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# Bonded Labour in India: Its Incidence and Pattern

Ravi S. Srivastava

Special Action Programme to Combat Forced Labour

DECLARATION/WP/43/2005

Working Paper

*Working Paper*

# **Bonded Labour in India: Its Incidence and Pattern**

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## Foreword

In June 1998 the International Labour Conference adopted a Declaration on Fundamental Principles and Rights at Work and its Follow-up that obligates member States to respect, promote and realize freedom of association and the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour, and the elimination of discrimination in respect of employment and occupation.<sup>1</sup> The InFocus Programme on Promoting the Declaration is responsible for the reporting processes and technical cooperation activities associated with the Declaration; and it carries out awareness raising, advocacy and knowledge functions - of which this Working Paper is an example. Working Papers are meant to stimulate discussion of the questions covered by the Declaration. They express the views of the author, which are not necessarily those of the ILO.

As part of ILO activities to promote the Declaration, a Special Action Programme to combat Forced Labour (SAP-FL) was created by the ILO Governing Body in November 2001. Since then, SAP-FL has conducted research, awareness raising and technical cooperation, working in close collaboration with governments, employers, workers and others to eliminate forced labour in all its forms.

This Working Paper on the incidence and patterns of bonded labour in India was commissioned as an input to the ILO Director-General's second global report on forced labour, entitled *A global alliance against forced labour*, prepared for the 93<sup>rd</sup> session of the International Labour Conference in June 2005.

As a particular manifestation of forced labour, bonded labour systems affect very large numbers of women and men, girls and boys in South Asia today. Strong legislative frameworks are in place in India, Nepal and Pakistan but, in practice, bonded labour persists. Yet there have been few recent systematic or large-scale surveys of its incidence and characteristics to allow for a reliable assessment of the current extent of the problem.

To help fill this gap, and to facilitate better understanding of bonded labour and its causes in South Asia, the ILO has undertaken a range of different initiatives. In Pakistan, a research programme undertaken together with the Ministry of Labour has involved rapid assessments of bonded labour in different economic sectors and parts of the country. These studies have been published as Declaration Working Papers<sup>2</sup> as well as in a compilation issued by the Government of Pakistan. In Nepal, various studies and surveys have been conducted of a particular form of bonded labour, known as the "*Kamaiya*" system, in Western regions. A separate study has addressed other forms of bonded labour elsewhere in Nepal.

In India, with its great diversity of labour arrangements, it can never be easy to present an overall picture of bonded labour incidence and characteristics. India was the first country in the South Asian region to enact legislation against bonded labour, in 1976. Many important measures have been taken since then to seek the eradication of forced and bonded labour, including Supreme Court judgments of the early 1980s. There have historically been a large number of studies of bonded labour in the country, focusing

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<sup>1</sup>The text of the Declaration is available at: <http://www.ilo.org/declaration>

<sup>2</sup> See Declaration Working Papers Nos. 20-26

particularly on the agricultural sector.<sup>3</sup> But in more recent years, few academics or others have investigated the issue in a systematic way, and official statistics may indeed not cover all aspects of the situation. ILO supervisory bodies have for example referred on many occasions to the urgent need to compile accurate statistics of the number of persons who continue to suffer under bonded labour, using a valid statistical methodology, with a view to identification and release of bonded labourers. The Government of India has in the meantime pointed to progress made in the field of identification and rehabilitation, including central assistance provided to state governments for conducting surveys of bonded labour in 120 districts.

This present Working Paper does not aim to replicate all official information, or indeed to assess it. Instead, complementing other SAP-FL working papers on this complex matter, it aims to enrich the debate on bonded labour and its eradication in India by capturing some of the main trends over recent years. It aims essentially to compile and assess the contemporary evidence on bonded labour that has appeared in secondary sources.

Following consultation with the Ministry of Labour of the Government of India, this task was entrusted to Ravi S. Srivastava, Professor of Economics at Jawaharlal Nehru University in New Delhi, who has extensive experience in issues of rural labour markets, and particularly in migrant labour. Assisted by Mr. Anil Kumar Singh, Professor Srivastava undertook an extensive search of the recent literature on bonded labour, compiling evidence from academic sources, the Government of India, the National Human Rights Commission, other human rights organisations, non-governmental organisations and press reports. Extensive use was made of the internet. Telephone and personal interviews were held also with a number of key informants. While efforts were made to be as comprehensive as possible in this search, focusing in particular on the period since 2000, it should be noted that the work was conducted over a relatively short period in mid-2004, and that the researchers were not able to travel to individual states. It therefore stands to reason that not all sources of information are necessarily covered. Nonetheless, the author and we believe that the evidence collected and reviewed in this paper represents a reasonable sample of the current evidence, and considerable effort has been made to draw upon only those sources which appear to be authentic.<sup>4</sup>

The picture that emerges from the review provides compelling evidence of the persistence of bonded labour in a wide range of economic sectors and in many different States. Although it appears that the more traditional forms of agrarian labour attachment in India have declined substantially, it seems also that new forms of bondage have emerged in more modern agricultural as well as in many different sectors of the informal economy. Migrant labourers appear particularly vulnerable to bonded labour exploitation today, through recruitment systems where labour contractors and intermediaries lure ill-informed workers from their home communities with advance payments and false promises of well-paid, decent work. SAP-FL research shows that such deceptive arrangements are increasingly a feature of forced labour in all parts of the world, whether affecting internal or international migrants.

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<sup>3</sup> See Declaration Working Paper No. 11 by L. Mishra for an annotated bibliography on bonded labour in India

<sup>4</sup> This has been largely through the personal judgement of the researchers, as it was not possible to seek to independently verify each and every report.

While not the main focus of the study, the paper also addresses some of the proactive measures that have been taken by the Government of India, its civil society partners and the ILO to address the prevention and rehabilitation of bonded labour. As elsewhere in the region, the ILO and its SAP-FL programme are keen to cooperate with the Ministry of Labour and other partners, providing any technical assistance that might enhance their efforts against bonded labour. We sincerely hope that the present Working Paper will be seen as one such step in this direction, and help identify areas where practical activities of technical cooperation can be further developed.

I would like to express my sincere gratitude to Professor Srivastava for undertaking this challenging assignment so ably, and for respecting the tight deadlines we were obliged to impose. I would like also to thank my colleague in SAP-FL, Caroline O'Reilly, who is responsible for our work on bonded labour in South Asia and who oversaw this research and edited the paper. Finally, my gratitude is extended to our colleagues in the ILO Subregional Office for South Asia in New Delhi, who provided excellent assistance and collaboration throughout the process of commissioning and completing this paper.

April 2005

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# Table of Contents

<b>Acknowledgements .....</b>	<b>iii</b>
<b>Foreword.....</b>	<b>v</b>
<b>Abbreviations .....</b>	<b>x</b>
<b>1. Introduction.....</b>	<b>1</b>
<b>2. Conceptual and Definitional Issues Relating to Bonded Labour .....</b>	<b>1</b>
<b>3. Incidence and Nature of Bonded Labour in India.....</b>	<b>4</b>
3.1 Typology of Bonded Labour.....	8
<b>4. Causes of Bonded Labour .....</b>	<b>9</b>
<b>5. Incidence of Bonded Labour by Sector.....</b>	<b>12</b>
5.1 Bonded Labour in Agriculture .....	12
5.2 Bonded Labour Systems among Tribals .....	17
5.3 Brick Kilns .....	18
5.4 Stone Quarries, Crushers and Mines.....	22
5.5 Power looms and Cotton Handlooms .....	25
5.6 Bonded Labour in Other Sectors.....	26
5.7 Bonded Child Labour.....	29
<b>6. Elimination of Bondage: Nature and Scope of Interventions .....</b>	<b>32</b>
<b>References.....</b>	<b>36</b>
<b>Annex 1 .....</b>	<b>43</b>
<b>List of Working Papers of the InFocus Programme.....</b>	<b>44</b>
<b>on Promoting the Declaration.....</b>	<b>44</b>

## Abbreviations

BLSA Act	Bonded Labour System (Abolition) Act
BMM	Bandhua Mukti Morcha
CEC	Centre for Education and Communication
GOI	Government of India
ILO	International Labour Organisation
ISMW Act	Inter State Migrant Workers Act
JEEVIKA	Jeetha Vimukti, Karnataka
MBC	Most Backward Caste
MLPC	Mine Labour Protection Campaign
NCRL	National Commission on Rural Labour
NHRC	National Human Rights Commission
NLI	National Labour Institute
PSHRC	Punjab State Human Rights Commission
PUCL	People's Union for Civil Liberties
SACCS	South Asian Coalition Against Child Servitude
SC	Scheduled Castes
SHG	Self-help Group
ST	Scheduled Tribes
VSJ	Volunteers for Social Justice

## **1. Introduction**

The main objective of this paper is to delineate the current nature and pattern of the incidence of bonded labour in India. Article 23 of the Constitution of India of 1949 bans trafficking in human beings and forced labour. However, the legislation defining and banning bonded labour was approved by Parliament only in 1976.

The first large survey to assess the nature and magnitude of bonded labour was undertaken in 1978. Subsequently, the Supreme Court of India has pronounced a number of judgements to clarify the meaning of the term 'bonded labour'. It has also appointed Commissioners to the Court and has given a number of directives to Central and State governments to indicate the incidence of bonded and forced labour and to vigorously implement the Bonded Labour System (Abolition) Act, 1976. Since 1997, the National Human Rights Commission (NHRC) has been given a pivotal role in monitoring the implementation of the Bonded Labour System (Abolition) Act and in ensuring that the directives of the Supreme Court are followed by the Central and State governments.

This paper draws on the contemporary evidence on bonded labour, using reports and surveys since the mid-90s, in order to identify changes that may have occurred in the incidence and pattern of bonded labour. The National Commission on Rural Labour (NCRL) Report of 1991 (Ministry of Labour 1991a and 1991b) will be an important benchmark in this study, both in interpreting the contemporary situation and situating changes that have occurred in the last few years.

## **2. Conceptual and Definitional Issues Relating to Bonded Labour**

The UN Conventions and the ILO Conventions on Forced Labour define and prohibit various types of forced labour, slavery and servitude, and debt bondage.

The League of Nations adopted the Slavery Convention in 1926, which was followed by the first ILO Forced Labour Convention, 1930 (No. 29), ratified by India in 1951. Article 2(1) of the Convention defines forced labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily". Following this, the United Nations' Universal Declaration of Human Rights (UDHR) of 1948 reaffirmed the principle that "no one shall be held in slavery or servitude" (Article 4) and the right to "free choice of employment" (Article 23(1)). Though Convention 29 on Forced Labour did not specifically refer to debt bondage, over time the ILO's Committee of Experts on the Application of Conventions and Recommendations has stated repeatedly that 'debt bondage' is one form of 'forced labour' and is covered by the Convention's definition. The ILO's Worst Forms of Child Labour Convention, 1999 (No.182) specifically includes forced labour, debt bondage and serfdom of children in its purview.

Debt bondage is a specific form of forced labour, in which the element of compulsion is derived from debt. The UN Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956) defines debt bondage as “the status or condition arising from a pledge by a debtor of his personal services or those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited or defined” (Article 1(a)).

Forced labour, slave labour and servitude are characterised by compulsion, whether customary or otherwise. Bonded labour is characterised by a creditor-debtor relationship between the employer and the employee which can then spill over to other members of the family, be of an indefinite duration, and involve adverse contractual stipulations not justified by law or even by the prevailing state of the market. Bonded labour relationships are also usually reinforced by custom or force. Thus bonded labour relationships are not purely economic contracts, even though employees may enter into them voluntarily because of economic necessity. Once employees enter into these relationships, they are characterised by multiple asymmetries and high exit costs, which were not a part of the contract, as understood by the employee, at the outset.

We would argue that bonded labour refers to a long-term relationship between employee and employer which is cemented through a loan, by custom or by force, which denies the employee various freedoms including to choose his or her employer, to enter into a fresh contract with the same employer or to negotiate the terms and condition of her/his contract. We also show below that this concurs with the view taken in the Indian Constitution.

The problem of unfree labour in society is age old (cf. Kumar, 1965). The status of various categories of labour in India has been historically circumscribed by the social structure which has also determined the access of various groups to land and other productive assets. The specific characteristics of bondage in contemporary India relate to the transition in the economy and society and have to be largely understood in terms of the nature of the articulation between poor and developed regions and between traditional and modern sectors.

Forced labour violates the fundamental rights guaranteed to all citizens by the Indian Constitution. Article 23(1) in Part III of the Indian Constitution, relating to Fundamental Rights, states that “Traffic in human beings and *begar*<sup>5</sup> and other forms of forced labour are prohibited and any contravention of the provision shall be an offence, punishable by law.”

The law dealing with bonded and forced labour was legislated by the Indian Parliament in 1976. The Bonded Labour System Abolition Act (1976) of India is quite extraordinary in that it recognises (a) the overlap between forced labour and bonded labour in customary relationships, and also (b) the manifestation of these relationships in contract labour and inter-state migration, and (c) considers the nature of restraints

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<sup>5</sup> Customary and obligatory labour services which are performed without remuneration by labourers, tenants or low caste employees for upper caste landlords and/or employers.

suffered by the labourer as a result of the bonded/forced labour relationship, and makes all of these illegal.

Section 2 of the Act sets out the definition of bonded labour; extracts of the Section are reproduced in full at Annex 1 to this paper. The Act defines 'bonded labour' as a service rendered under the 'bonded labour system'. This is a system of forced, or partly forced, labour under which the debtor enters into an agreement, oral or written, with the creditor. According to this agreement, in consideration of an 'advance' obtained by the debtor or by any of his lineal ascendants and in consideration of interest on such an advance or in pursuance of any customary obligation or by reason of his birth in any particular caste or community, the debtor agrees to render, by himself or through any member of his family, labour for the creditor for a specified or unspecified period of time either without wages or for nominal wages<sup>6</sup>, or forfeit the freedom of employment or other means of livelihood, or forfeit the right to move freely throughout India, or forfeit the right to appropriate or sell at market value any of his property or the product of his own or any of his family members' labour.

The 1976 Act also lays down the monitoring, enforcement and implementation modalities, which rest mainly with the State governments.

The ambit of 'bonded labour' prohibited by the 1976 Act has been clarified by the Supreme Court in a number of judgements, including the *Asiad Workers' Case* (1982) and the *Bandhua Mukti Morcha Case* (1984). The Courts have clarified that the 1976 Act is derived from Article 23(1) of the Constitution whose ambit is much wider than Article 4 of the UDHR, since "the Article strikes at forced labour in whatever form it may manifest itself, because it is violative of human dignity and is contrary to basic human values" (Supreme Court judgement in the *Asiad case*).

The Supreme Court of India has taken a wide view of what may constitute 'force' in a labour relationship, stating (also in the *Asiad case*) that:

"Any factor which deprives a person of a choice of alternatives and compels him to adopt a particular course of action, may properly be regarded as 'force' and if labour and service is compelled as a result of such 'force' it would be 'forced labour'. The word 'force' must be construed to include not only physical or legal force but also force arising from compulsion of economic circumstances which leaves no choice of economic circumstance to a person in want and compels him to provide labour or service even though the remuneration received for it is less than the minimum wage. Therefore, when a person provides labour or service to another for remuneration, which is less than the minimum wage, the labour or service provided by him clearly falls within the scope and ambit of the words 'forced labour'."

This is again reiterated by the Supreme Court in its judgement of 18 September 1992 (Writ Petition 8143 of 1981, *People's Union for Democratic Rights vs. Union of India*) where it clarified that "... when a person provides labour or service to another against receipt of remuneration which is less than the minimum wage, he is acting

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<sup>6</sup> "Nominal wages" means a wage which is less than (a) the minimum wages fixed by the Government, in relation to the same or similar labour; and (b) where no such minimum wage has been fixed, the wages that are normally paid, for the same or similar labour, to the labourers working in the same locality

under some force of some compulsion which drives him to work though he is paid less than what he is entitled under law to receive.”

Thus, one of the important outcomes of the bonded labour relationship, according to the Act and subsequent Supreme Court judgements, is the payment of the labourer at wages *which are below the prevailing market wage or the legally stipulated minimum wage*. Although this is a controversial stipulation in the case of certain sectors where market wages are normally below the legal minimum (as in agriculture in several regions), in sectors where there are long duration labour contracts, the payment of wages below the legal minimum is both a cause and effect of a significant incidence of credit bondage.<sup>7</sup>

The main thing to note here is that (a) the mere presence of a creditor-debtor relationship between a labourer and an employer is not sufficient to denote a bonded labour relationship: the latter should result also in other involuntary restraints on the labourer; and (b) in the Indian context, a creditor-debtor relationship is not even a necessary condition of bondage, since the Indian legal definition of bondage incorporates various categories of forced labour, while still treating the creditor-debtor relationship as an important part of bondage.<sup>8</sup>

### **3. Incidence and Nature of Bonded Labour in India**

Bonded labour was outlawed in India through an ordinance in 1975 and then through legislation in 1976. The first systematic survey of bonded labour was carried out by the Gandhi Peace Foundation and the National Labour Institute during May to December 1978 and placed the total number of bonded labourers at 2.62 million (Sarma, 1981). The estimate was based on a survey of 1000 villages in 10 states. In the survey, 61.5% of the bonded labourers were members of Scheduled Castes (SC) and 25.1% were members of Scheduled Tribes (ST). Among the employers, 89% were agriculturalists. The survey categorised bondage into inter-generational bondage; child bondage; loyalty bondage; bondage through land allotment; and widow bondage. The 32<sup>nd</sup> Round of the National Sample Survey Organisation gave an estimate of 343,000 bonded labourers in 16 major states.

The National Commission on Rural Labour (NCRL), 1991,<sup>9</sup> basing itself on the Study Group on Bonded Labour, chaired by B. N. Yugandhar,<sup>10</sup> presented the first comprehensive picture of the nature and incidence of bonded labour, its causes, and

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<sup>7</sup> Taken by itself, the issue of identification of bonded labour with non-payment of minimum wages has caused some unnecessary ambiguity in interpretation. For example, the Report of the Central Committee to draw up a workable definition of Bonded Labour, Ministry of Labour, Government of India (1994) concluded that all cases of payment of wages below minimum wage could not straightforwardly be brought under the Act. This, in our view, was not the intention of the Act, nor of the Supreme Court. The issue of minimum wages is simply one yardstick (and by no means a necessary or sufficient yardstick) to test whether wages are being unduly depressed in a labour relationship.

<sup>8</sup> The National Human Rights Commission (NHRC) Expert Group (2001) has concluded that the intention of Article 23 of the Constitution is the prohibition of all kinds of forced labour and not only forced labour based on debt. The Group has made detailed recommendations with regard to provisions of the Act and for rehabilitation.

<sup>9</sup> Ministry of Labour, 1991a

<sup>10</sup> Ministry of Labour, 1991b

strategies for its abolition. It also made recommendations for amendments to the 1976 legislation.

The NCRL saw bondage of agricultural labourers as still being the main form of bondage in India. The Commission concluded that agricultural labour bondage was higher in States and districts characterised by a high percentage of rural labourers, low irrigation and agricultural productivity and poor infrastructure. However, there were bonded labourers also in the plantation sector: for example, bonded labourers from Orissa and Bihar were employed in the plantation sector in Assam and Tripura.

The NCRL mentioned the following non-agricultural sectors as having a high incidence of bonded labour (although it is conceded that they have not been adequately surveyed): stone quarries; migrant labour; brick kilns; system of *joginis* and *devdasis*; fishermen; forest labour; bidi workers; carpet weavers; pottery; weavers; head loaders; child labour in match and fireworks; carpet weaving etc.

The NCRL found a high incidence of migrant bonded labour: Bihari labour in the fields of Punjab, Haryana and Uttar Pradesh; in brick kilns of these states; in sugarcane fields in Gujarat; in stone and slate quarries and mines; in plantations of Assam; and even in the seaports of Gujarat. The Commission highlighted bondage among women on account of social as well as economic factors and mentioned the *joginis* of Andhra Pradesh and the *devdasis* of Karnataka.<sup>11</sup> In the Jaunsar-Babbar area, the Commission's report highlighted the indebtedness-induced prostitution of women and children. The Commission mentioned a high incidence of child labour and child bondage in a number of sectors. The Commission also highlighted the well-entrenched system of tribal exploitation, expropriation and bondage in many parts of the country including the Santhal Parganas. In examining the regional spread of bonded labour, it found the practice widespread in all parts of the country.

The Commission noted the interesting and significant phenomenon of the same region both supplying and importing bonded migrant labour. Labourers from Andhra Pradesh outmigrate for work in quarries and kilns in Haryana, Punjab and Madhya Pradesh whereas labourers from other states are in bondage in the quarries of Andhra. Similarly, a two-way traffic of migrant bonded labour existed from Chhatisgarh and out of Singhbhum and in the sugarcane farms of Maharashtra and Gujarat.

The Supreme Court appointed on March 6, 1995, a two member commission comprising Mr. Siraj Saith and Mr. Felix Sugirtharaj to verify the contents of the affidavit of the Government of Tamil Nadu in Writ Petition No. 3922 of 1985 that there were only stray cases of bonded labour in the State of Tamil Nadu. The Commission submitted its report to the Court on October 31, 1995 (Sugirtharaj and Sait, 1995, hereafter referred to as the Tamil Nadu Commissioners' Report 1995). In an exhaustive report, based on a large survey, the Commissioners concluded that there were over one million bonded labourers in Tamil Nadu, spread over 23 districts and 20 occupations, of which 10 percent were bonded child labourers (with a higher rate among girls). Scheduled Caste (SC), Scheduled Tribe (ST) and Most Backward Caste

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<sup>11</sup> Under these systems, young women are "wedded" to God, declared to be 'saints' and become the property of the local temple and under the control of the men who run it. They suffer from sexual exploitation and deprivations such as prohibition on undertaking other work, leaving the village and marrying again.

(MBC) bonded labourers formed 76% of the total. The concentration of the low castes was higher in the quarry industry. In almost all cases, the element of bondage was found to be debt.

In the course of a hearing on a Writ Petition filed by the People's Union for Civil Liberties (PUCL) in April 1985 on the engagement of bonded labour in Tamil Nadu and Madhya Pradesh, the Supreme Court issued a direction in May 1994 to all the State Governments, *inter alia*, to collect information on the prevalence of bonded labour, to identify bonded labourers and to rehabilitate them. The State governments subsequently carried out surveys to ascertain the ground situation with regard to bonded labour. However, in most cases, the figures obtained and presented by the State governments subsequently turned out to be significantly underestimated.

Table 1 presents the number of bonded labourers identified in the 1996 surveys, and those subsequently identified and rehabilitated till March 31, 2004.

**Table 1: Bonded Labourers identified in the 1996 surveys, and those subsequently identified and rehabilitated till March 31, 2004.**

S. No	State	Identified in the 1996 Surveys	Identified and Released till March 31, 2004	Rehabilitated
1	Andhra Pradesh	0	37,988	31,534
2	Bihar	106	13,370	12,552
3	Karnataka	19	63,373	57,121
4	Madhya Pradesh	18	12,822	11,897
5	Orissa	0	50,010	46,882
6	Rajasthan	0	7,488	6,331
7	Tamil Nadu	25,008	65,573	65,573
8	Maharashtra	2	1,398	1,319
9	Uttar Pradesh	237	28,195	28,195
10	Kerala	0	823	710
11	Haryana	0	551	49
12	Gujarat	0	64	64
13	Arunachal Pradesh	3626	3526	2992
14	Chhatisgarh	0	124	124
15	Punjab	0	69	69
16	Uttaranchal	0	5	5
<b>17</b>	<b>Total</b>	<b>29,016</b>	<b>285,379</b>	<b>265,417</b>

*Source: Director General, Labour Welfare, Ministry of Labour, Government of India*

The regional picture that emerges is a high concentration of bonded labourers in the three Southern States of Andhra Pradesh, Tamil Nadu and Karnataka and in Uttar Pradesh. However, as we show throughout this paper, although there is widespread evidence of bonded labour throughout the country, our information depends upon scattered evidence and we do not have a clear and systematic basis for inferring regional or sectoral trends.

The NHRC constituted an Expert Group in 2000, chaired by Mr. S. R. Sankaran, for identification of bonded labour prone districts, industries and occupations and for various aspects relating to legislation and implementation. The Expert Group, in its Report submitted to the NHRC in 2001, concluded that although the Ministry of Labour had identified 13 states and 172 districts as being bonded labour prone, the system is prevalent in almost all states (NHRC, 2001).

The Expert Group also concluded that bonded labour in agriculture has a high incidence in the States of Andhra Pradesh, Bihar, Haryana, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Punjab and Tamil Nadu. In the non-agricultural sector, it concluded that bonded labour is rampant in brick kilns, stone quarries, beedi manufacturing, carpet weaving and construction, and child bonded labour in the silk industry. It further concluded that migrant bonded labour involving states such as Bihar, Jharkhand, Chhatisgarh, Tamil Nadu, Madhya Pradesh, Orissa, Rajasthan, Punjab and Haryana represented an aggravated form of deprivation and exploitation (ibid.).

The Group felt that, owing to the efforts made by the NHRC through its Special Rapporteur system, the process of identification, release and rehabilitation of bonded labourers had received a fillip. For example, till 2001, 1,069 cases of bonded labour had been identified in Karnataka and another 1,212 were being investigated. In Tamil Nadu, since the survey of 1996-97, 10,850 cases had been identified. In Andhra Pradesh, 3,122 cases of bonded labour had been identified, mostly in 2001.

Although systematic, non-official surveys of bonded labour are difficult to come by, there are several surveys in different parts of the country and different industries which give an idea of the continued nature of the problem. Moreover, non-governmental organizations which have taken up issues relating to bonded labourers and been leading the process of identification and release, have compiled extensive documentation. We refer to these surveys and statistics in our analysis below, although their findings are often not accepted by State governments or other official investigating agencies.

For example, in Punjab, where the State government has till quite recently denied the existence of bonded labour, the NHRC has assiduously been pursuing complaints regarding bonded labour in agriculture, brick kilns and other sectors, and has upheld these complaints in a few cases. The Volunteers for Social Justice (VSJ), a non-governmental organisation based in Punjab, has filed over 2,000 cases on behalf of both local and migrant bonded labourers released from agriculture, brick kilns and other sectors mainly in Punjab (Singh, 2003). A majority of the cases referred to bonded labourers belonging to the Scheduled Castes (59 % of the complaints made to the NHRC pertained to Scheduled Castes). Between 1998 and 2004, the VSJ was able to secure the release of 1,832 bonded labourers through the intervention of the NHRC, the Punjab State Human Rights Commission (PSHRC), Punjab and Haryana High Courts, the District Administration and the SC/ST Commissioner, but rehabilitation had taken place in only four cases (Singh, 2004). This is suggestive of the chasm between civil society organisations and government on the issue of bonded labour, which has so far not been bridged despite the efforts of the Supreme Court and the NHRC.

### **3.1 *Typology of Bonded Labour***

As we have noted above, there are few recent systematic surveys of bonded labour. However, an analysis of the existing evidence suggests that the non-agricultural sector now has a very significant number of bonded labourers. Broadly, our analysis of the literature and recent evidence suggests that the following types of bonded labour continue to be significant.

#### **(a) Bonded labour that is a vestige of traditional social relations**

Traditional social relations have sanctioned a caste-based division of labour in which servile castes are expected to perform low status functions in exchange for a guarantee of subsistence. Degrees of social exclusion ensure a low degree of social mobility and social cohesion despite a strong policy of positive discrimination pursued by the government. Moreover, personalised servile relationships based on the traditional social structure persist in some parts of the country, mostly in backward agriculture, but are also sometimes carried over into the non-agrarian sector, through, for example, domestic service. These relationships have declined over the years. Their persistence today is probably less a matter of social custom and more due to other elements of force and compulsion, as brought out in recent enquiries into the Sullong tribe in the North-East.

Labour bondage draws heavily upon traditional social relations and the caste system, even in the non-agricultural sector, but can be seen most directly in agriculture and in bonded labour relationships involving tribals.

#### **(b) Bonded labour in agriculture**

The uneven pace of modernisation of agriculture has created new demands for a stable and servile labour force, which, in some cases, is obtained through credit bondage and elements of force, deceit and compulsion. Migrant labour situations seem to create a higher propensity for bondage. In the areas of origin, from where males are on the move, women or children may find themselves in bondage. In destination areas, migrant labour may end up in bondage. Bonded labour relations have also been alleged in commercial plantations. The paper examines the evidence regarding bonded labour in transitional agriculture.

#### **(c) Bonded labour in the rural and urban unorganised and informal sector**

The incidence of bonded labour is perhaps the highest in the unorganised and informal sector in India. And among the unorganised sectors, the incidence of bondage is probably the highest in quarries and open mines. These industries are mainly characterised by the predominance of manual processes, seasonality, remoteness and contract migrant labour. Brick kilns are another industry which reportedly continues to have a sizeable incidence of bonded labour. Among industries for which recent evidence has accumulated are power looms, handlooms, rice mills, sericulture and silk weaving, woollen carpets, fish processing, and construction. Bonded labour, including of children, has been identified in a number of other sectors including the circus industry and domestic work.

(d) Child bonded labour: Several industries with a high incidence of child labour (woollen carpets, silk, gem cutting and polishing) still show an incidence of child bondage, which we will examine in this paper.

## 4. Causes of Bonded Labour

There are few systematic analyses of the causes and correlates of bonded labour in India. Studies of labour relations in the past have highlighted the link between caste and social structure and bondage, on the one hand, and traditional feudal social relations and bonded labour, on the other.<sup>12</sup> Colonialism heightened the dimension of debt bondage, both within and outside agriculture.<sup>13</sup>

It is apparent from the evidence presented later in this paper that bondage and forced labour in India, whether traditional or modern, thrive on a bedrock of social hierarchy and discrimination, of which the former untouchable castes and the tribal groups, and women and children are the chief victims. It can be hypothesised that the low visibility of the issue of bondage is due precisely to the fact that its many victims have a low social ascription and fewer perceived rights.

Thorner and Thorner (1962) had drawn attention to three types of 'unfree' labour relations – the long-duration relations, the 'beck and call' relationship, and the system of 'forced' free or underpaid labour of tenants – each of these forms being underpinned by a relationship of dominance and dependence. In focusing on forms of forced labour in post-colonial agriculture in India, it may be useful to understand the extent to which these arose out of traditional or customary relationships, or were born out of forms of debt-bondage which emerged during the colonial period (reinforced by vestiges of 'custom'), or alternatively have their genesis in the requirements of capitalist agriculture. Many forms of labour attachment described by Thorner and Thorner (1962) and discussed in the First and Second Agriculture Labour Enquiry Committee Reports, bear predominantly traditional features which subsume loan and land-lease relationships. On the other hand, the relatively well-studied debt-bondage relationships in Palamau appear to belong mainly to the second category (Mundle, 1979). We have argued that the customary elements in such relationships have been under pressure in different regions of the country for a number of reasons, and that traditional forms of long-duration relationships have shown a tendency to decline over time.<sup>14</sup>

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<sup>12</sup> For a study of evolution of labour relations in India, see Kumar (1965) and Patnaik (1983).

<sup>13</sup> A number of studies have documented the growth of debt bondage in different sectors in India during the colonial period e.g. see Sarkar (1985). A full review of these is outside the cope of this paper, but both the subsequent break and continuity and novelty in the causes and the institutions which account for the persistence of debt bondage need to be fully appreciated.

<sup>14</sup> Breman's (1974) study of the *Dublas* in Gujarat shows how the decline in traditional hereditary dependence took place, and how in certain areas, it came to be replaced by a different form of "attachment". Srivastava's (1989) study shows the virtual disappearance of the traditional *Hali* system from his area of study in Western Uttar Pradesh and a considerable decline in the importance of traditional *halwaha* and *jeura* relationships in the Eastern UP study villages. Wilson (1999) reports a decline in traditional labour attachment in Nalanda in Bihar since the early 1960s. In 1981-83, 41 percent of labour households had an attached labourer but this proportion had declined to 26% in 1995-96. Jha (1997) also finds evidence of attached labour in 21 percent labour households in Purnea district of Bihar but also reports variations in the terms and conditions of their contract. Corta and

Attached labour relationships reflecting credit-labour linkages have also existed in agriculturally developed areas.<sup>15</sup> Indeed, it has been argued that attached labour may tend to rise with capitalist development in agriculture in order to meet the need of employers to secure peak-season labour and other all-year-round labour requirements (Bardhan and Rudra, 1981; Bhalla, 1976; Bardhan, 1984). There is a debate as to whether attached labour is necessarily bonded in the sense that it is characterised by ‘unfreedom’ and low remuneration. We have argued elsewhere (Srivastava, 1989, 1997, 2000) that this is not necessarily always the case. But at the same time, elements of bondage are often present in such labour relationships and careful analysis is therefore needed to categorise them. For example, the National Commission on Rural Labour (1991) found that in lieu of an initial loan, the ‘naukar’ in Haryana was compelled to accept a contract with several unacceptable features (including low wages) and which imposes severe constraints on his freedom. Jodhka (1994) described the system as one of labour mortgage.

The articulation of poor agrarian regions with regions of capitalist development through labour migration often also enables agrarian capitalists to impose poor working conditions and degrees of unfreedom on migrant labourers, even though local farm servants may enjoy superior working conditions. There has been considerable discussion of these issues in the context of Punjab’s agriculture. Although some of the worst forms of exploitation seem to have abated with time, bonded labour relations are still reported in Punjab agriculture. In the case of Western Uttar Pradesh, our own studies have established bondage and forced labour among migrant labourers (Srivastava, 1999). There is also evidence of the phenomenon from other areas (e.g. cotton seed farms in Andhra Pradesh).

The colonial pattern of surplus extraction from agriculture, the abolition of slavery in the colonies and an enclave-type development of mines, plantation and industry, had earlier provided for both the supply of and demand for cheap labour. Recruitment patterns developed in response to information asymmetries and the transaction costs involved, on the one hand, and the need to obtain cheap and disciplined labour, on the other. Numerous studies have documented how a system of intermediaries was used in the colonial period to recruit indentured labour. Since then, labour recruitment continues to be of an organised nature in a number of industries and both the pattern of recruitment and labour deployment is dominated by contractors (Srivastava, 1998). The recruitment pattern creates its own dynamic, segmenting the labour market and creating what Breman (1996) has termed as “circuits” of labour. The interesting issue is that, as we have pointed out elsewhere, labour migration is not impelled by labour scarcity but is prevalent both in areas of labour scarcity and labour abundance. In fact, the in-migration of labour in some areas is sometimes matched by out-migration, creating what we have called two-way circuits of labour (Srivastava, 1998).

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Venkateshwarlu (1999) find that traditional attachment in their study areas of Chittoor district declined from 24 percent of male labourers in 1970 to nil in 1995. Kapadia (1996) and Athreya et al (1990) report that hardly any pannaiyal (tied) labourers were left in Trichurapalli district in Tamil Nadu. The National Commission on Rural Labour, 1991, reports a similar decline in labour attachment in Palamau (Bihar) and Varanasi (Uttar Pradesh).

<sup>15</sup> Thorner and Thorner (1962) cite the findings First Agricultural Labour Enquiry Committee, to show that there was a high proportion of long-duration contracts in coastal Andhra Pradesh and Punjab.

This suggests that bondage of migrant labour is seen as a way of both disciplining labour and of keeping labour costs down. This is another reason why bonded labour systems thrive on the labour of migrants, women and children. Migratory labour is less able to assert rights and entitlements and is more vulnerable to predatory capitalism (Srivastava and Sasikumar, 2003). In a situation of transition of greater possibilities for assertion by local labour, migrant labour is also more susceptible to exploitation and bondage (ibid.).

Given the uneven pattern of development in post-colonial India, some relatively unorganised segments of the modern sector as well as the informal sector have continued to source cheap migrant labour supplies through credit bondage. Two-thirds of the country's workforce is still in agriculture and a similar proportion of arable area is rain-fed and drought-prone. The percentage of rural workers dependent on wage labour has been steadily increasing, along with a rise in the near assetlessness of such labourers (Srivastava 2000). The employment and livelihood potential of agriculture in such areas is extremely low and is subject to large seasonal fluctuations. The landholding structure is dominated by upper or middle castes who also dominate the emergent non-agrarian economy. Loans have to be taken by the poor labourers to tide over seasonal shortages or contingent expenditure. Contractors or employers step in with advances either to meet repayment requirements in the areas of origin or to provide the labourers with assistance to tide over the financial emergency. The migrant labourers then become involved in a vicious cycle of debt from which they cannot escape and which provides a handle to contractors and employers to impose numerous adverse conditions.<sup>16</sup>

In the tribal areas, the alienation of tribals from land and non-tribal control over land created the conditions for debt bondage in agriculture. Further, the uprooting of tribals from their traditional habitat, receding forest cover, low agricultural productivity and rain-fed agriculture, create the need for credit and for seeking employment and livelihoods under bondage, often through migration.<sup>17</sup>

Many of the rural sector industries that have a high incidence of bonded labour are situated in isolated settings, where intermediaries dominate the employment structure. The owners of these industries are either part of the rural power structure or have strong links with that structure. Moreover, these industries are technologically backward and labour intensive. Lack of technological modernisation is both a cause and an effect of the low cost labour processes that dominate these industries.

Public action, broadly conceived as the set of both regulatory and promotional developmental action undertaken by the State, has a strong influence on the existence of bonded labour. Most States in India have not so far focused sufficient attention on the developmental approaches that could eliminate the causes of bondage. Also, the regulatory framework tends to be weak. In places where the State has undertaken a set

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<sup>16</sup> Srivastava (1989) provides a detailed account of the recruitment pattern for labour migrants in different sectors.

<sup>17</sup> For a review of labour migration in India and its impacts, see Srivastava (1998) and Srivastava and Sasikumar (2003).

of promotional and redistributive policies that favour labourers, as in Kerala, the incidence of bonded labour is much lower.<sup>18</sup>

## 5. Incidence of Bonded Labour by Sector

### 5.1 *Bonded Labour in Agriculture*

The Bonded Labour System Abolition Act (1976) identified a large number of traditional labour systems which reproduce bondage, with or without debt. The Gandhi-Peace Foundation – National Labour Institute survey of 1978 (Sarma, 1981) identified a large number of bonded agricultural labourers in the States surveyed. A study of farm servants in different areas of Uttar Pradesh by Srivastava (1989) showed that customary labour relations, which could result in attachment without any debt bondage, were undergoing change in some parts, with the *hali* labour system in Western Uttar Pradesh having become more contractual with wages reflecting individual and skill differentials. The decline of traditional labour systems which resulted in forced labour has been documented and analysed in a number of studies. At the same time, new forms of attachment have been arising in developed agriculture, leading Srivastava (1989, 1996) to assert that there was a ‘U’ shaped relationship between the existence of labour attachment and agricultural development i.e. that it initially declines as agriculture develops, but starts to increase again at a later stage of development.

The nature of attachment, since the study by Bardhan and Rudra (1978), has been the subject of intense controversy in the theoretical literature. An analysis of recent evidence corroborates the conclusion reached by the NCRL, 1991 (Ministry of Labour 1991a and b) and the NHRC Expert Group that there is still a sizeable incidence of bonded labour in agriculture in several parts of the country (NHRC, 2001). These bonded labour relationships are embedded in socio-economic dominance of certain groups, but they also reflect the changing labour requirements of agricultural employers under the impact of capitalist development. Further, they often reflect the articulation between developed and backward agriculture.

Punjab’s agriculture has been among the most developed in India. It has earlier been argued that the rise in literacy of SCs, their entry into services, higher aspirations and wage demands led to a decline in attached labourers from the local SC community and their replacement by migrant labourers from Bihar, initially from the tribal community in Ranchi. The process of recruitment was managed by contractors who had their agents in Ranchi. The recruited tribal labourers were confined locally and sold to their employers. Once employed, the labourers were kept in bondage (Singh, 1997). They were paid a pittance and had to pay interest on advances. Many, however, were compelled a second time to return to Hoshiarpur through the contractors. The system of bondage is considered (ibid.) to have registered a decline by the mid 1990s, due to a steady supply of immigrant labour and the role of voluntary organisations. But recent evidence has been accumulating before the NHRC, in the form of complaints of bondage among both local and migrant labourers

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<sup>18</sup> But migrant labour and its condition has a low visibility in Kerala. Not surprisingly, NGOs have detected migrant bonded labour in some industries.

filed by several organisations such as the Indian Social Institute and the Volunteers for Social Justice.<sup>19</sup>

The nature of bondage among local agricultural labour, mostly drawn from the low castes, has been highlighted by the VSJ. According to the submissions made by the organisation, the attached labourers in debt bondage in Punjab are known as *Siri*. They generally belong to the scheduled caste community and have no freedom to choose employment, to right of movement, to use village commons, etc; and endure long working hours. The cattleshed cleaners are usually the wives of the *Siris* and are in indirect bondage. The child assistant in agricultural work is known as *Pali*. Protests from the farm servants, including attempts to release them from bondage, have been met with physical violence and social boycotts in a number of cases. The organisation estimates that there are about half a million agricultural bonded labourers and several hundred thousand people in bondage in brick kilns in Punjab. Of the nearly 2000 cases filed by the VSJ on behalf of bonded labourers, three-quarters were from the Malwa region of Punjab, followed by the Doab region (Singh, 2003, 2004).

Complaints of bondage are still received from Haryana, where attached labour relationships based on debt have earlier been reported. A Scheduled Caste bonded labourer was rescued from Fatehabad district by the Democratic Youth Federation after he was beaten brutally by the landlord and kept in chains (Rajalakshmi, 2001). His father had taken a loan from the landlord's family. Both the labourer and his wife worked long hours for the landlord without receiving any regular wage. The organisation has also reported a number of cases of bonded labour from other villages and districts of Haryana.

In the case of Western Uttar Pradesh, where the decline of traditional attached labour relationships had earlier been reported by Srivastava (1989), later studies have reported a system of recruitment of attached labour from Bihar and Nepal, with workers being kept under bondage, made to work for long hours and denied wages (Srivastava, 1999).

Tribals have long been subject to exploitative debt relationships in several parts of the country, resulting in bondage. According to some views, these practices have declined somewhat but there is still a high incidence of bondage among tribals in agriculture. A study of *Kol* tribals<sup>20</sup> in Halia Block of Mirzapur district of Southern Uttar Pradesh found that a number of tribals were indebted to the landlord, in some cases for more than one generation. The initial loans (taken for marriage or for some other purpose) were relatively small, but the tribals were unable to repay them because of their meagre wages and because eventual 'freedom' required repayment at high compound

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<sup>19</sup> The problem of bondage among migrant labourers in Punjab has been highlighted in several reports and complaints filed by Jai Singh of the VSJ. The NHRC has also taken cognisance of a complaint filed by the Indian Social Institute and other reports of sale and trafficking of labourers (and possible sexual exploitation of women workers) in Punjab. Its own investigation revealed extensive trafficking in labour for the last 30 years in Punjab. It has accordingly directed the Central and State governments to formulate schemes which can ameliorate the condition of migrant labourers in the state. Replies from the government are now under consideration of the Commission (NHRC Annual Report, 2001-02).

<sup>20</sup> The kols are given the status of Scheduled Castes in Uttar Pradesh, whereas in neighbouring Madhya Pradesh, they are categorised as Scheduled Tribes.

interest (60 percent annually). The bonded labourers could also be sold to other employers and the debt obligation was transferred. These labourers were paid a daily wage rate of about 2 kg of coarse grain and were given a tiny plot of land – about one seventh of an acre to meet their subsistence requirements (Shankar, 1996).

In the neighbouring district of Sonbhadra, the NHRC investigated a complaint from the South Asian Coalition on Child Servitude (SACCS) that eight labourers belonging to the *kol* community had been kept in bondage by an upper caste landlord and for two years had not been paid wages, which were ostensibly adjusted against advances. One of the labourers, who could not attend work due to illness, was beaten badly by the employer. The district administration, in its report to the Commission, said that four of the labourers had left the landlord because they were paid meagre wages and were beaten by him. The other four were still working with him but were paid a wage of only 2 kg of grain per day. The Commission directed that proceedings under the Bonded Labour Act and SC/ST Atrocities Act be initiated against the employer, and steps be taken to rehabilitate the labourers (NHRC Report 2001-02).

The NHRC took *suo moto* cognisance of a press report of a low caste bonded labourer in Palamau district of Bihar. The person had been working as a bonded labourer for 20 years for supposed non-payment of a loan of Rs 2,000, although he had in reality repaid the loan 15 years previously. The labourer had to work for over 16 hours a day and was paid a daily wage rate of Rs 10, although the prevailing wage rate was Rs 60.<sup>21</sup> Several other cases of bonded labour in agriculture, in some cases intergenerational bondage, have been reported from Patna, Nalanda, Bettiah, Gaya and other districts of Bihar.<sup>22</sup>

Case studies collected by the National Labour Institute in Chittorgarh, Rajasthan, revealed a number of cases of tribal (*Bhil*) labourers working for landlords in lieu of advances taken by them to cover expenses of marriages, illness etc. In all such cases, the labourers were not paid any specified wage, but only given meals and some perquisites (Upadhyay, 2000).

The *kamia-malik* system of debt bondage is reported to be prevalent in the erstwhile districts of Raipur and Raigarh in Chhatisgarh State. The *kamia*, a male farm servant, along with his family members, is liable to provide labour in the home and farm of the *malik* (the master) till his debt is cleared. Although under decline now, the system continues to exist even today (CEC 2004, p. 29; Sen 1995).

In the state of Madhya Pradesh, cases of bonded agricultural labour came to light in Harda (an area where agriculture is rapidly developing due to profitable oilseed cultivation) and adjoining districts, when a local NGO took the initiative (on the plea of relatives) to get the labourers released. The system again involves the repayment of a loan through labour but the wages are so meagre that the labourer remains in bondage. Moreover, if freedom is desired, the employers charge a high rate of interest. Although some labourers have been released under pressure from the NGO, their rehabilitation had not taken place (Noronha, 2003; Menon, 2003). Cases of

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<sup>21</sup> NHRC Case no. 136/34/2002-03.

<sup>22</sup> CEC 2004, p. 25-26; Aneeta Sharma, *Times of India*, Nov. 9, 1999, Mumbai.

labour bondage in agriculture have been reported from Raisen and Ratlam districts in the State (CEC 2004, p. 51).

Lahiri and Krishna (2000) have touched upon the system of *Bhalua* existing in parts of Midnapur district in West Bengal. The *Bhalua* remains in debt bondage because of low payments/earnings.

In a survey carried out between 1988-1995 in 48 of the 174 sub-districts of Karnataka State, an NGO - JEEVIKA - identified over 18,000 bonded labourers, and submitted individual petitions for rehabilitation for more than 16,000. JEEVIKA acknowledges that the Government of Karnataka has been more active than any other state in identifying and rehabilitating bonded labourers. Nevertheless, it had identified only 2,866 bonded labourers in Karnataka between 1979 and 1992.<sup>23</sup> A rapid appraisal study carried out for the ILO Social Finance Programme in four districts of Karnataka, found that bonded labour relationships existed because of caste-based dependence or because of the traditional loan-based practices of *Jeetam* or *bitti chakri*, involving the pledging of labour of an adult and his spouse, or a child against a loan taken from the landlord/employer. The repayment conditions were in conformity with market rates and minimum wage legislation in a very small number of cases (ILO, 2002b).

The Tamil Nadu Commissioners' Report (1995) concluded that the districts of South Arcot, undivided North Arcot, parts of Nagal as well as parts of Coimbatore and Dharmapuri account for a majority of bonded labourers in agriculture in the State. The study has used the Gandhi Peace Foundation estimates (6% of agricultural labourers) to estimate that about 475,000 labourers could be bonded. A considerable proportion of the bonded labour force are children pledged against a loan at an age of 8 to 9 years. The Report notes that bondage in agriculture was a result of debt obligations arising in a context of decreasing employment opportunities inside and outside agriculture.

A survey carried out by the Deccan Development Society in Medak district of Andhra Pradesh reported 533 children and 783 adults (both male and female) in bondage in only 55 villages. This bondage was reported to be a new phenomenon arising from the economic vulnerability of households in a drought prone and ecologically fragile region. The labourers, who had taken advances from their landlords, earned wages which were 50 to 90% less than the statutory minimum, and toiled from 12 to 14 hours a day. Children received a pittance for their work (Rao, 1997). A survey conducted in Rangareddy district for the ILO (ILO, 2002a), among released bonded labourers and other categories of households, found that 3.6% of the households were attached farm servants (called *Jeetam*) of whom 82.5% were indebted to their employers. The *Jeetam* was required to work about 12 hours per day on average, was paid less than the minimum wage, and his wife was at the beck and call of the employer and was paid half the minimum wage. The loans from the employer carried an annual interest of about 30 percent. Among the released bonded labourers, 24% were intergenerational farm servants. There are other reports of a fairly high incidence

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<sup>23</sup> Chamaraj, 2003; see also CEC, 2004, p. 42-45

of debt bondage among agricultural labourers in the drought prone districts of Telangana and Rayalseema.<sup>24</sup>

There is some evidence from Andhra Pradesh that male labour outmigration, tightening of the labour market and issues of labour control were resulting in a greater feminization of bonded labour.<sup>25</sup> On the basis of their study in Chittoor district of Andhra Pradesh, Corta and Venkateswarlu (1999) find that agrarian capitalists have reacted to labour market tightening through tightening control in credit, land rental, product (commission buying) and labour (tying) markets. Under the tied labour arrangements, they extend credit and/or garden plots of irrigated land to labourers on condition that they provide labour at lower than market wages. During the period under study (1970 to 1995), tied labourers increased from 32 to 40 percent. Almost all capitalist farmers had one or two labourers, tied either through loans or through leasing out of half-acre paddy plots under half-half sharecropping arrangements. In the case of loans, labourers were expected to repay their loans through work at low pre-determined wages, while also having to perform several unpaid tasks. In the case of sharecropping, the labourers had to work at wages which were not pre-determined but were lower than market levels. These tied labour arrangements involved more women than men which, according to the authors, could be due to employers turning to a labour force which could be more easily disciplined.

The bonded labour system continues to persist in parts of Maharashtra. Nine bonded labourers were rescued in Thane district by an organisation *Shramjeevi Sanghatana*, in April 1998.<sup>26</sup> The organisation has estimated that there are still several thousand bonded labourers, mostly from Scheduled Tribes, in that district alone (CEC, 2004, p. 53). However, it has been noted that the nature of bondage had changed, with inter-generational bondage giving way to bondage for limited periods – generally of 1 to 3 years (ibid.).

A preliminary report to the Supreme Court on bonded labour in Maharashtra gave details of the use of migrant bonded labour to harvest sugarcane. It is estimated that 600,000 bonded labourers (of which over 70 per cent are from Scheduled Tribes) are employed by approximately 130 factories from which they receive an advance through a labour contractor. The contractors provide loans at exorbitant rates of interest which keep the labourers in a perennial state of debt, forcing them to return to the sugarcane fields year after year, usually with the same contractor.<sup>27</sup>

In the absence of detailed micro studies, few generalisations can be made. However, from the evidence that is available from a large number of States, it appears that

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<sup>24</sup> CEC (2004) quotes a report in Newstime of April 6, 2001, regarding the identification and release of 33 bonded labourers in Mahboobnagar district. Venkateswarlu (2003) reports a very high incidence of bonded child labour, mainly girls employed in the cotton fields, particularly in the Telangana and Rayalseema regions of Andhra Pradesh (see also CEC, 2004, p. 21). There are also reports of bondage of labourers, mainly scheduled caste, in the labour intensive cultivation of sugarcane, cotton, and tobacco in the coastal areas, and several thousand bonded labourers employed in lemon plantations in Nellore district (ibid., p. 20).

<sup>25</sup> Rao, 1997; Venkateswarlu 2003, Corta and Venkateswarlu 2000.

<sup>26</sup> Indian Express, April 13, 1998.

<sup>27</sup> Reported in the submission of Anti-Slavery International to the 60<sup>th</sup> (July-August 1997) meeting of the Human Rights Committee which monitors the implementation of the United Nations' International Covenant on Civil and Political Rights.

agricultural bondage still has strong roots in the traditional and colonial systems of exploitation of tribal and low caste labour. But the nature of bondage has been undergoing changes with changes in the pattern of production and labour use in agriculture, and with higher labour mobility. Large employers, in several parts of the country, have tried to adapt and modify systems of bondage to meet their new labour requirements. These changes have occurred in dryland agriculture, as well as in commercial, capitalist and modern agriculture.

## **5.2 Bonded Labour Systems among Tribals**

The Scheduled Tribes belonging to Orissa, Chhatisgarh, Harahan, Madhya Pradesh, Southern Uttar Pradesh, Uttaranchal, Andhra Pradesh, Maharashtra, Rajasthan and Gujarat, who have suffered a gradual erosion of access to traditional livelihood systems, have long been subject to exploitative debt relations leading to loss of land and bondage to non-tribals. The National Commission on Rural Labour devoted some attention to this issue.

Prasad (2001) has reported that in Dakshin Kannada and Udupi districts in Karnataka, the *Koraga* tribal community of nearly 10,000 people suffers under a system of bondage called *Ajalu*. The Malekudiya tribal community in Belthangady Taluk of Dakshin Kannada district has been held in the plantations of the masters called *Hebbars*. The community is denied mobility or the freedom to have their own gardens which could give them some economic independence.

In Orissa, a survey by the NGO Action Aid and twenty other organisations in Malkangiri district, carved out of Koraput, identified 704 bonded tribal labourers. The organisations concluded that there were possibly thousands of tribals from thirteen different tribes working as bonded labourers to landlords in the district (Mander, 2003). The tribals, who had lost most of their land to non-tribals, lived on the brink of subsistence and had no option but to take loans from landlords. In exchange, they or their children were required to work for the landlords for little more than food and some other minor perquisites. Their low wages were adjusted against the interest on the loans they had taken.

The NHRC examined a number of complaints regarding the status of *Kol* tribals in the districts of Chitrakoot (Madhya Pradesh), Allahabad and Mirzapur (Uttar Pradesh). These have stated that due to dispossession from land, loss of rights to forest produce, illegal quarrying and control of mafias over mining, the *Kols* were living in bondage and were denied minimum wages. Many of these complaints were upheld by the Commission, which also took the view that the existing system of auction of mining rights, which gave a virtual monopoly to dominant economic interests and prevented tribals from bidding through their self-help groups (SHGs), was totally unjust and led to the exploitation of the tribals (NHRC Annual Report 1999-00).

The NHRC set up an Expert Group in 2000 to examine the problems of the *Kol* tribals and to develop measures for their social and economic upliftment. According to their Report (NHRC, 2000), the system of bondage was widespread in the Shankargarh silica and sandstone mining region of Allahabad. The silica lease rights for 6 villages were placed with one feudal landlord who mined the area both legally and illegally

with the help of contractors. Although a large number of bonded labourers had been released after the promulgation of the Bonded Labour System Abolition Act, very few had received rehabilitation grants. The system of bondage still persisted in the area. In some villages, SHGs formed by tribals had been given sandstone mining rights, leading to a tripling of their income (Roy, 2000; NHRC, 2000).

A system of slavery was prevalent among many tribes of Arunachal but has disappeared from most of them. However, it has recently been reported that the system continued among the Bangni and Miji tribes of East Kameng district. The Bangnis have slaves from their own community as well as from the Sullong (Puroik) tribe (Mishra 2001, Thakur 2003). A comprehensive survey, carried out under the orders of the Supreme Court in 1997, identified 3,542 bonded labourers mainly belonging to the Sullong tribe (Mishra, *ibid.*). The Sullong are in a primitive state of development compared to other tribes in the district. Although settled dwellers practising *jhum* (shifting) cultivation, they spend considerable time in food gathering. Their staple foodstuff is obtained from the wild Sago palm. The Sullongs are customary slaves who are not in debt to their masters, but whose land and homestead are owned by the masters. They live in distant villages and remain at the beck and call of the masters for whom they also perform domestic service. The masters pay a bride price for the marriage of the Sullong boys and this is used to justify the bondage.

As per the direction of the Supreme Court, the State government appointed a High Powered Committee. Each of the Sullongs identified became entitled to a release certificate and Rs 1,000 as a subsistence allowance. However, because slavery is so woven into the cultural fabric of society, and because the Sullong have no land or homestead, the Committee felt that traditional rehabilitation schemes were not likely to succeed. The Committee therefore proposed alternative methods to the Labour Department.<sup>28</sup> However, the NHRC received a complaint from the All Puroik Welfare Society that the release of bonded Sullongs existed only on paper, and that most of them continued to work with their masters. It was also pointed out that several public servants, high officials and even a Minister were keeping Sullongs as bonded labourers.<sup>29</sup>

### **5.3 Brick Kilns**

Brick kilns operate in rural areas throughout the country, for six to eight months a year. There are varying estimates of the number of workers in the industry. The National Commission on Rural Labour estimated that there were about one million workers but according to the All India Brick Kiln Manufacturer's Association, its membership extends to 22,000 units with about 3 million workers. There could be as many as 50,000 brick kilns in all, employing about 100 workers each as per the muster rolls (Ghosh 2004, Gupta, 2003, Ateeq and John, 2003). The estimated number of workers would then conservatively be 5 million (since women and children are not included on the muster rolls). In Punjab state alone, there were an estimated 130,000 workers in about 2,500 brick kilns (Ateeq and John, 2003). According to one

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<sup>28</sup> Minutes of the District Level Committee, forwarded to the Ministry of Labour by the Labour Commissioner, Arunachal Pradesh, on 19<sup>th</sup> March, 1999.

<sup>29</sup> NHRC Case No. 12/2/1999-2000.

study, there could be 3 million workers in kilns around Delhi and in the adjoining States alone (Gupta, 2003).

The pattern of labour recruitment in the brick kilns, and the mechanisms of deployment, payment of advances and wages bear a striking similarity across the country. Recruitment is almost entirely through middlemen (known as Jamadars or Sirdars in the brick kilns around Delhi), based on a system of advances. There are distinct processes within the brick kilns, giving rise to a segmented workforce including moulders, loaders, stackers, firers and removers. The wage payment systems are different for different processes and the labour contractors are usually paid a commission through an informal deduction from the labourers' wages (Ghosh 2004, Gupta 2003). Workers are paid a part of their wages during the employment period on a weekly basis, with the remainder being adjusted at the end of the season. This binds the worker (and her/his family) to the kiln during the season, whereas the carry-over of advances from one season to the next ensures their availability for the next season. The work usually entails long working hours and very low payment. In a number of cases, a high degree of coercion is used to discipline the workers and to curb protests against breach of contract, which are very common.

A recent study of 499 households from 76 brick kiln units in the Gautam Budha district of Uttar Pradesh, near Delhi, brings out some of the features of labour relations in the brick kiln industry (Ghosh, 2004). The study reported that both recruitment of labour and its deployment were based on a system of advances, controlled by contractors who were paid on a commission basis deductible from the workers' wages. In a significant proportion of cases, the debts were carried over from one season to the next, with the contractors acting as informal guarantors of the loan. The workers were mostly migrants from Eastern Uttar Pradesh, Bihar and West Bengal. Women and children were not placed on the muster rolls. Wages were adjusted at the end of the season with the workers receiving a portion of their wages at the end of each week or fortnight. Workers exiting to other kilns could have their debts transferred to the new employer who redeemed the debt to the first employer. Working and living conditions in the brick kilns were very poor and there was a near total absence of any regulation, with none of the labour legislation being implemented. The brick kilns were heavily guarded and restrictions placed on workers' movements. Wage rates were very low, but nevertheless above the legal minimum, which had not been revised for several years. An ILO study of two brick kilns around Delhi reaches similar conclusions. The system, according to the author, was akin to forced labour (Gupta 2003).<sup>30</sup>

Ateeq and John (2003) report the findings of another survey of 6 medium sized kilns, employing 130-150 workers, in three districts (Ludhiana, Sangrur and Moga) of Punjab, carried out in 2000. Most of the workers were from Bihar and Uttar Pradesh and 85% belonged to the SC. Landlessness was a major cause of migration. Seventy-one percent of the workers were in the 15-35 year age group. In many of the processes, the entire family worked in the kilns, and there was intense competition between owners to secure labour. Workers were recruited from their villages by the *Jamadar* under informal contracts. During the monsoon period when the kilns closed,

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<sup>30</sup> However, the study is silent on some crucial aspects eg. whether minimum wages are paid, whether accounts of payment and deductions are maintained. It does aver that the advances do not carry interest. (for a similar account of Haryana kilns, see Rajalakshmi, (2004)

these workers were unemployed and had to borrow from local money-lenders at high interest rates. The advances received from the *Jamadars* helped them repay these debts and brought them back to the kilns each year. It was found that about 53 % of the workers had accepted *peshgi* (advances). The brick moulders (*pathers*) mostly belonged to the SC, were landless and were the most vulnerable to debt. The workers were not covered by any of the Inter State Migrant Workers (ISMW) Act provisions. They were not paid for the initial 15-20 day period when they were required to clean the land nor for periods of sickness or for unanticipated work stoppages.

The 1995 survey of bonded labour by the Commissioners of the Supreme Court found a similar picture in the Southern State of Tamil Nadu. In Pudukottal district alone, the survey estimated that 80% of the 25,000 workers were bonded.<sup>31</sup> The persistence of bonded labour in this industry in Tamil Nadu is shown by the fact that 47 bonded labourers were released from two brick kilns in Kancheepuram district of Tamil Nadu in 2003.<sup>32</sup>

In the last several years, a number of cases of bonded labour in brick kilns have been reported from the States of Punjab, Haryana, Delhi, Uttar Pradesh, Madhya Pradesh, Andhra Pradesh, Tamil Nadu and Karnataka. Most of these labourers are from the Scheduled Tribes or Scheduled Castes and are migrants.

The NHRC gives details of a complaint related to unlawful confinement and exploitation of 58 SC labourers, 19 of whom were below 18 years of age. They were employed as bonded labourers in a kiln in Aligarh district of Uttar Pradesh. The contractor initially offered to pay a wage rate of Rs 130 per thousand bricks to the brick moulders and took them to the kiln after paying them an advance. Later, he decided to pay them only at the rate of Rs 100, after deducting an unspecified amount on account of the advance. When the workers protested, private guards restricted their movement and they were beaten and abused.<sup>33</sup>

In another incident, at a brick kiln in Gautam Budha Nagar in Uttar Pradesh, near Delhi, 180 bonded labourers (53 men, 36 women and 91 children) were rescued in February 2000.<sup>34</sup> The condition of the workers came to light when one of the women workers was raped, and her husband and a child were killed in gunfire by the employer and his henchmen when they resisted. The workers were prevented from leaving through threat and intimidation. The employer retained more than half their wages and gave them only a small sum for subsistence.

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<sup>31</sup> The Commissioners' survey covered brick kilns in only two districts, while the kilns are spread all over the state. The workers were usually brought after receiving an advance of Rs 5000 to 10000. The initial preparatory work was unpaid. The wages paid were only about 60% of the initially-stated wages, the rest being accounted for by interest on the advance. The work was back-breaking and there were no fixed hours. If the family did not pay back the advance at the end of the season, the remaining amount was accounted for in the name of the family and signatures were taken from them under the condition that they would come back next year to clear the debt.

<sup>32</sup> While the first group of 38 workers were able to get rehabilitation grants which were used to set up a cooperative brick kiln on a piece of land allotted by the Collector and to buy a lorry to transport the bricks, the other nine labourers had still not been able to secure the grant and were running from pillar to post. (Kannan, 2003a).

<sup>33</sup> NHRC Case No. 22507/24/1999-00

<sup>34</sup> NHRC Case No. 23327/24/1999-00

The *Bachban Bachao Andolan* activists, together with the district administration, rescued 70 workers from 39 families from a brick kiln in Moradabad district in Uttar Pradesh. The workers were scheduled castes from Chhatisgarh State who had been lured by middlemen through advances and on promises of a good wage and good working conditions. The workers were paid Rs 100 per week plus a ration of 8 kg of rice for the entire family, and were beaten up and threatened if they raised their voice about their wages.<sup>35</sup>

In Ferozepur district in Punjab, 69 workers were released from a brick kiln on the initiative of an NGO, Dalit Dasta Virodhi Andolan, and the district administration. The workers were only paid petty sums and no records of their employment, wages or advances were kept by the employers who, however, insisted on repayment of debt when the labourers wanted to leave.<sup>36</sup>

Forty-seven labourers were released by the police from a brick kiln in Baghapurana sub-division of Moga district in Punjab. All of them stated that they had not been paid their salaries for the last four months and were not allowed to leave the kiln. The raid was conducted following a writ petition in the Punjab and Haryana High Court by two labourers.<sup>37</sup>

One hundred and three bonded labourers belonging to 21 families were released from the brick kilns of Dadri and Bhiwani (Haryana State) in 1997 (Chaman Lal 2003). According to one report, bonded labour in the brick kilns of Haryana was mostly found in the districts of Sirsa, Karnal, Kurukshetra and Jajjhar, involving SC and other low caste migrants from Uttar Pradesh, Bihar and Rajasthan. Unionisation in about 60% of the kilns had brought down the incidence of bonded labour in Haryana (CEC, 2004, p. 33).

In May 2001, the Himachal Pradesh High Court ordered the release of 35 bonded labourers from 18 families from Saharanpur in Uttar Pradesh working in a brick kiln in Sundernagar district of Himachal.<sup>38</sup> In February 2002, 15 bonded labourers were freed from a brick kiln in Jaipur, Rajasthan (NHRC Annual Report, 2002-03). Ninety-nine men, women and children were rescued by district authorities from a brick kiln in Alwar district in January 1999 (CEC 2004, p. 58).

The People's Union for Civil Liberties (PUCL) Bulletin of June 2002 reports the release of 46 bonded labourers, aged 7 to 60, all local Musahars from a brick kiln owned by a powerful person in Phulpur sub-division of Varanasi district in Eastern Uttar Pradesh (People's Vigilance Committee for Human Rights, 2002a). According to another report in 2002, 33 labourers from Malda district in West Bengal were compelled to work in a brick kiln in Varanasi district of Uttar Pradesh at wages which were much lower than promised. Their womenfolk were allegedly raped by the musclemen and contractors of the kiln owner, and the workers were threatened with dire consequences if they protested. Thirteen of the workers fled to another brick kiln but were assaulted by the musclemen of their former employer. The workers were finally released by the administration as a result of the efforts of local people and an

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<sup>35</sup> SACCS web site

<sup>36</sup> Times of India, March 1, 2003.

<sup>37</sup> SIFY, 11 February, 2004 (<http://sify.com>).

<sup>38</sup> *The Tribune*, May 15, 2001, Chandigarh.

NGO, the People's Vigilance Committee for Human Rights, were given release certificates and sent back to Malda by the district administration (People's Vigilance Committee for Human Rights, 2002b).

Bonded migrant labourers in brick kilns have been reported in Danapur and Kishanganj districts of Bihar (CEC, 2004, p. 27). Migrant workers from Kalahandi, Bolangir, Koraput, Gajapati and other districts in Western Orissa migrate through middlemen, from whom they take advances, to work in brick kilns in other districts of Orissa or in Andhra Pradesh. Their advances are adjusted against a notional wage rate, such that when the workers return home (with small sums of cash), they are still in debt to the contractors or kiln owners, whom they have to repay the next season (Chakravorty, 2004).

In almost all the regions for which evidence has been discussed here, brick kilns rely primarily on recruitment of migrant labour through contractors, based on a system of advances which matches the cash needs of labourers from the poor regions. It is not unusual for the labourers to use the cash advances to settle their debts at home. Once labourers are recruited, various devices such as the use of force, recurrent loans, and one-time settlement of payments are used to tie the workers to the kilns for the season. Wage rates are usually low, given that in processes such as moulding and carrying bricks, entire households are involved. The local influence of the brick kiln owners, the remoteness and rural location of the kilns and weak regulation lead to the non-implementation of labour laws. There are nonetheless some State-level variations in the situation. Existence of strong trade unions may have led to a decline of bondage in a few States. But overall there is inadequate information on the variation between States and its causes.

#### **5.4 Stone Quarries, Crushers and Mines**

The Study Group on Bonded Labour for the National Commission on Rural Labour reported a high incidence of bonded labour in stone quarries and crushers, sandstone, marble and slate mines in a number of States including Haryana, Uttar Pradesh, Madhya Pradesh, Rajasthan, Karnataka and Tamil Nadu (Ministry of Labour 1991b).

Bondage in stone quarries in the areas around Delhi became a matter of intense legislative scrutiny after the early 1980s, when the *Bandhua Mukti Morcha* filed its landmark case in the Supreme Court. The Supreme Court appointed two Commissioners, Dr. Mahaveer Jain and Dr. Lakshmi Dhar Mishra, to investigate the condition of bonded labour in the industry in Haryana and also gave a number of directives to eliminate the practice and to rehabilitate the labourers. However, bonded labour continues to be reported from the quarries around Delhi.

In 1999, the NHRC received a complaint from the *Bandhua Mukti Morcha* that 20 persons (men, women and children) were kept as bonded labourers in a stone quarry in Gurgaon, Haryana. Although the district administration admitted that minimum wages had not been paid to them, it did not concede that it was a case of bonded labour. The labourers had been given some wage arrears and had been dispatched to Rajasthan. The Commission's own enquiry showed that 29 persons including 10 children were living in the open near Jaipur city in Rajasthan. They belonged to the

*Banjara* nomadic tribe and had gone to Haryana in 1994 to market their produce. While they were there, a contractor for a stone quarry offered them attractive wages for work in the quarry. After a year they were denied wages and, in lieu of wages, arrangements were made with a local merchant to supply them daily rations on credit. When they objected and demanded wages, they were kept confined to their dwellings. In 1999, they somehow made contact with the NGO. Only after the NHRC pursued the matter were the bonded labourers given release certificates by the Haryana government.<sup>39</sup>

The *Bachban Bachao Andolan* reported rescuing 101 bonded labourers (men, women and children) from a quarry in Charki Dadri in Haryana. Some of the bonded labourers had been working in the quarry for over three decades.<sup>40</sup>

The State of Rajasthan is the second-most mineral rich state in the country, earning more than \$190 million annually from the mining sector. Marble, limestone and sandstone are the highest revenue-earning minerals. Employment in mining in Rajasthan is second only to agriculture, providing work to more than 3 million workers, of whom 95% are from Scheduled Castes and Scheduled Tribes. Around 37% are women and 15% children (Mine Labour Protection Campaign, 2001).

The mines are operated on leases from government and are small-scale, localised enterprises worked entirely by manual labour; the mining practices are unscientific and primitive. Illegal mining is rampant, with contractors operating on expired leases, leases in the names of other persons (known as the *benami* system), and mining in areas not covered by their leases. In August 2000, the Mine Labour Protection Campaign (MLPC) carried out a random sample survey in the sandstone mining belt in the Jodhpur area in which approximately 70,000 workers are employed and which contributes approximately US\$ 3.3 million to the state economy annually. A number of leases have been granted to low caste lease holders but are actually operated by dominant persons from the area.

The leases are broken up into small parcels, each mined under the supervision of a piece-rated worker who has a group of family-based time-rated labourers working under him. A small percentage of labourers come from the villages in the mining area, but the vast majority are migrants who retain links with their areas of origin, since the mines function for only about eight months in a year. The system of advances is widely prevalent, and both categories of workers borrow from the lease operator or the supervisor. The daily wage workers are paid a pittance and female labourers are paid around half of what the men receive. There is also a significant incidence of child labour (Wazir, 2002; CEC 2001a). The Mine Labour Protection Campaign survey showed that 97% of sandstone mineworkers in Jodhpur are indebted, a majority of them being in bondage. The debts are passed on from one family member to another, or from one generation to the next, and can cause the labourer to be 'sold' to another contractor (Mine Labour Protection Campaign, 2001).

The National Commission on Rural Labour (1991) had identified slate mines and stone quarries in Madhya Pradesh as having a high incidence of bonded workers.

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<sup>39</sup> NHRC Case No. 1938/2/2002-03.

<sup>40</sup> SACCS web site.

Recently, a complaint regarding the existence of 400 bonded labourers in the Chola mines (quarries) in Gwalior district of Madhya Pradesh was made by Prof. Sheotaj Singh of *Bandhua Mukti Morcha*. The district administration initially denied the report but, on the intervention of the NHRC, 44 bonded labourers were released from the mines in 2003 and sent to their homes in Guna and Shivpuri districts. The employer was prosecuted under the BLSA Act and SC/ST Atrocities Act and a rehabilitation package was given to the released labourers. The workers' testimonies stated that they were denied wages; instead, the contractors issued them with paper coupons to purchase essential supplies from shops designated by the employers.<sup>41</sup>

The condition of quarry workers in Karnataka came to light following the release of five workers from a quarry in Srirangapattana Taluka of Mandya district, who were made to break stones with heavy chains around their legs. Most of the workers in this quarry were from other districts of Karnataka or from Andhra Pradesh. They included sixteen children who were paid wages of Rs 10 per day. The labourers had taken paltry advances of Rs 500 to Rs 2,500 and were paid only about half the designated minimum wages. The labourers' advances carried compound interest rates and there was hardly any prospect of repayment. Heavy fines were imposed for any kind of absenteeism and workers were subjected to corporal punishment. All the workers belonged to the *Bhovi* community, a low caste community specialising in stone breaking, the majority of whom spent their lives in bondage in quarries. The chained workers were released through the efforts of the Karnataka State Farmers' Organisation (*Karnataka Rajya Ryota Sangham* or KRRS). It is noteworthy that district officials had not reported the existence of any bonded labourers in the district and had overlooked the illegal quarrying of this mine (PUCL Bulletin, June 13, 2000; Sreedharan and Muniyappa, 2000; Chamaraj, 2000).

The Tamil Nadu Commissioners' Report (1995) reported large-scale bonded labour in quarries, both within and outside the State. The survey reported long-distance outmigration from the districts of Salem, Dharmapuri, dry parts of Thiruvannamalai, Samuvarayar, North Arcot and so on. Many labourers migrated to Gujarat, Madhya Pradesh, Andhra Pradesh and Karnataka to work in quarries, while several thousand also out-migrated from these districts to work elsewhere in Tamil Nadu. The survey estimated that 750,000 labourers worked in the quarries of Tamil Nadu, about two-thirds of whom were bonded, including entire families. The Commissioners' Report traces the origin of bondage in the quarries to the introduction of the public auction system in the 1970s, and the mechanisation of stone crushing which forced the workers to work longer hours for lower wages. In the quarries, the contractor or the sub-contractor advances money to the labourers, and supervises the gravel production. Apart from the element of debt, the workers are provided accommodation in the quarry and have limited mobility. They can only change employers if the new employer is prepared to meet their existing debt obligation. Constant watch is kept over them so that they cannot mix with other labourers.

Extensive granite, stone and other quarrying sites are found in the districts of Guntur, Rangareddy, Warrangal, Vishakhapatnam and Nellore in Andhra Pradesh (CEC, 2004). A large number of workers, mostly migrants from Orissa, Tamil Nadu, Rajasthan or other districts of Andhra Pradesh work in stone and other quarries and

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<sup>41</sup> NHRC Case No. 1351/12/01-02.

mica mines under conditions of bondage. As studies from Orissa and from Mahboobnagar district in Andhra Pradesh testify, these workers take advances from traders and money lenders in their home villages in order to tide over lean periods or to meet financial emergencies. These are then squared off with advances from labour contractors who hire them to work in quarries and mines. There, they are paid a fraction of their promised wages, the remainder being adjusted towards their advances or retained by the employer till the end of the season. A vicious cycle of debt is thereby created, which obliges the workers to return to work in the mines year after year (Subrahmanyam, 1985)

Within the mining industry, women's labour is marginalised, being concentrated in small mines where the labour process is dominated by contractors, and bondage and exploitation are high. Women are forced to take up physically arduous and exploitative work as men lose employment due to mine closure and mechanisation. They are often subject to sexual exploitation or turn to prostitution to make ends meet (Mines, Minerals and People, 2003).

### **5.5 Power looms and Cotton Handlooms**

Labour bondage has been reported in handlooms and power looms in different parts of the country, especially from Tamil Nadu and Andhra Pradesh.

CEC (2004, p. 19) has reported on the basis of interviews that there are several thousand weavers who are bonded to the master weavers in the districts of Prakasam, Guntur, Krishna, East Godavari, West Godavari, Vijaynagram, Srikakulam, Medak, Nalgonda, Warrangal and the South Telanagana region districts of Nellore, Chittoor, Kurnool, Anantpur and Cudappa of Andhra Pradesh. John (1996) has reported on the bonded labour system prevalent in Chirala in Prakasam district of the State.

The Tamil Nadu Commissioners Report (1995) noted that cotton handloom and powerloom labourers were spread all over the state. About one-third of the weavers were in the fold of the co-operatives. However, whether the master weavers take yarn from the merchants or the co-operatives, the work was done by weavers who were bonded. The *pattaria* owners advanced money to the weavers who could not change employers unless they repaid the loan. Most of the workers were from the scheduled caste community. The weavers' wages were less than the prevailing wage rate. The report estimated that there were 3 million looms in Tamil Nadu and several thousand bonded weavers. On 19 November 1997, acting on the petition of a bonded worker, the Madras High Court directed the district authorities of Erode District to secure the release of 450 handloom workers. The workers, whose movements were restricted, were paid a paltry wage and were required to work 18 to 22 hours a day.<sup>42</sup>

The powerlooms are concentrated in Periyar, Salem and Coimbatore districts of Tamil Nadu. The weavers are bonded to the loom-owner mainly due to their debt. In some cases, the weaver's children also work under bondage.

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<sup>42</sup> *Business Line*, 20 November, 1997.

Neve (1999) has studied labour relations in the town of Kumarpalayam in Tamil Nadu. The Vaiiar Gounder community which entered the industry in the 1970s uses a system of hefty advances (*baki*) to secure labour, both male and female. The labour is referred to by the labourers themselves as bonded. Although large advances sometimes carry an element of implicit interest, by and large, wage rates are not influenced by the practice of advances and workers can seek to change employment on repayment of the debt. Neve notes two features that make this akin to a bonded labour system. First, the advances were typically large, so that labourers could not ordinarily repay them. Second, employers used other stratagems, including physical coercion, to ensure that labourers are disciplined and remain with them.

The issue of bondage in powerlooms has emerged very starkly in the interim report of the Special Rapporteur, Mr K. R. Venugopal, in NHRC case no. 3728/96-97, based on the complaint of a worker and her husband against two employers, the former having been sexually assaulted by one of them. The Report says that the two employers in their statement have confirmed that advances are paid to each and every worker “to keep the workers bound to their powerlooms”. There is also the practice of giving workers “loans” as distinct from advances which, the employers claim, are given without interest and can be repaid in two-three years. However, in the Rapporteur’s view, “these employers had institutionalised a system of bonded labour based on advances to the needy workers – a bondage that never ended for 90% of them since 90% of them had to exchange the bondage to the current employer for the bondage to the future employer. This is permanent, institutionalised slavery.” Employers have admitted this in some of the cases.

## **5.6 Bonded Labour in Other Sectors**

*Construction:* Labour in large public works and construction sites is often organised through middlemen and contractors, leading to well-entrenched systems of advances and resulting in bondage. The case of contract labour from areas around Mahboobnagar district in Andhra Pradesh (often called *Palamuru* labour) has drawn the attention of a number of scholars. Olson and Murthy (2000) surmise that nearly 150,000 labourers seasonally migrate from this district, of whom nearly 50,000 are bonded. In a survey of contract labour households in 1991 and 1994, they find that these labourers, who hail from landless or small farm households in an endemically drought prone and unirrigated region, increasingly rely on advances and loans from *maistries* (contractors) who procure their labour for construction companies on public works sites. The workers work for about 12 hours each day, and are paid a small wage which is adjusted against advances and loans at the end of the 8 to 9 month contract period. During this time, they are provided food for themselves and their dependents, a packet of *bidis* and hair oil (all adjusted against wages). Women labourers not only have to hand over the advances to the men folk, but are also sometimes subject to sexual exploitation at the sites. There have been sporadic reports of bonded labour in the construction industry in several other places.<sup>43</sup>

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<sup>43</sup> In Punjab, 65 labourers were released from a cold storage construction site in Jalandhar district after complaints were received that the workers were tortured and female workers had been molested. A district administration enquiry found that the workers were promised only Rs 600 per month but had not been paid wages for 4 months. The employers paid the wage arrears to the employees and the workers were released and sent to their homes. However, the NHRC found that no steps had been taken

*Plantations:* There have been reports of bonded labour in commercial agricultural systems such as plantations and floriculture. Some of these (e.g. lemon plantations in Andhra and tribal labour in the Karnataka plantations) have been discussed in earlier sections of this paper. The Tamil Nadu Commissioners' Report (1995) found that migratory labour in cardamom plantations was often bonded. In some of the other plantations (rubber, pepper and nutmeg) the condition of bonded labour, numbering several thousand, was found to be acute. The Report also found that in the floriculture industry, a large number of children were engaged as bonded labour on payment of very low wages.

There are also references to bondage, lack of rights and non-payment of minimum wages among tribal labour originating in Central India in the tea plantations in Assam (Lahiri 2000).

*Gem Cutting:* According to the Tamil Nadu Commissioners' Report (1995), around 100,000 workers are engaged in this industry in Tiruchi alone. Of a total of around 160,000 workers, an estimated 100,000 are thought to be in bonded labour. These workers take advances from the producers or the middlemen and are paid 50-60% of the market wages. The bonded workers are not allowed to work for other employers.

*Rice Mills:* More than 1000 families were reported to be working as bonded labourers in the rice mills in and around the Red Hills area near Perambur in Tamil Nadu (Kannan, 2001). These families were immigrants from other districts of Tamil Nadu, having been lured to work in the industry against advances of Rs. 5,000 or more. Once the loan is taken, the debt burden increases as the interest accumulates. Successive generations of the family fall into the debt trap and remain within their cramped quarters in the courtyards of the '*nerkalams*' (rice drying units). In a number of cases, the labour of children is pledged against the debt (Meir, 2001; Kannan 2001). The rice mills of Dhamtari district of Chhatisgarh mainly employ tribals from Bastar district. The labourers are paid a small wage, work for 12 to 13 hours, and are kept confined to the premises of the mill (CEC 2004, p. 31).

*Bidi Workers:* Bondage among bidi workers, who are predominantly women and children, has been reported from Andhra and Tamil Nadu. According to the Tamil Nadu Commissioners' Report (1995), there are about 750,000 workers in the bidi rolling industry in that State, mainly women and children. The system of bondage is widely prevalent in North Arcot district. Children and women are in bondage to the bidi agents who advance money to them; in many cases, the entire family is bonded. The workers are employed in small decentralised units, which are either their homes or small factories, through the agents. Pledging of children against loans is also commonplace in North Arcot in this industry. In Andhra Pradesh, women and children bidi workers in the districts of Srikakulam, East Godavari, Guntur, Nellore,

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by the authorities to rehabilitate the released workers and instructions were issued accordingly by the Commission (NHRC Case No. 663/19/1999-00 and NHRC Annual Report 2001-02).

A sixteen year old boy, working as a bonded labourer in a construction company, was rescued by district officials in Cuddapah district. A contractor of Mahbubnagar district in Andhra Pradesh had brought him after paying Rs 16000 to his parents. No wages had been paid to him for the last six months and the contractor had refused to divulge his whereabouts to his parents (*The Hindu*, May 12, 2001).

Cudappa, Chittoor, Warrangal, Karimnagar, Adilabad and Nizamabad work under conditions of bonded labour. They remain indebted to the contractors and are paid less than the minimum wage (CEC 2004, p. 23). Bidi workers in the Dhamtari district of Chhatisgarh also remain in the grip of contractors, who pay them a small wage after arbitrarily making deductions in the name of wastage, commissions etc. (CEC 2004, p. 33).

*Fish Processing:* Warriar (1998), in her study of women workers in the sea-food industry, described their employment under captive and bonded conditions in the cities of Mumbai, Tuticorin, Calcutta, Veraval, Porbandar and Mangalore, Goa and the coastal towns of Orissa and Andhra Pradesh (Warriar 1998; CEC 2004, p. 35). Twenty seven bonded Tamil workers were rescued from a fish processing factory in Porbandar, Gujarat in 1997.<sup>44</sup> CEC (2004) cites a Study Report compiled by the Ongole based *Samudra Theera Matsya Karmikula Union* (Sea Fish Workers Union) stating that women migrant workers brought from Tamil Nadu, Kerala and other districts in Andhra Pradesh have to work as bonded labourers in the sea-food processing industry. They are housed in the factory premises, and are paid a pittance after the deduction of the contractor's commission and charges for their food (CEC 2004, p. 23).

*Silver Works:* According to the Tamil Nadu Commissioners' Report (1995), the system of bonded labour in silver works involves both adults and children. Of the estimated 10,000 workers, about half are bonded.

*Mat weaving:* The Tamil Nadu Commissioners' Report (1995) shows that in Vandavasi taluk, there are 20 big and 36 small mat units in which all the labourers are bonded.

*Salt pan workers:* There are an estimated 100,000 to 300,000 salt pan workers in the coastal districts of Gujarat, mostly belonging to the *Koli* or other low castes and many others who are migrants from other states. They are bonded to the contractors to whom they sell their produce at an artificially low price (Ganguli, 2001; John, 2001). In Maharashtra, Prabhu (2001) reports that hunger during the lean season forces the salt pan workers to take loans from the *khatedar*, against a commitment that the labourer will work at half the prevailing wage.

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<sup>44</sup> Radha Venkatesan, The Indian Express, 27 February, 1997, New Delhi

## 5.7 *Bonded Child Labour*

There are a number of industries where children's labour is pledged against loans taken by their parents, and children have to work for long hours under intolerable conditions. Human Rights Watch (1996), based on a survey of 100 bonded children in five states (Rajasthan, Tamil Nadu, Karnataka, Maharashtra and Uttar Pradesh), has identified bonded child labour in a number of occupations including agriculture, brick kilns, stone quarries, carpet weaving, bidi rolling, rearing of silk cocoons, production of silk sarees, silver jewellery, synthetic gemstones, precious gem cutting, diamond cutting, leather products etc. These children are made to work against debt taken by their parents or guardians, at low or no wages, from a very young age. In a review of bonded child labour in India, Mehta (2001) has also brought out the extent of the problem in a number of sectors including carpet weaving, agriculture, bidis, silk, salt-making, fireworks and matches, glass, silver works, gemstones, leather and brick-kilns. There have been reports of bonded child labour in other industries such as circuses, fisheries, shops and tailoring establishments, and domestic work.<sup>45</sup>

### *Carpet weaving*

The carpet weaving industry in India has had a very high incidence of child labour, including a sizeable proportion of migrant child labourers who work under the worst possible conditions of bondage. Estimates of the size of the problem vary. Moreover, the nature of the industry has changed rapidly since 1996 with a shift towards home-based production and production in new districts in the states of Uttar Pradesh, Bihar, Madhya Pradesh, and elsewhere. The old core districts of Bhadohi, Varanasi and Mirzapur in Uttar Pradesh still employ a very large number of workers. But the industry has now expanded to the districts of Allahabad, Kaushambi, Jaunpur and Sonbhadra. In addition, some new carpet-weaving districts in Bihar and Jharkhand are Garhwa, Samastipur, Palamau, Madhubani and Saharsa. These districts were areas from where migrant child labour was previously sourced for the core carpet weaving areas (Sharma 2002).

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<sup>45</sup> Twenty-nine children were rescued from a circus in Kerala by an NGO (Bachban Bachao Andolan) in April 2004. The children had been brought from Nepal after their parents were duped by middlemen who promised them light household jobs. The circus owners had rejected the pleas of parents to hand them back ([webindia123.com/news](http://webindia123.com/news), New Delhi, April 23, 2004). In January 2001, a joint effort by the campaign against Child Labour, Peoples Union for Civil Liberties and the district authorities brought about the identification and release of 23 bonded child labourers from fishing camps in Shimoga in Karnataka (CEC 2004, p. 49). 12 children from Madurai district in Tamil Nadu were rescued from Ganjam and Raigada districts of Orissa due to the efforts of an NGO, the SOCO Trust, and the Adi-Dravidar Welfare Department. These boys were lured away by agents who paid money to their parents and made to work in "Murukku" (savoury) shops in Orissa under very difficult conditions. (The Hindu, June 24, 2001). Another 27 children from Madurai, who worked under similar conditions in sweetmeat shops in Western Uttar Pradesh were rescued by the district administration, once again because of the efforts of the same NGO (Kannan 2003b). Seventeen bonded children were released in Delhi on the initiative of a NGO. Some of the children had been 'bought' in Bihar on payment of Rs 1000 each and had been made to work in Mumbai before being brought to Delhi to work in a tailoring establishment. The children were made to work in 12 hour shifts and were given only food as wages (Indian-Asian News Service, June 5, 2001)

Estimates of the incidence of child labour and bondage in the carpet industry vary significantly. Juyal (1993) estimated that there were 350,000 child workers in the industry, almost two-thirds of all workers, whereas a study by Vijaygopalan estimated that child workers were only 8% of the workforce. Sharma (2002) estimated that child workers were about 19% of all workers, of which only girls were only 7%. Only 2.2 percent of the child workers were inter-district or inter-state migrants. Srivastava and Raj (2000) found that child labourers constituted 58% of the workforce in the woollen carpet industry in Eastern Uttar Pradesh and 30% of them were girls, but the percentage of inter-state migrants detected in this study was also small.

The identification and release of bonded child labourers, many from rural areas in Bihar and Jharkhand, is still frequently reported in the core carpet areas. Thirteen bonded children were released from a carpet factory. The South Asian Coalition against Child Servitude (SACCS) complained to NHRC that these children were kept in a children's home instead of being rehabilitated and sent back to their parents. It was found that the age of these children had been wrongly certified by the doctor in order to protect the loom owner, and they had gone back to work for him. It was only after the Commission's intervention that the release and rehabilitation of the children and action against their employer were initiated (NHRC Annual Report, 2001-02).

SACCS also released nine bonded labourers in two raids in the carpet belt of Uttar Pradesh. These child labourers had come from poor scheduled caste families in Saharsa, Darbhanga and Purnea districts and they or their parents had been duped by middlemen. They worked in inhuman conditions, were kept confined to a small, dark room, and were paid a pittance.<sup>46</sup>

In another case, the complainant, a member of the Legislative Assembly in Bihar, brought to light the case of two boys who were lured away by a local middleman to work in the carpet area of Bhadohi district in Uttar Pradesh. They were both made to work as bonded labourers and kept on a starvation diet. One of the boys was beaten so badly that he died and his body was disposed of by the loom owner in a gunny bag. The matter of compensation had not been sorted out between the two states and the full bench of the NHRC had been looking at issues relating to the release and rehabilitation of the bonded child labourers of Darbhanga.<sup>47</sup>

Since 1999, the NHRC has launched special initiatives to tackle the problem of child labour in the carpet belt. Steps include a census of all looms and workers in the area, and initiatives to rehabilitate the child labourers and their families and to educate the children.

Bonded child labour in the carpet industry is also reported elsewhere. Gani and Shah (1998) have reported a high incidence of child labourers in the carpet industry of Kashmir, many of whom work for their employers in lieu of wages taken by their parents.

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<sup>46</sup> <http://www.sholay.com/stories/2000/august/12082000.htm>

<sup>47</sup> NHRC case no. 265/2/24/2000-01.

### *Silk reeling and weaving*

The Tamil Nadu Commissioners' Report (1995) found a high incidence of bonded adult and child labour in the silk weaving industry in Tamil Nadu. The silk weaving is organised through master weavers either in the cooperative sector or outside. The master weavers pay advances to weavers, who employ children as helpers. According to the Report, the weavers and the children are often bonded. There were an estimated 30,000 adult and 50,000 child labourers in silk handlooms alone.

Human Rights Watch (1996) has shown bonded children, aged 5 to 12, at work in every stage of the silk industry. These children work up to 12 or more hours a day for six and a half to seven days a week, under hazardous conditions, and are often beaten by the employers.

Human Rights Watch (2003) has documented large numbers of bonded child workers in the silk weaving industries of Karnataka, Kanchipuram district in Tamil Nadu and Varanasi district in Uttar Pradesh. Field investigations were carried out in March-April 2002. The Report estimates that 350,000 children are engaged in silk thread making and weaving, working nearly 12 hours a day. Almost all the children were from SC/ST or Muslims. Nearly all the children working on a hired basis were bonded. Others worked within families, themselves bonded.

The Special Rapporteur to the NHRC, Mr. K. R. Venugopal, has highlighted bonded labour in the silk reeling and twisting units in Magadi and Ramanagaram in Karnataka state.<sup>48</sup> In October 1998, 53 child labourers working in Magadi town were discovered during a surprise inspection. Each child or the parent had taken an advance of Rs. 10,000 to 25,000. The children were made to work for 12 to 14 hours a day and received only Rs. 2 to 3 as wages (CEC 2004, p. 48).

### *Hybrid cotton seed production*

A recent survey (Venkateswarlu, 2003) estimates that of about 450,000 girls working in hybrid cotton seed farms, about half were bonded. The farms, both local and multi-national, were concentrated in the Telanagana and Rayalseema regions of Andhra Pradesh. The labour force of local or immigrant girl workers, the latter recruited through middlemen and employed on a contractual basis (daily, monthly or seasonal), were at the beck and call of the employers. The parents were paid an advance in one or two instalments, and in some cases given loans with interest. The child labourers were required to work long hours and were paid less than prevailing wages. Seventy percent of the surveyed children had worked for the same employer in the previous year as well.

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<sup>48</sup> NHRC Annual Report 1999-00, para 7.12

## **6. Elimination of Bondage: Nature and Scope of Interventions**

The existence of bonded labour is an affront to basic human dignity. There has been some change in the nature and incidence of bonded labour in India as a result of various factors, including the impact of social change and social movements, economic modernisation and State intervention. While these processes have impacted positively on the unfree status of labour in traditional agriculture and in some other sectors, the incidence of bonded labour still remains high in some segments of unorganised industry, the informal sector and in the relatively modern segments of agriculture in some areas.

The Bonded Labour System (Abolition) Act created a legislative framework for the elimination of bonded labour in 1976. But, as both the Supreme Court and the NHRC have shown, its implementation by the States has generally remained weak.

The Supreme Court of India has, in a series of judgements, given directions to improve the situation and since 1997, under its direction, the National Human Rights Commission has been directly involved in monitoring the situation and making reports to the Court. In its order of November 11, 1997, passed in the writ petition No. 3992 of 1985 – PUCL vs State of Tamil Nadu and others, the Supreme Court has entrusted to the NHRC the responsibility of monitoring the directions of the Court issued from time to time and the implementation of the provisions of the Bonded Labour System (Abolition) Act.

The NHRC started monitoring the implementation of the Act in 13 states identified as Bonded Labour Prone states. These are: Andhra Pradesh, Arunachal Pradesh, Bihar, Gujarat, Haryana, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu and Uttar Pradesh. The Commission has appointed two Special Rapporteurs, Mr. Chaman Lal and Mr. K. R. Venugopal, who have been constantly reviewing the situation in bonded labour prone states and sectors.

The Special Rapporteur in the Northern States has focused on the carpet belt of Uttar Pradesh consisting of the districts of Varanasi, Bhadohi, Mirzapur, Jaunpur, Sonbhadra and Allahabad, where most of the children employed are migrants from the state of Bihar and Jharkhand, working under extremely oppressive conditions against some petty advances paid to their parents. Their cases are invariably found to be attracting the provisions of the Bonded Labour System Abolition Act (Chaman Lal, 2003). The Special Rapporteur has also focused on the problem of *Kols* in the Pathar area of Uttar Pradesh and has held regular review meetings with officials in the States of Uttar Pradesh, Bihar, Madhya Pradesh, Haryana, Punjab and Rajasthan. He has also been assisting the Commission in monitoring and reviewing the situation in other North Indian States and in ensuring that rehabilitation of bonded labourers, especially migrant labourers, takes place on a long-term basis.

In the Southern states, the Special Rapporteur, Mr. K. R. Venugopal, has tried to move in a convergent direction by involving and influencing a number of departments and by including policy making within the ambit of his work. He has particularly

highlighted the issues of bonded quarry workers in Karnataka and Andhra Pradesh and bonded labour in silk weaving and powerloom industries in Tamil Nadu. He has held regular meetings with officials in the States of Karnataka, Tamil Nadu and Andhra Pradesh.

The Special Action Group constituted by the NHRC and the institution of the Special Rapporteurs has breathed some life into the legislative system and has given support to the grass-root NGOs that have been involved in taking up issues of bonded labour. Further, in September 2000, the NHRC constituted an Expert Group headed by Mr S. R. Sankaran, to make an assessment of the Bonded Labour situation in the country, examine the extent and effectiveness of the Bonded Labour Laws and enforcement mechanisms and review the functioning of the Centrally Sponsored Scheme for the rehabilitation of the released labourers. The Commission has also constituted groups to study the problem of bonded labour and child labour in a number of areas, including the Kol tribals in Uttar Pradesh and the lock makers of Aligarh.

The identification of bonded labourers continues to present difficulties, and only a small number of bonded labourers are actually identified, almost always due to the persistent efforts of NGOs (NHRC Annual Report, 2000-01). But among those labourers who have been identified and released from bondage, the NHRC finds that the rehabilitation of migrant labourers is being totally neglected (Chaman Lal, 2003). This is also the view of the Supreme Court of India.<sup>49</sup> There can be no doubt that effective prevention of bondage amongst vulnerable groups and the rehabilitation of freed child and adult bonded labourers are complex issues, requiring sustained action from governments, NGOs and the international community.

The Ministry of Labour, Government of India had initiated a Centrally Sponsored Scheme under which Rs 4,000 was initially provided for the rehabilitation of each bonded labourer, to be equally contributed by the Federal and the State government. The amount has since been gradually raised, reaching Rs. 20,000 in May 2000. The Central government also provides assistance for surveys, awareness campaigns and evaluations. Released bonded labourers are given priority in a number of government programmes, such as the distribution of government land, and some States have initiated specific programmes for their rehabilitation. But, by and large, the process of rehabilitation is frequently delayed, particularly in the case of inter-state bonded migrant labourers, and the degree of concerted convergent action required on the part of the administration is rarely forthcoming. Prosecution of employers is also weak. Since the bonded labourers are very poor and assetless, some can relapse into bondage, while others may experience only a very marginal increase in income. Not being from an entrepreneurial background, bonded labourers may not be able to earn significantly higher incomes or even retain their assets (Mutharayappa, 2002). The National Human Rights Commission has been trying to make the states undertake rehabilitation of the bonded labourers through convergent action, and through helping the bonded labourers form groups or cooperatives which can take up economic activity on a sustained and viable basis. As discussed earlier, in Allahabad district, the

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<sup>49</sup> The Supreme Court judgement in the case of PUCL vs the State of Tamil Nadu (dated May 5, 2004) has reviewed the Report of Expert Group on Bonded Labour set up by the NHRC, the observations of Amicus Curiae appointed by the Court, and the facts placed by the Union government. The judgement notes that identification, release and rehabilitation are the three components of the 1976 legislation and that the last has been the most wanting.

Commission has supported the granting of mining leases to SHGs of Kol tribals and opposed a system of action which excludes these groups from bidding for the mining rights.

Since bondage results from severe deprivation arising from lack of assets and adequate livelihood opportunities, a key focus of rehabilitation has to be on providing assets and means of livelihood to the bonded labourers. Efforts to do this are more likely to succeed if the poor are empowered and collectively organised, and if they have the capacity to undertake new activities. Vidyasagar (2001) notes that the distribution of land to 44 bonded labourer families in Kodaikanal was successful because the labourers were given other infrastructural facilities and were supported in their endeavours by an NGO. More importantly, the labourers were used to cultivating land in a similar ecological setting. In another case, cited by Vidyasagar, bonded labourers who were working in stone quarries in Pudukottai district were released by the district administration during the early '90s, which also took the initiative in rehabilitating them. The workers were organized into co-operative societies which were provided with quarrying contracts. The rehabilitation money was pooled together to purchase trucks for transportation. Women were given authority within the societies and provided proper training to enable them to fulfil their functions. The Tamil Nadu Government amended the rules under Section 15 of the Mines and Minerals (Regulation and Development) Act, 1957, to allow the grant of stone quarrying leases to the released bonded labourers. This became one of the very successful cases of rehabilitation of bonded labour in Tamil Nadu (Murthy 2001).

In the case of the Kol tribals engaged in quarry mining in Shankargarh district of Allahabad, a protracted process of empowerment and organisation led to formation of groups and to demands for lease rights. Due to a supportive district administration and the arduous work of organisations like *Sahyog*, *Sankalp* and *Mahila Samakhya*, the kols gained mining rights in a number of villages, were able to overcome the opposition of contractors and nearly treble their income over a short period of time, drastically reducing bondage in the area.<sup>50</sup> However, crucial issues of building managerial capacity and cohesiveness among the self-help groups still remain important.<sup>51</sup>

Similarly, eleven *Sahariya* families freed from bondage in a quarry with the help of an NGO, Bandhua Mukti Morcha, were given lease rights to a 70-bigha quarry in Shivpuri district of Madhya Pradesh. This has resulted in higher incomes for the labourers and high royalties for the government. The district administration started a number of convergent schemes to help the released labourers, including the opening of a school and the grant of land. When the contractors refused to pick up the stones, the families were given a tractor and trolley for transport (Bal, 2003). The district, according to BMM, has over 15,000 bonded labourers still working in the stone quarries.<sup>52</sup>

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<sup>50</sup> Roy, 2000. Interview with Justice Amar Saran, a former member of the Vigilance Committee in Allahabad, and member of the NHRC Group formed to investigate the condition of the Kols in the Pathar area of Uttar Pradesh.

<sup>51</sup> Interview with Sheba Jose, Convenor, *Sahyog*.

<sup>52</sup> For more details, see the CEC submission to the Planning Commission. (CEC 2001b)

There is micro and macro evidence that the organisation and empowerment of the poor leads to a decline in bondage. Since bonded labour systems are extremely well entrenched in local power structures, with very good linkages with other centres of power, significant organisational strength or powerful linkages are needed among organisations seeking to eradicate the system. Trade unions do not always have a strong presence in the sectors in which bonded labour incidence is high, but in certain cases (e.g. brick kiln workers of Punjab) they have helped in reducing the problem. Powerful movements of agricultural labourers, as in Bihar, have had a similar impact.

Internationally supported programmes for the elimination of bondage are few, with the exception of a number of initiatives for elimination of child labour. Since June 2000, the ILO has been implementing a project to prevent and eliminate bonded labour in South Asia. In India, the project has been operational in Rangareddy district of Andhra Pradesh and Tiruvallur district of Tamil Nadu. Starting from the premise that lack of access of the poorest households to appropriate financial services is one of the causes of bonded labour, the project's initial aim was to induce microfinance institutions to develop products and services targeted at the poorest groups. Recognising the social dimensions of bondage, the project aims also at other areas including public sensitisation and rights awareness, adult literacy, organising workers, income generation and vocational skills development. The project considers that "strategies to eliminate bonded labour need to go beyond the symptoms to address the root causes (labour market segmentation, entrenched social discrimination, lack of financial services, lack of outreach of social partners in the informal economy). The multifaceted and deeply rooted nature of those causes requires an integrated and long-term strategy." Project experience also indicates that it may be useful, when designing interventions, to draw a distinction between 'severe' and 'mild' forms of bonded labour, the latter being more suited to specific micro-finance based solutions which would be inappropriate for the former (ILO, 2004).<sup>53</sup>

The broad linkages between bonded labour systems, production structures and the pattern of development need to be better understood since the roots of bondage are related to factors such as production technologies on the one hand, and economic vulnerability and structural inequality, on the other. The NCRL Report (1991) had highlighted long-term development and land reform measures along with poverty alleviation and social security as pathways out of bondage.

Finally, the persistence of bondage is a consequence of weak enforcement of labour laws and the laws of the land. India has a plethora of labour legislation regulating the conditions of work of contract and migrant labour, prohibiting child labour in hazardous industries, and for minimum wages. But these remain in large part unimplemented. More significantly, in case after case, there is violation of the fundamental human rights of workers, which are enshrined in the Constitution. A concerted effort to ensure implementation of the law, by government in close cooperation with employers' and workers' organisations and civil society, is called for in this respect.

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<sup>53</sup> The latter appears to refer to 'bondage' for a comparatively short and perhaps more clearly defined period. But both the analytical/empirical and legal basis for drawing the distinction is unclear in the note that has been cited.

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## Annex 1

### Extract from the Bonded Labour System (Abolition) Act 1976

(g) "bonded labour system" means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that - (i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by the document) and in consideration of the interest, if any, due on such advance, or

(ii) in pursuance of any customary or social obligation, or

(iii) in pursuance of any obligation devolving on him by succession, or

(iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or

(v) by reason of his birth in any particular caste or community, he would- (1) render, by himself or through any member of his family, or any person dependent on him, labour or service, to the creditor, or for the benefit of the creditor, for a specific period or for an unspecified period, either without wages or for nominal wages, or

(2) forfeit the freedom of employment or other means of livelihood for a specified period or for an unspecified period, or

(3) forfeit the right to move freely throughout the territory of India, or

(4) forfeit the right to appropriate or sell at market-value any of his property or product of his labour or the labour of a member of his family or any person dependent on him and includes the system of forced, or partly forced, labour under which a surety for a debtor enters, or has, or is presumed to have, entered into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor;

*Explanation : For the removal of doubts, it is hereby declared that any system of forced, or partly forced labour under which any workman being contract labour as defined in clause (b) of sub-section (1) of Section 2 of the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970), or an inter-State migrant workman as defined in clause (e) of sub-section (1) of Section 2 of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979), is required to render labour or service in circumstances of the nature mentioned in sub-clause (1) of this clause or is subjected to all or any of the disabilities referred to in sub-clauses (2) to (4), is 'bonded labour system' within the meaning of this clause*

(h) "family", in relation to a person, includes the ascendant and descendant of such person;

(i) "nominal wages", in relation to any labour, means a wage which is less than,- (a) the minimum wages fixed by the Government, in relation to the same or similar labour, under any law for the time being in force; and (b) where no such minimum wage has been fixed in relation to any form of labour, the wages that are normally paid, for the same or similar labour, to the labourers working in the same locality.