

Understanding Bonded Child Labour in Asia

An introduction to the nature of the problem and how to address it



Child Workers in Asia

Task Force on Bonded Child Labour

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Introduction: CWA Task Force on Bonded Child Labour

Work to end the system and practice of bonded labour has been a focus of past social movements and reforms, and is carried forward today by international agencies, non-governmental organisations and new social movements. While those working against it have evolved a more robust and interlinked civil society, and have had numerous successes in pushing for legislation against such systems, the bondage of children continues to be an extensive and inadequately addressed problem throughout Asia.

Members of Child Workers in Asia are among the many civil society organisations who have been working over the years to ensure that children are not deprived of their rights, and that their concerns are brought to the centre of policy making at all levels. At the 5th Regional Consultation of Child Workers in Asia in 1999, members made a firm resolve to establish a South Asian Task Force on Bonded Child Labour that would facilitate collective actions among South Asian NGOs to more effectively respond to the issue of bonded child labour in the sub-region. The Task Force was established in 2000 and has held a number of regional consultations and field exchanges.

Since 2004, the Task Force has endeavoured to involve more organisations in its work. This has included efforts to facilitate mutual learning with organisations in Southeast Asia. The goal is to establish a common resolve to continue to share their understanding and strategies, and to work together among NGOs in Asia.

The CWA Task Force on Bonded Child Labour aims to:

1. Strengthen the network of NGOs and organisations, including children's organisations, involved in the struggle against bonded child labour through coordinated actions at the national and regional levels;
2. Enhance common learning and enable the sharing of experiences among partners;
3. Develop common strategies and facilitate cooperation among the various actors addressing the issue of bonded child labour.

The purpose of this document is to present an overview of our understanding of bonded child labour, the nature and focus of effective interventions, and the challenges that need to be addressed. This document also strives to present useful information on incidence and legal frameworks that activists and NGOs can use to supplement existing work on bondage, or to begin working on their own or with others on this issue.

Understanding bonded child labour

How 'bondage' and 'bonded child labour' are defined is an important consideration to any discussion on the subject. It is most immediately relevant when designing and evaluating interventions to eradicate bondage and protect the rights of children in that it sets out how the concrete situation will be approached and the scope of the ensuing action. It is also, and perhaps more significantly, relevant in reflecting on exploitation and injustice in general, and in attempting to articulate the mechanisms of exploitation to which children and others are subject, in that it determines how we see the possible connections among types of exploitation and their causes.

More concretely, our understanding will follow from the varying lessons learned from long experience in addressing the issue, taking into account its local characteristics, changes in the practice of bondage over time, and an evolving awareness of the connections between bondage and other types and causes of exploitation of workers and children. In countries where the struggle to eradicate bondage has a long history, the question of how to define 'bondage' and 'bonded child labour' has emerged as an important social issue.

Thus, making an effort to be clear about what forms of exploitation 'bonded child labour' includes is necessary both to ensure effective interventions against it, as well as to ensure the overall consistency and integrity of our approaches to end child labour exploitation with our ideals of greater social justice for all.

Drawing on the collective experience of its members at the local, national, regional and international levels in release, rehabilitation, litigation, research and advocacy, the CWA Task Force on Bonded Child Labour defines a 'bonded child labourer' as follows.

Definition of a bonded child labourer

- A child (younger than 18 years old, as defined by the United Nations Convention on the Rights of the Child, 1989)
- working against a debt taken by himself/herself or his/her family members or guardians, and/or working against any social obligation with or without his/her consent
- under conditions that restrain his/her freedom and development, make him/her vulnerable to physical and other forms of abuse and deprive him/her of his/her rights.

1 Bondage and freedom

Bondage is a form of slavery. When adults, children or families are bonded, they are denied their freedom to change employment and often their freedom of movement. They are forced to work for little or no wages, undermining their freedom as economic agents. They are denied full freedom to pursue their lives and their own development with dignity.

2 Bondage and obligations

Bondage is generally understood to be a form of forced labour, but is often not entirely involuntary. In many cases, those who are bonded work for their employer under some form of promise, contract, or agreement to which they have consented. For some, consent is a matter of custom and history in the communities in which they live. This consent is understood to entail an obligation of the workers to labour under whatever conditions the employer chooses to impose.

In cases of enforcement of bondage the labourer is often subjected to verbal and physical threats against themselves and their family, withholding of payment for work already completed, physical abuse including beatings and torture, forced dispossession, confiscation of belongings, and other gross abuses to prevent the exercise of their human rights and labour rights. In many cases, these contracts and agreements, and the abusive methods used to enforce them, are upheld and enforced by local laws, courts and communities.

However, though a contract or agreement may exist between a labourer and an employer, this should not mean that the labourer cannot choose to end their employment when they wish even if included in the contract. No employer has the right to force any labourer to continue to work when they are unwilling to do so.

When the dignity and integrity of the person, be they child or adult, is so obviously violated, it is clear that their consent cannot be used to bind them to work which is exploitative and which violates their rights. It is not consistent with principles of justice and human rights that an individual can enter into an agreement such that they no longer have any power over themselves.

Customary or historical obligations take the form of status or hierarchical obligations within a society or community, where marginalised and socially excluded persons, families, family members, and communities are bound to their employers on the basis of their lower or marginal status. These obligations are embedded in a more general environment where status is widely accepted as sufficient grounds for systematic discrimination, enslavement, and general denial of rights and equal treatment. These status obligations can also be felt to be a duty owed by those bonded or as an inevitable and essential feature of their lives.

The violations against bonded labourers in these cases are a result of specific sanctions and prohibitions from their employers, and are reinforced by more general social sanctions against them which often manifest in physical violence and terror, and are sometimes enforced through legal or administrative systems. Whatever their interpretation, these duties and obligations and their enforcement are generally compelling as a matter of social life.

Bondage in South Asia is generally characterisable in these terms. The bonded labour system in South Asia is among the oldest forms of forced labour and accounts for the greatest number of forced labourers in the contemporary world. As we might expect, the incidence of bonded labour has been and continues to be severely high among members of the lowest social groups in the hierarchically organised caste system in India;

among indigenous minorities and lower castes in Nepal and religious minorities in Pakistan. Persons born in these communities have traditionally been bonded to higher caste employers for generations. Entire families, including children, are usually bonded to one particular family of high social status and all members of the family, including children, labour for the employers.

3 Bondage and social exclusion

Whatever the justifications or causes, systems of bondage are systems for violations of rights and denial of entitlements. Whether or not an agreement or customary social obligation is a central element of the bondage, bondage excludes persons from equal treatment and equal access to the benefits of society. Children in bondage suffer from cumulative effects, throughout their lives of the widespread denial of education, intellectual development and recognition of their inherent dignity as persons.

4 Bondage and debt

The specific manifestations of bonded labour in which a person is compelled to work for someone from whom he or she has received an advance is termed 'debt bondage'. In this manifestation, an advance is used as an instrument of coercion to force persons, and often their families and descendants, to work for an employer. While borrowing money from an employer is not unusual, in bonded labour cases the 'debt' is enforced through exploitation and denial of rights.

As labour relations become increasingly informed by economic and financial forces, the use of advances to reinforce and justify situations of bondage and to exploit social discrimination in new ways has increased. Many persons who might not be bonded directly through status obligations come to be bonded through economic and financial obligations, which can then form the basis for new systems of systematic discrimination as these advances are transformed by employers into debt which is to be held by the family and sometimes also descendants.

As a result of their poverty, their lack of freedom in movement, and the stigma and prejudice they encounter as lower caste families, bonded labourers are typically compelled to seek cash or goods from their employers specifically, who treat these advances as legitimately enforceable through further demands for labour. The labourers are compelled to work to 'repay' this debt within the context of their existing condition of bondage under that employer. Conditions of work are made so that their 'debt' is increased through the application of extortionate rates of interest; higher than normal charges by employers for food, accommodation, transportation, or tools; and wages which are not high enough to allow the worker to repay the advance except through additional work. In many cases, the 'debt' is actually a payment made to the worker instead of regular wages and is one aspect of a more comprehensive exploitation of the worker and their relations. The employer creates a liability which they then manipulate to exploit the worker and guarantee access to and power of disposal over the fruits of his labour.

Debt as an instrument of coercion is also common in cases of trafficking, where an individual is forced to pay their trafficker for the expense of being trafficked. In such cases, the 'debt' is not an advance, but a false claim that the person trafficked owes something to their trafficker. In cases like this, the debt is part of a chain of coercion and exploitation.

In all of these situations, the debts themselves are illegitimate as their terms and conditions are usually either unspecified or are not followed, and the agreement is generally highly exploitative, coercive, or endangers the debtor. The fact of bondage alone makes illegitimate any claim of debt.

5 Bondage and children

In the case of children working as part of a bonded family or working to repay an inherited debt, bonded child labour can only be properly understood in the context of the bonded labour system as a whole. Bonded child labour cannot be addressed without addressing the bonded labour of adults and families.

Children enter into bondage in three main ways: they can work as part of a bonded family, they can inherit a debt from a parent or other family member, or they can be pledged individually to work in various sectors including beedi-rolling, silk reeling and domestic work, to name just a few. As with adult bonded labourers, the majority of bonded child labourers are found in the informal sector.

In family bondage situations the labour of the whole family is required to meet an obligation of an authoritative member of the family or as a matter of the family's status. Obligations in such cases may be debt contracted by the family head or an inherited debt or other intergenerational, status-based obligation. It can also follow that the family stays together, where all family members fall into the situation of bondage as their contribution to the family finances. A family may be so obligated to their employer that they are unable to refuse demands from employers to take a child for whatever purpose. In the event of the obligation being unfulfilled within the lifetime of the parents, a child may inherit these obligations and continue to work to fulfil them, sometimes being forced to pass them on to their own children and future generations.

Children bonded as part of a family and children who inherit bonded debts are often working in systems of agricultural bonded labour, or else are assisting their families in places such as brick kilns or stone quarries. Children also commonly help with home-based production work (only some of which is bonded labour), although employers who contract out such work are taking increasing care not to have direct dealings with the children involved, so as to minimise the risk of being caught violating labour laws.

The individual pledging of children is a comparatively newer but growing phenomenon wherein middlemen (or less frequently, employers) recruit children by giving the children's parents an advance. Sometimes the pressure to accept the advance is severe. Sometimes these pledged children are then trafficked from rural areas to urban areas to work. Employers generally seek to keep the bonded child labourers out of sight, for instance by having them work in small production units rather than in factories.

Payment arrangements differ; some pledged children are kept in bondage as mere collateral and interest for a loan, which must later be paid back in one lump sum (as in the beedi industry). Others are allowed to gradually repay their loans, but their wages (which are typically paid by piece-rates) are almost always too low to allow the loans to be repaid in a reasonable amount of time. In fact, the debts often increase due to high interest rates, charges for living expenses and wage-deductions for mistakes.

6 Causes of bonded child labour

Social exclusion is a central cause, and poverty a common feature, of bonded labour and other types of forced labour.

World wide, indigenous and tribal peoples and socially excluded communities such as those from lower castes, religious minorities, and the uneducated and illiterate commonly remain subject to forced labour and other forms of labour exploitation, discrimination in access to training and employment, and other ills that accompany their marginal status. Women and children bonded labourers face additional exploitation based on gender and age discrimination. The vulnerability to exploitation implied by being so excluded may determine whether indebtedness becomes bondage. Active discrimination against the socially excluded often means they are expected to render service and surrender their rights as a matter of course.

Poverty is often a feature of bonded labour since bonded labourers are typically landless, without assets, under paid and over worked. The lack of social entitlement and livelihood creates a state of slavery. Poverty can also be seen as a consequence of bondage insofar as the bondage may exacerbate and entrench the factors that lead to both further bondage and poverty.

Aggravating factors include the existence of feudal or other hierarchically structured agricultural systems or communities, lack of political will for effective social change, prevalence of education systems that perpetuate social inequalities and general injustice, anti-people

development paradigms, trends toward the informalisation of labour, inadequate legislative frameworks, ineffective enforcement of policies, desire for and liberal use of cheap labour in production processes, and inadequate living wages.

7 Impacts of bonded child labour

Children in bondage suffer a range of abuses and violations of their rights and dignity. However, the impact of bondage on child labourers is not unique to bondage, as many child workers suffer the same exploitation that bonded child labourers do. That being said, the level of exploitation associated with bondage and slavery is manifested in the extreme degrees to which children are made to endure long hours, dangerous and unhealthy work and working conditions, violence and abuse, humiliation, discrimination, and a general lack of access to other rights such as to education, participation in culture and recreation.

Children in bondage tend to be engaged in brutally exploitative and harmful physical labour in fields, factories and homes. They are required to work long hours with intense workloads. As a result they experience fatigue, muscular and skeletal problems, deterioration of their eyesight, and other problems that negatively impact their health and development. In addition to these direct impacts of their work, they are also often made to work under conditions which contribute to the spread of disease, and which amplify the negative impact of the work they do on their bodies.

Children forced to sit in small spaces, hunched over, in the same position for long periods of time often suffer from chronic back pain and may develop growth deformities. Children working on looms or processing silk often cut their fingers and hands, and these wounds are often not treated, or are treated in unhygienic and painful ways, such as cauterising the cuts with sulphur. Children are often beaten or tortured, such as being burnt with metal rods, for working too slowly or for offering any resistance whatsoever to the demands of their employer.

Children involved in beedi-rolling (a kind of cigarette) suffer from high rates of tuberculosis and other lung diseases. Children working with looms often develop lung and skin diseases caused by prolonged proximity to wool. Children working in agriculture, domestic work, and silver polishing endure constant and unsafe exposure to harmful chemicals. Children working in mines may be exposed to poisonous gases. Children working with gems or other work that requires close examination may experience eye disorders that are normal for 40-50 year olds as early as their 20s.

Children at the silk looms

“Sitting at crowded silk looms for long stretches of time exposes children to a variety of health problems. The rooms are often damp and poorly ventilated; children sit with their legs tucked under them or dangling down into the pit underneath the loom. The crowded work environment encourages the spread of contagious diseases, especially tuberculosis and digestive disorders. Poor lighting and constant visual strain damages the eyesight. The fine silk threads cut the fingers, and the cuts are difficult to heal properly...”

Human Rights Watch, Small Change: Bonded Child Labor in India's Silk Industry, 2003

For many children, being bonded is part of a more general pattern in their lives of social exclusion and discrimination, and serves to reinforce it. Bonded children are understood by their employers to be at the disposal of the employer, and have very little control over their own lives. As a result, they are often made to submit to unreasonable or humiliating demands and are looked down on by both employers and others. Bonded children may be subject to regular physical and sexual abuse, including torture, either as a form of discipline or as a privilege claimed by the employer. Demands and requests for fair treatment by children and adults who are bonded are often received with scorn, and sometimes worse, by not only their employers, but also by members of society, sometimes including the police and judiciary officials who are responsible for protecting them. In some cases, especially for domestic workers, they are prohibited from interacting socially outside the workplace. Bonded children are often witness to the abuse or humiliation of other children, or of their own and other children's families. When children attempt to

escape from their bondage, they are often hunted down. When recovered they are beaten, tortured, and sometimes even killed as a lesson to themselves and others.

As a result, bonded children tend to internalise, distrust and fear others, and lack hope for their future. Sometimes, bonded children are even unable to imagine or articulate a different situation or treatment for themselves or others.

The conditions of bonded child labourers that have worked in the carpet industry in India

“When they first come to the *ashram* (rehabilitation centre), they generally are silent and speak their name very nervously and with lots of questions in their eyes. They become silent spectators and [do not want to open up about themselves]. They keep on looking downwards and do not react. They don’t mix with the other children and remain only in the group with children whom they already knew from their place of work.... They are unable to express their hopes and aspirations for the future and are scared of any person resembling their owner.”

Healing and Recovery among Released Bonded Child Labourers, *paper presented by SACCS at CWA first regional consultation on bonded child labour in South Asia, Kathmandu, July 2003*

Whether working with their families or in an individual capacity, bonded children are unlikely to attend school. This is a violation of their rights both to education and to participate in society. Without education, children cannot broadly understand their own situation and the nature of their own and other societies and cultures. This prevents them from engaging with themselves and with others for the purposes of cooperation and development. Universal education is needed for a society to realise the principles of equality and mutual respect, and to ensure that each individual can fully participate in the decisions that shape their lives. Bonded children do not have this opportunity, and the discrimination that it reveals and perpetuates is a lasting barrier to their full development.

Rapid assessment of bonded child labour in domestic work

“This study has identified certain areas of extreme vulnerability among workers in the different sectors... [Child domestics work] in homes away from their families, with no protection from violence or other risks... In domestic service, children start working for landed families very young, with the result that their opportunities for education and the chances of their protection from abuse are almost nonexistent from the start.”

Collective for Social Science Research (Karachi), A Rapid Assessment of Bonded Labour in Domestic Work and Begging in Pakistan, March 2004

Overview of bonded child labour

8. Bonded child labour in South Asia:

India, Pakistan, Nepal, Bangladesh and Sri Lanka

Bonded labour in India is geographically widespread and occurs in a range of different sectors, but its most well-known manifestation is in agriculture. Recent studies indicate that the prevalence of traditional, long-term bonded labour relationships in agriculture is declining in some regions,¹ with bonded labour now increasingly appearing in other sectors. For instance, bonded labour is known to exist in stone quarries, mines and small production units in the gem industry.² There is also a growing tendency for women to become directly bonded in the agricultural sector as men in some areas now refuse to enter into bonded debt agreements.³

Bonded labourers are increasingly migrants who cross state lines to find work; this population is often most vulnerable to exploitation. However, bonded labour is also found in many homes, as contractors hire workers to engage in home-based manufacturing. This is often done with the implicit understanding that the entire family will work to pay off the debt.

Many features of bonded labour in India remain unchanged. For instance, a very high proportion of bonded labourers belong to low castes (such as the Dalits) or to marginalised tribal groups; the Supreme Court-commissioned survey of Tamil Nadu found that 76 percent of bonded labourers fell into these categories,⁴ while an earlier Gandhi Peace Foundation survey stated that 87 percent of bonded agricultural workers belonged to scheduled castes and tribes.⁵ This traditional connection between bonded labour and caste status is in fact common to India, Pakistan and Bangladesh.

In Pakistan, agricultural bonded labour is also prevalent,⁶ though the system of taking advances from employers is not limited to agriculture, and is common in many sectors where it is known as *peshgi*. Bonded labour is most prevalent in the provinces of Sindh and Punjab, notably among minority Hindus and members of lower castes.⁷

As in India, many bonded labourers in Pakistan are migrants. In the brick kiln industry, for example, the work force is largely migrant labourers contracted to the kiln owners through middlemen. Since the kilns close during the monsoon season, these workers are temporarily left without jobs and are forced to take advances to tide them over until the kilns re-open, creating a cycle of debt.⁸ (A similar seasonal cycle affects many bonded agricultural labourers, who must borrow in order to survive the lean time between harvests.) Kiln workers are also typically low-caste and landless; the latter helps to explain why many of them migrate to find work.⁹ As in India, however, bonded labour is also found in contracted home-based work, demonstrating that bonded *haris* and kiln workers are not the only faces of bonded labour in Pakistan.¹⁰

In Nepal, the most well-known form of bonded labour is the *kamaiya* system, which affects the indigenous Tharu people in the districts of Kanchanpur, Kailali, Bardiya, Banke and Dang.¹¹ In the system of bonded labour prevalent among *kamaiya*, tenants can be bought and sold among landlords through arrangements to transfer a *kamaiya*'s debt from the old landlord to the new one. This phenomenon is also found among agricultural and kiln bonded labourers in other South Asian countries, but it is especially explicit in the *kamaiya* system in its resemblance to purchasing slaves at an annual slave-market. Each male *kamaiya* worker is required to have a female paired with him, who works for the landlord in a domestic capacity and/or by helping with agricultural work other than ploughing; these women are known as *bukrahi*.¹² Children are often expected to contribute their labour, and are increasingly being pledged in consideration of sharecropping agreements now that bonded labour has officially been banned.

Other forms of agricultural bonded labour in Nepal include the *haliya* system in the western hills and the eastern plains, wherein low-caste (often Dalit) tenants become indebted and are told that they must pay

back their loans in one lump sum.¹³ This practice, along with the *haruwa* system of pledged (but not necessarily debt-bonded) family labour have been less studied than the *kamaiya* system but are estimated to affect more people.¹⁴ In 1999, the Informal Sector Service Centre (INSEC), Nepal, estimated that 260,000 people were working as *haliya* or *haruwa*, whereas a 2002 study estimated that there were 200,000 agricultural bonded labourers altogether in Nepal.¹⁵ More recently, the Nepal National Dalit Community Welfare Association conducted a survey and estimated the total population of *haliya* to number around 100,000.¹⁶

India

Estimates of bonded child labour in India vary widely. The ILO estimated in 2000 that there were 5.5 million children in forced labour in all of Asia and the Pacific, for instance,¹⁷ while in 1998 the Bonded Labour Liberation Front placed the number of bonded child labourers in India alone at 10 million.¹⁸ Other groups quote numbers as high as 15 million.¹⁹ In 1998 the government of India reported that of the 251,000 people who had been identified at that time as bonded labourers, 3,300 were children, a figure that led the government to term bonded child labour a 'marginal' problem.²⁰ State-level data are hard to come by, but a survey carried out in 1995 by a Supreme Court-appointed Commission suggests that there were then 125,000 bonded child labourers in Tamil Nadu alone.²¹

A 1996 Human Rights Watch survey of bonded child labour found that the incidence of bondage among children was rising, possibly caused in part by economic liberalisation and structural adjustment programmes that were having a severe negative impact on poor households.²² In addition, a pattern has emerged whereby enforcement of child labour laws (sometimes prompted by international outcries over the use of child labour in export industries) is driving bonded child labourers out of factories and into homes and smaller production units where they are less visible.²³ Despite these obstacles to data collection, a variety of reports and a few sector-specific studies shed light on the conditions under which bonded children are working in India. The following is a brief sector-by-sector overview based on available data as of 2005.

Agriculture: The majority of bonded child labourers in India are thought to be working in agriculture; Human Rights Watch estimated in 1996 that 52–87 percent of bonded child labourers in India were working in this sector.²⁴ The 1978–79 survey by the Gandhi Peace Foundation found roughly 650,000 agricultural bonded labours under the age of 20, while in 2000, the Working Group on Contemporary Forms of Slavery cited reports that 19 percent of bonded agricultural labourers in Karnataka were under the age of 15, with 5 percent under the age of 10.²⁵ Indirect reports also confirm that there are thousands of children bonded in this area. For example, the NGO Volunteers for Social Justice estimated that in Punjab alone there are half a million agricultural bonded labourers,²⁶ with children generally working alongside their families.

Beedi-rolling: There were an estimated 325,000 beedi-rollers in India as of 1996,²⁷ most in Tamil Nadu, and a large portion of these were thought to be bonded child labourers; Human Rights Watch estimated that there were between 30,000 and 45,000 beedi-rolling bonded child labourers in Tamil Nadu's North Arcot district alone.²⁸ Beedi-rolling is also highly prevalent in Andhra Pradesh, with the majority of the beedi workforce in all states comprised of women and children.²⁹ In this industry, it is common for children to be individually pledged as bonded child labourers, but their labour is often not applied towards the liquidation of their debts; rather they are required to pay back their loans in one lump sum, with their labour merely serving as interest on the loan and security that it will be repaid.³⁰

Brick kilns: Reports indicate that bonded child labour is widespread in India's brick kilns, although women and children are not normally registered on the employment rolls, so there is no official record of child employees.³¹ In a survey of brick kilns in Punjab, 53 percent of workers (of all ages) reported having taken an advance, with brick-makers (*patheras*) most likely to be bonded.³² The Supreme Court-commissioned study of Tamil Nadu reported even higher rates of debt bondage, with 80 percent of kiln workers bonded in that state's Pudukottal district.³³ There are multiple reports that entire families work together at the kilns,³⁴ indicating that there may be a high incidence of bonded child labour in this area.

Carpet-weaving: An estimated 270,000 child labourers in the carpet industry were bonded as of 1995.³⁵ In Uttar Pradesh, where the carpet industry has traditionally been centred, most bonded child labourers interviewed by Human Rights Watch in 1996 were low-caste Hindu boys (who are considered suited to this type of work by virtue of their caste status).³⁶ Trafficking of children for work in the carpet industry was also found to occur on a large scale, with Bihar serving as a source of bonded child labour for Uttar Pradesh, for example.³⁷ In addition, there was an increasing trend whereby children were recruited and trafficked from carpet factories in Nepal to Uttar Pradesh; these were usually girls, demonstrating an overall pattern of increased female participation in this industry.³⁸

Human Rights Watch estimates that the vast majority of carpet-weaving occurs on a cottage-industry basis, with most loom-owners having several looms and several employees;³⁹ this is one of the industries where periodic enforcement of labour laws and international protests against the use of child labour has driven bonded child labourers into new geographical areas (such as Rajasthan)⁴⁰ and into homes where it can take place out of sight.⁴¹ Perhaps as a result of this development, little comprehensive data has been collected on bonded child labour in the carpet industry since the time of the Human Rights Watch 1996 report, leaving the current extent of bonded child labour in carpet-weaving unclear. However, the ILO notes that there are still frequent reports of bonded child labourers being identified and released from bondage in this sector.⁴²

Commercial sexual exploitation: In a system known as *chukri*, girls arriving in brothels sometimes become indebted through taking an advance to cover the costs of makeup, clothes and a bribe to the police. The girls are then expected to work for free, sometimes for more than a year, in order to pay the debts off.⁴³

Construction: As of 1998, the U.S. Department of Labour had received reports of bonded child labourers working in the construction industry in Tamil Nadu.⁴⁴

Domestic work: Although no statistics are available, bonded child domestic work is believed to be common in India, with a significant portion of child domestic workers in bondage.⁴⁵

Fireworks and matches: 30–40 percent of children in India’s fireworks and matches industries were thought to be bonded as of 1999.⁴⁶

Hotels: There have been reports of child hotel assistants in bonded labour arising from advances that they themselves take from their employers. Thus although they may not start out as bonded child labourers when they arrive at their jobs, they may fall into bondage as they continue to work.⁴⁷

House-cleaning: Not to be confused with domestic work, this refers to the practice whereby people of lower castes clean the houses of upper-caste neighbours for very low wages. Because the pay is so low in this occupation, workers sometimes have to borrow money from their upper-caste employers to survive, and their cleaning work then becomes unpaid since their wages are ostensibly being put towards the liquidation of their debts. There are reports that children are brought along with adult workers to clean the houses because otherwise the workload would be impossible for the adult workers to finish.⁴⁸

Hybrid cottonseed production: Approximately 400,000 children (mostly girls) ages 7–14 work in this industry, with 250,000 in the state of Andhra Pradesh alone.⁴⁹ In a 2004 survey, 70 percent of the children working in Andhra Pradesh were found to be bonded, although this represents a decrease from recent levels of bondage.⁵⁰ This industry is perhaps unique in the level of pressure exerted by recruiters, who tend to force parents to accept advances for their child’s work, whether the parents want to do so or not, so as to ensure that the children will remain for the entire season.⁵¹ Employers will sometimes do informal surveys of villages to ascertain how many girls live there before deciding where to plant the cotton.⁵²

Leather: In this industry, parents are given an advance and then send their children to work for ten months at a time, with the employment agreement renewed each year.⁵³ Human Rights Watch estimated in 1996 that anywhere from 2,000 to 20,000 bonded child labourers were

working in leather shoemaking in Mumbai, with most of these employed alongside two to four other children in home-based production units. Children in this occupation cut out wooden heels using saws, cut out leather straps, stamp them with brand names and glue the parts together, among other tasks.⁵⁵ Anti-Slavery International also reports that bonded children are working in small tanneries.⁵⁶

Mines: There are reports of children working in bondage alongside their families in silica mines in Uttar Pradesh.⁵⁷ Most bonded Indian miners are migrants who belong to the scheduled castes or tribes.⁵⁸

Quarries: Children work alongside their families in stone quarries, as in Faridabad (outside of New Delhi), where migrant families were reported to be working as bonded labourers as of 1998.⁵⁹

Rice mills: Recently 1,000 migrant families, including many children, were found confined in rice mills in Tamil Nadu, where they were working as bonded labourers.⁶⁰

Silk: A 2003 study by Human Rights Watch estimated that well over 350,000 children under 14 are bonded in the silk industry,⁶¹ working either for non-family members (that is, pledged in their own right) or working with bonded family members. In Uttar Pradesh alone up to 200,000 children are bonded, with half of these individually pledged; approximately 20,000 children are reported to join the industry there each year, with one third to one half of them individually bonded.⁶² The vast majority of the children surveyed (in Uttar Pradesh, Tamil Nadu and Karnataka) were either Dalit or Muslim.⁶³

Children in the silk industry are involved at all stages of work, from boiling silk cocoons to twisting cocoon filaments into thread to weaving saris as assistant weavers.⁶⁴

Silver jewellery: Human Rights Watch estimated in 1996 that there were 10,000 bonded child labourers making silver jewellery in the Salem district of Tamil Nadu, which is a hub for jewellery production.⁶⁵

Synthetic gems: As of 1996, Human Rights Watch estimated that 8,000 to 10,000 children were bonded in this industry, with nearly all of them belonging to scheduled castes.

Pakistan

Little data is available on bonded child labourers in Pakistan, although a 2000 survey by the Pakistan Institute of Labour Education and Research (PILER) estimated that there are 1.8 million bonded sharecroppers (or *haris*) in the country, with 6.8 million tenants performing unpaid caste-based labour.⁶⁷ Research carried out for the Asian Development Bank found that in Sindh province alone, most of the 1.7 million landless agricultural labourers surveyed were bonded.⁶⁸ The wives and children of *haris* are generally expected to work for the landlord as well, both in domestic work and in outdoor chores such as tending livestock. The Bonded Labour Liberation Front has estimated that roughly 40 percent of the total bonded population are bonded child labourers.⁶⁹ Human Rights Watch reports that compared to adult bonded labourers, bonded child labourers work longer hours for significantly less pay.⁷⁰ Here is a brief sector-by-sector overview of bonded child labour based on available data as of 2005.

Agriculture: Under traditional landlord-*hari* relationships, children are often expected to contribute to a bonded family's work by tending livestock, collecting firewood, performing domestic work for the landlord and working alongside family members in the fields.⁷¹ Reports of sexual abuse by landlords against women and children in such circumstances are not uncommon.⁷²

Brick kilns: A 2004 study conducted in Punjab, NWFP, and Sindh found that children between the ages of 10 and 14 regularly work as *patheras* (brick-makers) in Pakistan's kilns, and boys also work in other stages of the brick-making process, such as loading and unloading bricks and transporting them to the kiln.⁷³ Children in this industry are not generally bonded in their own right, but rather work as part of a bonded family.

A 1993 UNICEF survey found 236 boys and 151 girls working in 20 brick kilns in Peshawar, NWFP; since there are 200 kilns near Peshawar altogether, the number of bonded child labourers in this vicinity may have run into the thousands.⁷⁴ Human Rights Watch reported in 1995 that many kiln workers began work before the age of 13, being either the children or grandchildren of debtors.⁷⁵

Carpet-weaving: A recent study conducted in NWFP, Punjab, Sindh and Balochistan found that 40 percent of carpet workers were children under the age of 15, with bonded child labour prevalent in Punjab and Sindh.⁷⁶ Two main labour arrangements prevail in this industry: either individually bonded children work in small carpet-weaving units (called 'sheds') or children work on looms in their homes as part of a bonded family.

A 1993 report by the Centre for the Improvement of Working Conditions and Environment estimated that there were 1.5 million carpet workers in Punjab, with 80 percent of these being children under 15, and another 80 percent of them being bonded; hence even if these two categories overlapped as little as possible, there were an estimated 900,000 bonded child labourers in Punjab's carpet industry according to this source.⁷⁷ These data contrast with the 2004 rapid assessment cited above, where only 40 percent of carpet-weavers in Punjab were identified as children under 15 and only 9 percent of Punjabi weavers were found to be in 'severe' debt bondage from large loans (although 60 percent of the total Pakistani sample was bonded under Pakistan's definition of bonded labour, mostly as a result of loans of Rs. 1,000 or less that could be repaid over a period of weeks).⁷⁸ This indicates that there may have been a decline in carpet-weaving bonded child labourers in the last ten years. Meanwhile, Human Rights Watch reported in 1995 that bonded child labourers were most likely to be found in rural areas, whereas in urban centres the weavers tended to be adults or child wage-earners.⁷⁹

Reportedly, in at least one town south of Lahore, looms have had to move into houses in order to avoid scrutiny after campaigns by human rights activists appeared in the area.⁸⁰ Similarly, in Karachi children who commute to work are kept locked inside the carpet sheds during the day partly out of fear that Labour Department officials or human rights NGOs will see them.⁸¹ Other children live in the carpet sheds and are kept locked in at all times.

Domestic work: There are specific reports of several indebted families sending their daughters to work as bonded child domestic workers in urban areas,⁸² and given the common practice among landlords in Sindh and Punjab of requiring indebted tenants to provide domestic services either in the landlords' rural households or in urban-based households, it can be inferred that there are a high number of children bonded in domestic work. Currently there is a lack of age-disaggregated data that would shed further light on this subject, but a 2004 rapid assessment found that the majority of bonded domestic labourers within the framework of landlord-tenant relationships are girls.⁸³

Glass bangles: A 2004 study found no 'extreme bondedness' in this industry, but loans taken from employers were common.⁸⁴ Children in Hyderabad (the centre of the bangle industry) were found doing work in every phase of the bangle-making process, including shaping the molten glass and metal and 'finishing' the bangles by polishing and reshaping them.⁸⁵

Mines: In a 2004 rapid assessment, bonded boys ranging in age from 10 to 15 (although mostly on the upper end of that range) were found working alongside their fathers in mines, usually leading donkeys underground to ferry out coal or working in the mining compound's kitchens.⁸⁶ Some children were also present without any family members, having inherited a debt from a dead or incapacitated father or older brother; this population is reported to be most vulnerable to various forms of abuse.⁸⁷ The vast majority of miners in Balochistan, Punjab and Sindh are migrants recruited through middlemen, with roughly two thirds of these migrant labourers originating in NWFP.⁸⁸

Nepal

Studies of bonded labour in Nepal have tended to focus on the *kamaiya* system, so less is known about bonded child labour in sectors besides this. As of 1995, one survey placed the total number of *kamaiya* at 46,000,⁸⁹ although other studies placed the number as high as 70–110,000. As of 2001, the government had identified close to 20,000 *kamaiya* families in the five districts named above, and the government

also reported to ILO-IPEC that there were 57,000 *kamaiya* children in the country (although only 17,000 of these were reported to be working in debt bondage at the time).⁹² Overall, IPEC reported in 2001 that 33,000 bonded child labourers were working in the country,⁹³ while Child Workers in Nepal (CWIN) has most recently placed the total number at 40,000.⁹⁴ In any case, studies indicate that most bonded child labourers come from large, landless families⁹⁵ and that most of them are working in agriculture or as child domestics. Here, then, is a brief overview of these and other sectors where bonded child labourers may be working.

Agriculture: In 1999, INSEC placed the total number of *kamaiya* bonded child labourers at 5,000.⁹⁶ However, the government stated that fully 17,000 *kamaiya* children were bonded as of 2001,⁹⁷ with IPEC reporting an estimate of 13,000 *kamaiya* bonded child labourers at around the same time.⁹⁸ As of 2003, Nepal's Department of Labour acknowledged INSEC's reports that despite the law banning bonded labour, at least 2,800 workers under 19 years of age were still serving as *kamaiya* labourers.⁹⁹

Under the traditional *kamaiya* system, children are often required to work along with their families for the benefit of the landlord; boys do outdoor farm work (such as animal grazing, collecting hay and helping in the field) while girls do domestic work, although girls also help with outdoor chores during the peak farming season.¹⁰⁰ Children typically receive two meals a day for their work but take home no wages; they enter work as early as 7 years old and take on adult duties at the age of 15 or 16.¹⁰¹

New patterns of *kamaiya* child labour are emerging whereby children's labour is pledged in order to seal a sharecropping contract.

Less is known about the *haliya* system of agricultural labour, but children are often required to work under this system,¹⁰² and as of 1997 less than half of *haliya* families sent any of their children to school.¹⁰³

Finally, the specific modes of bondage for *haruwa* are unclear, but a defining feature of the system is the pledging of family members' labour to the landlord and the inability of these family members to leave the landlord's employment.¹⁰⁴ The exact role of children in this system has not yet been documented.

Brick kilns: Child Work in Nepal (CWIN) reports that bonded child labour occurs in Nepal's brick kilns.¹⁰⁵

Carpet-weaving: There are multiple reports that bonded child labour occurs in Nepal's carpet industry.¹⁰⁶ For instance, a 2002 ILO-IPEC rapid assessment reported that bonded labour and trafficking occur in conjunction with each other in this sector.¹⁰⁷ The most prevalent bonded child labour situation involved a recruiter (or *thekedar*) giving parents an advance for a child's labour, and then trafficking the child to the carpet factory, sometimes against the child's will.¹⁰⁸ Overall, 7percent of the children in this survey (which covered the Kathmandu Valley, where the vast majority of carpet factories are located) reported that their parents had received a loan/advance for their work, with a further 12 percent ignorant of whether this had occurred or not.¹⁰⁹

Commercial sexual exploitation: There are reports that Nepalese bonded child labourers are working in the commercial sex industry, including some children who are trafficked across the border into India.¹¹⁰ Such children are sometimes pledged by their parents, who may be freed *kamaiya*.¹¹¹ An ILO-IPEC rapid assessment also found that at least 4 percent of child sex workers in Kathmandu were indebted to their employers/recruiters, implying the possibility of bonded child labour.¹¹²

Domestic work: Based on ILO-IPEC surveys and on its own experience, CWIN estimates that approximately one third of Nepalese child domestic workers are bonded.¹¹³ In a 2001 survey of child domestic workers in Kathmandu, 41 out of 378 reported that they were bonded by debt, with almost three times that number ignorant of their situation as regards debt bondage;¹¹⁴ thus if a large proportion of this latter group of children are in fact bonded, this study would roughly corroborate CWIN's estimate that one third of child domestic workers are bonded child labourers. In either case, the absolute number of bonded child domestic workers almost certainly runs into the thousands, as estimates indicate that there are over 55,000 child domestic workers in Nepal's urban areas alone.¹¹⁵

One pattern of recruitment for bonded child domestic workers is for recruiters to travel to rural areas during the annual *Maghi* festival each January in search of children. Contracts are concluded with parents at this time, with children pledged as child domestic workers for the following year. In recent years there has been an increase in the use of this system by freed *kamaiya*, who often find themselves in conditions of dire poverty and so are prone to send their daughters to work as child domestic workers in other towns or cities.¹¹⁶

Restaurants: There are reports that child assistants in restaurants are sometimes bonded child labourers.¹¹⁷

Stone quarries: CONCERN estimates that over two thousand children work as bonded child labourers in Nepal's stone quarries.¹¹⁸

Textile factories: There is one report of children working as bonded labourers in a wool-spinning factory; it is unclear if there was any advance involved or if the only loan in question was the debt incurred by the children for living expenses after they were trafficked to the wool factory.¹¹⁹

Bangladesh

Due to a lack of available research, there is little information on the nature and extent of bonded child labour in Bangladesh. It should be noted that at least one human rights researcher who travelled to Bangladesh to document bonded child labour in 1997 did not find any.¹²⁰ On the other hand, a 2003 survey by the Bangladesh Bureau of Statistics found that out of 1,504 formal-sector establishments in the country's metropolitan cities, 4.2 percent of them reported that they recruited child labourers by paying an advance to the children's parents and then requiring the child to work to pay off the debt, a practice that the Bureau of Statistics stated 'may be compared to bonded labour.'¹²¹ Here, then, are some of the sectors where bonded child labour may be occurring.

Agriculture: The ILO has targeted this area (along with weaving and sex work) as a priority sector for the Prevention and Elimination of Bonded Labour in South Asia (PEBLISA) programme, since there are families in this sector that are believed to be vulnerable to (or actually involved in) bonded labour.¹²² Thus it is likely that children could be involved in agricultural bonded labour.

Automobile repair shops: A 2003 survey by the Bangladesh Bureau of Statistics found that 1.5 percent of children (234 children) working in automobile repair shops throughout the country were in debt to their employers, suggesting that bonded child labour may be present.¹²³

Commercial sexual exploitation: The *chukri* system reportedly occurs in Bangladesh as well as in India. Under this arrangement, a girl who arrives at a brothel takes a loan to cover the cost of makeup, clothes and a bribe to the police. She is then expected to work for a year or more without pay in order to pay the debt off.

Weaving: Given the history of bonded child labour in carpet- and cloth-weaving in neighbouring India, it is possible that there are children bonded in this sector in Bangladesh as well.

Sri Lanka

There is little available data on the nature and extent of bonded child labour in Sri Lanka. In 1999, a government survey of child labour identified 630 children who were working against a debt under a contractual obligation, suggesting that these children may have been bonded child labourers.¹²⁵ No data was given on what the occupations of these bonded children were. However, based on available data as of 2005, bonded child labour may be occurring in the following areas.

Domestic work: The International Confederation of Free Trade Unions (ICFTU) reports that Sri Lankan children work as bonded domestic workers in urban households.¹²⁶

9 Bonded child labour in South East Asia: Indonesia and Philippines

Indonesia

Many of the studies and reports that mention bondage in Indonesia draw attention to the exploitation of workers who are leaving the country in order to take up work abroad, where they are held in camps prior to departure and made to incur debt there.¹²⁷ However, as data is not generally disaggregated by age, it is difficult to tell how many children are directly affected by this problem.

As far as other manifestations of bonded labour in the country, there is little available data on its nature and extent. Following, however, is a brief overview of several sectors where bonded child labour may be occurring.

Agriculture: There are reports that in the tobacco-growing industry, workers often become indebted to their employers, upon which the entire family, including children, must work to pay off the debt.¹²⁸

Commercial sexual exploitation: The U.S. Department of State reports that many teenage girls are working as bonded child labourers in the commercial sex industry.¹²⁸

One specific pattern of bonded child labour in this industry entails the recruitment of rural children to work as tea-sellers in urban areas. After the parents of such children receive an advance, the girls are taken to the city and frequently must pay off their debts through sex work as well as through their jobs as tea-sellers.

Domestic work: It is reportedly a common practice for rural parents to take advance payments when sending their daughters to work as child domestic workers in urban areas. This practice is generally perceived as so normal that it is not widely recognised by Indonesian society as exploitative.¹³¹

Fishing: As with agriculture, there is a reported pattern by which entire families in this sector must work in order to pay off debts to their employers.¹³² There have also been reports that bonded child labour occurs on *jermals*, although it is unclear whether such cases constitute bonded or only forced labour.

The Philippines

There is little available information on the nature and extent of bonded child labour in the Philippines, although the U.S. Department of State reports that bonded child labour occurs among unpaid family workers in rural areas and among rural children sent to urban areas to work against an advance.¹³³ A brief overview of several sectors where bonded child labour may be occurring follows.

Agriculture: The Centre for Investigative Research and Multimedia Services reports that entire families are bonded to their employers within the *hacienda* system that characterises sugarcane plantations in the Negros region of the Philippines. Fully 92 percent of sugarcane worker families reported that their children work alongside them as part of the regular working force, with an estimated 56,000 working children in the sugarcane industry in the Negros region alone as of late 2004 (although it is unclear how many of these children might be bonded).¹³⁴

Domestic work: ICFTU reports that over 300,000 child domestic workers are working in bonded labour.¹³⁵

Factories: A 1996 report on Metro Manila stated that at least eight rural children were bonded by recruiting agents who took the children to work in a canning factory in the city. The children were paid less than the minimum wage and not allowed to leave the premises while they worked to pay off the debts that resulted from a combination of advances paid to them and the cost of food and transport to their jobs.¹³⁶ Because the factory-owners charged more for food than the children could pay out of their wages, each child's debt kept increasing; after more than a year in bondage, the children interviewed still had not received any wages.¹³⁷

In addition, 12 children were discovered working in similar circumstances in a food repacking factory and eight children were found working in a plastic bag factory.¹³⁹

Conclusion

Besides general information, however, relatively little is known about the nature and extent of bonded child labour in Asia. This is due to two main factors: first, there is a dearth of research on bonded labour, and many existing studies of bondage do not disaggregate data by age. Second, studies of working children often lump bonded child labour together with forced labour or child labour in general, or the definition of bonded child labour that is used does not conform to any specified criteria or existing laws. Surveys sometimes count children as bonded if they are simply confined. Thus, in order to gain a better picture of the nature and extent of bonded child labour, it is essential that comprehensive research studies be conducted that:

- 1) disaggregate all data by age so as to show how many people out of the studied population are children;
- 2) separate bonded child labour from forced or child labour and clearly specify which statistics and conclusions apply to bonded child labourers and which to forced or child labourers in general; and
- 3) clearly specify the definition of bondage being used.

Addressing bonded child labour

10 Legal instruments

Legal instruments are an important tool in addressing bonded child labour. They specify the principled commitment and understanding to inform governance in general and codify the obligations of governing bodies to address the issue. They clearly set out the entitlements of bonded labourers and children, that the government may be compelled to provide. When designed to specifically address the issue and its root causes, legal instruments may serve as the bedrock of actions to eliminate bondage in a society. They may also provide orientation to social mobilization against bondage beyond the call for legislation (where none exists) or better legislation (where existing laws are not adequate or do not address local conditions and causes) to influence a fundamental social change.

National Legislations

National legislation sets forth the entitlements of bonded labourers, the penalties for enforcing or abetting their bondage, and the administrative framework to implement the law. The courts provide a forum for the application, interpretation and refinement of the application of the laws themselves to better address the issue in its various forms and to preserve the intent of the law. National responses to bonded child labour are enacted in the context of other national and international laws concerning both bondage and child labour separately, as well as legal frameworks to address labour exploitation and social exclusion more generally.

For the countries that have enacted laws explicitly prohibiting bondage, the purpose of these laws is generally stated to be the prevention of the physical and economic exploitation of vulnerable people and labourers,

and raising the standard of living in pursuit of social justice. In some cases, elements of the legal definitions and provisions in the law of one country have drawn on laws against bondage in other countries. For countries that have not enacted legislation prohibiting bonded labour, child labour laws are generally applicable.

The benefit of specific laws to address bondage is that such laws address it as a social phenomenon, prohibiting bondage of any person in any form. Thus, unlike most child labour legislation, these laws will cover children of all ages working in all sectors. The challenges in the application of such laws is the possibility of resistance to their application to children specifically due to a perception that child labour is a separate issue, even though the text of the laws would allow them to be applied to instances of bonded child labour.

India

In 1976, the government of India passed the Bonded Labour System (Abolition) Act ('BLSA 1976') which abolishes the bonded labour system.

Prohibitions

- Every bonded labourer is now 'freed and discharged from any obligation to render any bonded labour' (Ch. II, Sec. 4(1))
- The giving of advances so as to bond labourers and all forms of forced labour are explicitly prohibited (Ch. II, Sec. 4(2))
- All customs, traditions, contracts, and agreements which require service or work as a bonded labourer are void (Ch. III, Sec. 5)
- All outstanding bonded debts are cancelled (Ch. III, Sec. 6)
- Any and all property seized from a bonded labourer or family member by the creditor or a Court or other authority for the purpose of recovering a debt shall be returned within ninety days from the commencement of the Act, unless it has been sold prior to the commencement of the Act (Sec. 6(4), (5))
- Any and all property of the bonded labourer attached to the debt will be freed and returned to the bonded labourer, or the bonded labourer will be paid for its occupation (Ch. III, Sec. 7)

- No bonded labour freed as a result of the Act may be removed or evicted from their place of residence, and will be returned to their place of residence if they have been removed (Ch. III, Sec. 8)
- No suit or other proceeding for the recovery of a bonded debt may be brought to a Court or other authority (Ch. III, Sec 6(9)), and all existing suits are dismissed (Sec. 6(9))
- Every bonded labourer detained in civil prison shall be released (Ch. III, Sec. 6(10))

Penalties

- The employer enforcing bonded labour, advancing a bonded debt, or using bonded labour will be punished with imprisonment for up to three years and a fine of up to Rs. 2,000, and payment shall be made (from the fine) to the bonded labourer at the rate of rupees five for each day for which the bonded labour was extracted from him (Ch. VI, Sec. 16, 17, 18)
- Whoever is required by the Act to return property to the freed bonded labourer and does not do so within thirty days will be punished with imprisonment for up to one year and/or a fine which may extend to one thousand rupees, and payment shall be made (from the fine) to the freed-bonded labourer at the rate of rupees five for each day during which possession of property was not restored to him (Ch. VI, Sec. 19)
- Anyone who helps to commit any forbidden act will be punished with the same penalties as those who commit the act (Ch. VI, Sec. 20)
- If the bonded labourer in question is a member of a Scheduled Caste or Scheduled Tribe, any employer holding such a person in bonded labour or other forced labour is also liable to be imprisoned for up to five years under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act of 1989 (Ch. II, Sec. 3(1(xv)))

Rehabilitation

Rulings of the Supreme Court have strengthened the implementation mechanisms and the rehabilitation scheme.

- The Centrally Sponsored Scheme for the rehabilitation of bonded labour requires

- State Governments shall provide Rs. 1,000 as a subsistence allowance to a bonded labourer immediately upon his/her identification
- Rehabilitation assistance to the extent of Rs. 20,000 per bonded labourer be paid to released bonded labourers
- Migrant bonded labourers are to be rehabilitated at the place of their choice (*Public Union for Civil Liberties (PUCL) v. State of Tamil Nadu and Ors.*)
- The National Human Rights Commission (NHRC) will oversee the implementation of the BLSA 1976 (*Public Union for Civil Liberties (PUCL) v. State of Tamil Nadu and Ors.*)
 - The NHRC has powers to summon and examine witnesses and call for investigations
 - The NHRC has appointed two special rapporteurs in charge of monitoring and assisting implementation of the Act throughout the country

Administration

- District level Vigilance Committees are established and headed by District Magistrates. They must:
 - Conduct surveys to identify bonded labourers and keep records of those identified;
 - Look to the economic and social rehabilitation of freed bonded labourers – including protecting and securing their economic interests to ensure that they do not fall into further debt;
 - Coordinate with rural banks and cooperative societies to ensure access to credit for freed bonded labourers;
 - Defend suits against freed bonded labourers or members of their family or any other dependants claiming the recovery of a bonded debt (Ch. V, Sec. 14; Ch. IV, Sec. 11).

Definition

The BLSA 1976 defines bonded labour within the framework of the *bonded labour system*. Under this system the labour provided to the employer is forced in consideration of an advance given by the employer as part of an agreement with the labourer. The relationship between the labourer and the employer is described as a debtor-creditor relationship.

Features of the agreement and debtor-creditor relationship highlighted by the law which constitute bondage are divided into two lists of conditions: those that serve as justifications for the extraction of forced labour and those that describe the work situation of the labourer. At least one condition from each list must apply for the labourer to be considered bonded.

(1) A labourer is bonded if their labour is compelled by:

- Receipt of an advance or their being a lineal ascendant or descendant of someone who has received an advance from the employer;
- Demand to satisfy a customary or social obligation;
- Being subject to an inherited obligation;
- An economic consideration received by themselves or any of their lineal ascendants or descendants;
- Reason of their birth in any particular caste or community.

(2) and if their labour:

- Is rendered by
 - themselves or through any member of their family or any dependant
 - in service to or for the benefit of the creditor
 - for a specified or unspecified period
 - either without wages or for nominal wages;
- Results in forfeit of the freedom of employment or other means of livelihood for a specified or unspecified period;
- Results in forfeit of the right to move freely throughout the territory of India;
- Results in forfeit of the right to appropriate or sell at market value
 - any of their property
 - the product of their own labour
 - the product of the labour of a member of their family or other dependants
 - including an agreement with the creditor that a designated individual will provide labour in the event that the debtor fails to repay the debt.

The text of the law and the Supreme Court of India provide further clarification on the meaning and scope of application of the term 'bonded labourer'.

- All customary and traditional forms of forced labour are presumed to be governed by debtor-creditor agreement as defined in the Act, and thus to constitute bonded labour
- Regular contract and inter-state migrant workers who work under the conditions given in list (2) are considered bonded labourers
- Bonded labourers need not be physically confined to their place of work or even to work there year-round to be considered bonded labourers
- Anyone working for less than the minimum wage will be treated as a forced labourer, as no labourer would willingly choose to work for less than the minimum wage where the minimum wage is legally guaranteed. However, such labour does not itself necessarily constitute bondage (*People's Union for Democratic Rights v. Union of India* (3 SCC 235 (1982)))
- Anyone found in a condition of forced labour will be presumed to be a bonded labourer, unless the person's employer brings forth evidence to the contrary, to ensure that employers cannot undermine the rights of bonded labourers by simply denying the existence of a debt (*Bandhua Mukti Morcha v. Union of India & Others* (3 SCC 161 (1984)))

Pakistan

In 1992, the government of Pakistan passed the Bonded Labour System (Abolition) Act ('BLSA 1992').

Prohibitions

- All bonded labour in Pakistan is abolished (Sec. 4(1))
- The giving of advances so as to bond labourers is prohibited (Sec. 4(2))
- All customs, traditions, contracts and agreements which require service or work as a bonded labourer are void (Sec. 5)

- All bonded debts are cancelled (Sec. 6)
- Any and all property seized from a bonded labourer or family member by the creditor or a Court or other authority for the purpose of recovering a debt shall be returned within ninety days from the commencement of the Act, unless it has been sold prior to the commencement of the Act (Sec. 6(4), (5))
- Any and all property of the bonded labourer attached to the debt will be freed and returned to the bonded labourer, or the bonded labourer will be paid for its occupation (Sec. 7)
- No suit or other proceeding for the recovery of a bonded debt may be brought to a Court or other authority (Sec 6(2)), and all existing suits are dismissed (Sec 6(9))
- Every bonded labourer detained in civil prison shall be released (Sec. 6(10))

Penalties

- The penalty for accepting payment on a bonded debt is up to three years in prison or a fine of not less than Rs. 15,000 or both (Sec. 8(2)), while the penalty for compelling anyone to render any bonded labour is 2-5 years in prison or a fine of not less than Rs. 50,000 or both (Sec. 11)
- The penalty for anyone who fails to return property or possessions as required by the Act within ninety days from the commencement of the Act is imprisonment for up to one year and/or a fine of up to one thousand rupees, and payment will be made (from the fine) to the bonded labourer at the rate of ten rupees for each day during which possession of the property was not restored (Sec. 19)
- Any person who helps commit offences prohibited by the Act will be punished as persons who have committed the offences (Sec. 14)

Rehabilitation

A comprehensive programme to rehabilitate bonded labourers freed under the BLSA 1992 was codified in 2001, when the Federal Cabinet approved a National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers. This plan includes:

- Provision of education and vocational training;
- Promotion of self-employment opportunities through microcredit schemes;

- Provision of relief packages to freed bonded labourers who have fled from their employers and settled in camps to meet this population's need for housing, food, sanitation, drinking water, health and children's education.

Administration

- Vigilance Committees are established and must provide advice to District officials concerning implementation of the law and assist in the rehabilitation of freed bonded labourers (Sec. 15)

Rules passed in 1995 set out more specifically the responsibilities of the Vigilance Committees and the rehabilitation scheme:

- Vigilance Committees to make inquiries regarding the existence of bonded labour in their districts, report such occurrences to their supervising district officials and generally 'ensure that the objectives of the law are fully achieved' (Rule 7(1));
- Vigilance Committees are to meet once per month (Rule 6(3));
- Membership must include at least one representative from a human rights NGO (Rule 6(1(n)));
- Establish a complaint cell for registering the complaints of bonded labourers (Rule 7(3));
- Establish a rehabilitation fund for bonded labourers meant to finance rehabilitation programmes set up by Vigilance Committees and to provide financial and legal assistance to bonded labourers (Rule 9).

The 2001 National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers calls for:

- Registration of all brick kilns
- A national survey on the extent of bonded labour
- A nationwide awareness raising campaign
- Provision for interagency cooperation and government-NGO cooperation to combat bonded labour
- A National Committee for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers, which is to meet periodically under the supervision of the Minister for Labour to review the implementation of the BLSA 1992.

Definition

The BLSA 1992 defines bonded labour within the framework of the *bonded labour system*. Under this system the labour provided to the employer is forced in consideration of an advance given by the employer as part of an agreement with the labourer. The relationship between the labourer and the employer is described as a debtor-creditor relationship.

Features of the agreement and debtor-creditor relationship highlighted by the law which constitute bondage are divided into two lists of conditions: those that serve as justifications for the extraction of forced labour and those that describe the work situation of the labourer. At least one condition from each list must apply for the labourer to be considered bonded.

(1) A labourer is bonded if their labour is compelled by:

- Receipt of an advance or their being a lineal ascendant or descendant of someone who has received an advance from the employer;
- Demand to satisfy a customary or social obligation;
- An economic consideration received by themselves or any of their lineal ascendants or descendants.

(2) A labourer is bonded if their labour:

- Is rendered by
 - themselves or through any member of their family or any dependant
 - in service to or for the benefit of the creditor
 - for a specified or unspecified period
 - either without wages or for nominal¹⁴⁰ wages;
- Results in forfeit of the freedom of employment or other means of livelihood for a specified or unspecified period;
- Results in forfeit of the right to move freely;
- Results in forfeit of the right to appropriate or sell at market value
 - any of their property
 - the product of their own labour
 - the product of the labour of a member of their family or other dependants
 - including an agreement with the creditor that a designated individual will provide labour in the event that the debtor fails to repay the debt.

Nepal

On 17 July 2000, Nepal's government decreed that *Kamaiya* labour was abolished, stating that all forced labourers working in the name of the *Kamaiya* system were freed, that all outstanding bonded debts were cancelled, and citing the National Civil Code's provisions for a penalty of 3-10 years imprisonment for placing a person in slavery, serfdom or bondage.

In order to codify the Decree, the government of Nepal passed the more specific *Kamaiya Labour (Prohibition) Act of 2002* ('KLPA 2002').

Prohibitions

- All *Kamaiya* labourers are freed (Ch. 2, Sec. 3)
- *Kamaiya* labour is abolished (Ch. 2, Sec. 4)
- All *Kamaiya* labour debts are cancelled (Ch. 3, Sec. 5)
- Any and all property seized from a *Kamaiya* labourer must be returned within ninety days from the commencement of the Act (Ch. 3, Sec. 7)

Penalties

- Employers who practice bonded labour shall be fined NRs.15,000 to NRs. 25,000 and must also pay an amount double the amount of the minimum wage fixed under this Act for each day of such work (Ch. 6, Sec. 16(1))
- Any person failing to return the property obtained as security for the debt of a *Kamaiya* labourer shall be fined Rs. 10,000 and Rs. 15,000 and be compelled to return the property (Ch. 6, Sec 16(2))
- Employers who pay labourers no wages or wages less than the minimum wage shall be fined Rs. 1,000 to Rs. 3,000, and also pay the person employed double the amount of the minimum wage fixed under this Act for each day of such work (Ch. 6, Sec. 16(3))
- Any person who opposes or obstructs investigations into cases of *Kamaiya* labour shall be fined Rs. 3,000 to Rs. 10,000 (Ch. 6, Sec. 16(4))

Rehabilitation

- The Act establishes a fund for the rehabilitation of bonded labourers, which is financed by donations from the government and from other organisations or individuals (Ch. 5, Sec. 12(1))
- Rescue Operation (consisting of providing emergency housing, food, education, healthcare and one *kattha* of land to each landless freed family) to be followed by a long-term Rehabilitation Plan that also focuses on providing land to landless freed labourers (Ministry of Land Reform and Management plan of 2001)

Administration

- Freed *Kamaiya* Rehabilitation and Monitoring Committees are formed to implement government programmes for rehabilitation of former bonded labourers and perform necessary functions in relation to the rights and interests of freed *Kamaiya* (Ch 4; Ch. 4, Sec. 8(g))
- Freed *Kamaiya* Rehabilitation and Monitoring Committees must update record of freed *Kamaiya*, identify cases of *Kamaiya* labour, make recommendations for loans to free *Kamaiya* to establish income-generating enterprises, and coordinate with other agencies and organisations concerning education, employment-related training, and skills development (Ch. 4, Sec. 8)
- The government of Nepal shall make arrangements for the settlement, employment and income generation of freed *Kamaiyas* (Ch. 4, Sec. 14)
- The government of Nepal shall fix the minimum wage rates of agricultural labourers, and no person shall employ agricultural labourers without wages or at wages below the minimum wage (Ch. 4, Sec 13)

Definition

The KLPA 2002 defines bonded labour within the framework of the *Kamaiya labour system*. Under this system, labour is provided to the employer as creditor, where the labourer receives no wages or low wages. The labour is provided for the following reasons:

- To repay loans obtained by him or any member of his family, or to pay the interest on the loan;

- To repay loans obtained by ancestors;
- To repay the *Kamaiya* loans of a *Kamaiya* labourer for whom he had provided surety to the creditor.

Although the Act defines bonded labour within the context of the practice of bondage known as the *Kamaiya* system, which is generally understood to describe the bondage of members of the *Tharu* ethnic group for agricultural labour, it is clear from the definition that the law applies to other forms of bonded labour, of any person or groups of people. The Act further specifically mentions other forms of customary or traditional forced labour systems involving economic, financial, and social obligations which are covered by the Act.

Bangladesh

Bangladesh has yet to enact a bonded labour law, and overall the government does not acknowledge that there is a bonded labour problem in the country. The government does recognise that indebted land-poor citizens have sometimes been subjected to 'extra-economic coercion' by their creditors, however.¹⁴¹ Furthermore, the government has allowed the ILO's programme on Prevention and Elimination of Bonded Labour in South Asia (PEBLISA) to operate in the country, although only with the stated goal of preventing people from falling into bondage rather than releasing or rehabilitating any current bonded labourers.¹⁴²

One of the rare instances when the government explicitly acknowledged the existence of bonded labour occurred in reference to bonded child labourers, when Bangladesh adopted the year 2000 as its deadline to eliminate child labour in 'hazardous and bonded' conditions.¹⁴³ This commitment was not followed up with any legislative action on bonded child labour, however. In a December 2000 submission to the UN General Assembly's Special Session on Children, the government once again reiterated its commitment to eliminate hazardous child labour but made no further mention of the bondage of child labourers.¹⁴⁴

Sri Lanka

Sri Lanka has yet to enact a bonded labour law, although it has recently been urged by the ILO Committee of Experts to pass legislation to protect children from bonded child labour.¹⁴⁵

Indonesia

Indonesia has yet to enact specific bonded labour legislation. However a recent legislation, the Manpower Act of 2003, prohibits anyone from employing or involving anyone under 18 in the worst forms of child labour, including all 'practices similar to slavery' (Art. 74).¹⁴⁶ The penalty for violating this provision of the Act is 2-5 years' imprisonment and/or a fine of Rp. 200-500 million (Art. 183).

Philippines

The Philippines has yet to enact a specific bonded labour law. However, the Anti-Trafficking Act of 2003 prohibits the recruitment, transport or receipt of anyone for the purpose of bonded labour (Sec. 4(a)). The law also forbids anyone from knowingly benefiting, financially or otherwise, from bonded labour, or from using the services of a person held in bonded labour (Sec. 5(g) read in conjunction with Sec. 3(d)). The penalties for contravening these provisions include imprisonment for 15 or 20 years coupled with fines ranging from 500,000 to 2 million pesos (Sec. 10).

International Instruments

International instruments include a number of different tools of varying levels of binding force. Conventions, when ratified, are legally binding agreements to follow given guidelines and take specific action to address a phenomenon. These instruments often require that governments enact new laws or modify existing laws to conform with requirements and procedures set in the instrument. They are most effective when applied by governments as minimum standards for legislation, taking into account

the specific characteristics of bonded labour systems within a country and what is needed to address it. They are also useful tools for advocacy, providing moral and policy space for the development of local understandings and frameworks, and a lever to push for national legislations.

Several international instruments either explicitly prohibit bonded and forced labour or the exploitation and discrimination that these forms of labour involve for children.

Universal Declaration of Human Rights (UDHR)

The UDHR states that every individual shall strive by teaching and education to promote respect for the rights and freedoms of all persons and to secure the universal and effective recognition and observance of these rights. This is required in recognition of the dignity and worth of the human person and in the equal rights of men and women and the aspiration for a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want. The Declaration specifically states that:

- No one shall be held in **slavery** or servitude; slavery and the slave trade shall be prohibited in all their forms (Article 4)
- No one shall be subjected to torture or to cruel, inhuman or **degrading treatment or punishment** (Article 5)
- Everyone has the right to recognition everywhere as a **person** before the law (Article 6)
- All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal **protection against any discrimination...** and against any incitement to such discrimination (7)
- Everyone has the right to an **effective remedy** by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law (8)
- Everyone has the right to **freedom** of movement and residence within the borders of each State (13)

- Everyone, as a member of society, has the right to **social security** and is entitled to realization... of the economic, social and cultural rights indispensable for his dignity and the free development of his personality (22)
- Everyone has the right to work, to **free choice of employment**, to just and favourable conditions of work and to protection against unemployment; everyone, without any discrimination, has the right to equal pay for equal work; everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection (Article 23)
- Everyone has the right to **rest and leisure** (Article 24)
- Everyone has the right to a **standard of living** adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control (Article 25)
- Everyone has the **right to education**. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory... Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups... (Article 26).

International Covenant on Economic, Social and Cultural Rights (CESCR)

The CESCR follows from the recognition, in accordance with the UDHR, that the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights. The Covenant specifically states that:

- States recognize the right to **work**, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard

this right; the steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual (Article 6)

- States commit to ensure the right of everyone to form **trade unions** and join the trade union of his choice... for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed (Article 8)
- States recognize the right of everyone to **social security**, including social insurance (Article 9)
- Special measures of protection and assistance should be taken on behalf of all **children and young persons** without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health, or dangerous to life, or likely to hamper their normal development should be punishable by law (Article 10)
- The States Parties to the present Covenant recognize the right of everyone to an adequate **standard of living** for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions (Article 11)
- States recognize the right of everyone to **education**. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups; the development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved (Article 13).

International Covenant on Civil and Political Rights (CCPR)

The CCPR follows from the recognition, in accordance with the UDHR, that the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights. The Covenant specifically states that:

- No one shall be held in **slavery or servitude**; slavery and the slave-trade in all their forms shall be prohibited (Article 8)
- Everyone has the right to **liberty and security** of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law (Article 9)
- No one shall be imprisoned merely on the ground of inability to fulfil a **contractual obligation** (Article 11)
- Everyone shall have the right to **freedom of association** with others, including the right to form and join trade unions for the protection of his interests (Article 22)
- Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of **protection** as are required by his status as a minor, on the part of his family, society and the State (Article 24)
- All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (Article 26).

ILO Forced Labour Convention, 1930 (ILO C.29)

The Forced Labour Convention, 1930 prohibits the use of forced labour and defines 'forced or compulsory labour' as:

- All work or service which is exacted from any person
 - under the menace of any penalty, and
 - for which the said person has not offered himself voluntarily.

Bonded children are clearly under menace of severe penalty should they try to resist their employers' demands, stop working or escape. However, children are often bonded through an explicit or implicit agreement or commonly accepted cultural and social practices. Though bonded labour is not specifically mentioned in the Convention, it has been reported on and addressed in reference to the Convention. However, in a larger context, it can be confusing as to whether all bonded labour will be considered forced labour as an agreement can be considered voluntary. However, it is clear that if any individual wishes to stop working, their employer has no right to force them to continue. The employer may seek redress from the courts or other authorities for what they consider the worker owes them, but they may not apply force or coercion of any kind to the worker for any reason. Wherever a child is not free to leave or change their work, they are engaged in forced labour. Additionally, the Committee of Experts on the Application of Conventions and Recommendations of the ILO has sometimes commented that there are certain types of work that are so extremely harmful and exploitative that it is not possible to consider that children would engage in them voluntarily. Since bondage may be regarded as a form of slavery and is certainly a severe form of exploitation, such work would be considered forced labour.

ILO Abolition of Forced Labour Convention, 1957 (ILO C.105)

The *Abolition of Forced Labour Convention, 1957* follows on the prohibitions of forced labour and slavery of ILO C.29 and the UN Slavery Convention. It also references the *Protection of Wages Convention, 1949* (ILO C.95) which provides that wages shall be paid regularly and prohibits methods of payment which deprive the worker of a genuine possibility of terminating his employment. Among the specific modes of forced labour that the Convention addresses are:

- Forced or compulsory labour as a method or means of
 - mobilizing and using labour **for purposes of economic development**
 - **labour discipline**
 - racial, social, national or religious **discrimination**.

This Convention is not generally used to address bonded labour, either of adults or children. Among Asian countries, it has been used to challenge the use of forced labour for punishment of individuals acting or speaking in ways that are outlawed by religious or political statutes. However, the prohibition of the use of labour as a means of discrimination could conceivably cover cases of bondage in which individuals, families, communities, or specific groups of people are compelled to provide labour due to their social status based on accepted social and cultural expectations that they must accept such treatment without complaint or protest. Given the common use of exploitative credit arrangements, withholding or non-payment of wages, wage deductions to cover expenses of the employer, and other similar practices found in cases of bondage which limit the ability of the worker to leave or find other work, it is also conceivable that bondage could be considered a form of forced labour used as a means to discipline and control labour.

ILO Worst Forms of Child Labour Convention, 1999 (ILO C.182)

The *Worst Forms of Child Labour Convention, 1999* (C. 182) of the International Labour Organization defines the worst forms of child labour as:

- All forms of **slavery or practices similar to slavery**, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict
- The use, procuring or offering of a **child for prostitution, for the production of pornography or for pornographic performances**
- The use, procuring or offering of a child for **illicit activities**, in particular for the production and trafficking of drugs as defined in the relevant international treaties
- Work which, by its nature or the circumstances in which it is carried out, is likely to **harm the health, safety or morals** of children.

Bonded child labour is a practice similar to slavery and a form of forced labour, and thus is clearly a worst form of child labour. Since the types of work which a bonded child may perform are varied, a specific situation of

bondage may also include other elements of the definition of 'worst forms' such as involvement in prostitution, pornography, and illicit or criminal activities. Situations of bondage tend to involve severe exploitation and various violations of the child and thus also involve harm to their physical and mental health, safety, and development.

United Nations Convention on the Rights of the Child (UNCRC)

The UNCRC recalls the proclamation of the Universal Declaration of Human Rights that childhood is entitled to special care and assistance and additionally that the child by virtue of their physical and mental immaturity requires special attention, and the consideration that the child should be fully prepared to live an individual life in society, and brought up in the spirit of peace, dignity, tolerance, freedom, equality and solidarity.

Implementation of the rights enumerated in the Convention are governed by four principles.

- **Non-discrimination** – All children are entitled to enjoy all rights guaranteed to them
- **Best Interests** – All actions involving or impacting children and the realisation of their rights shall take into account their best interests
- **Life, Survival, and Development** – The life, survival, and development of children must be protected and ensured
- **Participation** – Children are to be given opportunities to freely express their opinions in all matters concerning them and to have their views taken into account

The Convention specifically states:

- States shall respect and ensure rights to each child without **discrimination** of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status (Article 2)
- States undertake to ensure the child such **protection and care** as is necessary for his or her well-being, taking into account the rights and

duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures (Article 3)

- States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the **standards** established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision (Article 3)
- States shall ensure to the maximum extent possible the **survival and development** of the child (Article 6)
- States recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such **health care services** (Article 24)
- States Parties shall recognize for every child the right to benefit from **social security**, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child (Article 26)
- States recognize the right of every child to a **standard of living** adequate for the child's physical, mental, spiritual, moral and social development and shall assist parents as the primary caregivers in implementing this right by providing material assistance and enacting support programmes (Article 27)
- States recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall make primary education compulsory and available free to all; make secondary education available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need; take measures to encourage regular attendance at schools and the reduction of drop-out rates (Article 28)
- States recognize the right of the child to **rest and leisure**, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts (Article 31)

- States recognize the right of the child to be protected from **economic exploitation** and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development (Article 32)
- States undertake to protect the child from all forms of **sexual exploitation and sexual abuse** (Article 34)
- States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or the **traffic in children** for any purpose or in any form (Article 35)
- States Parties shall protect the child against all **other forms of exploitation** prejudicial to any aspects of the child's welfare (Article 36)
- No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment and no child shall be deprived of his or her liberty unlawfully or arbitrarily, but only in conformity with the law (Article 37)
- States Parties shall take all appropriate measures to promote **physical and psychological recovery and social reintegration** of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child (Article 39).

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

The Convention reaffirms the principle of the inadmissibility of discrimination of any kind in the enjoyment of rights and freedoms and expresses concern that despite the widespread recognition of this truth, extensive discrimination against women continues to exist. It notes that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs and emphasizes that the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of

States is essential to the full enjoyment of the rights of both men and women. The Convention specifically states that:

- States shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the **elimination of prejudices** and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women (Article 5)
- States shall ensure application of the same criteria for selection in matters of employment and recognize the right to **free choice of profession** and employment, equal remuneration... (Article 11)
- States shall take into account the particular problems faced by **rural women** and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas (Article 14).

United Nations Slavery Convention, 1926 and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 1956

The *UN Slavery Convention, 1926* defines slavery as:

- The status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.

The *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956* further specifies forms of slavery such as:

- Debt bondage
 - The status or condition arising from a pledge by a debtor of his personal services or of 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.

- Children and Young People
 - Any institution or practice whereby a child or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour.

Bondage of children is clearly a form of slavery in the face of the common denial of freedom. Explicit mention of the phenomenon of debt bondage appears also in the ILO C.182 (Worst Forms of Child Labour). Among international organisations and agencies, 'bondage' and 'debt bondage' are commonly interchanged, and only the term 'debt bondage' appears in international instruments. Existing national legislations and civil society understandings generally emphasize the labour and social relationships, including the economic and financial, which constitute bondage and which may or may not include overt elements of debt. However, almost all forms of bondage involve a financial element that can be interpreted as debt if necessary, and it is common that the bonded child works without a realistic promise of eventual freedom. A unique aspect of the definition found in this Convention is that non-specification of the nature and length of service required to repay a 'debt' with labour – or what can be understood as the lack of a real 'contract' specifically and reasonably connecting the debt to the labour as repayment – also constitutes bonded labour.

Ratification of International Conventions

	UDHR	ICESCR	ICCPR	ILO C.29	ILO C.105	ILO C.182	CRC	CEDAW	UN Slavery 1958
Burma									
Bangladesh									
Cambodia									
India									
Indonesia									
Nepal									
Pakistan									
Philippines									
Sri Lanka									
Thailand									

■ Ratified international convention

■ Coverage international convention

11 Interventions

Task Force experience has shown that bonded child labour cannot be solved in isolation from the bonded labour of families as a whole or the bondage of other adults in the community. It is also clear from interventions made by Task Force members that many of the elements of an effective response to bonded labour are common to both adults and children. Strategies to eliminate adult and child bonded labour need to go beyond the symptoms to address the underlying causes, the deeply rooted and complex nature of which requires an integrated and long-term approach.

Legal interventions remain the bedrock of actions against bonded child labour, especially in the enforcement of law where it exists and the development of legislation where it does not. In India and Pakistan, activating Vigilance Committees – which are responsible for local level implementation of bonded labour laws – has been a cornerstone of Task Force member actions. Task Force members have supported and encouraged Vigilance Committees to carry out their role to secure the

release and rehabilitation of bonded labourers and their families. In addition to seeking legal redress by taking cases to court, some Task Force members take direct action to enforce the law by identifying and rescuing bonded child labourers themselves, seeking subsequently the requisite release certificates to make their freedom official. However, the release of bonded child labourers – as with adults – without sufficient rehabilitation support can put them in a worse situation. It is, therefore, important to have detailed rehabilitation plans in place before their release.

At the international level, Task Force members have strongly supported the enforcement of legal standards such as the United Nations (UN) Convention on the Rights of the Child (1989) and the UN Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956), as well as International Labour Organization (ILO) conventions on forced labour (Conventions 29 and 105) and on child labour (Conventions 138 and 182) and other international laws supporting the liberation of bonded child labourers and their families. Task Force members continue to push for ratification of these standards where necessary and for the political will to enforce them.

Education actions are also key in the fight against bonded child labour, both as a preventative strategy and as a central part of efforts to rehabilitate released bonded child labourers. State provision of universal free, accessible, compulsory and meaningful primary education is essential to sustainable prevention efforts and Task Force members continue to lobby and campaign for this. On the ground, Task Force interventions include providing non-formal education, as well as working to get children back into the formal school system and providing vocational training opportunities where appropriate.

Rehabilitation programmes must be holistic and sustainable. Task Force experience has shown that rehabilitation processes must serve the basic physical, social, psychological, cognitive and emotional needs of children. At the same time their families and communities must be assisted with finding decent shelter, sufficient food and most importantly a sustainable income in order for their freedom to be maintained.

Rehabilitation of bonded child labourers: lessons learned from Task Force experience

- Providing education to the children concerned is a crucial part of successful rehabilitation efforts. Components of education should include: literacy and numeracy skills; recovery from trauma and improvement of self-esteem; health and physical education; social development and vocational training;
- Real rehabilitation can only occur if there is support for the child from the family and community;
- It is essential that those who are being 'rehabilitated' should participate fully in the development of rehabilitation policies, processes and plans;
- The rehabilitation process must be time-bound;
- The rehabilitation process must equip those concerned with the tools to guard against slipping back into bondage, and must ensure that alternative livelihood opportunities are in place for the children and their families.

Task Force experience demonstrates the importance of **advocacy and awareness raising** interventions in efforts to stop bonded child labour. Efforts range from local, national and international campaigns and mass mobilisations to individual lobbying of government officials, employers and others. Newspapers, television and radio outlets have been encouraged to document and publicise information about bonded child labour and its prevalence. School children have been sensitised to carry the message home to parents and other family members.

Child participation has been a key component of many Task Force actions on bonded child labour for some years. By recognising the value of children's knowledge and opinions, Task Force members have been able to involve children (both bonded child labourers and others) effectively in many activities, in particular as advocates for the cause and in the development and monitoring of rehabilitation methods and processes.

Solutions to bondage demand an understanding of and action against a variety of social and economic issues. Task Force members' experience shows the importance of forming broad **alliances** with other NGOs, social

movements, trade unions and others which address issues related to bonded child labour. These include NGOs and others working on land and tribal rights, universal primary education and health, women's rights, environmental conservation, food security and human rights. It is important that policy makers and grassroots activists communicate with each other to ensure that policy and practice are mutually reinforcing.

12 Challenges

Task Force experience has shown that the key to addressing bonded child labour is to understand that it is **not simply a child labour problem**. It is not a problem which can be solved in isolation from adult bonded labour nor in isolation from labour and social justice issues. An effective programme against bonded child labour requires a holistic approach in which land distribution policies, provision of stable and durable employment for adults, enforcement of minimum wage provisions, policies for the protection and rights of migrants, construction of low-cost dwellings and proper sanitation facilities, universal education of equal quality for all children, the protection of civil rights and the broad-scale sensitisation of society at large regarding the rights of groups vulnerable to bonded labour all play their part. Programmes tackling bonded labour must also address the manifestation of **discrimination** against certain sections of the population on the grounds of their caste, ethnic origin, and religious beliefs, as well as against migrants, orphans, and other groups perceived as transient or otherwise not entitled to protection.

Effort must be sustained to ensure effective implementation and further development of **Legal frameworks**. Laws prohibiting bonded labour should not only require the immediate release of adult and child bonded labourers but must adequately provide for them and their families in a sustainable way. Furthermore, the perpetrators of bonded labour must not go unpunished and prosecutions should be commensurate with the crime that has been committed. Such prosecutions should be widely publicised locally and nationally to spread the message that bonded labour will not be tolerated. Continuing to activate and strengthening the resolve of Vigilance Committees or other local government structures

with the mandate to take action is important, as is the need for training of law enforcement officials to better protect children from bonded labour. Efforts must be made to sustain the engagement of social movements and the use of public interest litigation in the refinement and development of legal frameworks to ensure they are responsive to the changing nature of bondage in the context of exploitation and social justice in general.

The biggest challenges to rehabilitation efforts are in making them sustainable and ensuring that the approach provides alternative livelihoods in the long-term, in order to prevent people from relapsing into bondage or being subject to other forms of exploitation. The **release and rehabilitation** of bonded labourers (both adults and children) must be monitored by competent, independent and properly resourced authorities. There is an urgent need to ensure that funds set aside by governments for the purpose of rehabilitation get to bonded labourers and their families quickly upon identification and release, and that appropriate guidance is given as to their use. Rehabilitation schemes should be connected to other social development and employment creation policies, and efforts to combat discrimination and labour and other forms of exploitation, such as poverty alleviation and rural development programmes. In particular, governments must materially support released bonded labourers, such as by providing them with land and helping them to develop cooperatives, in order to enable the released labourers to use their skills (for example as farmers) to sustain themselves and their families. Savings and credit self-help groups can also be helpful for sustainability. Furthermore, bonded labourers should be assisted in organising to protect themselves and their families – for example, by establishing trade unions.

There is a dearth of data on bonded *child* labour which impedes advocacy as well as efforts to target direct assistance to those most in need. Little aggregate data on the incidence, nature and extent of bonded child labour exists, even in those countries where it is clear that there is a major problem. More research is needed to understand bonded child labour better, both in circumstances where children work as part of families and as individuals. Sectors where bonded child labour is prevalent should be identified and action-oriented studies undertaken on

the extent, nature, mechanisms and features of bonded child labour, using participative and ethically sound methodologies and, in particular, involving children with relevant experience. Research is also needed in order to understand the links between bonded child labour and education, migration and trafficking and the broader political economy of bondage and exploitation more generally. Who is doing what and where on bonded child labour should be mapped, and legislative and judicial shortcomings documented in order that improvements can be made.

Increased and more coordinated **advocacy** efforts at local and international levels are required to generate the political and social will to overcome the established social and cultural practices, entrenched attitudes, exploitative social and labour relationships, and vested interests that make bonded labour a seemingly intractable problem. Advocacy should focus on strengthening social **movements** against bondage and exploitation of children, and ensuring that appropriate action is taken in accordance with the law and in the interests of bonded child labourers and their families. The right of every child to education should feature prominently in lobbying efforts. In particular, awareness must be raised amongst legislators, the judiciary, law enforcement officials, lawyers, journalists and government officials to promote understanding of bonded child labour and to motivate these groups to act in accordance with their obligations.

Bonded child labourers should not merely be the beneficiaries of our efforts. Although reaching bonded child labourers in the communities where they are hidden is a big challenge, their **participation must be at the heart of all of our actions**, whether these are advocacy, research, rehabilitation or other efforts. Bonded child labourers are vulnerable, but at the same time have experience and strengths that can serve as a force for generating social support and ultimately in consigning bondage to history.

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Provides education for bonded child labourers and their families, and awareness raising. Encourages child participation through children's clubs. (Works especially on bonded child labour in rice mills.)

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Carries out rescue operations, provides rehabilitation/education to bonded child labourers and undertakes mass awareness campaigns on the issue.

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Provides education and vocational training to bonded child labourers.

Nepal:

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Provides rehabilitation through vocational training, education and income generating activities for bonded child labourers and their families. Campaigns against bonded labour.

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Website: www.insec.org.np

Conducts research on the situation of bonded child labour in Nepal, provides education and vocational training to bonded children and conducts training programmes for government officials for implementing legislations relevant to bonded child labour.

Rural Reconstruction Nepal (RRN)

Contact person: Ratna Karki,
Address: 667 Neel Saraswoti Marg, Lazimpat, Kathmandu
P.O. Box : 8130
Telephone: (977 1) 442 2153
Fax: (977 1) 441 8296
Email: rrn@rrn.org.np
Website: www.rrn.org.np

Rescues and rehabilitates bonded child labourers, provides education and vocational training to rescued children and advocates for rehabilitation for bonded child labourers.

Pakistan:

Society for the Protection of the Rights of the Child (SPARC)

Contact person: Mr Qindeel Shujaat, Executive Director
Address: No 14, 4th Floor, 109- West, Sardar Begum Plaza
Blue area, Islamabad
Telephone: (+92 51) 227 9504
Fax: (+92 51) 227 9256
Email: ed@sparcpc.org
Website: www.sparcpc.org

Legal and awareness raising actions. Release of bonded child labourers and their families through legal interventions.

Pakistan Institute for Labour Education and Research (PILER)

Contact Person: Zulfiqar Ali Shah
Address: ST-001, Sector X/5, Gulshan- e- Maymar
Karachi-75340.
Telephone: (+92 21) 635 1145-7
Fax: (+92 21) 635 0354
Email: piler@cyber.net.pk
Website: www.piler.org.pk

Philippines:

Kamalayan Development Foundation (KDF)

Contact Person: Mr. Alejandro Apit, Executive Director
Address: 43 Happiness St. DIHO 2, Buhangin, Davao City
Philippines
Telephone: (+63 82) 241 8329
Email: alex_apit@yahoo.com

Education Collective for Advocacy, Research and Empowerment (EDUCARE)

Contact Person: Richard Valenzuela
Address: 2238 F. Munoz street, Singalong, Manila
Philippines
Telephone: (+63 2) 873 1028
Fax: (+63 2) 525 1979
Email: educare.inc@gmail.com



Child Workers in Asia

Child Workers in Asia Foundation

120/16 Soi Sukhvit 23 Klong Toey-Nua, Wattana, Bangkok 10110 Thailand

Tel: (662) 662 3866-8

Fax: (662) 261 2339

Email: cwanet@csloxinfo.com