



July 2008

Information on India

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

Bonded labour in India

Between 1976 and 2008, the number of bonded labourers identified by the Government of India was 287,555.¹ However, evidence collected from a variety of sources over the last thirty years has consistently indicated that this represents a fraction of the total number of bonded labourers in India.

This evidence includes the survey conducted by the Gandhi Peace Foundation and the National Labour Institute (an autonomous body within the Ministry of Labour) in 1978-79, which estimated that there were 2.6 million bonded labours in the agricultural sector alone. The Government argues that the survey's methodology was "not acceptable". However, this survey was based on a random sample of 1,000 villages in 10 states and then extrapolates from the data provided from the sample – a widely used and accepted research methodology. Even if the survey overestimated the number of agricultural bonded labourers by 10 per cent and all the bonded labourers identified by the Government to date are deducted, this still leaves over two million bonded labourers which have not been identified by the Government.

It must be stressed that the 1978-79 survey only dealt with bonded labour in agriculture and made no estimate of bonded labourers in other industries like mining, brick kilns, silk and cotton production, *beedi* making. The information provided below indicates that bonded labour in these industries is also likely to affect millions of people across India.

In Tamil Nadu alone, a commission set up by the Supreme Court to investigate bonded labour cases identified one million bonded labourers. They were spread over 23 districts and 20 occupations, of which 10 per cent were bonded child labourers.² A regional research project undertaken by Anti-Slavery International in 2004-07 and carried out in India between 2004-06 by the Centre for Education and Communication (CEC) confirmed that the use of bonded labour is still widespread in Tamil Nadu and is found in the silk industry, cotton industry, weaving, agriculture, quarries, small spinning units, brick kilns, *beedi* production, gem cutting and power and hand looms.

¹ ILO Committee on the Application of Standards (2008).

² Global Report on Forced Labour, ILO, 2005.

Bonded agricultural labourers

The 1978-79 survey showed that bonded labour was commonly used in agriculture across India. The research done by Anti-Slavery International and CEC found that this continues to be the case and documented the problem in most states where research was carried out, including Chattisgarh, Karnataka, Punjab, Tamil Nadu and Rajasthan.

For example, in Punjab, field research carried out by the CEC in 36 villages in Jalandhar district and over 24 villages in Bathinda district found that 90 per cent of the agricultural labourers were bonded to a village landlord. The amount of debt reported ranged from Rs.20-40,000 (US\$472-944) with interest rates of between 24 to 60 per cent being charged on annual advances. There is a significant difference between the wages promised and those paid, with few bonded labourers receiving the minimum wage. Once bonded, labourers are considered to be on-call 24 hours a day, but if a worker is absent for any reason they are fined two days wages. Workers also reported physical assaults by landlords.

Bondage in the silk industry

A report by CEC and Anti-Slavery International in 2005 highlighted the findings of a 1998 report by the Labour Commissioner which identified 3,077 cases of child bonded labour in the silk reeling units in the Magadi and Ramanagaram areas of the Bangalore district, Karnataka.

In 2003, a Human Rights Watch report, *Small Change*, also documented 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 of 2000 children (aged six to 14) found that 86 per cent had respiratory diseases.

These findings are consistent with information from 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\$36-84), but the children's labour often only meets the interest on the loans.

Despite the evidence provided from these different sources, the Government of India continues to deny the existence of bonded child labour in the silk industry.

Bondage in textile and garment factories and cotton production

M. Venkatarangaiya Foundation's study of the Telangana and Rayalaseema regions of Andhra Pradesh estimates that approximately 250,000 girls between the ages of seven

and 14 are employed in hybrid cottonseed production, on long-term contracts. Some 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.

Field research carried out in 2004-06 by CEC in conjunction with Anti-Slavery International found new forms of bonded labour in the textile and garment industries in Tamil Nadu. Labourers working in power looms, sizing units and spinning mills are frequently confined to the workplace, normally a shed or house. There is strict surveillance of workers, who fear physical punishment if they try to leave. Bonded labourers work between 12-16 hours a day and the rates agreed with workers at the beginning of the contract are not adhered to.

Another form of bondage, which only affects girls, exists in the spinning mills and is referred to as the sumangali system. CEC researchers interviewed 43 girls who had previously worked under the sumangali system and 54 who were still working in the mills, as well as their parents, brokers and other individuals in the system.

The girls' parents receive an advance payment and they then send the girls to the mill with a broker. The broker receives a commission (around Rs.500 or US\$12) which is deducted from the girl's wages. All the girls interviewed signed contracts, but none had a copy and most of them had no idea what the agreement said either because they were illiterate or because they had signed blank papers.

The girls then have to work for a specified period, usually three years, during which they are paid a small monthly wage (the equivalent of between \$10-25), but are promised a lump sum payment (usually of around \$700) at the end of the contract. This is usually used to arrange her marriage. Although the girls believed that they would be working one shift of eight hours, practically all of them worked 12 hours a day. Most girls also had to do some occasional domestic work for the mill owner.

Of those interviewed who were still employed in the mills, 85 per cent were 15 or younger when they started work. These girls were confined in the camps with 83 per cent reporting that they had not been allowed to visit their home village and the remaining girls only being allowed to leave for the marriage or death of a close relative. Of those who had previously worked in the mills, two thirds said that they suffered verbal abuse and over 10 per cent said they were beaten by their employers.

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.³

CEC field research published in June 2006 in Punjab found clear evidence of bonded labour in brick kilns, where most labourers are migrant workers. The recruiter (*Jamadar*) pays an advance of between Rs.10-15,000 (US\$236-353) per household,

³ The ILO's Global Report on Forced Labour (2005) highlights a number of cases including in Punjab, Tamil Nadu, Madhya Pradesh and Uttar Pradesh.

and the worker then travels from their home village to the brick kiln. At the kiln they work on a piece rate basis against their debt and do not receive weekly wages. They receive a cash advance every fortnight for subsistence, with wages paid at the end of the season. Work stops at the kilns from mid-December to mid-February because of the lack of sufficient sun. The labourers become further indebted during this period as they continue to take the fortnightly subsistence allowances.

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. Haragopal 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 less than half a dollar per day.

Other sectors

The use of bonded labourers in the production of *bidi* (cigarettes) has been reported in Andhra Pradesh, Chattisgarah, Maharastra and Tamil Nadu. 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 and are in debt bondage.

Further research is needed into the scale of bonded labour in these sectors and in other industries where bonded labour is reportedly used, including gem cutting, fish processing, carpet weaving, sugar cane plantations, rice mills and salt production.⁴

Furthermore, the Government of India has only identified just over 4,500 bonded labourers in the last eight years, despite the overwhelming evidence that bonded labour remains an extremely serious problem in India. The absence of national data regarding the numbers of bonded labourers in India is a serious impediment to eradicating it.

The National Human Rights Commission (NHRC) called for a "fresh, comprehensive survey to determine the magnitude of the problem"(2004-05 Annual Report), while the ILO Conference Committee on the Application of Standards and Recommendations (2008) "expressed concern about the disparity of statistics over the years and the Government's unwillingness to conduct a National Survey on bonded labour throughout the country. It urged the Government once again to undertake a comprehensive national survey using an appropriate statistical methodology and other data collection methods, in order to better identify the magnitude of the problem. Such a survey should involve employers' and workers' organizations as well as NGOs in the collection of data and the identification of sectors and areas where bonded labour is prevalent."

⁴ Much of the information cited above refers to children. In this context we urge the Indian Government to ratify ILO Conventions 138 and 182.

The Government of India reported to the ILO Conference Committee (2008) that “it was not considered necessary to conduct a national survey throughout the country”, but also that “such a survey was not possible in a vast and diverse country such as India” and, finally, that the issue of bonded labour was “confined to a few isolated pockets” of the country and “Due to resource constraints, surveys on this issue were limited to the specific States concerned”.

Anti-Slavery International supports the ILO’s conclusion that a national survey is necessary and urges the Government of India to accept the offer of assistance from the ILO so that resource constraints or technical difficulties in carrying out a survey could be overcome.

The Government of India’s continuing reliance on state governments to conduct district wide surveys is part of the reason why bonded labour has not been properly documented and addressed.

The role of state governments in the identification and release process

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 and provides state governments with matching grants for the rehabilitation of bonded labourers of Rs. 20,000 (US\$425) for each individual who is released. The scheme also provides Rs.200,000 per identified district to conduct surveys of bonded labour.

In 1997, the Supreme Court empowered the National Human Rights Commission (NHRC) to monitor the implementation of the 1976 Act. The Supreme Court also directed states to submit status reports on the identification, release and rehabilitation of bonded labourers every six months to the NHRC. The NHRC has powers to summon and examine witnesses and has appointed two Special Rapporteurs to monitor and assist in implementing the 1976 Act throughout the country.

Under India’s federal structure, the implementation of the 1976 Act is the responsibility of state governments. However, there is substantial evidence to show that some state governments are an obstacle to the eradication of bonded labour – a view expressed by both the former Labour Secretary to the Government of India, Dr Mishra, and the National Human Rights Commission. According to a NHRC survey 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 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.”⁵

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.⁶ In 2001, the Government of India also reported to the ILO that “there is almost no incidence of bonded labour in the state of Punjab”.

⁵ National Human Rights Commission Annual Report 2001-02.

⁶ Centre for Education and Communication (CEC), August 2001.

Many state governments continue to deny the existence of bonded labour. The Orissa state government refuses to acknowledge that bonded labour exists in Orissa, despite the fact that the NHRC has declared Orissa to be one of the states where bonded labour is acute. Field research by CEC in Orissa also found that bonded labour exists in many sectors and that some 1,200 bonded labourers had filed for release. None of these individuals were officially identified as bonded.

In a meeting with officials from the state governments in Chattisgarh and Punjab, a CEC researcher was told that there was no bonded labourer in either state. However, the research had identified concrete cases and evidence of significant incidence of bonded labour in both states. In Chattisgarh, some 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 or recorded.

In Karnataka some 2,276 bonded labourers were identified by the state government between 1995 and 2005. 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.⁷

Dr Gupta, from the Indian NGO Prayas, said that state governments deny the problem because “They think it will give the administration a bad name.” However, CEC researchers also found that officials often had a poor understanding of the legal definition of bonded labour or what their duties were under the 1976 Act. This was the case for district officials in Punjab who stated that there was not a single bonded labourer in their districts, while officials in Delhi insisted bonded labour did not come under the Divisional Commissioner’s remit, despite a statement to the contrary on the official website.

States are also failing to compile data on the number of bonded labourers despite status reports being required of them every six months by the NHRC. A clerk for the Sub-Divisional Magistrate in Delhi told a CEC researcher that there is no data available on the numbers of bonded labourers identified, released and rescued in Delhi.

Another part of the problem is that Vigilance Committees are not performing the role assigned to them under the 1976 Act in terms of identifying and releasing bonded labourers. While Vigilance Committees have been formerly established in many districts, they generally remain ineffective bodies. The NHRC stressed that: “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.”⁸

The Government’s claim at the ILO Conference Committee (2008) that “all state governments had constituted Vigilance Committees at district and subdivision levels

⁷ “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.

⁸ National Human Rights Commission Annual Report 2001-02.

and that these committees were meetings regularly” does not match research findings by CEC or NHRC. The NHRC found in its 2004-05 Annual Report that the State Labour Committee on Bonded Labour in Rajasthan had not met since September 2001 and in Maharashtra the Vigilance Committees “are not meeting regularly and the detection of bonded labour is practically nil by the State”. In Punjab it found that the state government “does not seem interested in taking up the Awareness Generation Programme.”

CEC found that in Delhi, nine Vigilance Committees were established in 2001, but have not been functional. One of the listed members of the South District Vigilance Committee, Dr. Iqbal Malik, was unaware of his nomination to the committee and could not recall having ever been invited to a meeting. In all districts of Chattisgarh, Vigilance Committees exist on paper, but were not holding regular meetings or undertaking activities. The research also found that the composition of the Chittore District Vigilance Committee in Rajasthan was flawed as it was almost entirely composed of members of the local administrative bureaucracy and did not include three members from a scheduled caste or scheduled tribe or a representative from a local credit institution, as required by law. The Committee of Experts (2008) has called on the Government to “address itself to the shortcomings of the VCs in fulfilling their mandate”.

As a result of all of the above, the identification and release of bonded labourers has been extremely low in recent years. Over the last eight years, less than 600 bonded labourers have identified on average each year across the whole of India.

Enforcing the law

The NHRC has previously found that “the prosecution of offenders under the bonded labour system has, in fact, been neglected in every State reviewed.”⁹ In its 2004-05 report it cited cases in Uttar Pradesh where “prosecution aspects remain totally neglected” and in Madhya Pradesh where prosecution powers were only being used “reluctantly”. It stressed the need for “prosecution of offending employers.”

The 2008 Committee of Experts report describes the prosecution process under the 1976 Act as having “serious and ongoing deficiencies”. The Government of India reported to the ILO Conference Committee in 2008 that, since 1976, there have been 5,893 prosecutions initiated and convictions obtained in 1,289 cases.

It is clear from these statistics that the law is poorly enforced and employers are rarely successfully prosecuted. Where a conviction is obtained a minor fine is considered adequate in most cases and imprisonment is extremely rare. The Deputy Labour Commissioner of North East District in Delhi expressed his concern to CEC researchers regarding the impunity that employers enjoy in relation to bonded child labour. He said that courts never send employers to jail and at best impose a fine of Rs 10,000 (US\$236) for violations of the Child Labour Act. He noted that only a jail sentence would be a deterrent for employers as they make a substantial profit from bonded child labour and can afford to pay the fines.

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

The Government does not provide statistics on the sentences passed, without which it is impossible to assess whether the penalties imposed by law are really adequate and are strictly enforced, as required under Article 25 of ILO Convention No.29.

Anti-Slavery International is concerned that 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 (VSJ) has filed more than 2,000 cases for the release of bonded labourers in Punjab State since 1990. According to VSJ, only a handful of these bonded labourers have been formally released to date. In Rajasthan, surveys conducted in nine districts identified a total of 213 bonded labourers, but the District Magistrates only confirmed five cases as bonded labour.¹⁰ 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."¹¹

The Government of India itself acknowledges that the number of prosecutions is low and says this could be explained in part by the existence of an informal system of dispute resolution centred on village-level bodies known as "N yaya Panchayat" or "Lok Adalts". These systems are biased against bonded labourers as these bodies are often dominated by high caste members of the landowning community. The weaker social status of bonded labourers means the agreements reached rarely benefit them. Reports are common of bonded labourers being summoned and made to approve a written statement that they cannot read, in which they state that they were never bonded, there is no dispute with their employer and agree that the accounts are now settled. This process is neither fair nor in line with Article 25 of the Convention.

Problems with the release and rehabilitation process

The NHRC quoted the secretary of the Ministry of Labour and Employment as stating on 28 June 2007 that "no data on the freed bonded labour is available and how their rehabilitation has taken place is still a question." Anti-Slavery International is aware that released bonded labourers encounter many difficulties in obtaining their rehabilitation package from state governments. There are frequent reports of release certificates not being issued, without which the rehabilitation package cannot be granted. In Uttar Pradesh, the NGO Akhil Bharat Samaj Seva Sansthan (ABSSS) has stated that it managed to free around 4,000 bonded labourers, but was not able to obtain release certificates for any of them.

Where bonded labourers are rehabilitated, they do not always receive the full rehabilitation amount. During the visit to Bargarh, the CEC found that of the 1,200 bonded labourers identified in 1983, only 480 were rehabilitated. The 480 were paid just half the rehabilitation amount due. In many cases women who are bonded alongside their husbands are not included in lists of released bonded labourers and thus do not receive a rehabilitation package.

¹⁰ As of 7 October 2004, cited in National Human Rights Commission Annual Report 2004-2005.

¹¹ 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, p35.

There have been reports of corruption in the issuing of rehabilitation packages, where bonded labourers have had to pay large bribes. The CEC field research in Orissa and Chattisgarh found cases in which released bonded labourers were forced to pay a bribe of between Rs.500-700 (US\$12-17) in order to get the rehabilitation package. Even when the bribe was paid, it took three to six months to receive the assistance. In other cases, the time between release and rehabilitation has been one year.

These delays can effectively force families back into debt bondage. In Chattisgarh, once the bonded labourers were given the release certificate, the landlords stopped employing them. Without access to assistance or employment, many migrated to the neighbouring state of Orissa and ended up becoming bonded in the brick kilns.

CEC research has also shown that rehabilitation assistance has not proved very effective to date. This is usually because it does not offer the individuals affected a sustainable livelihood, but even where projects have sought to provide long term income generating opportunities, these have also often proved unsuccessful. For example, a project which gave cows to former bonded labourers in Chattisgarh failed as most of the cows died within a year. This was because their owners could not afford the expensive feed and fodder required and/or the imported cows could not adapt to the local environment. A similar experience was documented in Uttar Pradesh where released bonded labourers from stone quarries in Chitrakoot were given goats. The labourers did not know how to rear the exotic breed they were given and many of the goats died.

In Shankargarh, Uttar Pradesh, many released bonded labourers received a rickshaw and a loud speaker as part of their rehabilitation package. In most instances, their rickshaws were boycotted and some former bonded labourers were attacked by their old employers or people working for them. In some cases their property from their rehabilitation package was destroyed. Released bonded labourers encountered hostility from local police and some were unable to file cases against those who attacked them and destroyed their property.

Some states have implemented rehabilitation packages for bonded labourers in conjunction with other anti-poverty programmes, such as the Indira Awas Yojana scheme, which entitles families to a house and other benefits. These seem to have had better results in securing improved standards of living for those affected and their permanent removal from bonded labour.

Delays and corruption must be removed from the rehabilitation process and assistance packages need to focus on securing sustainable livelihoods for bonded labourers via the provision of land, livestock or training in other skills (e.g. dairying, masonry, carpentry, pottery and tailoring). Rehabilitation must be viewed as an ongoing process with monitoring and support provided until the released bonded labourer becomes self-sufficient. Rehabilitation should also be implemented in conjunction with other programmes to tackle social exclusion and discrimination to achieve lasting results.

Women who are bonded must be considered as such and be provided with release certificates and full entitlement to rehabilitation assistance.

Conclusions

Existing information indicates that bonded labour continues to affect millions of people in a variety of different industries across India. However, the Government refuses to accept the scale of the problem and has so far refused to undertake a statistical survey on bonded labour throughout the country, using a valid methodology in co-operation with employer and workers' organisations and appropriate human rights organisations and institutions.

The statement from the Government at the Conference Committee (2008) that it would be possible to complement the 2011 national census with sample surveys on specific issues, such as bonded labour is a positive sign. Anti-Slavery International urges the Government to work with the ILO to undertake a national survey as a matter of urgency.

The three year study of bonded labour in India by Anti-Slavery International and the CEC (2004-2006) concludes that the nature and forms of bonded labour are changing alongside the development of the national economy. Generational and family bondage have in many places been replaced by more individualised temporary or seasonal debt bondage. However, the payment of advances in order to secure and exploit labour remains commonplace in a wide variety of sectors and is a key mechanism through which individuals are compelled to provide forced labour.

Many state governments, which have primary responsibility for implementing the 1976 Act, have failed in their duties as they have not ensured that the Vigilance Committees are properly set up and fully functional or properly identified the incidence of bonded labour in their regions. In many instances, district officials and Magistrates are either ignorant of the provisions of the law or deny the existence of bonded labour in areas under their jurisdiction, making the identification and release bonded labourers extremely difficult. The rehabilitation process is undermined by delays in issuing release certificates, corruption and a relapse of those freed into debt bondage in the absence of sustainable employment options.

The Government itself accepts that the number of prosecutions is low, but this is compounded by the fact that the punishment for those using bonded labour is not commensurate with the crime and penal sanctions are hardly ever used. Sanctions are not adequate or strictly enforced as required by ILO Convention No.29.

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 proving a deterrent. The framework for identification and release, prosecution and rehabilitation does not function effectively and there little focus on the issues of social exclusion and discrimination which underpin the practice of bonded labour in India.

In 2008, the Conference Committee examined the case of bonded and forced labour in India for the ninth time in recent years and its conclusions were unambiguous :

“The Committee noted with regret that 30 years after the adoption of the Bonded Labour System (Abolition) Act, 1976, in spite of the efforts made, bonded labour had not yet been eradicated in practice and new forms were emerging. The progress made

towards full compliance with the Convention was insufficient, despite repeated comments by the Committee of Experts and numerous discussions of the case in this Committee.

The Committee shared the Committee of Experts concern about the serious and ongoing deficiencies in law enforcement including shortcomings of the vigilance committees, low prosecution rates and insufficiently dissuasive penalties.”

Anti-Slavery International strongly supports the Conference Committee’s call to the Government Of India to submit a report to the Committee of Experts containing “comprehensive information on the actions taken at the national, state and local levels, including legislative developments, reliable statistics on forced or bonded labour, information on prosecutions and penalties imposed, and on the progress achieved on the eradication of forced and bonded labour.”