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Information on India

Compliance with ILO Convention No.29 on Forced Labour (ratified in 1954)

The scale of the bonded labour problem in India

At the Committee on the Application of Standards (2003), the representative of the Government of India stated, “the national statistics are comprehensive and complete.” And in 2005 the Committee of Experts stated, “the incidence of bonded labour system is declining”. However, the available information set out below does provide considerable evidence that the 282,970 people who have been identified by the Government of India since 1976 does not represent the total number of bonded labourers in the country.

The Committee of Experts noted in 2001 that “Other official information generated within India has referred to much higher number than those cited recently by the Government (which was 280,340 at that time), for instance the survey conducted by the Gandhi Peace Foundation and the National Labour Institute in 1978-79 which cited a number of 2.6 million.”

The Government now rejects the findings of that survey, even though the National Labour Institute is part of the Ministry of Labour, on the grounds that “the methodology was not acceptable”. However, this survey was based on a random sample of 1,000 villages in 10 different states and this method of extrapolating from a large random sample is widely used and accepted as a valid methodology for research.

Clearly, there will be a margin of error in any survey of this type and magnitude that could underestimate or overestimate the total figure. However, even if we presume that the survey overestimated the number of bonded labourers by ten percent and we deduct the total number of bonded labourers identified by the Government to date, this would still leave over two million bonded labourers which have not been identified or released by the Government.

In Tamil Nadu alone, a commission set up by the Supreme Court to investigate bonded labour cases has identified 1 million bonded labourers. They were spread over 23 districts and 20 occupations, of which 10 per cent were bonded child labourers.¹

¹ Global Report on Forced Labour, ILO, 2005.

There is also evidence that the State governments' systems for identifying and reporting cases of bonded labour are extremely flawed, leading to dramatic under reporting of new cases of bonded labour.

It must be stressed that the National Labour Institute survey only dealt with bonded labour in agriculture and made no estimate of the number of bonded labourers in other industries like mining, brick kilns, silk and cotton production, *beedi* making. The information provided in this submission indicates that bonded labour in these industries is also likely to affect millions of people across India.

The silk industry

At the Committee of Experts (2005) the Government of India denied the existence of bonded child labour in the silk industry². However, a Human Rights Watch's report of January 2003, *Small Change*, documents bonded child labour in India's silk industry, particularly in Karnataka, Uttar Pradesh and Tamil Nadu. It estimates that there are more than 300,000 children working in the silk industry in these three states alone and the vast majority of these are bonded. In Uttar Pradesh around 100,000 children are bonded to non-family members. A further 100,000 children work with their families, but most of these families themselves are bonded to a trader.

These children typically work between 10 and 14 hours a day, for six or more days a week. The children suffer from work related injuries and illness and may also be subjected to abuse from their employers. Medical examinations carried out in 200 of 2000 children (aged six to 14) found that 86 per cent had respiratory diseases and 70 per cent had skin infections. Human Rights Watch documented the following case of an 11-year-old girl in March 2002 in Karnataka:

“After my sister got sick, we took her to the hospital, but the doctor said we had to pay more money, so my parents bonded me for 1,700 rupees (US\$35). I was seven or eight years old.... I only went home once a week. I slept in the factory with two or three other children. We prepared our food there and slept in the space between the machines. The owner provided the rice and cut it from our wages - he would deduct the price. We cooked the rice ourselves. We worked twelve hours a day with one hour for rest. If I made a mistake - if I cut the thread - he would beat me.”

The information in the Human Rights Watch report is consistent with that provided by the Rural Institute for Development Education (RIDE), which is based in Kanchipuram, Tamil Nadu. RIDE estimates that in its area there are about 200 private silk industries, employing nearly 15,000 people plus those employed in Government co-operatives. The children, about 40 per cent of whom are under the age of 16, work 12 hours a day and most are in bondage as a result of loans. These advances range from Rs. 1,500 to Rs. 3,500 (US\$30-70), but the children's labour often only meets the interest on the loans.

² A report by the Centre for Education and Communication (CEC), 2005, in conjunction with Anti-Slavery International, highlights a report by the Labour Commissioner in 1998, that found 3,077 cases of child bonded labour in the silk reeling units in Magadi and Ramanagaram areas of the Bangalore district, Karnataka. The children are clearly bonded as they are working to clear loans borrowed by them or their parents. Anti-Slavery International is not aware that any action was taken to rescue these children.

Cotton production

M. Venkatarangaiya Foundation's study of the Telangana and Rayalaseema regions of Andhra Pradesh shows that girls are employed in hybrid cottonseed production, under long-term contracts, in return for loans advanced to their parents. The Foundation estimates that approximately 250,000 girls between the ages of seven and 14 are employed in hybrid cottonseed fields in Andhra Pradesh.

Approximately 95 per cent of the children working for local seed producers are doing so because of loans made to their parents. Around 70 per cent of the children in the survey had been working for more than a year, 57.5 per cent were in their third year and 12.5 per cent in their fifth year.

Bidi production

Bonded labourers are used in the production of *bidi* (cigarettes) in Andhra Pradesh, Chattisgarh, Maharashtra and Tamil Nadu. Vedika, a non-governmental organisation, has documented cases of child bonded labour reported in the daily newspaper, *Vaaritha*, in the Kurnool District of Andhra Pradesh.

On 5 May 2002, *Vaaritha* reported that there are more than 50,000 *bidi* workers in the district, of whom only 5,000 are officially recorded and eligible for protection under labour law (e.g. minimum wages, identity cards, insurance protection, etc.). The 90 per cent of unrecorded workers receive Rs.32 (less than half a US dollar) for making 1,000 *bidis* and deductions are made from their wages at the discretion of the employer. Many of these workers suffer from work related diseases (e.g. tuberculosis, cancer, etc.) but are not given any assistance. A large number of these undocumented workers are likely to be bonded, as the following case illustrates:

In Kurnool, Seenu, a nine-year-old boy, and Bhuvaneshwari, a 10-year-old girl, were found in a house making *bidis*. Their respective parents had taken loans of Rs.2,000 (US\$41) and Rs.4,000 (US\$83). Although the children had worked for more than eight months, the businessman claimed that the work had not even met the cost of the interest on the loans. The children had tried to escape several times, but were recaptured and chained using iron chains and rods that gave them injuries on their legs and hands. The businessman was thought to be a government employee in the district administrative office.

Brick kilns, quarries and mines

In the Indian states of Andhra Pradesh, Bihar, Delhi, Haryana, Punjab, Rajasthan, Madhya Pradesh and Tamil Nadu, a significant proportion of workers in brick kilns, quarries and mines are in debt bondage. The ILO's Global Report on Forced Labour (2005) highlights a number of recent cases of bonded labour in brick kilns, quarries and mines. In Punjab 47 labourers were released by police from a brick kiln in the Moga district of Punjab following a writ petition in the Punjab and Haryana High Court by two labourers. All labourers stated that they had not been paid for the last four months and has not been allowed to leave the kiln. In Tamil Nadu, 47 bonded labourers were released from two brick kilns in Kancheepuram district in 2003. In Bhind district, Madhya Pradesh 50 bonded labourers were kept in brick kilns according to a complaint filed before the National Human Rights Commission. In

Ghaziabad, Uttar Pradesh, 20 bonded labourers were rescued from a brick kiln, including 9 Muslim workers who had been lured from their home district of Baghpat and given an advance of Rs.2000 each. Once they started working they were paid less than half their promised wages with their payments stopping completely for a month, armed guards were used to restrict their movement and they were beaten and threatened with being thrown in the furnace if they complained.

Research carried out in 2000, by the Indian NGO, Mine Labour Protection Campaign, found that there is a high incidence of bonded labour amongst the three million mine and quarry workers in Rajasthan State and that approximately 95 per cent of these workers are *dalits* or *adivasis* ('low' caste or indigenous groups).

Research by Y. R. Haragobal Reddy on the *Bonded Labour System in India* (1995) included a survey of 50 quarries in Andhra Pradesh and found that over 80 per cent of workers were bonded. According to the NGO Vedika, based in Andhra Pradesh, children between the ages of 10 and 14 are working in quarries to repay loans. They usually work from 8.00am to 4.00pm and receive between Rs. 20 and Rs. 30 (less than half a dollar) per day.

Domestic workers and other sectors

While more research into bondage among domestic workers in India is needed, it is clear that it exists. The Arunodaya Centre for working children, based in Chennai, estimates that, in Tamil Nadu, 29 per cent of the resident child domestic workers have taken advances for their work.

There are several other industries where bonded labour is reportedly used, but where insufficient research has been done to quantify the scale of the problem. These include: gem cutting, fish processing, carpet weaving, sugar cane plantations, rice mills, salt production and hand and power looms.³

The role of State Governments

Since the passage of the 1976 *Bonded Labour System (Abolition) Act*, the Government of India has undertaken many welcome initiatives in relation to bonded labour. It has modified the Centrally Sponsored Scheme to allow rehabilitation grants of Rs. 20,000 (US\$425) for each bonded labourer who is released. It announced, in 2000, that it would provide 100 per cent financial assistance to State Governments to conduct surveys of bonded labourer. Government assistance will also be made available for awareness raising, monitoring implementation of the 1976 Act and for conducting evaluation studies in relation to tackling bonded labour.

These initiatives are positive, but rely on state governments for their effective implementation. The former Labour Secretary to the Government of India, Dr Mishra, identified some state governments as being an obstacle to the eradication of bonded labour. The National Human Rights Commission also supports this view. According to a survey they carried out in 2001, "the top administration in almost every State is reluctant to admit that the problem of bonded labour still exists. Most of the States

³ Much of the information cited above refers to children. In this context we urge the Indian Government to ratify ILO Conventions 138 and 182.

hold the view that with the coming into force of the Bonded Labour System (Abolition) Act, 1976, all the bonded labourers have been released and that the problem has been solved forever.”⁴

For example, between March 1993 and March 2001 no new cases of bonded labour were reported from Andhra Pradesh, Orissa, Rajasthan, Kerala, Haryana and Gujarat. The exception being Uttar Pradesh where 71 bonded labourers were identified and released.⁵ In its report to the ILO in 2001 the Government of India reported that according to the Chief Minister in Punjab “there is almost no incidence of bonded labour in the state of Punjab”.

This view is supported by information given by the Indian Government to the Committee on the Application of Standards (2001). It states that surveys were carried out at the end of 1996 and only 28,916 bonded labourers were identified in seven States.⁶ All the remaining state governments “filed affidavits in the Supreme Court that no incidence of bonded labour was found during the survey in their State”. However, in the same statement the Government notes that there “were 172 sensitive districts in 13 states where incidents of bonded labour were reported frequently”.

Dr Mishra also states that: “A few State governments have come to the conclusion that there are no bonded labourers in their States even without constituting Vigilance Committees.... The Vigilance Committees whenever constituted are not meeting at close and regular intervals.”⁷ The National Human Rights Commission goes further: “Mandatory Vigilance Committees at the District and Sub-divisional HQs were not in position at many places. Even where such committees were constituted they have become defunct over the years. The committees have not made worthwhile contributions anywhere in terms of the identification, release and rehabilitation of bonded labour. Wherever bonded labour has been detected, the credit goes to NGOs and social activists who have been bringing these cases to the notice of an apathetic and unresponsive administration.”⁸

Information submitted by the Government of India to the ILO seems to support this view. In the year from March 1999 to March 2000 only 71 additional bonded labourers were identified by Vigilance Committees across India. Furthermore, the total number of bonded labourer identified in March 2000 (282,970) is the same figure that was reported to the ILO in June 2003.

In 2003, the Government reported to the Committee on the Application of Standards that bonded labour surveys were being conducted in 120 districts. Results of these surveys and how they were carried out have yet to be published.

In 2005, the Committee of Experts repeated its desire to see a national survey,

⁴ National Human Rights Commission Annual Report 2001-02.

⁵ Centre for Education and Communication (CEC), August 2001

⁶ This in itself was surprising given that *The Report of the Commission on Bonded Labour in Tamil Nadu to the Supreme Court of India*, 1995 estimated that there were more than 1 million bonded labourers in that state alone.

⁷ Dr L Mishra, Secretary to the Government of India, Ministry of Labour, *Bonded Labour*, presentation in the National Consultation on Forced Labour, 21-22 September 2000, New Delhi, page 13.

⁸ National Human Rights Commission Annual Report 2001-02.

“...the Committee reiterates its hope that a statistical survey on bonded labour throughout the country will at last be prepared, using also the results obtained through measures taken on the state and district levels... The Committee requests the Government to communicate the surveys’ findings with its next report.”

Enforcing the law

According to the Government 4,743 prosecutions have been brought since the 1976 Act was passed. According to the Committee of Experts, the prosecution rate “appears to be inadequate in comparison to with the numbers of identified and released bonded labourers reported by the Government”.

The Government does not provide statistics on how many of these prosecutions were successful or the penalties imposed. This information is of vital importance in coming to a conclusion as to whether India is complying with Article 25 of ILO Convention No.29, which states that ratifying States must “ensure that the penalties imposed by law are really adequate and are strictly enforced”. As the Committee of Experts observed, effective prosecution and penalties must form part of a cohesive approach to combat bonded labour. Indeed the National Human Rights Commission found that “the prosecution of offenders under the bonded labour system has, in fact, been neglected in every State reviewed.”⁹

The Government maintains that the responsibility for enforcement of the 1976 Act “entirely rests with the state governments”. Yet it remains incumbent on central Government to ensure that state governments fulfil their responsibilities.

Anti-Slavery International is concerned that in some states the District Magistrates are not functioning effectively in terms of releasing bonded labourers or ensuring the prosecution of those responsible for using bonded labourers.

The NGO Volunteers for Social Justice (VSI) has filed some 2,000 cases for the release of bonded labourers in Punjab State since 1990. According to VSI, only a handful of these bonded labourers have been formally released to date.

Dr Mishra stresses, “There have been cases where the magistrate has refused to issue a release certificate even after all the ingredients of bonded labour system have been proved beyond doubt.”¹⁰

The very institutions responsible for ensuring the release of bonded labourers, including the police and district magistrates, are in some cases failing to apply the law in Punjab State and may actually impede bonded labourers from accessing their rights under the law.

The provision of statistics on the number of successful convictions and sentences passed, broken down by state, will help identify whether Article 25 of Convention 29 is being complied with. If the information shows that in some states convictions are

⁹ NHRC Annual Report 2001-02; Pp 76-77

¹⁰ Dr L Mishra, op.cit., page 35.

not taking place or that sentences are not adequate, then the Government can take appropriate action at a regional level to remedy the problems.

Problems with the release and rehabilitation process

There have been reports of corruption in the identification and release of rehabilitation packages to bonded labourers. Bribes of Rs.500-700 were allegedly taken by the head clerk from almost every released bonded labourer in Saraipali block, Chattisgarh before they could get the rehabilitation package (bicycle, paddy, bullocks etc.). In cases where the released bonded labourer refused to pay the bribe, their rehabilitation payments were not made or delayed. After paying the bribe they were able to get their rehabilitation package within three to six months.

In Chattisgarh, government officials only identified labourers as bonded if they had received prior permission from their landlords to be released. This goes some way to explaining why so few cases of bonded labour are reported. In Karnataka only 2276 (approximately) have been identified between 1995 and 2005 by the State government. According to a survey carried out by the non-governmental organisation, Jeevika, 18,000 cases of bonded labour have been identified between 1992 and 2004, a figure the government has disputed.

When handing out rehabilitation packages the administration in Chattisgarh discriminated between the bonded labourers identified by NGOs, and those who were identified by government officials. The latter got their rehabilitation package much more easily and promptly, compared to the released bonded labourers identified by the NGOs.¹¹

Rehabilitation assistance does not seem to be working. This has been well documented in Chattisgarh. They receive 500 rupees along with a certificate at the time of their release. Later on they are given a rehabilitation package worth 6,250 rupees. This package is not in the form of cash, but in the form of paddy, bullocks, bicycle, clothes etc. They do not get the whole rehabilitation package at once, but have to visit the office to receive every commodity. Most of them get a bicycle first after paying a bribe of 100 rupees, often having to sell their utensils or take a loan in order to arrange for money to pay the bribe. At present, none of the released bonded labourers still own their bicycle as they have had to sell it after two to three years to pay their loans.

The 10 bags of paddy, which they receive as a part of the rehabilitation package is usually consumed within a year and doesn't have any productivity value. The only thing that seems to tie in with livelihood security is a pair of bullocks or a cow. However, most of the cows are unable to survive for more than a year, as their owners are unable to provide the expensive feed and fodder required for them and the imported breed cannot adapt to the local environment. The scheme of distributing cows for providing livelihood to the bonded labourers has been a complete failure in Chattisgarh. Those that received bullocks were able to put them to some productive use and support themselves. However as the released bonded labourers are landless

¹¹ "Analysing the effectiveness of programmes for the eradication of bonded labour in India." Research conducted by the Centre for Communication for Anti-Slavery International 2005.

tenants, many had to sell their bullocks for a minimum price once they had finished their tenancy.¹²

It is possible to see that there are many problems with the rehabilitation process as it fails to provide any permanent livelihood security to workers and often leaves them as vulnerable to becoming bonded again. After their release, the big farmers have stopped employing them and now they either migrate to the neighbouring brick kilns in order to support themselves or have to work as *Melhas* (daily wage earner) for minimum wages in neighbouring villages. After being released and supposedly rehabilitated, the plight of the released bonded labourers remains much the same.

It is clear that the system of bonded labour is deeply entrenched in India and that the existence of legislation outlawing bonded labour is not enough of a deterrent. The Government of India should:

1. Undertake a statistical survey on bonded labour throughout the country, using a valid methodology in co-operation with employer and workers' organisations and with human rights organisations and institutions. Invite the ILO to lead such a national, independent survey.
2. Strengthen State mechanisms to deal with the problem of bonded labour including Vigilance Committees to reinvigorate the identification and release processes.
3. Strengthen the rehabilitation process. Bonded labourers should be provided with land and other implements to sustain their livelihood. They should also be helped to acquire livestock necessary to supplement their household income. They should be trained in other skills such as carpentry, dairying, masonry, pottery, tailoring etc. to widen their earning opportunities. In the absence of such measures, it is likely that the labourers will lapse into bondage, defeating the very purpose of rehabilitation.
4. The NHRC should be provided with sufficient penal power so that they can initiate effective measures to eradicate the bonded labour practice. They should also evolve effective co-ordination with state level Human Rights Commissions.
5. Implement the Minimum Wages Act and the Employment Guarantee Scheme to ensure that workers receive the minimum wage to which they are entitled.

The Government claims "significant progress" in the identification and rehabilitation of bonded labourers, but less than 2,700 bonded labourers have been identified in the four years to 31 March 2003 and rehabilitation measures do not appear to offer sustainable solutions. There also seems to be little enthusiasm for prosecuting those responsible, with only 116 prosecutions in the two and a half years up to October 2004 and no information regarding how many of these were convicted and what sentences passed.

¹² Ibid.