



Poverty, discrimination and slavery

The reality of bonded labour in India, Nepal and Pakistan

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Anti-Slavery International 2008

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Cover photograph: Bonded labour in India. Pete Pattison - www.petepattison.com

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Executive summary

Despite constitutional provisions and, more recently, laws against bonded labour in India, Pakistan and Nepal all three countries are still plagued by the spectre of slavery.

In the Asia-Pacific region the International Labour Organization (ILO) estimates a minimum of 9.5 million people in forced labour, the majority of who are in debt bondage. Debt bondage is defined in the UN Supplementary Convention on Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956) 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 and defined.”

Researchers agree that the majority of forced labourers reside in South Asia. However, there is no consensus on the scale of bonded labour within these countries. This is indicative of the failure by the states to undertake a systematic and sustained approach to the eradication of bonded labour. A systematic approach would include identification of individuals and families affected by this form of forced labour, release of bonded labourers and measures to ensure that, once released, they are not re-enslaved.

When such governmental interventions have occurred, as a result of pressure from civil society, international organisations, or on the initiatives of the national courts, the governmental institutions of the three countries have shown their potential for making considerable in-roads into slavery practices across the region, even though their impacts have sometimes been undermined by poor management, planning and on occasion corruption. This in turn has meant that many of the rehabilitation efforts that have occurred have failed allowing many labourers to fall back into bondage. When there is no significant external or internal pressure the governments of the region have failed to protect the rights of their own citizens by maintaining committed anti-slavery action as a central aspect of government programmes.

Bonded labour in South Asia is a product of poverty, social exclusion and the failure of governments to act against the practice and its underlying causes. Those who are enslaved are desperately poor with no assets other than themselves to sell in times of extreme need. Those who are enslaved are also predominantly from scheduled castes and minority groups, with

various studies estimating that around 90 per cent of bonded labourers come from these groups. The profound prejudice of the wider society against scheduled castes and minorities, which must also pervade government and civil service as well as other sections of society, establishes a culture of toleration for abuses of the most extreme kind, including slavery, to be perpetrated against vulnerable people from these sections of society.

The failure of governments to act positively against bonded labour in these countries is exacerbated by the trend, in the face of globalisation, for a reduction of labour protection. As such protections are reduced they increase the opportunity for unscrupulous employers to restrict and remove the freedom of poor labourers through the imposition of debt, surveillance and threat. Conversely, in relation to bonded labour our research argues that it can be reduced by sustained government action on implementation of labour standards including the payment of minimum wages, guaranteed freedom of movement and a right to change employer.

Bonded labour in South Asia is still predominantly an agricultural phenomenon affecting the chronically poor and landless. In some instances bonded labour contracts in agriculture have been modified to appear to conform to the law. However, the reality means that the changes are only superficial, with the core features of coercion through indebtedness and undervalued labour still intact.

The failure of land reform across the sub-continent has maintained a huge population of desperately poor people who are often reduced to selling themselves into bondage to meet both basic needs and social obligations such as marriage. In the few places where former bonded labourers have been the beneficiaries of land reform they demonstrate a greater capacity to keep themselves and their families out of bondage, though instances of poverty forcing even landed poor back into bondage are also reported.

Elsewhere bonded labour is an increasing phenomenon in other industrial sectors including silk, salt production, quarries and mines, brick kilns, garments and textiles, cigarettes, gem-polishing and domestic work.

Anti-Slavery International argues that the continuation of slavery in South Asia is a demonstration of the continuing failure of political leadership to address this matter in a comprehensive and sustained manner. Such failure is neither understandable nor, if it ever was, excusable in the face of the growth in economic power of South Asia and the promises enshrined in the national constitutions. Any economy

tolerating such widespread abuses at its heart must be an issue of concern for the international community, particularly as these nations begin to emerge as major players in the global market.

Anti-Slavery International urges new responses to bonded labour that demonstrate sustained political commitment to and proper understanding of the issue, particularly its evolution into non-agricultural industrial sectors, the enduring aspect of prejudice and discrimination in bonded labour, and sensitivity to the diverse needs of bonded children, women and men.

- Governments must establish effective national action plans for the eradication of slavery which should include permanent national mechanisms to monitor and co-ordinate the action of the multiple stakeholders involved in bonded labour eradication including all involved government departments, state governments, trades unions, businesses and civil society, including representatives of bonded labour organisations, with the involvement also of international donors, international organisations and United Nations (UN) Specialised Agencies particularly the ILO.
- Governments must undertake training and capacity building of law enforcement and labour officials on identification of bonded labourers and implementation of anti-bonded labour law and labour standards.
- Governments must undertake comprehensive survey and identification of bonded labourers in conjunction with credible national and international stakeholders to help understand the scale and dimensions of the problem across each country and across each economic sector, including informal sectors.
- On the basis of survey findings the governments must take immediate action to fully implement existing laws. The focus should be divided equally between liberating and rehabilitating bonded labourers and prosecuting employers of bonded labourers.
- Governments should revitalise the system of local Vigilance Committees (in India and Pakistan) and Committees (in Nepal) in the struggle against bonded labour. These committees should reflect national co-ordination systems and include representation from appropriate departments of government, businesses, trades unions, local activists, lawyers and non-governmental organisations (NGOs). Proper funding must be ensured to allow the Committees to carry out their work.
- Governments must ensure that appropriate rehabilitation packages are made immediately available to ex-bonded labourers to ensure access to a sustainable livelihood, land, markets and services, and education.
- Access to land, and hence land reform, must become a central aspect of a long-term and sustainable solution to the problem of bonded labour across South Asia.
- The governments of India, Nepal and Pakistan must recognise that ensuring universal education for all the children of those nations is a fundamental strategy to keep future generations away from exploitative work including bonded labour.
- Governments should ensure minimum wage provisions within the law are implemented to reduce the vulnerability of labourer from falling into bondage.
- The governments of all three countries should take effective measures to ensure that programmes targeted to the poor and marginalised communities, the communities most vulnerable to bonded labour, reaches them. Particular focus must be placed upon chronically poor Dalits, minorities and indigenous communities.
- Bonded labour is not solely an economic issue. Governments in the region must also ensure that all their citizens are treated equally in the economic, social and political spheres. The toleration of caste and all other forms of discrimination in these three countries is a betrayal by governments of their own citizens.
- International governments, organisations and the donor community should target the poorest and the most exploited and must include power and discrimination analysis to try to ensure that interventions and programmes advance justice and equality rather than reinforce existing patterns of social exclusion. Specific assistance to South Asian governments in liberation and rehabilitation of bonded labourers and eradication of slavery practices should be a diplomatic and aid priority.
- National and international businesses working in South Asia must ensure that the Universal Declaration of Human Rights, international labour standards and anti-slavery laws are implemented along their entire supply chains. In the context of South Asia businesses should adopt the Ambedkar Principles, a set of principles on affirmative action against caste discrimination in line with international human rights standards.

Preface

This report is a study of the reasons why bonded labour, a contemporary form of slavery, persists in India, Nepal and Pakistan. In particular, it examines the effectiveness of state interventions against bonded labour.

Written by Anti-Slavery International, it is a result of collaboration between Anti-Slavery International, the Centre for Education and Communication (CEC) in New Delhi, the General Federation of Nepalese Trade Unions (GEFONT) in Kathmandu, and the Pakistan Institute of Labour Education and Research (PILER) in Karachi, with the support of Trocaire and Novib. It forms part of a wider research project undertaken by Anti-Slavery International and its partners to combat bonded labour in South Asia.¹

This report reflects the main findings of research carried out by CEC, GEFONT and PILER between January 2004 and December 2006 into some of the obstacles to the eradication of bonded labour, the reasons why bonded labour persists, and into the interventions that have been made since anti-bonded legislation came into force in South Asia.² It also draws on other existing literature on the subject.

While some issues are country specific, our analysis shows that underlying factors such as poverty, inequality and discrimination are repeated in each country. Common demands from those affected by bonded labour include the distribution of the land among the poor; respect for labour rights; better education, health, and livelihood programmes to fight discrimination and poverty; and effective state action against discrimination against Dalits, low-castes and minorities.

The report includes a number of recommendations which if fully implemented would lead to the eradication of bonded labour in South Asia.

It does not attempt to clarify the extent of the problem of bonded labour in India, Nepal and Pakistan. Nor does it attempt to describe the situation in Bangladesh or Sri Lanka, though anecdotal evidence suggests that bonded labour is also a considerable problem in these countries, which likewise requires thorough research as preparation for a systematic programme of response.

This report draws mainly from the following research documents published between 2004 and 2008 by CEC, GEFONT and PILER under the Anti-Slavery International project: *Analysing the Effectiveness of Interventions on Bonded Labour in India, Nepal and Pakistan and Propose Local, National and Regional Programmes for Eradication.*

CEC, *Labour Vulnerability and Debt Bondage in India*, Delhi, 2008

CEC, *Analysing the Effectiveness of Eradication of Programmes on Bonded Labour*, Tamil Nadu, Delhi, 2008

CEC, *Analysing the Effectiveness of Eradication of Programmes on Bonded Labour*, Delhi, Delhi, 2008

CEC, *Analysing the Effectiveness of Eradication of Programmes on Bonded Labour*, Rajasthan, Delhi, 2007

CEC, *Analysing the Effectiveness of Eradication of Programmes on Bonded Labour*, Orissa, Delhi, 2006

CEC, *Analysing the Effectiveness of Eradication of Programmes on Bonded Labour*, Punjab, Delhi, 2006

CEC, *Analysing the Effectiveness of Eradication of Programmes on Bonded Labour*, Chattisgarh, Delhi, 2005

CEC, *Analysing the Effectiveness of Eradication of Programmes on Bonded Labour*, Karnataka, Delhi, 2005

CEC, *Analysing the Effectiveness of Eradication of Programmes on Bonded Labour*, Uttar Pradesh, Delhi, 2005

CEC, *Bonded Labour System in India*, Delhi, 2004

GEFONT, *Paying Back in Sweat and Tears: A Consolidated Report on the Studies of Kamaiya Liberation, Brick Kiln Workers and Domestic Labour in Nepal*, Kathmandu, 2008.

PILER, *Effectiveness of interventions for the release and rehabilitation of bonded labourers in Pakistan*, Karachi, forthcoming.

PILER, *Effectiveness of interventions for the release and rehabilitation of bonded child labour in carpet industry in Sindh*, Karachi, 2007.

PILER, *Effectiveness of interventions for the release and rehabilitation of bonded brick kiln workers in Punjab*, Pakistan, Karachi, forthcoming.

¹ Anti-Slavery International, Centre for Education and Communication (CEC), General Federation of Nepalese Trade Unions (GEFONT) and Pakistan Institute for Labour Education and Research (PILER) met in Kathmandu in August 2002 to discuss bonded labour. A the three year project entitled *Analysing the Effectiveness of Interventions on Bonded Labour in India, Nepal and Pakistan and Propose Local, National and Regional Programmes for Eradication* was agreed as a result.

² In India, CEC conducted research on the agricultural, brick-kiln, plantation, stone quarry and construction sectors in the states of Chattisgarh, Delhi, Kamataka, Orissa, Punjab, Rajasthan, Tamil Nadu and Uttar Pradesh. In Nepal, GEFONT conducted research throughout the agricultural, domestic work and brick-kiln sectors. In Pakistan, PILER researched the agricultural, carpet and brick-kiln sectors, mainly in Sindh and Punjab provinces.

The research and report is the fruition of work of partner organisations in South Asia and individuals. Anti-Slavery International contributed to researcher training, methodology design and acted as the principle authors of this analysis. CEC, GEFONT and PILER carried out extensive research into anti-bonded labour interventions in their respective countries. Anti-Slavery International would like to thank Professor Jan Breman, University of Amsterdam, for providing guidance to the team in the course of this research; Suriya Edwards for helping organise the bibliography and taking notes of the additional literature used for this report; Abhay Xaxa and Dr Raju Babu Shrestha for their advice and comments through the research process.

In Anti-Slavery International, Krishna Prasad Upadhyaya would particularly like to thank, Aidan McQuade and Alison Diworth for their work on the draft; Mike Kaye, Kate Willingham, Enrique Restoy and Martin Hubbard, for their editorial comments; David Ould, Kathryn Baer and Meghan McBain for their advice and Becky Shand for her work on the design and layout of the final report. Anti-Slavery International would also like to thank Paul Braithwaite of Trocaire and Meena Varma, from Dalit Solidarity Network (UK) for their comments on the draft, and Mary Cunneen for her support of this programme from its inception. Above all, though, we would like to thank especially all the bonded labourers who were interviewed in the course of the research whose courage is an inspiration for us all.

1. Introduction

Idrees's story

“Today, Idrees, 27, is a free man, after nearly 10 years in bondage at a brick-kiln near Sheikhpura, some 100 km north of the eastern Pakistani border city of Lahore. He won his freedom by selling his left kidney. With the Pakistani Rs 90,000 (US \$ 1,500) he got, he was able to pay off a debt of around Rs 60,000 (US \$ 1,000) he and his elderly parents owed to the kiln owner. The debt had accumulated over nearly 15 years. But after paying off the amount, he had little left over, and less than six months after undergoing surgery at a private clinic to remove his kidney, he is once more in debt, having borrowed Rs 50,000 (US \$ 840) from a cousin a few days ago. ‘It’s a pity I can’t sell my other kidney,’ he said... ‘Allah (God) will help us now.’ Idrees’s own ill-health since the surgery prevents him finding work, while his father earns less than US \$ 100 a month as a ‘day wager’ at construction sites. Idrees is not alone in his plight. In March, Pakistani newspapers printed chilling photographs of at least a dozen brick kiln workers posing shirtless outside the Lahore Press Club. Each displayed a large, diagonal scar above the left hip. They had sold their kidneys to pay off debts to kiln owners, and earn freedom for themselves or close family members. The workers were protesting against the lack of official attention to their plight, and that of thousands others like them.”³

Bonded labour is a contemporary form of slavery which continues to thrive in South Asian countries despite its illegality. Historically associated with agriculture, bonded labour is in the 21st century both a rural and urban phenomenon practiced in almost all sectors of the South Asian economy. It is, according to the International Labour Organization (ILO), the

principle form of slavery in India, Nepal and Pakistan.⁴ The debt bondage of labourers exists in many forms. It can be intergenerational, when the burden of labour and debt are transferred to the next generation. Increasingly generational and family bondage has given way to more individualised and temporary forms of bondage such as seasonal bondage where a worker is bound by an advance to an employer for a restricted period but where the employee uses that advance or debt to exploit the worker.⁵ Bondage can be in a form in which characteristics of ‘patronage’ or a contractual relationship exist. Common to most forms of debt bondage is the simple fact that the minimal wages paid barely cover the most basic living costs and the accumulation of spiralling and non transparent advances and subtractions against this minimal wage create a situation where the labourer is trapped by this debt into an exploitative working arrangement, sometimes for long periods of time. The underlying level of poverty further restricts the options of the indebted worker.⁶ Legislation prohibiting bonded labour and factors such as the impacts of globalisation on the economies of India, Nepal and Pakistan is leading to modified or new forms of bonded labour, like the bondage of tenants to landowners in what is portrayed as legal land lending contracts; or the ever-growing bondage of women and children for instance.

There is no overall consensus on the total number of people in bonded labour in South Asia. However, the ILO estimates a minimum of 9.5 million people are in forced labour, in the Asia Pacific region, the majority of who are in debt bondage.⁷ Research carried out by inter-governmental and non-governmental agencies, confirms that huge numbers of people in South Asia are in bonded labour and indicates that bonded labour is institutionalised throughout India, Pakistan and Nepal.⁸ Government figures for those in bonded labour, where they exist, are consistently lower.⁹

The lack of consensus on the numbers in bonded

³ <http://www.irinnews.org/report.aspx?reportid=28499>

⁴ See ILO, *A global alliance against forced labour*, ILO, Geneva, 2005

⁵ GEFONT, *Paying Back in Sweat and Tear; A Consolidated Report on the studies of Kamaiya Liberation, Brick Kiln and Domestic Labour in Nepal*, Kathmandu, 2008 (hereafter referred to as *Nepal Consolidated Report*, 2008), p.15-16

⁶ CEC, *Labour Vulnerability and Debt Bondage in India*, Delhi, 2008 (hereafter referred to as *India Consolidated Report*, 2008, and GEFONT, *Nepal Consolidated Report*, 2008.

⁷ See ILO, *A global alliance against forced labour*, ILO, Geneva, 2005. Debt bondage and forced labour overlap in that debt bondage is often used as a means to force labour. The crux of bonded labour is a loan advance against work (the debt) resulting in a loss of control over labour conditions and terms of work. In other words all bonded labour is forced labour but not all forced labour is bonded labour – other means of coercion, such as violence, can also be used to force labour.

⁸ In India, the Gandhi Foundation conducted research in agriculture in 11 states, one of the first and most comprehensive on the subject. In Pakistan, Action Aid carried out research in 1995, which was followed by studies by PILER in the late 90s and 2000. ILO produced Rapid Assessment reports in 2004. In Nepal, INSEC and BASE conducted research on Kamaiya labourers in the early 1990s.

⁹ See for example, CEC, *India Consolidated Report*, 2008. GEFONT, *Nepal Consolidated Report*, 2008.

labour reflects a consistent failure by the governments of India, Nepal and Pakistan to take a systematic and sustained approach against bonded labour, including serious investigation into the scale of bonded labour. It moreover reflects a tendency by government authorities to conceal the incidence of bonded labour and a failure to recognize bonded labour, demonstrated by disputes in South Asian courts over the definition of bonded labour. Crucially newer and more subtle forms of bonded labour such as seasonal bonded labour are being ignored.¹⁰

In these circumstances, the effectiveness of interventions against bonded labour in South Asia needs to be examined in order to set out, in the clearest possible terms, what is still required to eradicate bonded labour once and for all. By bringing together extensive research on state interventions in India, Nepal and Pakistan, Anti-Slavery International is attempting to do just this.

1.1 Legal Construct of Bonded Labour

The UN Supplementary Convention on Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956), (henceforth known as the Supplementary Convention) 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 and defined”.¹¹

Article 7(b) of the Supplementary Convention characterises debt bondage as a “servile status” and

obliges State parties to implement national provisions to abolish it. The preamble to ILO Convention (No.105) Concerning the Abolition of Forced Labour (1957) refers specifically to the Supplementary Convention, clarifying that it provides for the “complete abolition of debt bondage and serfdom”.¹²

This document has taken the international definition of debt bondage when referring to bonded labour, where debt is central to the labour practice. The governments of India, Nepal and Pakistan have all recognised loan advances as central to the phenomenon of bondage.¹³

The term ‘bonded labour’ is often used interchangeably with ‘debt bondage’. In South Asia, especially in India, it also includes other forms of forced labour practices such as ‘*begaar*’ and labour accrued through ‘caste obligation’.¹⁴ Caste obligation compels members of certain communities, such as the Dalits, to perform particularly undesirable types of public work, such as removing dead animals from public areas of the villages in which they live.

1.2 An overview of contemporary bonded labour in South Asia

Bonded labour is increasingly found in urban industries. While generational and family bonded labour has decreased, new forms of bonded labour have emerged.

Bonded labour exists predominantly in the informal and unregulated economies of India, Nepal and Pakistan in which the vast majority of those employed are poor.¹⁵ Around 93 per cent of the work force in India,¹⁶ 90 per cent in Nepal,¹⁷ and 87.5 per cent in

¹⁰ See CEC, *India Consolidated Report*, 2008; CEC, *Analysing the Effectiveness of Eradication of Programmes on Bonded Labour*, Rajasthan, Delhi, 2007 (hereafter referred to as *CEC, Rajasthan Report*, 2007); CEC, *Analysing the Effectiveness of Eradication of Programmes on Bonded Labour*, Punjab, Delhi, 2006 (hereafter referred to as *CEC, Punjab Report*, 2006); and CEC, *Analysing the Effectiveness of Eradication of Programmes on Bonded Labour*, Chattisgarh, Delhi, 2005 (hereafter referred to as *CEC, Chattisgarh Report*, 2005). In particular, CEC, *India Consolidated Report*, 2008 describes how the misinterpretation of the definition of bondage in Indian laws was used to deny the existence of bonded labour in Rajasthan.

¹¹ Article 1(a), Supplementary Convention.

¹² Several ILO Conventions concern bonded labour directly or provide protection against bonded labour. ILO Convention (No.182) Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, (1999) specifically includes debt bondage and requires members states party to the convention to treat it as criminal offence. ILO Convention (No.117) Concerning Basic Aims and Standards of Social Policy, (1962) focuses on reducing forms of wage payment that foster indebtedness. The objective of Convention (No.131) and Recommendation No. 135 Concerning Minimum Wage Fixing, with Special Reference to Developing Countries, (1970), is to provide wage earners with social protection via minimum wages. Convention No. 95 Concerning the Protection of Wages, (1949) requires wages to be paid regularly by employers and prohibits methods of payment that deprive workers of the chance to terminate their employment.

¹³ See Bonded Labour (Abolition) Act, 1976 (India), Bonded Labour (Abolition) Act 1992 (Pakistan) and Kamaiya Labour Prohibition Act 2002 (Nepal).

¹⁴ *Begaar* is a traditional form of forced labour and free work traditionally imposed, mostly on scheduled castes in agriculture.

¹⁵ The ILO characterises the informal economy as a workforce “not recognised, regulated or protected by public authorities”. The informal economy can also be characterised by hazardous and/or poor working conditions, discrimination, lack of social protection, low productivity, inadequate levels of income, long working hours, meagre or no benefits, inadequate social security, little or no time off and poor unionisation. (Dahal, Debraj, *Political Economy of Informal Sector*, The Telegraph Weekly, Kathmandu, 14 July 2004.)

¹⁶ See *Informal Sector India: Approaches for Social Security*, www.labour.nic.in downloaded on 28/4/2005. It refers to National Sample Survey carried out in 1999-2000 and its results that showed that out of total work force 397 million only 28 million workers are employed in the organised sector.

¹⁷ Dahal, Debraj, *Political Economy of Informal Sector*, The Telegraph Weekly, Kathmandu, 14 July 2004.

Pakistan work in the informal economy.¹⁸ These figures are higher than average for Asia overall, where an estimated 75 to 85 per cent of the labour force is employed in informal and unregulated work.¹⁹

While as shown below, bonded labour is a feature of many sectors of the economy in South Asia, it is still predominantly an agricultural phenomenon affecting the chronically poor and landless. Access to land is a crucial issue and the failure to introduce effective land reform, compounded by unemployment, have left a significant part of the population vulnerable to selling themselves into debt bondage to meet basic needs.

Modernised methods of agriculture, which include increased mechanisation and a greater emphasis on cash-cropping, have had a number of effects. First, demand for labourers has declined overall and become more seasonal. Many workers will take advances against their salaries and must then work the full season to receive the rest of the remuneration, should any be deemed to be owed.²⁰ Wages may be particularly low and the conditions of repayment of the debt or advance particularly exploitative. Many workers will not know the extent of their debt with employers or landlords using the lack of transparency to further exploit the workforce. A whole family may work to pay off one debt with in particular children working for free.²¹ Second the development of transportation infrastructure has enabled landlords to recruit workers from outside their villages, and provided more labourers with the means to migrate.²² Migrant labourers can often face heightened vulnerability to bondage and exploitation due to unfamiliar surroundings, their status as migrants, lack of social networks, language barriers and tight surveillance and other forms of control exhibited by employers.²³ For instance, the Bengali workers from Kokrajhar district of Assam working in brick-kilns in Punjab live in isolated locations, hardly communicate with the local community, and have little social support in times of emergencies. They have to rely totally on the employers, who restrict their

movements at their will.

In India, bonded labour is practised in agriculture, silk farms and industries, rice mills, salt pans, fisheries, quarries and mines, forest work, match and firework industries, tea and cardamom farming, brick-kilns, shrimp farming, *bidi* (cigarette industry, domestic work, and textiles). Workers involved in power and handlooms, artificial gems work, shrimp farms, and weaving factories are particularly vulnerable to in bondage.

In Pakistan, it is widespread in agriculture, brick kiln work, cotton-seed production, and tanning, mines and carpet industries.²⁴ Indeed research by PILER in 2000 estimated that the total number of sharecroppers in debt bondage across the whole of Pakistan was over 1.8 million people.²⁵ A 2004 survey of brick kilns in Punjab, Pakistan, by the Federal Bureau of Statistics found that nearly 90 per cent of brick kilns workers were bonded.²⁶ Research carried out by PILER in Pakistan as part of this project indicates that up to 1 million brick kiln workers in Pakistan are bonded.²⁷

In Nepal it is found in agriculture, brick-kilns, and domestic work.²⁸ The practice is also found in 'sweatshops' of all three countries.

While anti-bonded laws have been introduced across South Asia, they have not ended bonded labour and in some instances have resulted in more subtle or hidden forms of bonded labour where for example contracts have been modified or introduced to appear to conform to the law.

However, in reality any changes are only superficial, with the core features of coercion through indebtedness and under-valued labour remain. For example, agricultural bonded labour in Nepal, called the *Kamaiya* system where the bonded labourer works to pay off a loan (prohibited since 2002), is changing into *Zirayat*, which is a practice of share-cropping under which produce is divided between landlords

¹⁸ Gennari, Piero, Regional Adviser on Economic statistics, UNESCAP, Bangkok, *The Estimation of Employment and Value Added of Informal Sector in Pakistan*. Paper presented in the 7th Meeting of the Expert Group on Informal Sector Statistics (Delhi Group), New Delhi, 2-4 February 2004.

¹⁹ Notes on Trade Unions and the Informal Sector. http://global-labour.org/trade_unions_and_the_informal_sector_wiego.htm downloaded on 28/04/05. These are the latest figures available at the time of writing this report.

²⁰ CEC, Karnataka Report, 2005 and CEC, *India Consolidated Report*, 2008

²¹ GEFONT, *Nepal Consolidated Report*, 2008, p.76

²² Breman, J and Das, A., *Down and Out: Labouring Under Capitalism*, New Delhi, 2002.

²³ Bengali workers in Punjab and Bilaspuri workers from Chattisgarh in Punjab and Kashmir are examples of this isolation.

²⁴ PILER, *Effectiveness of interventions for the release and rehabilitation of bonded child labour in carpet industry in Sindh*, Karachi, 2007 (hereafter *Pakistan Child Bonded Labour Report*); PILER, *Effectiveness of interventions for the release and rehabilitation of bonded brick kiln workers in Punjab*, Pakistan, forthcoming (hereafter *Pakistan Brick-Kiln Workers Report*); and PILER, *Analysis of effectiveness of interventions for the release and rehabilitation of bonded labourers in Pakistan*, forthcoming (hereafter, *Pakistan Consolidated Report*).

²⁵ PILER, *Bonded Labour in Pakistan*, Pakistan, 2000

²⁶ Bonded Labour Research Forum, with Ministry of Labour, Manpower and Overseas Pakistanis, Government of Pakistan, and ILO; *Labour, Debt and Bondage in Brick Kilns, Rapid Assessment Studies of Bonded Labour in Different Sectors of Pakistan*, Pakistan, 2004, page 29

²⁷ PILER (2005). *Analysing effectiveness of release and rehabilitation of bonded labour in Pakistan*. First year desk research, internal project document.

²⁸ GEFONT, *Nepal Consolidated Report*, 2007

and tenants, and tenants are required to till additional land for the landlords without any wages.²⁹ *Kamaiya* in the Indian states of Chattisgarh and *Halvaha* in Uttar Pradesh, has also slowly transformed into other newer and subtle kinds of bondage.³⁰ The workers appear to be independent tenants, but in reality, they continue to be bonded labourers. Tenants borrow money from their landlord for seeds, fertilizers and other farming costs. These costs add to the share that goes to the landowners effectively rendering the tenants' return insufficient for them to repay the loan, thus bonding them to the landowners.

Factors such as the informality of contracts, minimal wages and the illiteracy of those that sign them enable employers to circumvent existing labour laws binding workers into persistent or repeated debt bondage where at the end of a contract a worker may find that he owes a debt to an employer with whom he has then no option but to enter into a new contract to pay off that debt.³¹

Further changes to bonded labour are occurring. Historically, the work contract established between the employer and head of household required all members of labourers' families to work for the employers, and individual family members did not need to establish such contracts with the employers.

Women and girls are now, however, increasingly bonded in their own right. They are often bonded in domestic work, fish-processing, silk farming, bangle production, carpet making, and weaving industries. Women, in equal numbers to men, also work in quarries. There is also evidence that male emigration from one state of India to another has also pushed women into bondage in commercial agriculture.³² In Nepal, women under the *Haliya* system, another bonded labour practice in agriculture in the western hills of the country, often work for moneylender landlords, while their husbands work seasonally in India.³³ The phenomenon of women increasingly being bonded in their own right is commonly referred to as 'feminisation of bonded labour'.³⁴

Recent research also highlights relatively new kinds of bondage, including:

- Girls recruited in spinning mills in India for bonded work in return for their marriage cost. The girls, known as Sumangali, work up to three years before their parents are paid for their labour.³⁵
- Young boys trafficked from Bihar, West Bengal and neighbouring Nepal, are bonded in *zardozi* embroidery units in Delhi.³⁶
- Increased numbers of children in bondage in domestic work.
- The bonding of multiple wives into prostitution among the *Koltas*, the lowest caste in the region.³⁷

Bonded labour occurs for a variety of reasons, but reviewing the realities of bonded labourers' lives suggests three major factors contributing to the phenomenon of bondage in South Asia: poverty, discrimination, and government failure to protect the rights of its vulnerable citizens. The following chapters will elucidate in more detail each of these issues.

³⁰ GEFONT, *Nepal Consolidated Report*, 2007

³¹ See CEC, *Chattisgarh Report*, 2005 and Bales, Kevin, *Disposable People: New Slavery in the Global Economy*. California, 2000,. He mentions that a *halvaha* is given a small piece of land.

³² CEC, *India Consolidated Report*, 2008

³³ See CEC, *Tamil Nadu Report*, 2008 and CEC, *India Consolidated Report*, 2008. Also see Srivastava, Ravi S., *Bonded Labour in India: Incidence and Pattern*. Paper prepared for the ILO, Delhi, 2004. Srivastava draws on earlier research carried out by other researchers in Andhra.

³⁴ The *Haliya* system is prevalent in the western hills and many are in debt bondage under this system. Labourers have to work as *hali*, ploughmen. They are allowed to go to India during the off-season and they pay part of the loan from their earning. However, the loan continues. During the off season, when their husbands migrate, women do jobs other than ploughing in the lender's home.

³⁵ Srivastava, Ravi S., *Bonded Labour in India: Incidence and Pattern*. Paper prepared for the ILO, Delhi, 2004

³⁶ See CEC, *Tamil Nadu Report*, 2008 and CEC, *India Consolidated Report*, 2008.

³⁷ CEC, *Delhi Report*, 2008

³⁸ See CEC, *Uttar Pradesh Report*, 2005

2. The Economic Dimensions of Bonded Labour in South Asia

Guddu's story

Guddu is 12-years-old. He is from Mehsaul, a small village in Bihar, India. Guddu's father, Mohammad Mohib, and his brother are helpers in a transport company in Mehsaul. They do not have any agricultural land. Guddu's family is Muslim, a minority religion in India.

Guddu started as a *chela*, an apprentice, in a *zardozi* embroidery workshop in Bhajanpura, Delhi run by a man called Anwar Seth. Anwar himself brought Guddu to Delhi and did not pay any advance to the family. Zardozi embroidery is a significant tradition amongst the Muslim community in India.

Guddu worked as an apprentice for a year. During this time, he said there was frequent abuse and harassment of the apprentices, as they were the youngest and most vulnerable of the workers in the workshop. Guddu faced constant verbal and physical abuse from the owner on the smallest of pretexts. He was often beaten, at times with a stick, which the owner carried with him at all times. When there was any alleged laxity or fault in the work, the workers were burnt with matchsticks.

Guddu had no friends in Delhi apart from a cousin, Shahid. He missed his family and wanted to go home. His father, learning about the ill treatment Guddu had suffered, came to take him home but he was turned back by the owner who claimed that he had not yet recovered the 'investment' he had made on Guddu.

After a year as an apprentice Guddu managed to get home for a brief period. Then, because he found still 'owed' money to Anwar despite never having received any advance or loan, he returned to Delhi to work for him as a qualified embroiderer. Working 14 hours a day, he theoretically earns Pakistani Rs.600/700 (US \$ 7.36/8.58)³⁸ per week but he does not actually receive the money. Instead Anwar keeps all Guddu's wages apart from Pakistani Rs.50 (US \$ 0.61) a week that Guddu receives for expenses. Guddu hopes that eventually he will be able to have his freedom once he has paid off all the debt he has accumulated in the course of his apprenticeship and be able to return home.³⁹

2.1 Poverty

Bonded labourers, both urban and rural, are chronically poor.⁴⁰ The term chronically poor refers to a combination of material deprivation (for example, income), capability⁴¹ deprivation (for example, ill health, lack of skills, education), and vulnerability.

The majority of the world's chronically poor - between 135 and 190 million people, of whom 110 to 160 million are Indian, with a significant minority of Pakistanis and Bangladeshis - live in South Asia.⁴² The UN estimates that 74 per cent of the population of Pakistan live on less than US \$ 2 per day.

One of the characteristics of people in chronic poverty is that they mostly resort to casual work.⁴³ Although some labourers may prefer self-employment, or casual and contract work because these positions allow space to assert some personal dignity,⁴⁴ a lack of higher paid casual employment often forces workers to accept long-term employment under employers' terms including loan-advances which are very detrimental to their overall security and well-being. Fear of unemployment acts as an incentive to the chronically poor to take any work available under any terms or conditions, which may lead to forced and bonded labour.

³⁸ Conversion rate valid on 28 October 2008.

³⁹ CEC, *Delhi Report*, 2007

⁴⁰ Chronic Poverty Research Centre, *Chronic Poverty Report, 2004-2005*, p.6

⁴¹ Refers to factors such as skills and education which enhance the chances for income.

⁴² Chronic Poverty Research Centre, *Chronic poverty report, 2004-2005*, p.71

⁴³ Chronic Poverty Research Centre, *Chronic poverty report, 2004-2005*, p.7

⁴⁴ Breman, J. and Das, A., *Down and Out: Labouring Under Capitalism*, New Delhi, 2002, p24

Many workers in India, Nepal and Pakistan are compelled to accept wages far below the legal minimum, which barely meet basic subsistence levels and which certainly do not meet the costs of family emergencies.⁴⁵ This situation can push even free workers towards debt-bondage, particularly if they have to seek loans for social obligations, such as weddings or funerals, or for family emergencies.

The chronically poor also lack social capital such as social networks and neighbourhood relations, which enhance the chances for survival by assisting with access to work or support in times of emergencies. A World Bank study conducted in the Indian state of Uttar Pradesh showed that poor households rarely had advantageous ties or contacts outside of their own poor neighbourhoods. Paradoxically then, for the chronically poor there is an incentive to maintain any relationship, even those which are exploitative because those linkages can serve as possible sources of limited assistance during short-term crises.⁴⁶

One particular manifestation of such exploitative relations is bonded labour. Bonded labourers are locked into livelihoods that provide no opportunities to move out of poverty.⁴⁷

In South Asia poverty is predominantly a rural phenomenon. Poverty is much higher in rural areas of Nepal where nearly 90 per cent of the population lives,⁴⁸ and in rural areas of India, than in urban areas.⁴⁹ Although rural households earn their livelihoods from a number of sources, most are linked to agriculture and farming.⁵⁰ Throughout Nepal, seasonal agricultural production workers are generally the poorest, while wage workers and the self-employed in agriculture are poorer than their counterparts outside agriculture.⁵¹

Most of the chronically poor are either landless or near-landless. In post-colonial India, the vast majority of agricultural labourers were not included in land

redistribution,⁵² as a result, they were left with virtually no capital and wage labour became their only recourse leaving them desperately poor and vulnerable to bonded labour.⁵³ Access to land is a crucial issue in all three countries.

As well as being a predominantly rural phenomenon, chronic poverty tends to particularly affect marginalised groups. In India, chronic poverty is highest among historically marginalised groups, such as Dalits and indigenous people. Similarly, in Nepal, the incidence of poverty tends to be highest among ethnic Limbus,⁵⁴ followed by the Dalit.⁵⁵ Caste and tribal identities make certain groups especially vulnerable to poverty and deprivation.⁵⁶ These groups are poorly endowed with productive assets, such as land. The combination of low education levels and vulnerability compounded by caste-based discrimination can result in, among other things, little access to any kind of regular employment outside of the village.⁵⁷

Poverty is also fuelling child labour, some of which is bonded. Children as young as six are being bonded into labour by their parents, often in return for an advance on their labour starting a debt which may take years for the child to pay off. Such is the extent of poverty that some parents may refuse to accept back a child who has been rescued from child labour in a government raid without compensation, or may simply re-traffic the child into labour. Many of those recruiting children are themselves under the age of 18 sent to their village or district to procure fresh workers.⁵⁸

Some forms of bonded labour result from a combination of cultural and economic pressures. The importance attached to marriage and the rising costs of weddings make it easy for employers to persuade parents to allow the daughters to enter systems of bonded labour such as the sumangali or equivalent systems. Parents are promised that after a period of time – usually three years – they will receive a lump

⁴⁵ This finding is common to all the reports by CEC, GEFONT and PILER which form the basis of this report's analysis.

⁴⁶ World Bank, *Poverty Reduction and Economic Management Unit South Asia Region. Poverty in India – the challenge of Uttar Pradesh*, 2002.

⁴⁷ Chronic Poverty Research Centre, *Chronic poverty report, 2004-2005* p.17

⁴⁸ Achary, et al., *Poverty in Nepal, Poverty in South Asia 2003: Civil Society Perspectives*, The South Asia Alliance for Poverty Eradication, www.eldis.org/static/Doc 16022.htm or www.saape.org.np/resources/publications/poverty-report03.htm.

⁴⁹ Kapur Mehta, Aasha and Shah, Amita, *Chronic Poverty in India: Overview study*, CPRC Working Paper 7, Chronic Poverty Research Centre,

⁵⁰ World Bank, Poverty Reduction and Economic Management Sector Unit South Asia Region, *Pakistan poverty assessment: Poverty in Pakistan: vulnerabilities, social gaps, and rural dynamics*, 28 October 2002

⁵¹ Achary, et al., *Poverty in Nepal, Poverty in South Asia 2003: Civil Society Perspectives*, The South Asia Alliance for Poverty Eradication, www.eldis.org/static/Doc 16022.htm or www.saape.org.np/resources/publications/poverty-report03.htm

⁵² Breman, J. and Das, A., *Down and Out: Labouring Under Capitalism*, New Delhi, 2002, p.6

⁵³ Kapur Mehta, Aasha and Shah, Amita, *Chronic Poverty in India: Overview study*, CPRC Working Paper 7, Chronic Poverty Research Centre.

⁵⁴ Limbu, is one of over 60 ethnic groups in Nepal, inhabiting the eastern hills of the country

⁵⁵ Achary, et al., *Poverty in Nepal, Poverty in South Asia 2003: Civil Society Perspectives*, The South Asia Alliance for Poverty Eradication, www.eldis.org/static/Doc 16022.htm or www.saape.org.np/resources/publications/poverty-report03.htm

⁵⁶ Kapur Mehta, Aasha and Shah, Amita, *Chronic Poverty in India: Overview study*, CPRC Working Paper 7, Chronic Poverty Research Centre.

⁵⁷ Kapur Mehta, Aasha and Shah, Amita, *Chronic Poverty in India: Overview study*, CPRC Working Paper 7, Chronic Poverty Research Centre.

⁵⁸ See for example, CEC: Delhi Report, 2007

sum which will enable them to easily organise their daughter's wedding. Such arrangements are facilitated by false promises by employers on working conditions, working hours and living conditions. Rural families may also perceive the work in the spinning mills as relatively easy, and according to interviews carried out by CEC, see an added advantage in moving their daughters away from the temptation of potential lovers, or idleness, in the village. A progressive reduction in the amount paid at the end of period of labour has been generally reported, while many of the girls or their families may either not sign agreements or may sign agreements they cannot read leading to a considerable risk of further exploitation.⁵⁹

2.3 Debt and other forms of labour control

In bonded labour, the control of labourers is established from the outset at recruitment. The absence or lack of labour standards paves the way for unequal power relationships between labourers and employers, and increases the latter's control over the former. This is exacerbated within the informal or unregulated sector. Debt - which binds the worker to a contractor and/or an employer - is the primary but not sole method of control.

When recruitment is carried out locally, employers tend to pay loan advances to workers. As labourers and recruiters generally originate from the same areas, recruiters are better able to intimidate labourers if the 'contract' is broken. If labourers migrate, contractors or middlemen arrange a loan advance and make travel arrangements to the worksites. The contracts, often verbal, are made in the labourer's place of origin and the cost of travel is added to the loan-advance.⁶⁰ This loan quickly becomes a debt which cannot be repaid. Migrant workers from the Bilaspur area of Chattisgarh, India, for example, have ended up in bondage in states like Punjab and Kashmir because travel and food costs have been added to their loan advances.⁶¹

Many workers are paid only a subsistence wage, which is barely enough to cover meagre food costs. In many cases the payment is in kind, such as through credit arrangements with local grocers. The wage is often less than the subsistence requirement and workers live in inhuman conditions, and frequently acquire debts which many of them cannot repay.⁶²

The employer is in charge of keeping account records and has authority over final account statements, hence determining if, at the end of the employment period, the worker owes or is owed anything. The majority of labourers become aware of a residual debt only upon receiving such a statement at the end of their perceived contract. Such accounts generally show money withdrawals that greatly exceed income, which adds to the cycle of bondage. This process can also affect better paid labourers who may otherwise be able to pay off loans.⁶³

Many of those affected are illiterate and authorise through their thumb prints contracts that they cannot read, and of which they may not get a copy, making it impossible to challenge employers and leading to the confusion of the bonded labourer as to the amount of pay owed or debt accumulated.⁶⁴

Social practices may also be used to ensure that certain groups carry out tasks for the entire community. The use of children and women in work assigned to a family, without accounting for their contributions, for example, reinforces exploitative conditions. For migrant labourers, the provision of housing is also a common method of controlling them as they are under constant surveillance and their movements can be more easily restricted.

In some unregulated sectors, mostly in isolated work environments and where workers are required to live in work premises; they also face intimidation by security personnel and other armed individuals as a way of controlling them, especially in the brick-kilns industry.

Workers who challenge the employer's debt calculation may also face intimidation or harassment directed at themselves or their families. In Rajasthan, employers have reportedly filed false cases against bonded labourers who have questioned the employer's reckoning of their earnings, or spread false rumours about the labourer within his community leading to his being ostracised.⁶⁵

2.3 The erosion of labour rights

The failure to take effective action against bonded labour by governments in South Asia has been exacerbated by a failure to protect workers' rights.

⁵⁹ CEC: *Tamil Nadu Report*, 2007, p.17

⁶⁰ See CEC, *Chattisgarh Report*, 2005 and CEC, *Punjab Report*, 2006.

⁶¹ See CEC, *Chattisgarh Report*, 2005 and CEC, *India Consolidated Report*, 2008.

⁶² See Breman, J. and Das, A., *Down and Out: Labouring Under Capitalism*, New Delhi, 2002

⁶³ See De Neve, Geert, *The Everyday Politics of Labour: Working Lives in India's Informal economy*, Social Science Press, Delhi, 2005

⁶⁴ See for example GEFONT, *Nepal Consolidated Report*, 2008

⁶⁵ CEC, *India Consolidated Report*, 2008

Government indifference to workers' rights in South Asia has been demonstrated through weak domestic legislation, failure to implement domestic legislation which could protect workers' rights, and the failure to respect ILO obligations.

The deregulation of economies can lead to the erosion of labour rights, and in extreme circumstances to an increase in bonded labour.

Some scholars argue that the process of creating a deregulated economy, which they refer to as informalisation, is highly accelerated by the effects of economic globalisation. Globalisation is, they argue, the trans-national movement of capital, and the global trade of cheap labour, materials and services. Production or service units are located where cheap labour is readily available. This can clearly provide opportunities for countries and their citizens to work their way out of poverty when inward investment occurs. Conversely, however, the competition between countries to provide lower cost bases of production to business can be a driver for the development of an informal, less regulated labour market when the concerns of national governments become attainment of inward investment to the exclusion of focussed poverty and inequality alleviation. In such situations this can increase the risk of exploitative working conditions.⁶⁶

The international business community, the International Monetary Fund (IMF) and the World Bank have advocated for the creation of 'investment friendly environments' in South Asia calling for measures such as the simplification investment procedures, safe profit transactions, fewer investor obligations and regulations, and a liberalisation of the labour market; often incorporating fewer rights and standards.⁶⁷

Advocates for these initiatives may argue that they provide long term benefits to the whole society by facilitating economic growth and hence contributing towards poverty alleviation. However, in the low cost economics of South East Asia, these measures combined with government failure to respect workers' rights, have had a negative impact on the situation of many workers.

This is particularly serious as, as the following chapters illustrate, to date government programmes to address bonded labour in the region have not resulted in the eradication of debt bondage.

All three countries have recently amended labour laws to the detriment to the rights of workers and bonded labourers. For instance, in February 2002, the Government of India approved an amendment of the Industrial Disputes Act 1947 which made it easier for companies employing up to 1,000 employees to sack workers without prior consent from the government. In 2005, Indian government relaxed labour laws in areas such as Special Economic Zones (SEZ), where traditional workers' rights and labour standards do not apply. More directly pertaining to the informal economy, where the vast majority of abuses occur, in late 2007 the Indian government approved another labour law exempting employers with less than 40 workers from maintaining registers and submitting returns under various laws.⁶⁸

In 2005, the provincial government in Punjab, Pakistan relaxed labour laws to stop labour inspections in factories, making it less likely for bonded labourers to be identified and released. Previously, minimum standards required government inspection of registered brick-kilns, but under this new arrangement they are not bound to do this.⁶⁹

In South Asia initiatives that impinge upon labour rights are all the more problematic given the extensive underlying culture of caste discrimination and the widespread use of exploitative labour practices, including slavery through debt bondage. In these low cost economies many labourers have been trapped into indebtedness as a result of extremely low wages. Once a labourer becomes indebted to an employer, he or she is de facto bonded to them.

⁶⁶ Breman, J. and Das, A., *Down and Out: Labouring Under Capitalism*, New Delhi, 2002.

⁶⁷ See Kumara, Kranti, *India Adopts WTO Patent Law with Left Front Support*, World Socialist Web, 18 April 2005

⁶⁸ Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Amendment Bill, 2007

⁶⁹ PILER, *Consolidated Report*, forthcoming.

3. Social factors in Bonded Labour

Indira's story

In about 1976, Indira Meghwal, a Dalit, then aged 15, was married at to Shankarlal, a man 10 years older than her, who was already in *hali* (bonded labour). Her husband lived in another village and she joined him after marriage working with him as unpaid labourer to help work off his debts. "I used to get up at five in the morning and start working. I looked after their cattle. Then we would break for lunch at 12 for an hour. Then work on the land again till it got dark, about 5 or 6 in the evening," she recounts.

Her husband took a loan of Indian Rs.300 (approximately US\$6) from a landlord in 1975 and he became bonded to that landlord. The next year he borrowed additional Rs.400 (approximately US\$8) and continued borrowing each year. Their wages were said to be raised Indian Rs.100 (approximately US \$ 2) per year.

"We never heard of any law against *bandhua mazdoori* (bonded labour), so we never complained." Even by 1986, 10 years after the passage of the Bonded Labour Act the burden of debt was being used to enslave Indira and her family. "Every year the landlord kept telling us that our debt had gone up, so we could not leave but that we could continue to work for him and he would give us a raise."

Indira has three sons, all born while she and her husband were bonded labourers. Despite their enslavement they sent their children to school. The eldest studied up to 8th grade, the second up to 6th and the third only up to 5th grade.

Her family and her in-laws had some land. Indira, the only child of her parents, stood to inherit her parent's land. After working as a bonded labourer for 12 years and unable to pay off her debt through other means, she sold her culturally precious silver, which was given to her as her 'bride price' and returned to the village of her birth. Now, with her husband, Indira cultivates her father's land, which is today quite valuable. "My land is worth Rs.120,000 (approximately US\$2,406)," she says with a certain amount of pride. "After I quit being a *hali* (bonded labourer) I began to work on daily wage. That time I got Rs.10 a day (US\$0.2)," she says.

They also joined a partnership in a tube well with 15 other people who each also had some land which has ensured that they get enough water to grow wheat. "We get five *quintals* (500 kg) of wheat," she says proud of her hard work and her land. Her in-law's land, she says, is lying fallow for there is no water at all but her own land gives her sustenance.

However tradition soon caught up with her. Over the years she has had to borrow money to celebrate her sons' weddings. The expenses kept going up. For her eldest son's marriage in 1990 she had some savings so the family borrowed only Rs.500 (approximately US\$10). In 1992 she borrowed Rs.10,000 (approximately US\$200) at the usurious interest rate of two percent per month for her second son's wedding. In 2006 for her youngest son's wedding party they had to borrow even more heavily, borrowing Indian Rs.30,000 (approximately US\$601) at three percent interest per month. Even though today she is again in heavy debt selling the land is not an option for her. "We can't sell our land for that is our only security. If we sell it we can't even borrow money in case of need. We get this money because people know we have this much land and it can fetch a lot of money," she says.

All her sons are now bonded to the stone traders who gave them these heavy loans. They work in sheds with limestone slabs strewn around and dust everywhere.⁷⁰

In general slavery thrives at the conjunction of poverty and prejudice. Social discrimination, along with limited economic opportunities and a life of labour, makes it almost impossible for marginalised groups to attain basic educational qualifications, sustain good

health, and embark on other activities, which are important for individual mental, physical and material well-being. This has occurred to such an extent that they have become resource and capability poor, with a high proportion of chronic poverty and, consequently,

⁷⁰ CEC, Rajasthan Report, 2007.

a high susceptibility to debt-bondage and other forms of forced labour.

3.1 Discrimination: caste, creed and ethnicity

The risk of bondage is massively exacerbated when the chronically poor are simultaneously subjected to extensive social discrimination arising from their membership of a particular caste, ethnic and/or religious minority. Various studies point out that around 90 per cent of bonded labourers are from Dalit, minorities, and indigenous communities.⁷¹

Social hierarchy in South Asia, mainly in India and Nepal, is expressed through a caste system. Although emanating from Hinduism, over time the caste system has transformed into an endemic social system, exemplified by the fact that caste behaviour has also become common among Christians in the sub-continent.⁷² Constrained social mobility and a hierarchy of work have been created in conjunction with community divisions defined by caste groups and, particularly in Pakistan, ethnic and religious minorities, under which labourers and artisans are put at the bottom.

The groups at the bottom or outside of this social hierarchy are not allowed to perform work of the 'high castes'. They are not allowed to enter 'high caste' places of worship, use the same sources of water, or freely associate with the 'high caste' on a day-to-day basis; in many cases they cannot touch the food the high castes eat. The pejorative term 'untouchable' is frequently applied. This notion also implies that they have an 'untouchable' area of work; in most areas, they cannot sell milk, food and products used for worship, limiting their access to economic opportunities. The stigma of 'low caste' and scheduled caste groups, particularly Dalits, as 'unclean', 'untouchable', and 'polluted', is perpetuated, in part, because of the nature of the work they are forced to do, which excludes them from the 'clean', 'touchable', 'high caste', propertied, 'educated', high-class, and traditionally elitist groups.

Furthermore, Dalit communities are often degraded, humiliated, and expected to be docile to 'high-caste' people. These caste rules are enforced by the threat of

adverse consequences if they are opposed. If Dalits opt to defy traditional exploitative, discriminatory and humiliating roles, they face social sanctions and boycotts that further restrict any opportunity to overcome discrimination, discrimination-related poverty and dependency on employers or landlords. For instance, Dalit labourers faced prolonged boycotting and sanctions in Lahan in Nepal in 2000 and Mansa in Punjab in 2007 when labourers protested against the discriminatory practices of caste rules.⁷³

Around 43 per cent of the Indian population falls under the category of 'low and scheduled caste', of which 17 per cent are Dalits and eight per cent *Adivasi*.⁷⁴ There are Dalits among minority Hindus in the Pakistani province of Sindh and Baluchistan, and Dalit Christians in Punjab province. In Nepal, the Dalit population ranges from 12 to 20 per cent of the total population.⁷⁵ In Nepal, debt bondage (locally known as the *haliya* system) has been found among the Dalits in the western hills.⁷⁶ This is also the case in Sindh and Baluchistan in Pakistan, where Dalits are also part of religious minorities.

Debt bondage is also prevalent amongst minority ethnic groups in India and Nepal, such as the *Adivasis* in India and the *Tharus* in Nepal. Refugees and internally displaced people are also particularly vulnerable to being trafficked into bondage. Afghan children are reported to be working as bonded labourers in carpet factories and brick kilns in the North West Frontier province of Pakistan while Nepali children, displaced to various urban centres due to armed conflict, have been subsequently trapped in debt-bondage.⁷⁷

3.2 Gender discrimination

In addition to property inheritance discrimination, exclusion from decision making and restrictions on movement, the women of South Asia also face discrimination in the labour market. They do not receive equal remuneration for equal work and face harassment and abuse in the work place.

In addition to employment, women are burdened by unpaid work within the family, which is unrecognised because this work is not tied to income. This lack of recognition is mirrored in the

⁷¹ CEC, *Bonded Labour System in India*, Delhi, 2004. Desk Research conducted prior to the field research.

⁷² Haslam (Revd), David, *Cast out Caste*, London. See also Upadhyaya, Krishna Prasad, *Impact of Democratisation on the Human Rights of Dalits in Nepal*, 2003.

⁷³ See Upadhyaya, Krishna Prasad, *Impact of Democratisation on the Human Rights of Dalits in Nepal*, 2003.

⁷⁴ Information provided by the Dalit Solidarity Network (UK), September 2008.

⁷⁵ DFID estimates the Dalit population to be "at least 12%" of the population. See Jasmine Rajbhandari, Social Development Advisor, DFID, Nepal presentation in International Consultation on Caste Based Discrimination. Kathmandu, Nepal. 2004.

⁷⁶ See GEFONT, *Nepal Consolidated Report*, 2008.

⁷⁷ Upadhyaya, Krishna, 2004. *Bonded Labour in South Asia, in the political economy of new slavery*. (ed) Christien Van Den Anker. GEFONT (2007, *Toiling at the homes (a study of domestic labour in Nepal)*, Kathmandu.

workplace, such that if a job requires the work of the whole family, only the male head of household will be paid.

The combined effects of low education levels, work place discrimination, exclusion from family decision making processes and a lack of familial property rights increases South Asian women's vulnerability to labour exploitation and dependency, and thus makes them susceptible to bondage.

Discrimination within the family has led to women being bonded by their husbands into prostitution. CEC has reported that the bonding of women into prostitution is embedded within the system of polygamy and bride procurement. Men made take a number of loans to procure several wives. Women may then be sent to work in brothels, or alternatively 'loaned' to brothel owners, where their earnings are shared between the brothel owner and their husband. The bonded woman is not allowed to leave the brothel until the debt of her husband has been cleared.⁷⁸ The bride price itself can be considered an advance on her labour. Men who are unable to pay their debts to landowners are also reported to have bonded their wives into prostitution.⁷⁹

In addition to Dalit and women workers, groups defined as 'other', such as ethnic and religious minorities, are commonly placed in the 'low' caste rank. Social exclusion is common amongst these groups in all three countries. Extreme economic poverty and social discrimination excluding people from certain professions and businesses, pushes the socially excluded into bondage.⁸⁰

Removing caste-based stigma and gender discrimination are therefore imperative to eliminating bondage. It is also essential that rehabilitation packages take into account and address gender discrimination. In Uttar Pradesh for example, the State failed to recognise the bonded status of family members. As contracts between labourer and employer were originally made with the head of household, the husband, women were not issued release certificates and were deprived of state benefits.⁸¹ In Nepal, female *kamaiya* were not considered when land titles were granted as part of the post *kamaiya* liberation rehabilitation programme.⁸²

4. State interventions against bonded labour

This chapter shows how the laws, institutions and initiatives of respective governments in India, Pakistan and Nepal have failed to effectively address bonded labour over the past three decades, from when the first anti-bonded labour laws were enacted to date.

State interventions have been neither sustained nor comprehensive. Governments have also tended to act in a manner that represents elite interests, rather than those of bonded labourers. Arguably, in the instances in which progress has occurred in India, Pakistan and Nepal, the impetus for change has been a result of grassroots and civil society pressure rather than as a result of political leadership.

Lack of political commitment to eradication of bonded labour is also demonstrated by the slowness with which governments in these three countries have enacted legislation specifically eradicating bonded labour, despite constitutional provisions to this effect.⁸³ Although some political parties have raised or taken up bonded labour issues, this appears to have been particularly around election times.

The broadening of democratic rights, such as the right to vote, have supported bonded labourers and the anti-bonded labour movement in various ways. When such rights are afforded to the entire citizenry, and where the rights to association, free speech and to protest are guaranteed, it can provide an environment conducive to the eradication of bonded labour and slavery.

As potential voters, bonded labourers are more likely to be consulted, and the issues affected them discussed, than if they do not have the right to vote. In Pakistan for example, until religious and ethnic minorities, who represent a significant population of bonded labourers in the Sindh and Punjab provinces, were brought into the joint electorate in 2003, party political candidates largely did not consult them and issues relevant to them remained sidelined, although in the 1990s, the Sindh Taqi Passand Party, a nationalist Sindhi party, carried out a short-lived campaign to release bonded labourers and rehabilitate them in camps in Hyderabad. Sindh Sath, a smaller Sindhi group, ended a similar campaign after a short while.

⁷⁸ CEC, *India Consolidated Report*, 2008.

⁷⁹ See CEC, *Uttar Pradesh Report*, 2005.

⁸⁰ Chronic Poverty Research Centre, *Chronic Poverty Report 2004-2005*, p.38.

⁸¹ See CEC, *Uttar Pradesh Report*, 2005

⁸² GEFONT, *Nepal Consolidated Report*, 2008

⁸³ The constitutional ban on practices like *Begaar* was introduced in 1950 in India, 1962 in Nepal and 1972 in Pakistan.

In Nepal the right to vote has positively affected the plight of bonded labourers by bringing the issue into political debate and discussion. After 1990 almost all former *kamaiya* bonded labourers were included on the electoral rolls. As *kamaiyas* were in large numbers, parties could no longer ignore their needs and plans for these labourers' well-being, including children's education, health and support for livelihood and training were incorporated into party election manifestos even before legislation prohibiting bonded labour was introduced. However, the issues affecting the less numerous and less organised *haliya* bonded labourers were not included in party election manifestos.

Since independence, Indian parties have tried to attract Dalit votes by incorporating programmes relevant to them such as positive discrimination in sectors like in education. In India today local party candidates raise the bonded labour issue to garner community support from specific groups, like the Dalits, that have a high incidence of bondage. Discussion of Dalit rights has led to discussion of bonded labour in states such as Karnataka and Uttar Pradesh. In Karnataka, a member of the Legislative Assembly in the state of Karnataka, raised bonded labour at the Assembly in a bid to gain Dalit support during the elections.⁸⁴ In Uttar Pradesh, bonded labour came into the political debate following the accession of the Bahujan Samaj Party (BSP) to power, led by Mayawati, a Dalit.⁸⁵

Even when democratic rights are guaranteed, the ability of bonded labourers to organise and mobilise collectively is severely constrained by long working hours, continuous surveillance, lack of external support, lack of information and/or leadership, isolated work locations and, most importantly, the combination of a lack of legal provisions for unionisation in many industries and sectors, illegal methods of labour control and indifference by mainstream trade unions to bonded labour. Mainstream trade unions are mostly yet to take up bonded labour in their mandate in any of the three countries which are the subject of this report. The short-lived collective action by agricultural labourers, mostly bonded labourers, in the 1980s in Bardia, Nepal and brick-kiln bonded labourers from 25 kilns in Lahore, Pakistan in the early 1990s are rare

examples where bonded labourers have been able to take collective action.

Unless bonded labourers are able to organise effectively in unions or associations, their ability to exert the pressure necessary to ensure that a sustained and sufficient response to bonded labour is mounted by the key actors in the South Asian political economy will be severely curtailed.

4.1 India

In the late 1970s and early 1980s following the enactment of the 1976 Bonded Labour System (Abolition) Act, thousands of bonded labourers were identified, released and rehabilitated as a result of action by the state and judiciary. However, since the 1990s the process of identification and release has dramatically slowed and government authorities have downplayed the extent of bonded labour in India and failed to recognise new forms of bonded labour.

In the late 1970s and early 1980s, the State carried out identification surveys, released and rehabilitated thousands of bonded labourers and provided support such as the allocation of farm land and housing, and training for income-generating activities including animal farming and skills for other professions.⁸⁶ Many of the released bonded labourers who were granted land were able to earn enough to sustain their livelihoods.⁸⁷ Additionally, hundreds of bonded labourers acquired Integrated Rural Development Programme (IRDP) scheme loans and hundreds of homeless bonded labourers were provided with housing.⁸⁸

While thousands of bonded labourers were released, and some exceptional officials took personal risks to identify bonded labourers, from the outset there were indications of a lack of commitment to the eradication of bonded labour.⁸⁹

Although initial rehabilitation efforts provided ex-bonded labourers with access to a variety of government services, many of those released did not receive rehabilitation reportedly due to corruption, mismanagement, and local political opinions representing mostly the views of local elites and employers.⁹⁰

⁸⁴ CEC, *Karnataka Report*, 2005.

⁸⁵ See CEC, *Uttar Pradesh Report*, 2005.

⁸⁶ See CEC, *Bonded Labour System in India*, Delhi, 2004. Initially, for the period of 1980-85, Rs 250,000,000 was allocated for the rehabilitation of bonded labour throughout India for this sort of support.

⁸⁷ In Uttar Pradesh (in Chitrakoot). See CEC, *Uttar Pradesh Report*, 2005.

⁸⁸ See CEC, *India Consolidated Report*, 2008. See also CEC, *Chattisgarh Report*, 2005 and CEC, *Karnataka Report*, 2005.

⁸⁹ In 1983 there was an attempt on the life of Laxmidhar Misra, then the Director General of Ministry of Labour. He later became the Labour Secretary of India, and is currently a Special Rapporteur on bonded labour at the National Human Rights Commission.

⁹⁰ According to almost all government data reviewed, the numbers of bonded labourers who are rehabilitated is less than the number of bonded labourers identified. See also CEC, *Bonded Labour System in India*, Delhi, 2004.

As part of the government rehabilitation programme, freed labourers get Rs 20,000 (approximately US \$ 417). A central scheme launched in May 1978 by the Ministry of Labour stipulated that this cost would be shared equally between the state and central governments. This plan also provides Rs 200,000 (approximately US \$ 4,166) for surveys conducted in state districts in which there may be incidences of bondage, in addition to Rs 100,000 (approximately US \$ 2,133) allocated for state-sponsored awareness-raising programmes. It appears that many state governments have still not requested this money from the central scheme to this day.

In the majority of cases, the training and compensation included in rehabilitation packages were not suitable to meet the needs of liberated bonded labourers.⁹¹ For instance, after 2000, the government of Nepal provided training for bonded labourers in areas with very little employment like electrical work. In India, in the late 80s, the government provided animals for former bonded labourers, but they did not survive the local climate.⁹²

Furthermore, the State failed to recognise the bonded status of family members. As contracts between labourer and employer were originally made with the head of household, the husband, women were not issued release certificates and were deprived of state benefits.⁹³

Corruption also has reduced the effectiveness of identification, release and rehabilitation programmes. Lower level government employees in some Indian states have reportedly been corrupt in distributing rehabilitation packages. For example, in the 1980s in Madhya Pradesh bribes of Rs 500-700, (approximately US \$ 10-15) were being taken from released bonded labourers to ensure they received their legally entitled rehabilitation packages.⁹⁴ District-level authorities often succumb to pressure from local landlords and employers who are, in many cases, powerful, local politicians and refuse to take cases of bonded labourers.

The Supreme Court paid a pivotal role in implementation of the 1976 legislation. It recognised the need for rehabilitation in a number of rulings in the 1980s,⁹⁵ and directed the Union of India to ensure that Vigilance Committees, responsible for the identification of bonded labourers, were formed in each state.⁹⁶ However, by the early 1990s, as may be seen from table 1 (see page 18), with the exception of Tamil Nadu, the national process of identification and release had effectively stagnated throughout India. Since then, local governments have only occasionally taken action against bonded labour.

This table⁹⁷ clearly shows how few bonded labourers have been identified since the mid-1990s. In the states of Chattisgarh, Delhi, Karnataka, Punjab, Rajasthan, Tamil Nadu and Uttar Pradesh which this research covers, over a 13-year-period between 1993 and 2006, only a negligible number of bonded labourers were identified and released. Even Tamil Nadu recorded only 1,679 cases of bonded labour during the five year period between 2001 and 2006.

In states such as Punjab and Delhi, government agencies sporadically carry out raids, under court order, at various work sites.⁹⁸ Though the method has helped some bonded labourers, many migrant child bonded labourers are traumatised due to long waiting periods before being reunited with family members.⁹⁹ No data is available on the number of releases in Delhi.

Between March 2006 and March 2007, bonded labourers were identified only in Uttar Pradesh - where the main party was dominated by people from 'low castes' and headed by a Dalit - where 114 bonded labourers were released and rehabilitated.¹⁰⁰

Anti-Slavery International believes that far from indicating the gradual eradication of bonded labour these numbers instead reflect the indifference of state agencies to bonded labour. Furthermore, despite a considerable body of research indicating high levels

⁹¹ See CEC, *India Consolidated Report*, 2008. See also CEC, *Chattisgarh Report*, 2005 and CEC, *Karnataka Report*, 2005.

⁹² See CEC, *Uttar Pradesh Report*, 2005

⁹³ Chronic Poverty Research Centre, *Chronic Poverty Report 2004-2005*, p.38.

⁹⁴ See CEC, *Chattisgarh Report*, 2005.

⁹⁵ In ruling 1984, 3, Supreme Court, 243, the Supreme Court held that identification and release of bonded labourers is not enough and proper rehabilitation is necessary. In ruling 1987, Supreme Court, 141 the Supreme Court also required state governments to carry out surveys identifying bonded labourers, issue release certificates, and take immediate steps to rehabilitate newly freed labourers.

⁹⁶ W.P.No 1187 of 1982. In another judgment (AIR, 1982, Supreme Court, 1473), the Supreme Court held that payment to labourers that amounted to less than the prevailing market wage or the legally stipulated minimum constitutes forced labour. This was a controversial verdict that required further interpretation by the Ministry of Labour, which concluded in 1994 that all cases of wage payment below the legal minimum could not be instantly brought into the ambit of the Bonded Labour (Abolition) Act.

⁹⁷ This table (page 18) has been created merging two tables, one based on the Annual Reports 1993-94, 1999-2000 and 2000-2001, of the Ministry of Labour, Government of India, and one from the CEC, *Consolidated India Report*, 2008.

⁹⁸ Volunteer for Social Justice approached courts to release bonded labourers - see Anti-Slavery Project Report: *Rights and Opportunities of Bonded Labourers*, submitted to Ireland Development Aid in March 2007, (unpublished).

⁹⁹ CEC, *India Consolidated Report*, 2008, and CEC, *Delhi Report*, 2008.

¹⁰⁰ CEC, *India Consolidated Report*, 2008.

Table 1: Release and rehabilitation of bonded labourers by Indian government

Name of States	Cumulative Number of Bonded Labourers Identified and Released			Cumulative Number of Bonded Labourers Identified and Released	Total Identified and Released	Note:
	Till March					
	1993*	1999	2001	2006	1993	
Andhra Pradesh	13071	36289	36289	not researched	-	Chattisgarh was part of Madhya Pradesh, which had a total number 12,822 of released labourers up to 2001, after which Chattisgarh became separate state. Therefore, the total for Chattisgarh may have been more than 124.
Bihar	12986	13092	13092	not researched	-	
Karnataka	62689	62727	62727	63,437	748	
Madhya Pradesh	12804	12822	12822	not researched	-	
Chattisgarh				124	124	
Orissa	49971	49971	49971	50,029	49	
Rajasthan	7478	7478	7478	7,488	10	
Tamil Nadu	38886	63894	63894	65,573	26,687	
Maharashtra	1,382	1384	1384	not researched	-	
Uttar Pradesh	27489	27726	27797	28,385	897	
Kerala	823	823	823	not researched	-	
Haryana	544	544	544	not researched	-	
Gujarat	64	64	64	not researched	-	
Arunachal Pradesh	-	3526	3526	not researched	-	
Punjab				69	69	
Delhi				0	0	
Total	97682	280340	280411			
	*The figures of March 1993 have been considered because the Annual Reports of Ministry of Labour from 1994-95 to 1998-99 provided figures up to 1993. The figures were updated in March 1999 only.			The above figures were collected during the field work for the research carried out by Anti-Slavery International and partner organisation CEC.		
	Source: Annual Reports 1993-94, 1999-2000 and 2000-2001, Ministry of Labour, Government of India			Source: Consolidated India Report		

deny the existence of bonded labour.¹⁰¹

In the case of Tamil Nadu, where over 25,000 bonded labourers were released in the mid-1990s, the survey which led to their release was only undertaken after a Supreme Court ruling ordered an investigation into the status of bonded labour in Tamil Nadu. The investigation was ordered after an affidavit was filed on behalf of the state government in October 1994 which stated that “only stray cases of bonded labour are noticed in the State of Tamil Nadu” and that released labourers had been rehabilitated.

Not satisfied by the affidavit, the Supreme Court appointed Siraj Sait, advocate, and Dr. Felix Sugirtharaj, Secretary of the Association for Rural Poor as Commissioners, to investigate the status of bonded labour in Tamil Nadu. Their report, submitted to the Court in October 1995, held that over 10 *lakh* bonded labourers existed in Tamil Nadu. The Supreme Court thereafter directed the Tamil Nadu Government to take follow up actions to the Commissioners’ Report. Within the next six months, with the active co-operation of NGOs, 25,018 bonded labourers were identified in Tamil Nadu.

The Government of India’s report to the ILO in 2000 claimed that there was almost no bonded labour in Punjab and that forced labour in the states of Kerala and Gujerat was eradicated due to the concerted efforts of the government.¹⁰²

Research carried out by Anti-Slavery International, its partners and others contradicts both these assertions. For instance, in 2004, an NGO,¹⁰³ was commissioned by the government to investigate bonded labour in the Bargarh district of Orissa. The NGO failed to identify any of the 1,200 bonded labourers who had filed petitions for their release.¹⁰⁴ In Chattisgarh, in the late 1990s some officials reportedly only identified labourers as bonded if they had received prior permission from their landlords to leave.¹⁰⁵ In Punjab, the Deputy Commissioner in the Punjab Government suggested to researchers that highlighting bonded labour might have a negative impact on state political

bosses and the district administration.¹⁰⁶

The research also revealed that the authorities in Punjab had a poor understanding about legal definition of bonded labour, often applying their own interpretations and not the provisions of the Bonded Labour Act to deny the existence of bonded labourers in their districts.¹⁰⁷

Such denial indicates a real lack of political will to address this grave human rights violation. The non-functioning of the current system of identification of bonded labourers can also be attributed to this lack of will, and by the failure of the state to recognise new forms of bonded labour such as seasonal bonded labour as such.

An effective identification scheme is central to government response. Although structures are in place they are simply not functioning. Identification of bonded labourers is the responsibility of District Magistrates (DMs) and Sub-District Magistrates (SDM), or other designated authorities. DMs head bodies known as Vigilance Committees which are responsible for identifying bonded labourers.¹⁰⁸ Upon identification, courts, DMs, SDMs, or other competent authorities declare bonded labourers free, and they are granted release certificates which entitles them to state rehabilitation grants.

Since 2001, large numbers of committees have been formed throughout India and in all districts covered the research carried out for this report. Although they are powerful under the law, they are generally inactive and ineffective in practice. Some members of these committees already have major responsibilities in other government agencies or departments, and may not be able therefore to give priority to bonded labour.¹⁰⁹

Few employers of bonded labourers, who often belong to the local elites, have been brought to justice. Generally, if employers are prosecuted at all, the prosecution is made on the charge of abuses against labourers¹¹⁰ or non-payment of minimum

¹⁰¹ See CEC, *India Consolidated Report*, 2008; CEC, *Orissa Report*, 2006; and CEC, *Chattisgarh Report*, 2005.

¹⁰² India Government’s report on ILO Convention 29 for the period ending period ending 31.5.2000

¹⁰³ As described in CEC, *India Consolidated Report*, 2008.

¹⁰⁴ CEC, *India Consolidated Report*, 2008.

¹⁰⁵ See CEC, *Chattisgarh Report*, 2005.

¹⁰⁶ CEC, *India Consolidated India Report*, 2008.

¹⁰⁷ Interviews with Deputy Commissioners in the district headquarters in Jaladhar and Bathinda where the Deputy Commissioners equalled bonded labour to chattel slavery, a traditional form of slavery marked by the legal ownership of the worker by the master. CEC. Working paper V. Analysing the Effectiveness of Eradication of Programmes of the bonded Labour System, Delhi, 2006.

¹⁰⁸ Under Indian laws on bonded labour, Vigilance Committees, Sub-Divisional/Divisional Magistrates and State/Provincial governments have statutory obligation to eradicate bonded labour. Bonded Labour System (Abolition) Rules 1976 and Supreme Court Order of 19 Nov 1996 in WP 3922 give Vigilance Committees a wide range of responsibilities relating to identification, negotiation, rehabilitation of bonded labourers of India See CEC, *India Consolidated Report*, 2008, for further information

¹⁰⁹ See CEC, *India Consolidated Report*, 2008.

¹¹⁰ In Punjab, mostly such cases are judged under the Scheduled Caste (Atrocities) Act, 1973, not under the Bonded Labour (Abolition) Act 1976.

wage,¹¹¹ not for employing bonded labourers, which would require the government to distribute rehabilitation funds to former labourers.

In 1997, the Supreme Court devolved some of its powers to the National Human Rights Commission (the Commission) which examines cases of and instructs the government on bonded labour. The Commission has developed a Central Action Group that holds regular meetings with the state governments. It has also organised sensitisation programmes for officials in Allahabad, Bangalore, Chandigarh, Delhi Patna, and other state capitals. These programmes are targeted at authorities dealing with the identification, release and rehabilitation of bonded labourers. It also receives complaints from NGOs and bonded labourers, examines these complaints and instructs state governments on bonded labour cases. The Commission, through its special rapporteur, has investigated bonded labour in many states in India.

4.2 Pakistan

Mohammed's story¹¹²

Din Mohammad Khokhar, 45, a brick kiln worker, was freed in 1997, when a number of kiln workers were released, following a historic decision by the Supreme Court, which declared bonding wage advances as illegal.

"We were so happy at the time of releases as we thought it was an end of the dark time," Din Mohammad recalls. But his optimism was short lived as the released family found it difficult to adjust in the post freedom period. "We have a large family and without a home of our own and any other source of income we were unable to live. They [the activists] just helped us to get released and then suddenly we were on our own feet. It was really a difficult period," he recalled.

He had no other choice but to go back to a kiln - the only kind of work his family knew. "We decided to find work at a kiln. The owner is nice and we didn't take any advance," he explains.

But 10 years later, Din Mohammad and his family of six members are again in bondage with a debt accumulated to Pakistani Rs.60,000 (US \$ 703.40)¹¹³. He and his family, which includes his

wife, two young daughters, a son and a daughter-in-law, all work as brick makers. Together they make 2,000 bricks a day and are paid a mere Rs. 150 (US \$ 1.75)/1000 bricks.

"Just think how we can keep a family of eight with Rs. 300 (US \$ 3.52) a day," says Mohammad. "We have no other option but to take a loan from the kiln owners for unexpected costs [such as weddings and funerals] as well as daily expenses, on the conditions he determines," he added.

Din Mohammad is well aware of the issue of bonded labour and has knowledge of both the law and the efforts of different actors for its eradication. But, he says, he simply has no other option but to get trapped again in the net he tried to escape from 10 ears ago.

"I know this is a bondage but don't know how to get rid of it. I tried once but that did not work out," he explained. "It would be better if we were provided with more wages for the same work rather than simply "releasing" us from the bondage. Look, even my daughters and daughter-in law work, still we cannot eat three times a day. At least we have a place to hide our head." There are 15 families in the shelters provided by the kiln owner. There is no sanitation. The men and women have to relieve themselves in near by bushes.

"At least one family member is sick every second day, we don't know why," says Mohammad's wife. "Maybe it's because of mosquitoes." Treatment from a private doctor costs Rs.50 (US\$0.59) per visit.

Electricity, provided by the kiln owner costs them Rs.500 (US\$5.86) per month, which is deducted from their wages. This pays for the use of a 60 watt bulb.

Mohammad hopes that some day the government will come to help the kiln workers. "I think the government can do a lot but I don't know why it's not doing anything. Maybe it's because we are poor and weak."

Combined pressure from local trade unions, the judiciary and the ILO laid the foundation for the first bonded labour laws in Pakistan. Throughout the 1980s, in one of the few instances in which trade unions have acted on behalf of bonded labourers,

¹¹¹ CEC, *India Consolidated Report*, 2008.

¹¹² PILER, *Pakistan Brick-Kiln Workers Report*, forthcoming

¹¹³ Conversion rate valid as of 21 October 2008 (1 US \$ = Pakistani Rupees 85.3).

Pakistani trade unions supported the bonded labourers' liberation movements, primarily by bringing cases to the Supreme Court. In 1989, the Supreme Court recognised the existence of bonded labour in Pakistan for the first time.¹¹⁴ It declared loan advances illegal and directed the government to define forced labour. A Bonded Labour System (Abolition) Act was adopted in 1992.

According to research published by PILER in 2000, there were over 2.8 million bonded labourers in Pakistan in brick kilns and sharecropping alone.¹¹⁵ Most workers interviewed stated that they did not think that they or their children would ever be able to be free of debt. Owners agreed that "only half of the indebted labour was able to redeem the [initial] advance".¹¹⁶

Yet, between 1989 and 2006, a mere 8,530 bonded labourers were released. Of these, only 563 were released directly by the government, 722 were released as a result of joint action between the judiciary and NGOs, and the rest through individual escapes and NGO collaboration with bonded labourers.¹¹⁷

These startling figures clearly demonstrate the inadequacy of the Government of Pakistan's response to bonded labour. There has been a widespread failure to identify bonded labourers; only a minority of bonded labourers have been released; rehabilitation attempts have been deeply flawed; government efforts have been undermined by corruption; and few employers of bonded labourers have been brought to justice. Land reform which could have addressed some of the root causes has been woefully inadequate.

To date, the identification and release of bonded labourers has largely only been as a result of petitions made by individuals or small groups of bonded labourers with the support of NGOs and/or other civil society organisations. Government identification and release programmes have been almost wholly ineffective.

As in India, in Pakistan, identification is the responsibility of District Magistrates (DMs) and Sub-

District Magistrates (SDM), or other designated authorities. DMs head bodies known as Vigilance Committees which are responsible for identifying bonded labourers.¹¹⁸ Upon identification, courts, DMs, SDMs, or other competent authorities declare bonded labourers free, and they are granted release certificates which entitle them to state rehabilitation grants.

However, in 2007, they were yet to be formed in the majority of regions and human rights organisations have seriously questioned the composition of vigilance committees, as they are often comprised of people who benefit from bonded labour. As in India, committee members are likely to have other responsibilities in other government department or agencies and therefore they are unable to commit sufficient time to the Vigilance Committees.

Moreover, a government plan (National Plan of Action on Bonded Labour) to implement a systematic identification process has still not materialised and is reportedly only discussed when international donors and organisations bring it to the attention of the government.

Since the 1992 Bonded Labour Law, lower courts have delivered numerous decisions in favour of bonded labourers in the minority of cases presented by labour and human rights organisations which actually make it to court.¹¹⁹ By 2007, courts in Punjab had released up to 2,715 bonded labourers. The Lahore High Court, on many occasions has pronounced verdicts in favour of bonded labourers leading to their release. The Sindh High Court released 50 *haris*, bonded labourers in agriculture in Sindh, from confinement to which they were subjected by their employers in 1999. It released nearly 200 *haris* between June and November 2001 .

In 2001 the Pakistani Government announced a National Policy and Plan of Action for the Abolition of Bonded Labour and the Rehabilitation of Freed Bonded Labourers.¹²⁰ To implement the plan it established a national fund putting aside 100 million rupees. The National Plan included relief packages for freed bonded labourers, the creation of an information base, awareness-raising campaigns,

¹¹⁴ Pakistan Supreme Court Gazette, 1989, Islamabad. Petition 01/1988 quoted in PILER, *Analysis of effectiveness of interventions for the release and rehabilitation of bonded labourers in Pakistan*, Karachi, 2007.

¹¹⁵ PILER, *Bonded labour in Pakistan*, Pakistan, 2000

¹¹⁶ Bonded Labour Research Forum, with Ministry of Labour, Manpower and Overseas Pakistanis, Government of Pakistan, and ILO: Labour, *Debt and Bondage in Brick Kilns, Rapid Assessment Studies of Bonded Labour in Different Sectors of Pakistan*, Pakistan, 2004, page 29

¹¹⁷ PILER, *Pakistan Consolidated Report*, forthcoming.

¹¹⁸ Under Pakistani laws on bonded labour, Vigilance Committees, Sub-Divisional/Divisional Magistrates and State/Provincial governments have statutory obligation to eradicate bonded labour.

¹¹⁹ The Human Rights Commission of Pakistan (HRCP) and the Bonded Labour Liberation Front (BLLF) have used the courts time to time.

¹²⁰ This achievement was made possible only by continued pressure from civil society organisations, constant communication between the ILO and the government, and initiatives taken by the former Minister of Labour, Omar Asgar Khan, who engaged with civil society groups, such as PILER.

advocacy and a vocational training programme. However, according to the information available to Anti-Slavery International, nothing from the national fund had been spent at the grassroots level as of December 2007.

While courts in Punjab have fined brick-kiln employers, few employers of bonded labourers are known to have been brought to justice. In one case, which received considerable attention both within and outside Pakistan, a powerful landlord, Abdul Rehaman Mari, was detained on 26 July 2006, he was prosecuted and jailed for the abduction of family members of an escaped bonded labourer, Manu Bheel.

The effectiveness of state interventions are reportedly undermined in part due to personal connections between officials and employers and landlords; many bureaucrats come from industrial or landlord families and directly benefit from the system of bondage.¹²¹ For example, in 2004 the Sindh Assembly formed a task force to confirm compliance of the Sindh Tenancy Act of 1950 with acceptable labour standards. However, the inclusion of members representing the landowning community undermined the credibility of the task force and its ability to perform its role independently.

Access to land is for many bonded labourers, a root cause of chronic poverty, and a significant factor in their becoming bonded. According to the UK Department for International Development (DFID) half of all rural households in the Sindh region of Pakistan do not own any land and the top 2.5 per cent of households own over 40 per cent of the total cultivated area.¹²² Land reform has been attempted in Pakistan but has never come close to adequately addressing the problem. Pakistan's land reforms of the 1950s and 1970s only benefited three per cent of agricultural households and redistributed just four per cent of total agricultural land.¹²³ Radical and far-reaching land reform remains a key element in achieving a long-term solution to bonded labour in Pakistan and across the region.

Runche's story¹²⁴

Runche Dagaura, in his forties, comes from the Daiji VDC (Village Development Committee) of Kanchanpur District in Nepal. For the last 16 years, he worked for a landlord. His loan advance of Nepalese Rs.12,000 (US\$152.87) was paid to another employer for his work with this landlord. He recalls a number of occasions on which he was abused by the landlord. His loan advance was arbitrarily increased even if he did not take much from the landlord. While he was working for the landlord in the forest, his oxen and cart were seized by forest guards and the landlord made him pay for this. He says, still in tears, he knew no bounds of happiness when he along with others was freed when bonded labour was declared illegal.

4.3 Nepal

Economic and social issues were central to the pro-democracy movement for political freedom and democracy in 1990 in Nepal. Achieving political, economic, social and civil rights were regarded as solutions for, among other things, *Kamaiya*, traditional forced prostitution, and discrimination against women. Nepal's major political parties gradually incorporated ending bonded labour into their policy agendas.

Intense and prolonged pressure from *kamaiyas*, national and international human rights groups, civil society actors and others finally led the Nepalese parliament to declare in 2000 that the system of *kamaiya* was illegal and all *kamaiya* were to be liberated.¹²⁵ All previous contracts between *kamaiya* and their landlords were declared null and void, and debts cancelled.¹²⁶

The *Kamaiya* Labour (Prohibition) Act, prohibiting some *kamaiya* forms of bonded labour was finally adopted in 2002. However, the Act does not provide for mandatory rehabilitation and some parts of the act, such as monitoring through national and district

¹²¹ PILER, Analysis of effectiveness of interventions for the release and rehabilitation of bonded labourers in Pakistan, Karachi, 2007

¹²² Institute of Development Studies (IDS) / DFID: Pakistan Drivers of Change study, 2004, available at: www.gsdr.org/docs/open/DOC35.pdf

¹²³ M. Riad El-Ghonemy, "The Political Economy of Market-based Land Reform", UNRISD Discussion Paper 104, 1999.

¹²⁴ From GEFONT, Impacts of Interventions on *Kamaiya*, A study report for ILO/IPEC.

¹²⁵ National human rights groups such as the Informal Sector Service Centre (INSEC) in collaboration with Anti-Slavery International organised meetings between delegations of European and Nepalese Parliamentarians to discuss bonded labour in 1999. The Backward Society Education (BASE), a member of the *Kamaiya* Concern Group, a civil society network, the Ministry of Land Reform and Management, other local government agencies, international NGOs, and UN agencies in Nepal coordinated by INSEC, organised bonded labourers into a *Kamaiya* Movement Committee, helping bonded labourers take legal action against their landlords and carry out protests at the district headquarters and outside Parliament in Kathmandu. Other members of the *Kamaiya* Concern Group, now defunct, were UNICEF, ILO, Danida, Land Reform, and other NGOs like Action Aid, Rural Reconstruction Nepal (RRN) and the Group for International Solidarity (GRINSO). Meanwhile the Communist Party of Nepal (Unified Marxist – Leninist) (CPN (UML)), the main opposition party in Parliament, disrupted parliamentary sessions until a bill was tabled.

¹²⁶ GEFONT, Nepal Consolidated Report, 2008, p.31.

¹²⁷ GEFONT, Nepal Consolidated Report, 2008, p.50

level committees have not been implemented.¹²⁷

Despite the release of large numbers of *kamaiya* bonded labourers, measures taken by the Government of Nepal have been undermined by poor coordination between government departments, corruption, and a lack of policy coherence. Rehabilitation efforts have not reached all released *kamaiya*. Crucially by focusing on the *kamaiya* system of bonded labour other forms of bonded labour have been ignored.

No system of effective identification has been established. Although the *Kamaiya* Labour (Prohibition) Act could be interpreted to cover other forms of bonded labour in Nepal, it has not been the case in practice.¹²⁸

In the 1990s, prior to the enactment of the *Kamaiya* Labour (Prohibition) Act, the Ministry of Land Reform and Management conducted surveys in western Nepal which confirmed that 18,400 families were in bondage under the *Kamaiya* system.¹²⁹ These families were officially released in 2000. The majority moved out of the landlords' premises and settled in camps established for them on government land, while a minority, who owned their own lands, did not leave their villages.¹³⁰

While a substantial number of bonded labourers in western Nepal were identified, the release and rehabilitation programme was chaotic, and led to the death of many children from the effects of intensely cold weather and water-borne diseases.¹³¹

Bonded labourers were urged to come out and settle in temporary camps because facilities, including food and shelter, did not meet subsistence needs. There was no systematic distribution of support materials to the former bonded labourers and, when they were being settled permanently, job market access and land fertility were not taken into consideration in determining their location. In many cases land allocated to them was distant from their homes or, the farmland was far away from urban centres and so meant poor access to schools, hospitals or health centres. In some cases, the land they received was

infertile and thus inadequate for making a living. Some former bonded labourers in Nepal were given driving lessons even when they could not have access to vehicles, and training as electricians in areas without access to electricity, and in other non-agriculture related occupations.¹³² This prompted many to leave their original homes, hoping to free themselves but many subsequently found it very difficult to compete in the formal market and ended up in poverty or bank in bondage.

In some cases, landlords simply evicted their former labourers and invited seasonal labourers from India to undertake farm work.¹³³ Some landlords accused ex-*kamaiya* of theft leading to their arrest.¹³⁴

The Ministry of Land Reform and Management also coordinated a programme with NGOs and government agencies to rehabilitate *kamaiyas*, allocate land, distribute timber for house construction and provide vocational training. As of February 2003, 7,801 labourers had received three to five *katthas* of land while 2,986 had received less than three *katthas* of land.¹³⁵ Timber for house construction was given to 161 families, and over 7,900 families received the government's housing grant of Rs 8,000 (approximately US \$ 107), provided to all ex-*kamaiyas* identified as landless. The *Kamaiya* Labour (Prohibition) Act 2002 also provided that, upon completion of housing construction, the government would provide an additional grant of Rs 2000 (approximately US \$ 27) for income generating activities, which included chicken, goat or pig farming. As of December 2004, in Kailali district only 74 out of 2,436 households had received the money for income generating activities.

Once land distribution was underway, competing local political forces claimed and registered false cases of bonded labour. This was fuelled by an attempt to win the political support of landless squatters who were living around the areas established for *kamaiyas*. These cases complicated the process by resulting in a higher number of grant recipients. As a result, legitimately entitled former bonded labourers had to compete with illegitimate claimants.

Weaknesses in the rehabilitation phase, including the

¹²⁸ GEFONT, *Nepal Consolidated Report*, 2008

¹²⁹ GEFONT, *Nepal Consolidated Report*, 2008

¹³⁰ Government of Nepal categorised three different kind of *kamaiyas* based on their land holding and house. The government is responsible for rehabilitating bonded labourers identified by the surveys and for setting the minimum wage, which is seen as a way to prevent labourers from falling back into bondage.

¹³¹ See Anti-Slavery International's press release on 30 January 2003 at <http://www.antislavery.org/homepage/news/nepal290103.htm> which mentions that altogether 46 ex-*kamaiya* bonded labourers, including children, died of cold.

¹³² See GEFONT, *Nepal Consolidated Report*, 2008.

¹³³ See GEFONT, *Nepal Consolidated Report* 2008, p.38

¹³⁴ See GEFONT, *Nepal Consolidated Report*, 2008, p.43

¹³⁵ One *kattha* [Nepal] = 0.083 521 618 936 acre. The Nepal Ministry of Land Reform estimates that a minimum of three *katthas* of land is required for one family's subsistence.

length of time between release and the receipt of rehabilitation and the fact that bonded labourers were released without empowerment support, has left former *kamaiyas* vulnerable to entering into new forms of exploitative working practices including bonded labour. Some have reportedly entered into exploitative share-cropping arrangements while others have pledged the free labour of their children for access to tenancy.¹³⁶

Rehabilitation efforts were also undermined by corruption, widely reported in the Nepalese media, involving all actors distributing relief materials to liberated bonded labourers.¹³⁷

However, there were also many positive results. Labourers who did receive adequate land and support for houses around urban centres, were able to obtain a degree of economic autonomy, raising chickens and goats and producing vegetables for sale and able to send their children to school. The level of literacy has increased among released *kamaiyas*, the numbers of children attending school have reportedly increased, as has access to health care and access to clean water.¹³⁸

However, after these initial releases progress appears to have stalled. There have been no government effort yet to identify other groups of bonded labourers, such as *haliyas* in the western hill districts of Nepal, nor has an on-going programme of identification of bonded labourers been implemented.¹³⁹ However, the government of Nepal announced in September 2008 that they have abolished the *haliya* system and the cancellation of the debt of the *haliya* who previously worked the land of their money lender-landlords. If properly implemented, this measure could mean the liberation of over 20,000 *Haliya* bonded labourers in Nepal, it was to be seen how effective this decision would be on the ground.¹⁴⁰

Committees composed of government officials, headed by elected Chairpersons are responsible for identifying bonded labourers. However, Nepalese law does not prescribe any particular method of identification of bonded labourers, and Committees currently rely on surveys carried out in the late 1990s.

In Nepal, since the *Kamaiya* Labour (Prohibition) law came into force in 2002, only five committees have been set up in the areas where the *Kamaiya* system is prevalent. Their activities have been severely hampered by the armed conflict which gripped the country between 1996 and 2006. Moreover, these committees do not have adequate funds to carry out the functions necessary for identification. This means currently the process of identification and release of bonded labourers is on hold: without identification, release is impossible.

The response of the judiciary to bonded labour has been weak. Prior to the *Kamaiya* Labour (Prohibition) Act 2002, courts were reluctant to take action on bonded labour, despite some recognition that it existed. Since 2002, no one has been prosecuted for the use of bonded labour.

In 1993, the Supreme Court rejected a petition, filed by a human rights activist, requesting a Mandamus Order (mandatory order by the court to the government) to abolish *Kamaiya*. While a Division Bench formally recognised the issue raised by the petitioner, the court dismissed it, pointing to the government's initiatives against *Kamaiya*, including surveying and the budget allocated for the relief and rehabilitation of bonded labourers.¹⁴¹

Quasi-legal authorities at the local level, such as Chief District Officers (CDOs), have also rejected petitions filed by bonded labourers with NGO support.¹⁴² For example, in 2001, 19 bonded labourers from Kailali district filed a petition in a Village Development Committee Office (VDC) for their release, and demanded that they were paid the legal minimum wage. The VDC tried to hold meetings between employer-landlords and the labourers, but the landlords did not show up. The labourers forwarded their petition to the local CDO who rejected the petition.¹⁴³

¹³⁶ See GEFONT, *Nepal Consolidated Report*, 2008, p.42

¹³⁷ See GEFONT, *Nepal Consolidated Report*, 2008.

¹³⁸ See GEFONT, *Nepal Consolidated Report*, 2008, p.46-8

¹³⁹ See GEFONT, *Nepal Consolidated Report*, 2008.

¹⁴⁰ Anti-Slavery International, *Freedom for 20,000 people as Nepal abolishes bonded labour practice*, 9 September 2008.

<http://www.antislavery.org/archive/press/090908nepal.htm>

¹⁴¹ Petition submitted by Sushil Pyakurel, registration no 3302. Prior to the 2002 *Kamaiya* Labour (Prohibition) law, in 1995 the government allocated an annual budget for the release and rehabilitation of agricultural bonded labourers, *kamaiyas*, from the west of Nepal.

¹⁴² Administrative Officials who also have rights to give verdict on certain cases brought to them.

¹⁴³ See GEFONT, *Nepal Consolidated Report*, 2008.

5. Civil Society Interventions

A minority of civil society organisations in South Asia have been working for the eradication of bonded labour for decades mainly through advocacy work, and through awareness and education programmes, campaigning and lobbying. They have carried out research, supported the unionisation of former bonded labourers and undertaken legal work on behalf of current and former bonded labourers. Civil society organisations have rarely taken up direct rehabilitation work. The scale of bonded labour and its existence - often in isolated locations - throughout India, Pakistan and Nepal, leaves the few NGOs who do work on bonded labour with a huge challenge.

International organisations such as Anti-Slavery International, Free the Slaves, Trocaire, the International Mission for Justice, Action Aid, and Oxfam have supported and collaborated with national groups and trade unions in tackling bonded labour, focusing on research, advocacy and supporting programmes for bonded labourers.

In India, many NGOs at local and district levels have conducted surveys and helped identify bonded labourers. Activists, many of whom were organised by the Bonded Labour Liberation Front under the leadership of Swami Agnivesh,¹⁴⁴ have supported the identification process in states such as Punjab, Madhya Pradesh and Chattisgarh. Organisations, such as the Gandhi Peace Foundation, have carried out research in many states of India on incidence of bonded labour. The first major research study into bonded labour in Nepal was carried out by Informal Sector Service Centre (INSEC) and Anti-Slavery International, followed by the Backward Society Education (BASE). The research established that there was a high incidence of bonded labour in west Nepal. In Pakistan, Action Aid carried out research in Sindh Province which was followed by PILER's research on brick kilns. PILER and other organisations have collaborated with ILO rapid assessments in many sectors of the economy including brick kilns, agriculture, carpet, bangle making and leather processing industries.

One of the prime areas of NGO intervention is advocacy. Organisations have also lobbied locally and nationally on bonded labour issues. They have collaborated with international partners to intervene at the UN, via submissions to the UN Working Groups

on Contemporary Forms of Slavery, and at the ILO, providing information on debt-bondage and demanding action. NGO advocacy was a key factor in the Government of Pakistan's initiative to enact bonded labour laws and a time-bound plan against debt bondage.

NGOs have played a major role in raising awareness. They, with the collaboration of governments or otherwise, have trained government officials on bonded labour. Methods like dramas, meetings of labourers and mass meetings and distribution of education materials have been used. NGOs have also organised various protests. In Nepal, NGOs organised visits of journalists in the *Kamaiya* areas publicising the plight of *kamaiya* bonded labourers.

The unionisation of bonded labourers has not been possible so far and most efforts have been aimed at former bonded labourers. From the mid-1990s, labour and human rights organisations developed programmes to organise former bonded labourers. The Azad Hari Union in Sindh, Bhatta Mazdoor Mahaz in Pakistani Punjab, *Kamaiya* Liberation Forums and *Kamaiya* Mobilisation Committees in Nepal, along with smaller unions formed in Karnataka and other parts of India, such as Trichy in Tamil Nadu, are a few examples.

However, due to a lack of capacity and resources, only a few organisations have successfully managed to transform themselves into independent trade unions, such as *Kamaiya* Liberation Forum in Nepal. Sustained external solidarity and support from other civil society organisations are needed if former bonded labourers' organisations are to flourish.

Former bonded labourers unions have proved to be instrumental in reaching out current bonded labourers and gaining information about and creating awareness among current bonded labourers.

Legal initiatives taken by civil society organisations include public interest litigation and individual cases brought to the attention of local courts at the district level which, in turn, have initiated raids at work sites. Nearly all bonded labour cases are brought to court by civil society organisations, excluding some cases brought by the police. Court action initiated by NGOs has helped to free thousands of bonded labourers, mainly in India and Pakistan.¹⁴⁵

¹⁴⁵ Jai Singh of Volunteer for Social Justice (VSJ) in Punjab, S.N. Gardia of Jana Jagriti Kendra (JJK) in Chattisgarh, and Kailash Satyarthi of Global March Against Child Labour, based in Delhi, were members of the Bonded Labour Liberation Front.

¹⁴⁶ VSJ on Punjab is a good example. It often resorted to the legal system, to secure the release of labourers from bondage.

In 1975 new laws coupled with the movement against emergency rule in India prompted Indian activists to take up bonded labour as one of the issues affecting rural populations. They formed the Bonded Labour Liberation Front (BLLF) and made use of the Supreme Courts to release and rehabilitate bonded labourers. In Pakistan, during the 1980s the Supreme Court was approached for the same cause.

However, court processes can be lengthy, discouraging NGOs from making legal interventions. Other NGOs lack the resources and expertise to build effective cases. Over 150 cases for the release and rehabilitation of bonded labourers filed on their behalf by Jana Jagriti Kendra (JJK) in Chattisgarh state in 2001 are still pending at the Chattisgarh High Court. At the end of the 2007, JJK was still waiting for a court's decision on these cases.¹⁴⁶

Civil society groups have rarely taken up direct rehabilitation work. Indian civil society in the late 1970s and 1980s collaborated with the government to ensure that bonded labourers received government support. Some, such as the BLLF, have also monitored and pressured government authorities to expedite the distribution of rehabilitation support. Recently these organisations have started focusing on areas other than rehabilitation, arguing that the prime responsibility for rehabilitation is with government. Rehabilitation programmes typically focus on three areas: income generation, the education of children and housing/resettlement

In India, Pakistan, and Nepal, NGOs have formed 'unions' of former bonded labourers to help freed bonded labourers become financially independent. These groups have encouraged money saving and supported to buy live-animals for income generation. NGOs in all three countries are helping labourers' groups to access government services.

Many organisations in South Asia also focus on educating the children of bonded labourers, including potentially children who are themselves in bondage. Scores of such programmes on a small scale are being run in India, Nepal and Pakistan.¹⁴⁷ These programs help children by placing them outside of work and directing them to vocational training programmes.

Housing and settlement projects require a large amount of financial capital and as such remain out of reach of many former bonded labourers. Some NGOs have developed alternative cheaper strategies to

provide access to housing and land. Organisations, like BASE in Nepal and Chattisgarh Mukti Morcha in India, have resorted to 'land capture'—encroaching on unused government owned lands to provide settlements for bonded labourers. Although many ex-bonded labourers have managed to settle on the encroached lands, others have subsequently been evicted by state authorities. On one occasion, former labourers' huts were burnt during an eviction. Other NGOs have engaged with local governments to acquire land and helping bonded labourers settle in these areas. This is the case in Karnataka, India and in Sindh, Pakistan where the Human Rights Commission of Pakistan bought land with money received through an award to Asma Jahangir, a prominent human rights defender involved with the organisation.

Despite these many interventions, the lack of participation of broad sections of civil society has weakened the struggle to eradicate bonded labour. Many mainstream trade unions have not taken action against the bonded labour system. Instead, despite some affiliation with the informal sector broadly, the majority of trade unions have maintained traditional links with industrial workers and the organised sector, and have been seemingly indifferent to the plight and rights of bonded labourers. This apparent indifference has meant that mainstream local and national trade unions have failed to garnish the support of international trade unions and has increased the difficulty of raising the issue of bondage at ILO conferences. GEFONT, Nepal is a rare example of a trade union which does raise the issue of bondage in international forums.

In India, the All India Agriculture Workers Union is active in organising agriculture labourers, including former bonded labourers. The Centre for Indian Trade Unions has taken initiatives to fight against the camp coolie labour system, a form of forced and bonded labour in Tamil Nadu.¹⁴⁸ At the state level, the Bhatta Mazdoor union (brick kiln workers union) in Punjab is active among kiln workers, including those in bondage.¹⁴⁹

Civil society interventions have also been weakened by the institutional weaknesses of some local organisations. A crippling dependency on mostly foreign donors often requires the majority of local NGOs to stop work temporarily in the absence of funds. This results in work being halted, which leads to a disruption of contacts in villages and work sites

¹⁴⁶ CEC, *Chattisgarh Report*, 2005.

¹⁴⁷ Examples are HRCP in Pakistan, Jeevika in Karnataka (India), BASE and RRN in Nepal. Many other programmes run outside the areas covered by this research.

¹⁴⁸ CEC, *Consolidated India Report*, 2008.

¹⁴⁹ CEC, *Punjab Report*, 2006.

which in turn effects the processes of liberation and can eventually lead to a lost of trust by bonded labourers.

While many bonded labourers see the support and services offered by NGOs as essential, others have felt betrayed and inadequately represented by these organisations, in some cases accusing local NGOs of corruption.¹⁵⁰

6. Conclusions and recommendations

6.1 Conclusions

The continuation of slavery in the form of bonded labour in South Asia is a demonstration of the continuing failure of political leadership to address this grave human rights violation in a comprehensive and sustained manner. Such failure is neither understandable nor, if it ever was, excusable in the face of the growth in economic power of South Asia and the promises enshrined in the national constitutions. Any economy tolerating such widespread abuses at its heart must be an issue of concern for the international community, particularly as these nations begin to emerge as major players in the global market.

Bonded labour in South Asia is a product of poverty, social exclusion and the failure of governments to act against the practice and its underlying causes. Those who are enslaved are desperately poor with no assets other than themselves to sell in times of extreme need. Those who are enslaved are also predominantly from scheduled castes and minority groups, with various studies estimating that around 90% of bonded labourers come from these groups. The profound prejudice of the wider society against scheduled castes and minorities, which must also pervade government and civil service as well as other sections of society, establishes a culture of toleration for abuses of the most extreme kind, including slavery, to be perpetrated against vulnerable people from these sections of society.

If bonded labour is to be eradicated, governments must demonstrate sustained political commitment to and proper understanding of the issue, particularly its evolution into non-agricultural industrial sectors, the enduring aspect of prejudice and discrimination in bonded labour, and sensitivity to the diverse needs of bonded children, women and men.

Freedom from bonded labour can be achieved by sustained government action on the implementation of labour standards, including the payment of minimum wages, guaranteed freedom of movement and a right to change employment, and by sustained government action to address discrimination and poverty.

6.2 Recommendations

As a matter of urgency, governments must establish effective and comprehensive national action plans for the eradication of all forms of slavery which should include permanent national mechanisms to monitor and co-ordinate the action of the multiple stakeholders involved in bonded labour eradication including all involved government departments, state governments, trades unions, businesses and civil society, including representatives of bonded labour organisations, with the involvement also of international donors, international organisations and United Nations (UN) Specialised Agencies particularly the ILO.

5.2.1 Labour jurisdiction

Governments must establish permanent national mechanisms to monitor and co-ordinate the action of the multiple stakeholders involved in bonded labour eradication including all involved government departments, state governments, trades unions, businesses and civil society, including representatives of bonded labour organisations, with the involvement also of international donors, international organisations and UN Specialised Agencies particularly the ILO.

5.2.2 Training and capacity building of law enforcement and labour officials

Governments must undertake training for law enforcement and labour officials from national to local level, on the identification of bonded labourers and

¹⁵⁰ Bonded labourers interviewed in the course of research for this report.

the implementation of laws relating to bonded labour and labour standards.

5.2.3 Survey and identification of bonded labourers:

Governments must undertake comprehensive survey and identification of bonded labourers in conjunction with credible national and international stakeholders to help understand the scale and dimensions of the problem across each country and across each economic sector, including informal sectors.

5.2.4 Implementation of the law

On the basis of survey findings governments should take immediate action to fully implement existing laws. The focus should be divided equally between liberating and rehabilitating bonded labourers and prosecuting employers of bonded labourers.

Governments should revitalise the system of local Vigilance Committees (in India and Pakistan) and Committees (in Nepal) in the struggle against bonded labour. These committees should reflect national co-ordination systems and include representation from appropriate departments of government, businesses, trades unions, local activists, lawyers and NGOs. Proper funding must be ensured to allow the Committees to carry out their work.

5.2.5 Rethinking 'Release' and 'Rehabilitation'

Governments must ensure that appropriate rehabilitation packages are made immediately available to ex-bonded labourers to ensure access to a sustainable livelihood, land, shelter, markets and services, and education.

These should provide skills training which will help them earn a livelihood. The climatic conditions of particular locations must be kept in mind while providing rehabilitation in kind such as goats, cows or buffaloes so that bonded labourers can use them as the source of income for a long time.

If liberated bonded labourers are relocated to new locations, the government should take appropriate steps to settle them in locations where they can access the labour market easily.

Rehabilitation support should also include the provision of education and vocational training to children of liberated bonded labourers and children of the current bonded labourers to ensure that the children do not fall into bondage. Education should be recognised as a fundamental strategy to help children to keep away from exploitative work including bonded labour.

More generally minimum wage provisions within the law should also be actively implemented to ensure that labourers earn a sufficient wage for living, and

the question of land reform must be revisited to increase access to land for the vast population of landless farmers across the region. Both of these strategies will reduce the vulnerability of many to falling into indebtedness and thereby to bondage.

Monitoring of rehabilitated labourers should be carried out to at least ensure that they do not return to bondage again.

5.2.6 Land Reform

Access to land, and hence land reform, must become a central aspect of a long-term and sustainable solution to the problem of bonded labour across South Asia.

5.2.7 Targeting Vulnerable Groups and Communities

Governments in all three countries should take effective measures to ensure that programmes targeted to the poor and marginalised communities reach them. Particular focus must be placed upon chronically poor Dalits, minorities and indigenous communities. Government schemes and programmes for these people, such as housing, will help decrease dependency on unscrupulous and unethical employers, both in rural and urban centres. Alternative income generation programmes for the chronically poor, socially excluded and discriminated should be conducted in all areas to further enhance their income level and decrease their dependency.

5.2.8 Addressing inequality

Bonded labour is not solely an economic issue. Governments in the region must also ensure that all their citizens are treated equally in the economic, social and political spheres. The toleration of caste and all other forms of discrimination in these three countries is a betrayal by governments of their own citizens.

5.2.9 International organisations and donor community

International governments, organisations and the donor community should target the poorest and the most exploited and must include power and discrimination analysis to try to ensure that interventions and programmes advance justice and equality rather than reinforce existing patterns of social exclusion. Specific assistance to South Asian governments in liberation and rehabilitation of bonded labourers and eradication of slavery practices should be a diplomatic and aid priority.

5.2.10 Business community

National and international businesses working in South Asia must ensure that the Universal Declaration of Human Rights, international labour standards and anti-slavery laws are implemented along their entire supply chains. In the context of South Asia

set of principles on affirmative action against caste discrimination in line with international human rights standards, developed by the International Dalit Solidarity Network.¹⁵¹

Appendix 1: Methodology

businesses should adopt the Ambedkar Principles, a The following is a brief note on the methods of research used in this project.

Working Definitions: At a partners meeting in 2002 it was agreed that international definition of ‘bonded labour’ would be used the research where debt is central to the labour practice. Debt is an essential element of bonded labour or debt bondage. It was agreed that in the context of South Asia, the following categories would be considered as bonded labour:

- Agriculture labourers indebted to land owners (and forced to work)
- Sharecroppers indebted to landowners (and forced to work)
- Agricultural labourers, who are indebted to landlords/landowners, and allowed to work elsewhere in the off-season, but are forced to return and work during certain periods.
- Contract labourers migrating to other places for work (with or without advances) who become indebted and forced to work to repay a debt.
- Any other type of workers forced to work for the person(s) who gives a loan.

Vulnerability issues: The partners and researchers also agreed to consider a number of vulnerability issues in examining bonded labour and interventions. It was agreed that ‘minimum wage’ should not be used in defining bonded labour but it could be taken as a vulnerability issue. The other vulnerability issues to be considered were payment modality, isolation and migration, abuse and threats, discrimination, dependency on masters for shelter and subsistence, lack of education, and lack of freedom of movement.

Desk Research: In the first four months of the first year of research, a desk research was conducted mainly to inform the research. The desk research examined the whole country (India, Nepal and Pakistan) mapping out incidences of bonded labour in the country concerned and collecting information on the past and present intervention. The political context and historical perspectives, especially focusing on how bondage changed over the time, were also examined

to inform the field research.

Identification of Areas for Research:

Using the geographical information generated from the desk research, a number of criteria were made to identify areas for further research (states/provinces/regions). As part of this exercise, national consultations, to which NGOs, the Ministry of Labour and Trade Unions were invited to participate, were held, and a number of criteria for selection of the geographical areas were agreed as a result. They included geographical representation, interventions made against the bonded labour system, representation of different sectors of economy (both new and traditional), and representation of the programmes run by different actors such as NGOs, governments, and international organisations.

Targets of the research: The research mainly targeted bonded labourers (men, women and children), government officials from all available levels, local teachers, women activists, bonded labour activists, international organisations, officials and academics.

Scope: The research project was named *A Study Analysing the Effectiveness of Interventions for Release and Rehabilitation of Bonded Labourers and To Propose Future Actions Through Local/Regional and Regional Collaboration*. The primary concern of the research is the bonded labour phenomenon of modern times, not its quantitative aspect, and interventions made against bonded labour. Interventions from the enactment of bonded labour laws up until 2006 were also examined.

Data collection: Before field visits were conducted, literature specific to each area was reviewed. Specific information was also collected from different government structures like labour and land reform departments. Additionally, guide questions were used to interview target groups. Repeated visits were made to interview the bonded labourers. In many places participant observation method was used. Case studies of different types of bonded labour, interventions and people in bondage were prepared. The information collected was analysed separately for each region/state/province and/or sector.

¹⁵¹ See Private Sector section, www.idsn.org

Anti-Slavery International, founded in 1839, is committed to eliminating all forms of slavery throughout the world. Slavery, servitude and forced labour are violations of individual freedoms, which deny millions of people their basic dignity and fundamental human rights. Anti-Slavery International works to end these abuses by exposing current cases of slavery, campaigning for its eradication, supporting the initiatives of local organisations to release people, and pressing for more effective implementation of international laws against slavery. For further information see: www.antislavery.org

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