country in defense of workers' rights.

IV. Right to Organize and Bargain Collectively

Trade unionism has made its headway owing to the growth of industrialization and capitalism. Trade unionism asserted the collective rights of the workers and for this purpose the Trade Unions Act, 1926⁶ was enacted. The Preamble of the Act declares the objective of the "Act to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions."

One of the primary objectives for which funds of a trade union may be spent is to enable the registered trade union to "conduct trade disputes on behalf of the Trade Union or any of its members."⁷ The same provision further allows the union to pay salaries, allowances, and expenses to the officers of the trade union. It also entitles the union to utilize the funds for prosecution and defense of any legal proceedings to which the trade union or a member thereof is involved and, further, to pay compensation to members for loss to members or their dependants in trade disputes. Thus, the right to represent labor in trade disputes includes the right to bargain on their behalf, so that collective bargaining is the normal method used to set wages and settle disputes in unionized plants in the organized industrial sector.

V. Prohibition of Forced or Compulsory Labor

The Constitution of India, in art. 23, states that –

Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any contravention of this provision shall be punishable in accordance with law.

Begar means labor or service exacted by the Government or a person in power without payment of remuneration for it.⁸ It has an element of force.⁹ Bonded labor was a part of this system in which a person incurred a bonded debt. This led the creditor, by an agreement with the debtor, to exact from him, or his lineal ascendants or descendants, labor in consideration of the debt or its interest.

In 1976, the Parliament enacted the Bonded Labour System (Abolition) Act, 1976.¹⁰ The Act abolished the bonded labor system and also declared any agreement of bonded labor void. No debtor of such agreement was required to pay the debt back nor could a creditor receive any payment in respect of the agreement. Thus, every bonded labor person stood freed and discharged from any obligation to render any bonded labor.¹¹ Violation of the law is punishable by imprisonment which may range from two to three years, in addition to payment of a fine which may extend to two thousand Indian rupees (approximately U.S. \$50.00).¹²

⁴ *Id.* Art. 19 (1)(c).

⁵ *Id.* Art. 13.

⁶ Act No. 16 of 1926.

⁷ Act No. 16 of 1926, § 15 (d).

⁸ *Vasudevan v. Mittal*, S.D., A.I.R. 1962 Bom. 53.

⁹ *State of Gujarat v. Hon'ble High Court of Gujarat*, A.I.R. 1998 S.C. 3164.

¹⁰ Act No. 19 of 1976.

¹¹ Act No. 19 of 1976, § 4.

¹² *Id.*

VI. Child Employment: Minimum Age

The Constitution of India, in the chapter relating to fundamental rights, declares that no child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.¹³ Further, the Constitutional Directive Principles of State Policy dictate that the State shall, in particular, direct its policy towards securing ... that 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 avocations unsuited to their age or strength, that children are given opportunities and facilities to develop in a healthy manner, and in conditions of freedom and dignity, and that childhood and youth are protected against exploitation, and against moral and material abandonment.¹⁴

The Child Labour (Prohibition and Regulation) Act, 1986¹⁵, prohibits the engagement of children in factories, mines, and other hazardous jobs. It also regulates the conditions of work in various other employments.¹⁶

Effective October 10, 2006, however, the employment of children below fourteen years of age has been banned altogether.¹⁷ Thus, the ban on employment of children, imposed under the 1986 Act, now would extend to household assistance, roadside eateries, and hotels.

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¹³ India Const. Article 24.

¹⁴ *Id.* Article 39 (e) and (f).

¹⁵ Act No. 61 of 1986.

¹⁶ *Id.*, §3.

¹⁷ *India Bans Employment of Children Below 14*, SOUTH ASIAN WOMEN'S FORUM, Aug. 7, 2006, available at <http://www.sawf.org/newedit/edit08072006/index.asp>.

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JORDAN

CORE LABOR STANDARDS

I. Core Labor Standards

Core standard	Jordan
The right of association	Yes Art. 97 of Law No. 8 of 1996 (Labor Law)
The right to organize and bargain collectively	Yes Arts. 39-44 and art 97 of the Labor Law
A prohibition on the use of any form of forced or compulsory labor	Yes Art. 13 of the Constitution of 1952
Minimum age for the employment of children.	Yes Art 73 of the Labor Law. Minimum age is sixteen years of age.

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MALAYSIA

CORE LABOR STANDARDS

I. Core Labor Standards

Core standard	Malaysia
The right of association	<p>Yes</p> <p>Federal Constitution Art. 10(1)(c).</p> <p>Other laws, however, may limit what organizations may be registered as a society or what activities they may undertake.</p>
The right to organize and bargain collectively	<p>Yes</p> <p>Not an absolute right but provided within legislation.</p> <ul style="list-style-type: none"> • Industrial Relations Act 1967 (Act 177) § 13(1). • Employment Act 1955 (Act 265) § 8.
A prohibition on the use of any form of forced or compulsory labor	<p>Yes</p> <p>Federal Constitution Art. 6.</p> <p>Requirements for leave and maximum hours of work.</p> <p>Employment Act 1955 (Act 265) §§ 58A-60I.</p>
Minimum age for the employment of children.	<p>Yes</p> <p>West Malaysia - Prohibition of employment of children below fourteen years (some exceptions for, among other things, certain industries and family businesses).</p> <p>Children And Young Persons (Employment) Act 1966 (Act 350) § 2.</p> <p>Separate statutes will be applicable in the states of Sabah and Sarawak and therefore different minimum ages and permitted employment are applicable.</p> <ul style="list-style-type: none"> • Labour Ordinance (Sabah Cap. 67). • Sarawak Labour Ordinance (Cap. 76).

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SINGAPORE
CORE LABOR STANDARDS

I. Core Labor Standards

Core standard	Singapore
The right of association	Yes (for Singapore citizens). Constitution Art 14(1) (c).
The right to organize and bargain collectively	Yes Not absolute right but permitted and provided within legislation. Industrial Relations Act (Cap 136) §§ 16-29.
A prohibition on the use of any form of forced or compulsory labor	Yes Constitution Art 10.
Minimum age for the employment of children.	Yes Children fifteen years of age and below may not be employed other than in specified industries/work places. Employment Act (Cap 91) §§ 67A-75.

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