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Current Violations Of Child Labor Laws in the United States



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Introduction

Child labor refers to any form of work done by minor children. There are many personal, social, and economic costs and benefits of child labor on individuals, families, and communities. The [International Labor Organization's International Program on the Elimination of Child Labor \(IPEC\)](#) argued that there are more costs to child labor than benefits.

Costs of eliminating child labor

The costs of eliminating child labor includes the high cost of education which is approximately two-thirds of the overall cost. Benefits calculated include eliminating the most dangerous forms of child labor and educating youth which results in an increasingly educated workforce and improved health and mental health. This will support the continued development and well-being of individuals, families, communities, and overall economic gains.

Further, IPEC argued that there is an opportunity cost for families when youth are placed in school in lieu of working. However, a proposed solution includes offering social and economic assistance to impoverished families. Overall, IPEC estimated the costs of eliminating child labor to be approximately US \$760 billion; however, the long-term social, economic, and health benefits would be closer to US \$5.1 trillion. This is a significant human rights issue in dire need of urgent attention.

This paper first reviews the history of child labor, barriers to improve working conditions, and early efforts to organize against child labor. Then it highlights child labor laws. Next, this paper will identify both historical and recent violations of child labor laws in the U.S. to include labor trafficking, exploitation, and sexual abuse. Finally, this paper will conclude with recommended next steps to support the elimination of child labor and protection of the youthful workforce.



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Background

Child labor has existed throughout human history, and the United States is no exception.

Historical Prevalence

Children belonged to the agricultural and handicraft workforce in the early 19th century in the United States. This practice peaked during the [Industrial Revolution](#) due to a combination of demand for miners and factory workers. Conveniently, there was an influx of available immigrants, including child immigrants, who were exploited to fill these demands. The shameful benefit to hiring immigrant children is that they tended to be socially and economically [vulnerable](#), which made them easily exploitable. Youth were paid less than their adult counterparts and were less likely to organize a strike against abhorrent working conditions.

Campaign against Child Labor

The very first efforts to denounce child labor were led by [clergyman Edgar G. Murphy](#) and his supporters in the 1890's who established the [Alabama Child Labor Committee](#). Around the same time, organized efforts to improve social welfare in the north culminated in the development of the New York Child Labor Committee and the [1903 National Conference of Charities and Corrections](#). Activist attendees included fiercely passionate social worker and [Nobel Peace Prize Winner Jane Addams](#) who challenged the ethics of child labor. When Reverend Murphy learned about these organized efforts, he organized with the New York Child Labor Committee in efforts to build a national organization on child labor reform.

Then, on 25 April, 1904, the [National Child Labor Committee \(NCLC\)](#) was established. The NCLC advocated for child labor reform at the state and federal levels, including advocating for the Child Labor Amendment to the US constitution passed in 1924. This Amendment was never ratified. More specifically, Kratz (2020) indicated that the Child



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Labor Amendment fell short of the required [three-fourths threshold](#) and that ratification by 10 more states is needed to add this amendment to the Constitution.

[Institutional resistance to change](#)

Efforts to improve workforce conditions were met with heinous resistance and The Supreme Court isn't without fault and does not cover itself with glory. The U.S. Supreme Court served as a barrier to improving working conditions for both women and children. One such notable 1918 case is [Hammer v. Dagenhart](#) when the Supreme Court ruled Federal child-labor-law as unconstitutional striking down the Keating-Owen Act (1916). The Keating-Owen Act (1916) was established after Congress claimed authority to regulate interstate commerce with Article 1, Section 8. It forbade the shipment of goods made in factories that employed children under age 14 or children between 14-16 who worked more than eight hours daily, overnight, or more than six days weekly. The Keating-Owen Act (1916) was challenged by Roland Dagenhart who worked in a textile mill with his two teen sons citing the 10th Amendment. The 10th Amendment empowers states to regulate child labor. Dagenhart claimed the Keating-Owen Act (1916) could not be regulated by commerce as Congress initially claimed.

Another instance was in [1923 Adkins v. Children's Hospital](#) which voided minimum wages for women in the District of Columbia. Supreme Court Justices William Howard Taft, Oliver Wendell Holmes, Jr., and Edward T. Sanford offered dissenting opinions arguing that Congress had the policing power to correct recognizable evils. Fourteen years later, the Supreme Court overturned this position that was adopted by a then conservative majority and ruled that some government intervention in contracts between employers and employees is not unconstitutional in [West Coast Hotel Company v. Parris \(1937\)](#).

Full well understanding the devastating impacts of the Great Depression on working families, President Franklin D. Roosevelt swiftly signed The [National Industrial Recovery](#)



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[Act of 1933](#) as a part of his New Deal which alleviated unemployment with a public works program. Tragically, the Supreme Court ruled Roosevelt's solution unconstitutional a mere two years later.

A fair compromise

Later, President Franklin D. Roosevelt signed the landmark [Fair Labor Standards Act of 1938](#) into law. The [Fair Labor Standards Act \(1938\)](#) set a framework that continues to evolve and adapt to today's standards of living in the US. The FLSA initially established the minimum age for employment in nonmanufacturing jobs at age 14, outside of school hours, with regulated working hours for minors under age 16. Minors aged 16 may work during school hours in interstate commerce and persons aged 18 may work in potentially hazardous occupations. Exceptions for child labor laws included the agricultural and entertainment industries.

International Law

Furthermore, the United Nations [International Labour Organisation \(ILO\)](#) (1960) published a report that demonstrated evidence of failure to protect youthful workers in more than 70 member nations. The ILO expanded in 1992 to include the International Program on the Elimination of Child Labor (IPEC) which seeks to remove children from hazardous labor conditions and eliminate child labor. Of note, The United States of America has been a [member state of the United Nations](#) since 24 October 1945.

Current Conditions

More recent updates to the FLSA indicate that in cases where employees are subject to both state and federal minimum wage laws, the employee is entitled to the higher minimum wage.



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Exceptions

However, youth under age 20 may be paid \$4.25 per hour during the first 90 consecutive calendar days of employment. Certain full-time students, student learners, apprentices, and workers with disabilities can be paid less than the minimum wage under special certificates issued by the U.S. Department of Labor. There are very specific job types, hours worked, and ages ranges that youth are authorized to work listed in the [U.S. Department of Labor Youth Rules for Young Workers](#). Laws remain relaxed in the agricultural and entertainment industry to date.

Child Trafficking that goes unreported

Unfortunately, these laws and regulations are routinely violated, often exploiting the nation's most vulnerable youth and families including by way of human and labor trafficking and sexual exploitation. According to the Department of Homeland Security, [Human Trafficking](#) exists to this day. Human Trafficking involves the use of force, fraud, or coercion to obtain some type of labor or commercial sex act. Millions are trafficked worldwide, including in the U.S., and children are no exception. Traffickers use violence, manipulation, romantic relationships, and false promises of well-paying jobs to lure victims into trafficking situations.

They seek out people of all ages, races, genders, and nationalities who are particularly easy targets. They seek out persons who are victims of natural disasters, who have no support system, who are politically unstable, and who are economically, psychologically, or emotionally vulnerable. They use fear tactics and psychological manipulation to maintain control of their victims and exploit language barriers. Unfortunately, many victims of human trafficking may not ask for help for a myriad of reasons, or even identify as victims.



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Forced Labor

Another form of human exploitation includes [Forced Labor](#). Forced labor occurs when people are forced against their will to work or provide services. Victims of forced labor may be monitored or restricted and have language barriers making it difficult to ask for help. Those at risk of forced labor victimization include people with unstable immigration status, language barriers, lacking support systems, people with disabilities, and those who are emotionally, psychologically, and economically vulnerable to include people who have been traumatized and people who lack basic needs like food, water, safety, and shelter. One 2020 example of trafficking and child labor violations is found on a Department of Justice Press Release indicating a Chicago family of three was charged with [child labor trafficking](#) of two undocumented African youth.

Systemic neglect

[Katherine Kaufka Walts](#), J.D. (2017) found the barriers in combating child-labor trafficking are due to a lack of research and data collection, legislation and policies which prioritize sex trafficking, and the lack of effective training of first responders and child serving organizations which often results in ineffective operational responses. In other words, there is room for improvement in early identification and intervention.

Role of the Work Visa regime

It can be difficult to accept the fact that the exploitation of our Nation's most vulnerable citizens exists. The [National Institute of Justice](#) found that 71 percent of forced labor victims entered the United States lawfully with H-2A and H-2B visas. These victims abided faithfully by laws and policies to do what it takes to have a fighting chance at obtaining the American Dream and improved quality-of-life.

The [H-2A Visa](#) program helps American Farmers fill employment gaps by hiring workers from other countries. There are applications for immediate need, emergency, standard



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and extensions. The [H-2B Visa program](#) allows U.S. agents and U.S. employers to bring in foreign nationals to fill non-agricultural jobs. Bier (2020) of the Cato Institute clarified that while there are violators of these visa programs, most [H-2A employers do not violate laws](#).

Further, Bier (2020) also indicated there is little context about frequency of H-2A trafficking reporting because many participants fear losing their visas. Finally, Bier (2020) argued that it would be helpful to make the H-2A program less complex for both employers and employees to both understand and navigate, that workers can benefit from being educated on their rights, and that it would be helpful for workers to be authorized to leave their jobs without fear of losing out on their immigration status because workers care about having legal alternatives to illegal immigration.

[The role of Multinational Corporations](#)

Human Rights firm [International Rights Advocates](#) (2021) named Nestle, Cargill, Barry Callebaut, Mars, Olam, Hershey, and Mondelez as defendants in a lawsuit filed in Washington D.C. on behalf of 8 former Mali children who allege they were forced to work without pay on cocoa plantations. Allegations included unjust enrichment, deliberate infliction of emotional distress and negligence. [West African cocoa production](#) has previously been linked to human rights abuses, low pay, child labor violations and structural poverty.

While this did not occur on U.S. soil, some of the accused are US-based companies. Nestle, being one, has publicly pledged to end the reliance on child labor despite their legal argument was such that they could [freely use enslaved children](#) to harvest cocoa. [The Supreme Court](#) issued a divided opinion on this case against Nestle and Cargill under the Alien Tort Statute (ATS).



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In November, 2021, a 3 year multi-agency investigation into human trafficking led by Homeland Security dubbed “[Operation Blooming Onion](#)” uncovered one of the largest human trafficking and visa fraud rings in the country. The [H-2A work visa program](#) was exploited to smuggle foreign nationals from Mexico, Guatemala and Honduras into the United States in order to serve as agricultural workers. Activities also took place throughout the Middle District of Florida and the Southern District of Texas. Twenty-four defendants were indicted and face multiple charges including but not limited to Conspiracy to Engage in Forced Labor, Conspiracy to Commit Money Laundering, Forced Labor, and Tampering with a Witness. Victims were smuggled migrant farmworkers from Mexico and Central America into [Southern Georgia](#) rural farms where they went largely unnoticed and were detained by electric fencing, in dirty, cramped trailers with raw sewage leaks, and with little access to food and safe drinking water. They earned only 20 cents per bucket of harvested onions, sometimes harvested with their bare hands, while under the threat of gun violence.

[Wage theft](#)

These migrant workers were also subjected to [wage theft](#) which included being charged unlawfully for transportation, food, and housing and being utilized for lawn care and construction work outside of the agricultural roles they were employed to fill. Their passports were confiscated by their handlers, and they were threatened with deportation. Tragically, there were deaths due to these horrendous working conditions. The accused are alleged to have raped, kidnapped, and threatened the lives of not only the workers but also their families. Workers were also sold or traded to other conspirators.

[Increasing trends and remedial measures](#)

More recently, The Department of Labor sounded the alarm on increases of child labor violations since 2015. The U.S. probed possible labor trafficking at a [poultry processing](#)



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[plant in 2021](#) where youth had the same sponsor. Bills have been introduced in several states to relax child labor protections, likely due to widespread laborer shortages and a tight market. [Minnesota and Iowa](#) aimed to authorize teens to work in construction and meat packing plants. [New Jersey](#) passed a law in 2022 that authorizes teens to work longer hours. Republican-sponsored bill in [Ohio](#) hopes to expand working hours for 14 and 15-year-olds during periods when school is in session. Director of child labor issues and coordinator at the [Child Labor Coalition](#), Reid Maki, expressed significant [concern](#) about these efforts to relax child labor laws—warning of negative educational impacts on youth.

The migrant crisis

According to [PBS](#) (2018) more than 200,000 unaccompanied minors have entered the United States primarily from Central America, specifically to flee poverty and violence. Regrettably, many high-risk jobs such as amusement parks, recreational staff, agriculture, and construction work have high concentration of migrant employees. [PBS](#) (2018) indicated that [a 2016 Senate investigation](#) found these youth were vulnerable to labor trafficking as they were indebted to their smugglers. Similarly, one study found a [North Carolina](#) operation employing Latinx seasonal and migrant youth farmhands. These youth reportedly worked in highly demanding, potentially dangerous, unsupported conditions. The [International Labor Organization \(2021\)](#) estimates suggest there has been a 8.4 million more child laborers with 6.4 million more working in hazardous conditions and 3.3 million children in forced labor in the past 4 years.

The Wage and Hour Division has found over 2,800 minors employed in violation of the law in fiscal year 2021 and employers were consequently fined over \$3 million. The situation hasn't improved; there was a 37 percent increase in [child labor law violations in 2022](#). Instances of exploitation of child labor spans the entire continental United States.



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[Hazardous conditions and workplace fatalities](#)

[Crumb Cookies](#) was found to be in violation of child labor laws in December 2022. There were 46 violations across six states which includes allowing youth aged 15 to work outside of legal hours and operating potentially dangerous ovens and machinery. Comparatively, a Pennsylvania [McDonalds](#) franchise is also accused of more than 100 child labor violations of the same nature.

A 16-year-old Nashville, TN boy plunged to his death in a [construction accident](#) in 2022. In neighboring Memphis, [Schlotzsky's Deli](#) paid over \$17,000 in civil penalties for wage theft, poor time-keeping records, failure to maintain proof of age records, allowing youth to work past 7 p.m. while school was in session, and allowing youth to clean and operate deli meat slicers. In Idaho, a [Super 1 Foods store](#) authorized minors to operate power-driven trash compactors and box balers as well as allowing minors to work excess hours. They were assessed over \$154,000 in civil penalties. Ridley's Family Markets, Inc., also in Idaho, also allowed minors to operate power-driven baler and compactors and a 16-year-old worker sustained severe cuts while operating a baler. In Oregon, Fred Meyer, a subsidiary of Kroger Co. allowed minors to load power-driven balers on multiple occasions dating back to 2007 and were assessed \$55,440 in fines found in the most recent investigation.

Likewise, [Slims Chicken](#) in Ohio was warned in 2021 about violating child labor practices for youth under age 16. The Wage and Hour Division of the Department of Labor found over 330 more instances in two locations of minors working later and longer than authorized. They were fined over \$15,000 in civil money penalties. Moreover, Shanahan & Szal (2023) reported that one of the [largest manufacturers of plastic pipe](#) paid over \$6,000 in civil money penalties for violating child labor law after a 17-year-old worker



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suffered a minor injury. They found youth under age 18 were operating hazardous equipment. What's more, they failed to pay overtime wages to dozens of employees.

One of the larger, recently documented cases of exploitation includes the revelation that Wisconsin-based Packers Sanitation Services Inc. (PSSI) was found to have employed at least [102 children](#), ages 13-17 throughout eight states and at 13 different meat processing plants. This is a clear violation of the Fair Labor Standards Act (1938) which prohibits minors from working in hazardous employment. Some minor children were found to have sustained work-related injuries including chemical burns. Youth were found to have worked overnight shifts, with hazardous chemicals, and to have cleaned various processing equipment. The Department of Labor imposed fines exceeding \$15,000 per each child labor violation and PSSI paid \$1.5m in civil fines. The Department of Homeland Security is investigating whether the minors were forced to work for PSSI by [labor traffickers](#) with the intent to profit from their labor. Homeland Security is presently offering no comment on this manner as they continue to rule out this possibility with ongoing investigations.

[Child entertainers and sexual grooming](#)

Uniquely, laws for [child entertainers](#) vary from state to state and historically have been more relaxed compared to other industries. David Robb (2018) reported that the Hollywood Child Protection Act is routinely [violated](#) and perpetrators remain consequence-free. California [legislation](#) to protect current and aspiring child actors and performers from sexual predators dates to 2012 and had widespread support but it lacks firm, fair, and consistent execution. Thus, child sexual predators continue slipping through the cracks. Over the years, various mainstream actors have spoken out about their personal experiences with childhood sexual abuse and the subsequent impact on their mental health and overall functioning.



All too often, abuse is perpetrated by people in positions of power, influence, and authority. This is traumatic and can impact the psychosocial development of a child. Corey Feldman has been a fierce advocate for youth actors, [exposing child sex abuse](#) in Hollywood and has campaigned for reform on statute of limitation laws. Natalie Portman indicated that she felt [unsafe having been sexualized as a child actor](#) and that it took away from her own sexuality. She emphasizes the importance of consent and children having agency over their own bodies and the types of roles they play. Todd Bridges, *Diff'rent Strokes* actor, shared his [story of recovery](#) after having been molested. [Alex Winter](#) of the *Bill and Ted's Excellent Adventure* movie shared his journey of recovering from posttraumatic stress disorder after having been sexually abused in Hollywood. Corinthios (2018) indicated that [Judy Haim](#), mother of then child actor, Corey Haim, named her son's alleged sex abuser and then alleged the entertainment industry and media shifts blame onto the parents. These are a few of many countless examples of gross negligence and failure to protect children in the entertainment industry—violating both the physical and psychological safety of children.

Future Steps

This paper has demonstrated a widespread problem of child labor law violations within the United States. Human and labor trafficking and [child labor trafficking](#) occurs within the United States and affects our nation's most [vulnerable youth](#) up to and including unaccompanied, undocumented migrant youth. Employed children in the entertainment industry are at risk of child sexual abuse. Children as young as age 10 were found to be working in dangerous conditions on farms while young teens were found in manufacturing industries operating dangerous equipment. Youthful workers were also found to be working longer and later hours than authorized.



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Early intervention

There is an urgent need for early identification and intervention efforts to identify at-risk youth and warning signs in the workplace to prevent exploitation. This entails required education programming for managers, supervisors, human resources professionals and other leaders in the workforce. Youth and their families should be able to feel physically, psychologically, emotionally, and economically safe on their path to self-sufficiency.

Comprehensive approach

A comprehensive, interdisciplinary, collaborative approach may be helpful. First, key stakeholders can assist in developing and revising workplace policies. It will also be important to have a whistleblower reporting system to safeguard those who disclose violations and ensure consistent consequences for those who violate child labor laws.

Citizen vigilance

Second, watchdog groups and individual citizens may monitor sponsored bills and changes to local, state, and national laws and [advocate](#) for measures that allow for youthful employees to be protected from [child labor trafficking](#) and dangerous working conditions.

Continuous research

Next, continued research can be conducted into these matters. Watchdog groups may benefit from collaboration and partnering up on monitoring and reporting of violations as well as sharing resources on these topics.

Boycott guilty brands

Communities, families, and individuals can choose to not purchase goods and services that may be at risk of being [produced through child labor](#). Individuals may write to their Congress persons and take a stand against proposed legislation.



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Adequate resource allocation

Actress [Ashley Judd \(2023\)](#) revealed that the Wage and Hour Division does not have enough staff to adequately monitor these egregious conditions and advocated in her recent op-ed for improvements. It is critical to ensure the Wage and Hour Division has adequate staffing to fulfill the needs of monitoring these increased child labor law violations. At the same time, Seitz (2023) reported that the Biden Administration announced it is creating a [new task force](#) to contend with exploitation of migrant youth in the workforce.

Legislative force

It is never too late to bring legislative changes. The pending Child Labor Amendment to the US constitution needs to be ratified on an urgent basis to give legal cover to the rights of children against exploitation.

Parental responsibility

Finally, parents of youth entering the workforce may benefit from reading up on [guidelines](#) to follow with the Department of Labor Wage and Hour Division and individual [state laws](#). Youth preparing to enter the workforce will undoubtedly benefit from educating themselves on The [Young Worker Toolkit](#) and their legal rights as youthful employees.



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