

# Policy Report

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*No. 18*

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## **Modern Day Slavery: A Study of Tribals and Dalits as Bonded Labour in Brick Kilns**

Ajita Banerjee



**THE HINDU CENTRE**

*for*

Politics and Public Policy

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A Study of Tribals and Dalits  
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## ABSTRACT

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**S**cholars have analysed bonded labour in South Asia as a result of poverty, social exclusion, and the failure of state mechanism to act against the practice and its underlying causes. The chronically poor, predominantly drawn from the Scheduled Castes and minority groups are often those who are enslaved under this oppressive system.

This Report examines the conditions of migrant labour from rural areas of four States – Punjab, Uttar Pradesh, Rajasthan and Bihar, and analyses the causes behind the persistence of bonded labour even 40 years after it was abolished. Based on interviews of labourers, brick kiln owners, civil society members, lawyers and government officials it brings out the issues of unorganised labour in India, and how industries disregard labour protection and welfare.

The action taken by the state to end the labour bondage is ineffective, while the efforts of non-government organisations have been more on release than rehabilitation. The Report suggests the manner in which bonded labour should be contextualised in the discussion to improve labour standards.

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Most importantly, I owe this report to all the people I interviewed at the brick kilns and thank them for the trust, the honesty, compassion and stories that will remain an inspiration for a lifetime.

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## I. Introduction

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*“Are prosperity and democracy for a minority of the world population really compatible in the long term with the exclusion from these ‘goods’ of the larger part of mankind, condemned to live in dire poverty and subordination?”<sup>1</sup>*

**B**onded labour, despite constitutional safeguards, continues to thrive in India and other South Asian countries such as Bangladesh, Afghanistan and Pakistan. Modern day slavery is a reminder of our deplorable past of slave history that, as a progressive democracy, we claim to have left behind. The narrative of slavery has been changed to complement the changing needs of industries. Bonded Labour or ‘*bandhua mazdoori*’ was historically associated with rural economies where peasants from economically disadvantaged communities were bound to work for the landlords. In the present times, however, bonded labour is found to exist in both rural and urban pockets in unorganised industries such as brick kilns, stone quarries, coal mining, agricultural labour, domestic servitude, circus and sexual slavery.

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<sup>1</sup> Breman, Jan. 2003. *The Labouring Poor in India: Patterns of Exploitation, Subordination and Exclusion*; Oxford University Press, New Delhi.

Bonded labour is associated with the advancement of a loan, which imposes a debt against which free or cheap labour is demanded. The condition of bondage arises when the indebted worker offers his labour for the repayment of the loan, it being the only collateral he can offer in the absence of any other asset or the capacity to earn a steady income. Workers in such a trap usually work for long hours under extremely hazardous conditions with little or no wages and find themselves incapable of opting out of this bargain as they do not have any other source of income that could be utilised to repay the loan and render themselves free. Though the economic value of their work as a bonded labourer is much higher than the original sum of loan, the worker remains in bondage until the work for that season is over. Often, the debts are passed on to the next generations hence creating intergenerational debt bondage. In certain cases, the debt is calculated in currencies equivalents of commodities such as rice or wheat, which adds up to a huge sum that the poor workers are unable to pay.<sup>2</sup>

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<sup>2</sup> Srivastava, Radhika, D, 2007. [Repaying 40 kg rice with 27 years of bonded labour](#), *The Times of India*, March 26. Last accessed February 18, 2016.

“Debt bondage can be intergenerational, when the burden of labour and debt are transferred to the next generation. Increasingly generational and family bondage has given way to more individualised and temporary forms of bondage such as seasonal bondage where a worker is bound by an advance to an employer for a restricted period, but where the employer uses that advance or debt to exploit the worker.”<sup>3</sup>

Bonded labour is identified by an accumulation of advances for sustenance and interest on the initial advance, which keeps spiralling into a huge amount. Workers’ wages are never calculated and they are paid an extremely low amount that is decided by the brick kiln owners, which varies between States. Workers are made to work for 18-20 hours a day. Often, violence is used to coerce the workers to stay bound to the work site. Workers are rarely organised or associated with labour unions and are completely bereft of protection under labour laws. Factors such as the informality of contracts and illiteracy of workers “enable employers to circumvent labour

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<sup>3</sup> General Federation of Nepalese Trade Unions (GEFONT), 2008. [\*Paying Back in Sweat and Tear: A Consolidated Report on the studies of Kamaiya Liberation, Brick Kiln and Domestic Labour in Nepal, Kathmandu.\*](#) (Henceforth *Nepal Consolidated Report*, 2008), p.15-16

laws binding workers into persistent bondage”<sup>4</sup> paying minimal wages.

“Bonded labourers, both urban and rural, are chronically poor”<sup>5</sup> and resort to casual work in unorganised sectors. A large number of the chronically poor are mostly landless, possessing no other assets. Majority of the agricultural labourers were not included in land redistribution, post-independence that leave them vulnerable to exploitation as bonded labourers under landowners. Fear of unemployment coerces the chronically poor to take up underpaid or even unpaid work under hazardous conditions as long as they can sustain themselves and their families.

Majority of the bonded labourers belong to Dalit or Tribal communities and have faced oppression and exploitation for several generations and continue to bear the brunt of a highly stratified society that has strategically maintained a certain section of population to serve as cheap labour to flourish the

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<sup>4</sup> Upadhyaya, Krishna Prasad, 2008. *[Poverty, Discrimination and Slavery: The reality of bonded labour in India, Nepal and Pakistan.](#)* Anti-Slavery International.

<sup>5</sup> Siddharth, Kara, 2012. *[Bonded Labor – Tackling the System of Slavery in South Asia.](#)* Columbia University Press.

capitalist economy. While explaining caste dynamics as an essential tenet in understanding bondage, Breman observes,

“Bonded labourers belong to marginalised communities while employers originate from the more elevated social ranks. This skewed distribution is partly due to the fact that SCs and STs are over-represented among the poor, the under-employed and the landless.”<sup>6</sup>

While caste is a rudimentary tenet when looking at bonded labour, the social hierarchy of class also comes into play. Breman explains,

“Even if the working relation is mainly of an economic nature, bondage arises only in communities where the vertical ties of subordination, rooted in the consciousness of both employers and workers, are still sufficiently strong to make bondage acceptable.”<sup>7</sup>

Outlawing bonded labour in India, a statute was enacted known as the Bonded Labour Abolition Act, 1976, that introduced provisions for the rescue and rehabilitation of bonded labourers and prosecution of the employer. Despite constitutional safeguards, bonded labour continues to exist due to lax vigilance and lack of an alternative recourse for the poor.

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<sup>6</sup> Breman, Jan, 2008. *Of bondage new and old*. The Indian Journal of Labour Economics, Vol. 51, No. 1.

<sup>7</sup> Ibid.

Modern Day Slavery:  
A Study of Tribals and Dalits as Bonded Labour in Brick Kilns

The research conducted for this Report has attempted to bring out the factors that contribute to the existence of modern day slavery. Through detailed, qualitative interviews, the researcher has attempted to collate testimonies of labourers who have worked in conditions of bondage and build a narrative through these interviews.

The interviews were conducted with workers, brick kiln owners, social activists and officers at labour departments across four States – Rajasthan, Punjab, Uttar Pradesh and Bihar.

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## II. Understanding Slavery

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**B**onded labour is “the most ancient and most contemporary form of human servitude.”<sup>8</sup> The condition of bondage arises when the indebted worker offers his labour for the repayment of the loan, it being the only collateral he can offer in the absence of any other asset or the capacity to earn a steady income. Such workers are trapped into working for extremely meagre amounts of money, which is just enough to sustain them.

Over time, bondage becomes chronic as the illiterate worker is tricked into believing that a high rate of interest has been levied on the borrowed sum and the final amount owed to the moneylender is monumentally higher than the amount borrowed. In certain cases, the debt becomes intergenerational. During one of my interviews of brick kilns workers in Jhalor, Rajasthan, I came across a labourer who had been paying off a debt taken by his father, which was a sum of Rs. 5,000. The father had worked as a bonded labour at the

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<sup>8</sup> Siddharth, Kara, 2012. [\*Bonded Labor – Tackling the System of Slavery in South Asia\*](#). Columbia University Press.

same brick kiln that the son now works at. Incidentally, the said worker belonged to an extremely marginalised tribal community in Rajasthan and had never received any form of education.

Most of the labourers recruited by brick kiln owners in a similar manner are chronically poor, landless and belong to the Dalit or tribal communities. Due to abject poverty, members from these communities are often forced to borrow money from a local moneylender commonly referred to as '*seth*' or '*bania*'. The lack of opportunity to earn a steady income and save money, aggravated by the lack of education, identity cards, or a permanent residence, makes it extremely difficult for the labourers to access formal credit market for loans. The moneylenders who are predominantly landowners usually belong to an upper caste and socio-economic class, who then capitalise on the poverty of the labourers and exploit them for their benefit by charging exuberant interest rates on the loan. Owing to the absence of any other collateral to offer against the loan, they become bonded to the moneylender by working for him to pay back the debt. As Siddhartha Kara, in his book on bonded labour observes, 'Both parties tend to accept this

equation – the rich with sense of entitlement and the poor with fatalism.”<sup>9</sup>

The United Nations Office of the High Commissioner for Human Rights (OHCHR) classifies “debt bondage” as a practice “similar to slavery” and defines it as:

“[T]he 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 [.]”<sup>10</sup>

On the situation in India, an article in *The Hindu* (2014) notes:

“Almost nine in 10 workers in India labour in the informal sector — unorganised, poorly paid, without job security, and [are] also unshielded by most labour laws. Bonded workers toil for low wages and exploitatively long hours against usurious debt advances, but are blocked by force from changing their employers in search of better work conditions.”<sup>11</sup>

Modern slavery occurs in brick kilns, carpet weaving, embroidery and other textile manufacturing, forced

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<sup>9</sup> Siddharth, Kara, 2012. [Bonded Labour – Tackling the system of slavery in South Asia](#). Columbia University Press.

<sup>10</sup> The United Nations. 1956. [Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery](#). September 7. Last accessed November 26, 2015.

<sup>11</sup> *The Hindu*, 2014. [Of human bondage](#). July 13. Last accessed February 18, 2016.

prostitution, agriculture, domestic servitude, mining, and organised begging rings. According to the *Global Slavery Report* by the Walk Free Foundation, India has the highest number of persons living in slavery worldwide.<sup>12</sup> According to the report, 35.8 million people around the world are living in conditions of modern slavery out of which 14 million are in India.

Modern day slavery has evolved and endured despite the constitutional safeguards. According to *The Global Slavery Index, 2014*, India's case was particularly serious:

“India's modern slavery challenges are immense. Across India's population of over 1.2 billion people, all forms of modern slavery, including inter-generational bonded labour, trafficking for sexual exploitation, and forced marriage, exist. Evidence suggests that members of lower castes and tribes, religious minorities, and migrant workers are disproportionately affected by modern slavery.”<sup>13</sup>

Seen along with the persisting caste hierarchies in India, social factors such as caste determine, to a large extent, the fate of the communities facing chronic poverty and subordination. The report in particular highlights the vulnerable position of Dalits, as having the “least social protections and are highly

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<sup>12</sup> Hope for Children Organization Australia Ltd. 2014. [The 2014 Global Slavery Index](#). Last accessed February 25, 2016.

<sup>13</sup> Ibid.

vulnerable to severe forms of exploitation and modern slavery.”

Anti-Slavery International considers persons to be in a condition of slavery if they are:

“forced to work - through mental or physical threat; owned or controlled by an 'employer', usually through mental or physical abuse or the threat of abuse; dehumanised, treated as a commodity or bought and sold as 'property'; physically constrained or has restrictions placed on his/her freedom of movement.”<sup>14</sup>

To recall the UN’s definition, a person in debt bondage agrees to offer his services, or those of another, to work off his debt.

“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.”<sup>15</sup>

However, the presence of a debt and the pledge of labour as collateral offered against the debt— are essential but not sufficient requirements to indicate a situation of bonded labour.

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<sup>14</sup> Anti-Slavery International. n.d. [What is Modern Slavery](#). Last accessed November 26, 2015.

<sup>15</sup> The United Nations (1956) op. cit.

The International Labour Organisation (ILO) negotiated a Convention against forced labour in 1930. It defined forced labour as “all work or service which is exacted from any person under menace of any penalty and for which the said person does not offer himself voluntarily,” with the exception of penal labour and compulsory military service.

Article 1(a) of the 1926 Slavery Convention 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.”<sup>16</sup> A more recent definition is in the Rome Statute 1998, which defines ‘enslavement’ in Article 7(2) (c), and is useful for the study, as a crime against humanity:

“Enslavement” means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children.”<sup>17</sup>

Bonded labour in India thrives on a bedrock of inequality, social hierarchy and discrimination. Bonded labour, historically, was more prevalent in rural areas in the form of

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<sup>16</sup> United Nations, 1926. [\*Slavery Convention\*](#). Last accessed February 18, 2016.

<sup>17</sup> International Criminal Court, n.d. [Rome Statute of the International Criminal Court](#). Last accessed November 30, 2015.

agricultural labour where members belonging to the 'low castes' who were essentially landless peasants would serve at the fields of the feudal lords. However, bonded labour has crept in and manifested in different forms in urban spaces as well in the form of domestic servitude, begging rings, sexual slavery and manual scavenging.

### III. Economic Dimensions of Bonded Labour in India

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**A** large part of India's population lives in abject poverty, made worse by societal hierarches, caste structures and religious beliefs. Often, these factors contribute to oppression of minorities manifesting in ill practices such as human trafficking and bonded labour. These still prevail in India despite the steps taken towards abolition of slavery at national and international levels.

Bondage of migrant labour is seen as a way of both disciplining labour and keeping labour costs down. This is another reason why bonded labour systems thrive on the labour of migrants, women and children. Migratory labour, in a situation of transit and dislocation, is less equipped to assert their rights and demand entitlements. (Srivastava and Sasikumar, 2003) Lack of knowledge of the new region, its geography and language confines the migrant labour to the site of work and in control of the owner. Migrant labour thus proves to be more susceptible to exploitation and bondage.

While some think working at brick kilns is their fate, others believe it is utilising their only skill-set. Interestingly, I found a pattern of work allocation to workers from different regions. For instance the *jalai* workers in Punjab, Rajasthan as well as Bihar were from Uttar Pradesh (U.P.) Knowing that this pattern was more than just a coincidence, I inquired into the matter. A *jalai* worker from Bareilly, working in Muzaffarnagar, told me proudly while baking the bricks on top of the kiln, “Nobody else can do this work. We specialise in this work. All *jalai* workers are from my village. I have been doing this work for 40 years.” I received similar answers from workers as well as brick kiln owners. A kiln owner in Rajasthan confirmed the pattern saying that workers from U.P. have been doing this particular work of baking the bricks for very long and they are used to the heat on top of the kiln. “And labour from U.P. is also very cheap,” he added.

### **Chronic poverty**

Majority of the population in India live in chronic poverty that is sustained through generations and has its implications in more than just economic terms. Groups facing chronic poverty generally belong to Dalit and tribal communities who

have faced social exclusion and remained at the mercy of the landowners. These communities are devoid of productive assets such as land. Combined with low levels of education and vulnerability compounded by caste oppression these groups, owing to lack of alternatives, are forced into industries such as brick kilns.

Economic distress caused by chronic poverty fuels child labour which could be bonded in nature. Children as young as five are being forced into bonded labour in hazardous industries like brick kilns where they face a serious risk to their health and well-being. Children who get co-opted into this system of slavery are devoid of their right to education and a healthy childhood.

The structure of bonded labour is such that the labour remains cheap and hence extremely poor with no bargaining power. The labour at the brick kilns are paid subsistence wages that merely covers their survival needs. Any further amount taken by the labour is added to the original debt and used as a tool to retain the labour for the next season. This pattern goes on for several years and often becomes an intergenerational phenomenon.

## Caste dynamics

*“The oppressed are allowed once every few years to decide which particular representatives of the oppressing class are to represent and repress them.”*

- **Karl Marx**

Bonded labour is a phenomenon that is structurally linked with people belonging to lower caste communities. One of the fundamental tenets of the caste system was allocation of labour based on caste. Within the caste system, Dalits, or so-called untouchables, were to be assigned tasks and occupations that were deemed ritually polluting for other upper caste communities. During the colonial era, when the land revenue system started, certain individuals were made the owners of the land while the peasants who worked on that land were mere tenants. Despite the encompassing legislative framework, the employment and exploitation of Dalits still prevails in India in a range of occupations and industries.

The Dalits, known as Scheduled Castes today, were never given the opportunity to gain education or skills since they were allocated menial work and lived in the periphery of villages. Other than manual scavenging, these labourers were dependant on the landlords for work. As they did not own

homestead land, they would live on a small patch of land provided by their employer.

These labourers, who were tied to landowning masters, would usually enter a debt bondage contract and offer their labour to pay back that debt. They were hence tied to the landlord as they would lose their homestead land if they decided to move elsewhere. This coerced them to work for very nominal wages. Since then Dalits have been pushed to the fringes of society, literally and metaphorically. Dalits as a matter of practice were shunned from educational institutes, religious practices and cultural events. They could not own land or any other asset and would be dependent on the mercy of the feudal lords.

The results of those exploitative practices are visible even today when Dalits are found in the most hazardous and oppressive occupations. Most bonded labourers, as found through the research, belonged to Scheduled Castes or Scheduled Tribes and were illiterate, landless and extremely poor, while the creditors/employers belonged to a higher-caste, were landowning and enjoyed politically relevant positions in the villages.

Owing to historical oppression and exclusion from education or ownership of income generating assets like land or cattle, members of Scheduled Castes remain in a perpetual state of bondage.

A rescued bonded labour on the element of debt advances commented,

“We have no identity. We are Harijans. Brahmins don’t even touch us. We have no land, no animals, no jobs. Our own panchayat refuses to recognise us. Even to get ration from subsidy shops we require Aadhar cards, which we don’t have. If Malik doesn’t give us loans then how will we survive?”<sup>18</sup>

A conversation around caste as a major reason of labour bondage was addressed by an activist from Action Aid, Bihar as he said:

“This practice of bondage has been going on since years and the ones affected the most are the one who were called ‘outcastes’ by the Varna system. The Dalits today have no identity and no social security. They do not have identity cards or any land to their name.

Due to acute poverty, their children start working early, and are hence denied education. In this vicious trap, they remain at the lowest rung of society. Today most of the political power is concentrated at the hands of upper castes. We can see the reflection of the vices of the caste system even today in our society.

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<sup>18</sup> Interview with the author.

Even though we have legislations to prevent caste atrocities via laws such as the Prevention of Atrocities Act, Zamindari Abolition Act, Bonded Labour System Abolition Act, Land Ceiling Act; but who are the ones implementing these laws? It is the ones who got the opportunity to study and become government officials. Now if a poor Dalit man raises his voice against rich, upper caste landlords, chances are he will be beaten to death or ousted from the village. Now if you see the Land Ceiling Act, the rules have put a bar on how much a certain family can hold. But even now, the feudal landlords put pressure on the government and twist the laws around. So the purpose of the land ceiling act failed and peasants and tillers remained poor and bonded to the landowners.”<sup>19</sup>

### **Lack of financial assistance and indebtedness**

A brick kiln worker from Bihar who had been working at a kiln in Punjab since the last three years stated, in an interview, the following reason for working at in bondage.

“We work here because we end up saving some money. In Bihar if we get wages daily we end up spending it all. [What] will I save from Rs. 200 if there are six members to feed in my family? Here the malik gives us the money after the season and that’s how we save and take some back.”

This was an interesting point in my research as I diverted my attention from looking at brick kilns as just exploitative units to looking at their function as a financial institution for the

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<sup>19</sup> Interview with the author.

workers. For the landless agricultural labourer, poverty is the biggest war they fight on a daily basis. Since most of the labourers in context belong to the poorest of poor communities such as the *Moosabars* in Bihar who told me they do not even own homestead land, a steady income is a distant dream.

In the absence of social security and financial inclusion, people who face chronic poverty and social exclusion depend on informal moneylenders for credit. Since brick kiln owners readily provide them with a loan as well as work for almost a year, this arrangement is a safe bet for the workers.

In most of the field interviews, the workers brought out the issue of lack of access to banks or formal credit systems. As most of them do not have identity cards, they are unable to open a bank account. The ones who manage to get one opened are unable to maintain it, as they are unable to save any money and the bank closes their account if it is dormant for a long period of time. Moreover, during medical emergencies or social customs, people are bound to borrow money. Banks do not give them a loan since they have no assets to mortgage. Therefore, they end up taking a loan from the local

moneylenders who are often either contractors or brick kiln owners themselves.

### **Landlessness**

The percentage of rural workers dependent on wage labour has been steadily increasing, along with a rise in the near assetlessness of such labourers (*Srinastava 2000*). The employment and livelihood potential of agriculture in such areas is extremely low and is subject to significant seasonal fluctuations.

The landholding structure in rural areas is predominantly controlled by upper castes, structurally excluding the Dalits who have never had an entitlement over land owing to the discriminator caste structure. The poor landless farmers and labourers are forced to take loans from the landholding moneylenders subject to their terms and conditions over the repayment of that loan.

It is during these times that the contractors or *jamadar* step in with advances to provide the labourers with assistance to tide over the financial emergency which provides them leeway to impose exploitative conditions of employment. The labourers

are then trapped in a vicious cycle of debt from which they cannot escape until they repay the loan.

Situation of bondage also arises when tribals are uprooted from their indigenous habitat by a corporation that sets up industries on their land. Due to loss of land and lack of education, the tribal populace is forced to work for those industries that set their own terms of contracts. Workers are usually underpaid and live in terrible conditions.

Such is the case with the Kathkari tribe in Maharashtra wherein people migrate for six months to a brick kiln and work under extremely exploitative conditions for very low wages.

Interestingly, the Urban Land (Ceiling and Regulation) Act, 1976, was passed in the same year as the Bonded Labour System Abolition Act. The Act was enforced to prevent the concentration of urban land in the hands of a few and facilitate equitable distribution of land.

However, landholdings by a few large corporate entities continues, which results in displacement of the poor, creating a flux of landless labourers who are forced to migrate in search for work. Migration of this nature, known as distress migration, is different from positive migration wherein one

chooses to move to a different geographical space for better avenues.<sup>20</sup> Labour during distress migration often end up as bonded labourers with their entire family, including children, working at hazardous industries at very nominal wages.

### **Lack of alternatives**

“If the work is so hazardous why do workers voluntarily agree to submit themselves to such a contract?” Economist Garance Genicot explains this voluntary servitude

“While seemingly exploitative, both bonded labour and serfdom are often not imposed on the labourers but voluntarily chosen. It is generally the lack of suitable alternatives, which makes workers opt for a life in servitude.”

Thus, the will or consent in this case is not by their own accord, but rather manufactured by the lack thereof.

In a stroke of irony, labour bondage was abolished in India under the state of emergency proclaimed by Indira Gandhi in the mid-1970s in her bid to remain in power. One of the articles in the 20-Point Programme drawn up as a tool for implementing her anti-poverty policies under the extra-

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<sup>20</sup> Mander, Harsh, and Sahgal, Gayatri. n.d. “[Internal Migration in India: Distress and Opportunities](#).” Last accessed November 28, 2015.

parliamentary regime that came about, concerned the demise of attached labour in agriculture.<sup>21</sup>

The UPA government in an advertisement in its ninth year, had claimed that they had managed to eradicate the vice of bonded labour with the implementation of NREGA. However, NREGA became an easy source of income for the village heads who siphoned off all the funds and refused to pay the workers.

One of the workers I interviewed from Bihar had this to say,

“They (government) had started that scheme called ‘Food for Work’ programme in our village but it had become so corrupt that people named it as ‘Loot for work’. Everyone is so corrupt here. We knew we were assigned money for NREGA but our panchayat did not give us a single penny. They would confiscate all our job cards and muster roll and keep minting money through fraudulent accounts.”

Due to lack of work opportunities, most of the rescued bonded labourers are likely to go back to very similar settings and slave away under bondage. The rehabilitation scheme under the Bonded Labour System Abolition Act, 1976, provides for immediate monetary compensation along with which the

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<sup>21</sup> National Human Rights Commission. 2010. "[Know your Rights - Bonded Labour](#)." Last accessed November 28, 2015.

rescued bonded labour are to be provided with homestead land, cattle and skills to become employable so as to not slide into bondage again. In reality though, most of the rehabilitation processes end after providing the monetary compensation. The money which is a meagre sum of Rs. 20,000 is likely to get exhausted early after which they would have no choice but to go back to similar work sites.

A very angry labourer who had recently been rescued from Uttar Pradesh and brought back to her native Bihar had expressed her legitimate anger at the situation.

“Now that we are rescued, the Seth is angry and he won’t give us a loan next year. Where will we get money from? Will you give us jobs after getting us from there? It’s been two months since we were rescued. We haven’t even received the money yet.”

It is the lack of alternatives and helplessness that drives the labour force towards unorganised industries like brick kilns that readily absorbs them for most of the year. It is a common occurrence for the rescued bonded labour to get back into situations of bondage, perhaps even worse than before, as they find themselves jobless and without any promise of work, land or cattle.

In Rajasthan, I visited a bonded labour rehabilitation colony where all the rescued bonded labour were provided housing in the form of *kuccha* houses, a common well and a camel per family. Although this comes closest to the rehabilitation promised under the Act, in reality, the people were still bonded labourers of a varying nature.

Their camels had died due to insufficient fodder. They were located miles away from any habitation on a barren land and hence could not take the camels out for grazing. People did not have any livelihood options other than sell camel milk which also stopped after the camels perished. There was a small one room school for the children of the rescued labourers which was shut since years and broken. There were old people with serious ailments such as silicosis and women who had lost their husbands and children to tuberculosis. They were now working at the nearest brick kiln for 18 hours a day for less than minimum wages.

## IV. Brick Kilns – Modern Day Slavery

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*Workers at a brick kiln in Rajasthan. The woman in the foreground was 5 months pregnant at that time and worked for 18 hours a day. Photo: Ajita Banerjee*

**B**ricks are a major component of construction and infrastructure development and the demand for bricks as well as the growth of the industry has a direct relationship with the growth of urbanisation and urban development in terms of roads, civil infrastructure and domestic construction.

‘The brick kiln industry is the second largest sector after the construction sector, absorbing such a floating labour

population and a reserve surplus off the land.’<sup>22</sup> These workers are mostly seasonal migrants. Migration usually takes place during the lean season when there is no work on the fields and wage labour is not available either. This coincides with the brick kiln season during October-June when kilns operate all across India. During the monsoons when the brick kiln season ends, they return to their native villages for a couple of months. It is during this season that agents of brick kiln owners known as *Jamadar* come to villages to recruit workers with an advance or *peshgi*. *Jamadars* coordinate the contracts, which are almost always verbal. *Jamadars* as I found out during my interviews were either from the same village as the labourers, or from a neighbouring village. He is the chosen one by the brick kiln owner, responsible for getting workers for the kiln each year. Apart from his designated ‘salary’ the *jamadar* gets paid a generous amount from the commission on bricks produced by the labour throughout the season. He is the one who pays and advance known as *peshgi* to ensure that the workers would come to the kiln the following season. The brick kiln season typically goes on for about six-eight months depending on when the monsoons begin. The advance is generally given around October which is the season for festivals and weddings

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<sup>22</sup> Gupta, Jayoti. 2003. “[Informal Labour in Brick Kilns: Need for Regulation](#)”. *Economic and Political Weekly* 38 (31). pp. 3282–92.

hence the workers readily take the advance money which they are likely to spend soon.

### Nature of work

Table1: Worker classification and remuneration in Brick Kilns studied

Type of Worker	Nature of Work	Nature of Remuneration
<i>Patheri</i> workers Usually work in pairs or groups	Make the clay ready. Moulding bricks into the case. Lining them for drying.	Piecework per 1,000 bricks; broken or imperfect bricks are not considered.
Loaders	Carrying the bricks from the site of production to the kiln for firing	Piecework per 1000 bricks or weekly wage in some cases
<i>Jalai</i> workers	Firing the bricks in the kiln and maintaining temperature so as to not burn the bricks	Weekly or fortnightly wage
<i>Nikashi</i> workers	Taking out the ready bricks from the kiln with the help of a bullock cart and stack them for sale.	A lump sum amount for all the work
Seth	Recruit labourers by paying them advance and arranging their travel to the kilns	Commission per 1000 bricks per pair or group

Table compiled by Ajita Banerjee

### Terms of Contract

Based on information gathered during field visits, it was found that the terms of the contract are always verbal and include a

minimum period of time that the labour must work for the kiln exclusively, thus, making them bonded labourers for the entire season, irrespective of their health, working hours and conditions at the kiln.

*Jamadars* use advances as enticement when recruiting workers. The *jamadar*, like an agent, receives a lump sum of money from the kiln owner. He is in charge of getting workers each season, distributing the advances and ensuring repayment. In case the loan is not paid back or if the workers run away from the kiln, the *jamadar* is held responsible.

The system of moneylending as a means to ensure labour works according to the demand and supply of labour. The demand factor determines the amount of loan the employers are ready to part with for recruiting workers for the season. The labourers, on the other hand, mostly agricultural labourers or marginal farmers experience a lean season once the sowing season for the main monsoon crop is over, *i.e.*, from July to September and are in desperate need of an income.

The respondents, during the field research, pointed out that there is never enough work in the village during the lean season to give them a livelihood. Their meagre earnings are not

sufficient to be able to invest in the next seasons' crop, or build a house or for an emergency.

### **Working hours**

Payments, at brick kilns, are made according to piece rate or time rate. *Pathers*, *rebrivalas* and *nikasimalas* are the piece-rated workers; *kerimalas*, *jalaimalas* and supervisors are the time-rated wage earners.

Workers in brick kilns, engaged in the five main operations, have different working hours. Supervisors and *keri* workers work for 8 to 10 hours on an average. The *jalaimala* works for 8 to 10 hours in a day. The *nikasi* workers said that they work between 10 and 12 hours a day, while moulders said their working hours ranged from 12 to 14 hours a day. The working hours of a *patheri* workers who actually mould bricks out of mud could be anything between 10 hours to 18 hours a day. Piece-rated workers do not have fixed working hours. Most workers during the interviews said that they sometimes work for 20 hours a day so as to make more bricks than usual and earn some extra money since the wages are piece-rated. Even after working 18 hours a day, workers end up earning less than the minimum wages sometimes.

### ***Peshgi* and indebtedness**

There exists a strong association between *peshgi* and indebtedness. “Throughout the global brick industry, advances are commonly used to tie workers and their families to a kiln and keep wages low.”<sup>23</sup> Since the workers are illiterate, their accounts are easily forged to maintain false records of the number of bricks made and the amount of money they owe. The debt adds up as the workers are given a sum of money for basic needs. This adds up to the original debt and spirals into a sum of money that is beyond the capacity of the workers to repay. During this study, many such instances were found as the majority of workers were illiterate and did not have clarity on the wages they are entitled to. This ensures labourers for the next season as well and maintain them as bonded for a long duration.

Money is borrowed mostly for social customs like weddings or funerals, followed by medical emergencies like surgeries for elders, pregnancies or children falling ill. Money is also borrowed for building a house or buying livestock sometimes.

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<sup>23</sup> Samuel Hall Consulting. 2011. [\*Buried in Bricks: a Rapid Assessment of Bonded Labour in Afghan Brick Kilns\*](#). Summary report, Geneva: International Labour Organisation. Last accessed December 02, 2015.

Loans are also taken to meet daily living expenses during the lean period when no work is available. This is when the moneylender take advantage of their situation and charge exorbitant rates of interest.

This vicious cycle of indebtedness begins with the initial loan, whether acquired or inherited, that is paid over a long period of time by working for the creditor. During this period, the employer continues to add to the debt the additional expenses given to the labourers known as *kbarchi* or *kbruaki* for daily expenditure on food, firewood and medicines.

For instance, a labourer with an initial debt of Rs. 20,000, while working at the kiln might have to borrow more money for his daily needs such as food, medicines, firewood as well as shelter and water. The employer generally pays a small amount per week or fortnightly for daily expenses but they are not always sufficient for a large family. Consequently, the debt of the employee only grows continuing to labour for his debtor. At the end of the season the amount received by the worker is the meagre sum left after deducting the loan he might have taken, the advance that he was given and the daily expenditure. Often the employer, instead of paying the workers their wages, forges

their account and informs them of some debt amount left at the end of the season.

Thus, bonded labour involves the exploitive interlinking of credit and informal labour contracts that devolve into slave-like exploitation made worse by other forms of violence and coercion.

“In broad strokes, bonded labour, or what’s often called debt-bondage, is a form of feudal servitude, where credit is exchanged for pledged labour. The class in power will often coercively extract and extort far more labour out of the debtor than the fair value of the credit they received. Sometimes an entire family can endlessly work off a meagre loan taken years before. More than half of the world’s slaves are bonded labourers and the products made by them permeate the global economy.”<sup>24</sup>

## **Working Conditions**

The working and living conditions at the brick kilns are deplorable. Living in the vicinity of the kiln makes the workers vulnerable to contracting respiratory diseases as they are

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<sup>24</sup> Siddharth, Kara. 2012. “[Modern Slavery](#)”. *The Economist*, December 19. Last accessed November 30, 2015.

subjected to hazardous substances. Workers, including children, are frequently injured at work. The accommodation is usually overcrowded, with a small makeshift hut for an entire family often with their cattle, living together in one single room, with outdoor toilets. Violence against the workers, including beatings and abductions of family members, is common, especially when labourers seek help for being rescued. Women are particularly vulnerable to abuse and sexual violence and there have been many reported cases of sexual assault, rape and murder on the brick kiln site by the owners.

During a group discussion at a kiln in Muzaffarnagar, I was told that one person is designated with the task of lighting the kiln by physically going inside the kiln, burning the hay and running out before the fire spreads to the entire kiln. “70% of the time, that person gets burned alive and dies,” said one of the workers. At the face of such heinous crimes where a person is sacrificed for lighting up the kiln, one wonders what it takes to invoke a response from the government bodies who often deny the existence of bonded labour.

The conditions at the brick kilns are hazardous and the workers toil under the scorching sun for over 18 hours a day

to make around Rs. 300 per week. They start their work at 2 a.m. under a small bulb and continue slaving away till noon. They only stop for a couple of hours for rest and food and resume work around 4 p.m. only to stop around 12 in the night. The *jalai*<sup>25</sup> workers are subjected to even harsher conditions as they work on top of the kiln and even live there. Their small mud huts are built right on top of the kiln which not only makes it unbearably hot but also extremely dangerous. With no gloves, shoes, masks or glasses, the *jalai* workers monitor the temperature inside the kiln constantly and work for 12 hours a day. Their payment, however, is made monthly and is decided by the contractor without adhering to the mandatory minimum wages. Brick making is an extremely hazardous work often leading to fatal accidents or serious injuries.

A BBC report, *Punished by Axe*, described the gruesome violence that two bonded labourers were subjected to when they attempted to flee traffickers who abducted them and 10 others from Orissa [now Odisha] to work in a brick kiln in the

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<sup>25</sup> *Jalai* workers are the ones who moderate the temperature of the brick kilns while making sure the bricks are being baked to the right texture

outskirts of the southern Indian city, Hyderabad, now the capital of Telangana:

"They put his arm on a rock. One held his neck and two held his arm. Another brought down the axe and severed his hand just like a chicken's head. Then they cut mine."<sup>26</sup>

Most of the *patheri* workers work for over 18 hours a day. They start their work at 2 a.m. under a small bulb and continue slaving away till noon. They only stop for a couple of hours for rest and food and commence work around 4 p.m. again only to stop around 12 in the night.

The *Jalai* workers are subjected to even harsher conditions since they work on top of the kiln and even live there. Their small mud huts are built right on top of the kiln which not only makes it unbearably hot but also extremely dangerous. With no gloves, shoes, masks or glasses, the *jalai* workers monitor the temperature inside the kiln constantly and work for 12 hours a day. Their payment however is made monthly and is decided by the contractor. There is no adherence to the minimum wages. The fact that all the workers work over time is something that has been conveniently looked over.

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<sup>26</sup> Hawksley, Humphrey. 2014. "[Punished by axe: Bonded labour in India's brick kilns](#)". BBC News, July 11. Last accessed November 30, 2015.

In most cases though, the workers, when asked about their decision to go to the brick kiln, maintain that it was their own decision and not coercion. During the field research it was found that most of the workers had chosen to work at brick kilns as a means of livelihood. Most of them had a fair idea of what the living conditions would be like.

The ones who had worked at brick kilns all their lives and had been exploited would also voluntarily take the advance from the *jamadar* and migrate to the brick kiln next season. I interviewed a group of rescued bonded labour in Bihar who had been exploited in slave-like conditions for over five years at the same kiln. On asking what they would do now that they are free, they replied in a very matter-of-fact manner saying they would go to the brick kilns.

Chronically suppressed and denied opportunities to enhance skills, a vulnerable section of an already marginalised group has been brought to a position where they reconcile themselves to being in a state of debt-bondage as justified or viable at best.

## V. Neo-Bondage in Brick Kilns:

### Case Studies

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The emergence of neo-bondage is strongly connected to the reinforcement of the informalisation of labour relationships as well as the intensification of labour migration. The new variant forms of slavery – what Bales calls "new slavery" – are different from the older forms of slavery. Old forms of slavery were based on legal ownership where slaves were expensive, scarce, long-term investments generating low profits. Slaves were almost always racially or ethnically different from their masters in the old forms. In all respects, "old" slavery reflected the agricultural and rural economies of which it was a part. On the other hand, the "new" slavery is generated essentially by greed and the profit-making motive. Slaves are controlled not through legal ownership, but violence. In the "new" forms of slavery, profits are high and the slaves are readily dispensable

The pattern of absorbing and disposing labour at brick kilns is one that resembles the practice of contemporary slavery. The workers who are recruited are brought to a far off region,

usually isolated from the rest of the town and made to live in abysmal conditions. Their houses are made of mud, half-baked bricks, plastic sheets and tree branches. Children born in such servitude know no other life, so that generations may be trapped by owners who give people just enough to keep them healthy and at work, but keep them sufficiently indebted to prevent their leaving. In many areas, in any case, there are few alternative jobs (Bales 1999, 149-94).

With nervous eyes, she looks at me wondering if I had more questions. Her two-year old child plays with her bangles.

“Did your master ever beat you up?”

“Yes, of course, he did. Why wouldn’t he? He is our master after all.”

“How many hours a day did you work?”

“What do you mean by hours? We work all day long. We stop to eat and sleep for a couple of hours.”

Her hands are brittle and resemble a drought-hit piece of land. Roona Devi, who lives in a desolate village in Atri in the Gaya district of Bihar belongs to the Musahar community. In a remote village with huts scattered on the foothills, Roona Devi like many others in her community lives with no source of income. With four children to feed, she and her husband have been going to brick kilns for work for the last five years.

“Did your children work with you at the brick kilns?”

“Yes. All four of them. The eldest one used to make bricks with us. The rest are young, so they would help us by rolling over the bricks to dry them.”

“Do they go to school?”

*(Laughs)* “How will we send them to school if we don’t have enough money to feed them? They go to school sometimes when we come back to the village for a month or so.”

Similar stories of pain and exploitation are shared by many such bonded labourers who are unaware of their status of being bonded and their basic rights being infringed upon. The normalcy attached to the ‘master’ doing as he pleases with his patrons brings back horrid memories of a shameful past of slave history that, as a progressive democracy, we claim to have left behind.

Nonetheless, the vices of a slave economy continue in a number of unorganised sectors in India such as brick kilns, stone quarries, coal mining and agriculture. Bonded Labour as a phenomenon has been structurally linked with people belonging to lower caste communities. Most bonded labourers I interviewed belonged to Dalit communities such as Valmiki or Chuhra. The following narrations are a part of detailed interviews conducted with workers at brick kiln sites. The questions asked were regarding working hours and conditions,

wages and other facilities such as water, food, medical assistance and schools. The relationship of workers with the contractor and the owner of the brick kiln was also explored to understand any instances of violence and oppression.

## CASE STUDY - 1

*Case study of Ramlal, 35 years old. Pathai worker employed at a brick kiln in Uttar Pradesh.*



Photo: Ajita Banerjee

“We have to take a loan for emergencies. We are not *zamindars* that we can sell our land and get money. I had to take a loan twice. Once for my sister’s wedding and the second time for my father’s surgery. The Brahmin in the village lends us money at 10 - 15 per cent interest. We work on other people’s fields for which they give us around 4 kilos of wheat for a day’s work. This work is also only available for 10 - 15 days during the

paddy season. After this season ends, we are left with no choice but to migrate to other states. We are at the mercy of the brick kilns owners. Sometimes they forge our accounts to maintain a certain amount of debt so that we remain bonded to them. If we retaliate, we lose our job.

I have been working at this kiln for the last three years with my wife. After a year, her mother passed away and we asked permission to return to the village to partake in the ceremony. But he didn't let us go. We pleaded with him but he didn't allow us to leave. I got furious and fought with him for being so cruel. I wanted to run away but I couldn't. I knew we would get attacked if I attempted to run away. I had my wife and children and no money to travel. A year after that it was my niece's wedding. I pleaded with *malik* but again he didn't let us go. So we kept working like slaves. We couldn't even afford proper food. The little money that we would get we would first feed our children and then ourselves. My body has become so weak over the time. I only eat enough to sustain. Even on Holi he didn't give us any money. We didn't have enough to eat so we couldn't use that money for buying new clothes or anything. Even for cooking food he would not provide us with firewood regularly. When we would run out of wood, we

would send our daughter to get it from other peoples' farm where she would get scolded and abused. We work for him like slaves and he doesn't even provide us with wood to cook our food. We get paid Rs.300 for a week.

We get one day off in 15 days and that's the day we get time to take a bath. The day we would get our *kbarchi*, the *malik* would take everyone to the market in a tractor and get us back immediately. If we loitered for some time, he would shout at us as if we were his cattle. Of course, this is slavery. We are slaves of fate.

## CASE STUDY - 2

*Satendar, a labourer from Bihar working at a brick kiln in Ferozpur, Punjab, narrates the following account:*



Photo: Ajita Banerjee

“We were brought here from Bihar three months before work started. All the brick kiln owners had gone on a strike. We used to live in these small mud *jbuggis* with our families. The *malik* would give us some money for our basic sustenance which he would later deduct from our final payment. Now we all owe him 10,000-20000. Till the time we return that money we won't be allowed to go. When the season is over, he will allow half of our families to go back home and retain half to ensure that we return next year.

I have 6 kids and my wife. Since the last 5 years I have been coming to the same kiln with my family. Some Jamadar came to our village and took us. He told us we will get more money than we do in our village. When we had come here we used to get 270 for 1000 bricks. Last year's rate was Rs. 560 for 1000 bricks

We work all day long. We only stop to eat and sleep. We sleep for three hours at night and two hours in the day. There's no electricity here and it is extremely hot as you can see. We work in the scorching sun all day and we don't even get peaceful night's sleep. There is barely any space in this house we live in. These are houses fit for animals. We are 7 people living inside

that box. There are no toilets. We have to go out in the open in other people's farms and get abused by them.

There are kilns in Bihar also but the rate is low. We work here because we end up saving some money. In Bihar if we get daily wages we end up spending it all. How is it possible for me to save from Rs. 200 if I have a family of 6 to feed? Here the *malik* gives us the money after the season and that's how we save and take some back. My son who is 18 years old works here with me. There is NREGA in my village. All of us have all worked but we didn't get any money. My name was in the register. They said they will give us Rs. 60 per day. But we only got money for 7 days and not for the rest of the days. If we had NREGA in our village we would work there only why would we come here? Even if are unwell sometimes, he tells us to work. He tells us that if we are so delicate then we should go back to our villages. We keep sweating under the heat, some of us faint and the doctors give us glucose. Even after that we keep working.

## CASE STUDY - 3

*Case study of Rani who has been working at the kiln with her husband since they got married.*



Photo: Ajita Banerjee

“Seth scolds us every time he comes here for a visit. It is terribly hot during the day and if we sit for 5 minutes under the shade he would shout abuses at us and tell us to not be like lazy animals and work hard. He tells us we are not here on vacation that we can rest. Truth is, we do live like animals. Look at our houses (points to her one room *jbuggi*). How do you think a family of 4 can stay in that little box? We toil all day and then we go sleep when we can’t work any longer. I wake up at 3 a.m. and start making the mud ready till 12 in the afternoon. Then we take a break to have a meal and rest for a couple of hours. Then I start work again at 3 p.m. and work till 12 in the night.

Even after working so hard, we don't even get to eat a proper meal. I work with my husband and we get paid 500 for a week. I have 2 children. How do I feed everyone with that much money? I am sure you can do calculations. How much do you think we get in one day after working for 20 hours? Sometimes we eat only salt and roti and sleep. Our children fall sick and get hurt it's so dangerous here and so dirty. We can't even take a day off and take them to the doctor's as we will lose that day's money. There is no electricity here. Don't we feel hot in this scorching heat? For everything, we have to hear abuses from the *Seth*. There are no toilets here. How is that our fault? We go to surrounding farms to relive ourselves and they abuse us too. So many times they have hit our children and abused them too. We work all day like animals and we don't get proper rest and food. Forget entertainment. We get one holiday in 15 days, which is spent in buying supplies from the market, and washing and cleaning our houses. For cooking food, our *Seth* doesn't give us any firewood or mud cakes. We have to go faraway to get wood from other's farms. Again we get shouted at and they call us thieves. So many times if we run out of wood, we sleep without eating. We struggle for every little thing, every day."

## CASE STUDY - 4

*Case study of Meena who was working at a brick kiln at the outskirts of Lucknow*



Photo: Ajita Banerjee

“The workers were declared bonded after an inspection by a labour union in Gaya and were eventually rescued with the help of Action Aid. All of them belong to the Musahar community, one of the “poorest of the poor” communities that has faced socio-economic marginalisation at the hands of society for the longest time.

“I lost my parents at a very early age and the villagers got me married off when I was 8 years old. Since then I started working at brick kilns with my husband’s family. I have worked at the same kiln for my entire life. I haven’t known a better life. It’s only now that someone came to rescue us from that

monster that we realized that we had been slaves all this while. We had all sorts of difficulties. To begin with there was a water issue. The tap we got water from had sunken in a pit and gave out filthy water. We complained to the *malik* but he abused us and mocked us saying we weren't some minister that he would fix the water tap for us. We bathed standing in knee-deep of water. There was no provision for a toilet and we had to take a bath in front of all the men. There was lots of teasing and harassment that we have undergone everyday.

We had no choice, what could we do? Malik would say let the men do what they wish to.

We were harassed during payments also. He wouldn't pay us in time and would give us Rs.400 per week. I have 2 kids and a husband who is mentally challenged. The malik would always pick on him and beat him up for no reason.

We were in mud all day long. We would get one day off in 15 days to go to the market. Even then we didn't feel free. The Malik would send his guards with lathis and pistols to keep an eye on us as if we were prisoners. If we would stand around in the market for some time and loiter he would start abusing us in public and ask us to get back. We felt like we were his

animals. He wouldn't care if we were eating or were healthy. He would just abuse us all day and make us work like machines. We worked for 18-20 hours a day. I have worked in this kiln for 20 years. I haven't known freedom. I have always lived like a slave. He wouldn't even let our children go to school. I had all my children at the kiln. Right after my childbirth in 2 days he told me to start working. He would hit me and pull my hair and abuse me. There have been days when I was sick or tending to my child but he would force me to work all the time. I have 4 children and my eldest son is physically handicapped. He can't work with us and he can't even go to school. He would still help us to turn the bricks and get us mud with one hand. All my children would work with us, but we were paid only for two people's work.

The day we were being rescued, Malik started abusing them and took out guns and threatened to kill us. We all had walked to the police station, were hungry all day and were scared that he might do something to our children who were still at the kiln.

We haven't received the release certificate or compensation. We have no saved up money. Right now my son has gone out

to work. I am waiting for him to get today's wages and buy us ration so that I can cook.”



Photo: Ajita Banerjee

Bonded labourers work under severely harsh conditions under a structurally oppressive labour system fuelled by caste class hierarchies. It is not the best kept secret anymore and the onus lies on the Government to direct the respective state governments for ensuring the eradication on slavery and promotion of dignity of labour.

## VI. State Polices and Civil Society Intervention

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**I**n order to tackle the complex issue of bonded labour, government promulgated the Bonded Labour System (Abolition) Act 1976. The Act was further amended in 1985 in order to bring contract workers and inter-state migrant workers under the purview of this Act. The Ministry of Labour launched a Centrally Sponsored Scheme in 1978 for the rehabilitation of freed bonded labourers. The Bonded Labour System (Abolition) Act, 1976 is to be read in compliance with other relevant labour laws such as Contract Labour (Regulation and Abolition) Act, 1970; the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979; the Minimum Wages Act, 1948.

As per the Bonded Labour System (Abolition) Act 1976 all bonded labourers would be discharged from any obligation to render to services to the employer and any contract or agreement by virtue of which a person is required to render bonded labour shall stand void. The unpaid loan from the brick kiln owner is considered to be annulled and no legal proceedings can take place for the recovery of that debt. In

case any asset or property of the bonded labourers, were seized from their custody during the period of bondage, are to be returned to them. Any legal suit or proceedings for the enforcement of any obligation under the bonded labour system shall stand dismissed and any bonded detained in Civil Prisons shall be released from detention. Freed bonded labourers are not to be evicted from the homestead land during their employment.

The Act also provides for the duties and responsibilities of the District Magistrate who is to ensure that the provisions of the Act are properly implemented. The law provides for the constitution of Vigilance Committees at the district and sub-divisional level who are entrusted with the responsibility of identification and rehabilitation of bonded labourers. The Vigilance Committees are supposed to conduct surprise raids in bonded labour prone areas and formulate suitable schemes for the rehabilitation of freed bonded labourers-land based, non-land based and skill/craft based occupations, depending on the need of the beneficiaries.

### **Bonded Labour Rehabilitation Scheme**

The Ministry of Labour, had initiated the Bonded Labour Rehabilitation Scheme, a Centrally Sponsored Scheme under

which Rs. 20,000 is provided for the rehabilitation of each bonded labourer out of which, Rs. 1000 are required to be paid immediately on release of the labourer as subsistence allowance. The rehabilitation amount is to be equally contributed by the Centre and the State Governments. In the case of North Eastern States, 100% central assistance is to be provided if they express their inability to provide their share. State Governments are required to conduct surveys on a regular basis identify sensitive Districts which are prone to bonded labour, find root causes for and forms of bonded labour and implement remedial measures. The Government of India allocates a sum of Rs. 2 lakhs per sensitive (bonded labour prone) District once in 3 years to conduct surveys. An annual grant of Rs. 10 lakhs per State Government is provided for the purpose of spreading awareness about bonded labour. In spite of the Act and the rehabilitation scheme, the process of rehabilitation is poor and is frequently delayed, particularly in the case of inter-state bonded migrant labourers, and the extent of concerted effort and action required from the administration is lacking. Prosecution of employers is rare and a meagre fine of Rs. 2000 is imposed for a crime as grave as slavery. Across the four states that I visited, not a single freed

labourer had received the complete rehabilitation amount of Rs. 20,000. Of all the persons interviewed, none had received homestead land and did not have any savings to build a house in their native village or town and resort to exploitative wage labour post-rehabilitation.

Owing to acute poverty and lack of alternatives, most of the freed bonded labourers relapse into bondage. During the interviews, I met with 'freed' labourers who had been rehabilitated to their native village in Gaya district of Bihar. They did not have homestead land or cultivable land for subsistence. Each of them had received part payment of Rs. 10,000 as rehabilitation.

A rescued labourer in Bihar voiced his worry after being 'rescued',

“How long will Rs. 10,000 last for a family of 6? We spent that money building a house and feeding our children. Now we have no work and no money. What are we supposed to do? Who will give us work now? The NGO who rescued us? The government? At least at the brick kilns we had food to eat. Now we might just die hungry.”

It is to be realised that mere cash transfers or handouts for temporary relief is a poor strategy in the long term. If the root causes of bonded labour are not addressed then the problem would persist, only in different forms with lesser visibility and

more disguise. There needs to be a well thought through rehabilitation plan to enable the rescued labour to start a new life, free from the shackles of slavery. Increasing the quantum of the support amount, only, is not a viable solution. In order to tackle bonded labour, strict implementation of labour laws along with employment generation in rural areas is required.

The State Government should dovetail the rehabilitation scheme with other existing poverty alleviation schemes such as Swarna Jyanti Gram Swaraj Rozgar Yojana (SJGSRY), Special Component Plan for Scheduled Castes, Tribal Sub Plans, etc. Preventive efforts must recognize the social dimensions of bondage, and thereby address it through public sensitization and rights awareness, adult literacy, organizing workers, income generation and vocational skills development. The strategies to eliminate bonded labour need to go beyond the symptoms to address the root causes. The multifaceted and deeply rooted nature of those causes requires an integrated and long-term strategy.

### **Civil Society Intervention**

Organisations such as Volunteers for Social Justice (VSJ), Action Aid, Bandhua Mukti Morcha and International Justice

Mission conduct regular surveys and raids to prevent and protect labour from bondage. During my field work I interacted with all of these organisations and was informed of their work.

An interview with a social worker at VSJ recounts an incident of violence inflicted by the brick kiln owners on the activists for organising workers to demand higher wages and better living conditions.

“The incident took place on 20<sup>th</sup> of May this year. On May 5, 2015, we had submitted a letter to the District Commissioner with our demands for brick kiln workers regarding higher wages, regulated working hours, provident fund, gratuity funds, bank account, medical assistance and schools for children. The activists along with around 300 workers had staged a peaceful protest outside the DC’s office so that we would be acknowledged. We had drafted our charter of demands with the brick kiln workers. Their concerns were the lack of public hospitals. They end up spending a week’s wages if they go to a private hospital. During childbirth, the brick kiln owner would send them to the nearest private hospital and pays for their medical expenses except he dupes them into believing that he has paid much more than the actual amount

in order to maintain debt bondage. Our basic motive is for the migrant workers to avail government facilities while they are in a different state. Our other demand was for the brick kilns to be registered under the Building and Other Construction welfare board so that the workers get benefits. The brick kiln owners don't comply with any labour laws or get them connected to any schemes that they are entitled to. We had waited for 15 days after submitting our charter but there was no response.

We started organising workers to generate awareness about their rights. We had to visit each and every kiln and gain faith among workers. Once they were convinced of the Union's vision, they decided to join us for the struggle. By now the brick kiln owners had also informed about our work and they started organising among themselves in order to hinder our work. On the morning of the 20<sup>th</sup>, we were on our way to a brick kiln for our meeting and we saw a bunch of cars that surrounded us. All the kiln owners were armed with guns. We were caught unaware and had no place to escape. In order to intimidate us, they started firing gunshots in the air.

We were threatened for allegedly manipulating their workers. The president of our union was physically assaulted which

shook the confidence of our labourers. Everyone started panicking and running away as they were scared of being attacked. The gang members started firing at them as they ran and I saw some 20 people getting hit by the bullet and fall down. At this point I did not know how many of them were alive. I knew we would lose this battle as this was a war of guns. Had it been a war of words or the law, we would have won, but we didn't have the kind of money or power like them. I had a group of women workers with me and I was scared for their safety. I decided not to leave no matter what. They threatened me and abused all the women with sexual insults. I called the SHO at the nearest police station and informed him of what had happened and asked for security. They sent 2 constables who just stood there watched the show without intervening. I then called 181 which is the police helpline. By the time police arrived, the gang had left. We called for ambulances and sent all the workers to the hospital. Luckily there were no fatalities. But 20 of the workers were very seriously injured. When we filed the FIR later, the police harassed us again. Since they were obviously bribed by the brick kiln owners, they changed the statement of the FIR and let them off with a fine by applying Section 323 of the Indian

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Penal Code on them. Whereas we had wanted them to apply Section 307 – attempt to murder. We had to stage a protest again with 1000 workers. The DC has now said that they will form a committee to look into this matter. We have also written to the NHRC regarding this.

The only feeling I had after this entire incident was of regret for not having weapons. If we had guns that day we wouldn't have lost. We wanted to fight a war of law. All the workers who were attacked are extremely angry and have said that in case their case is not taken up in the court and if they don't receive justice, then they will go back to attack all the brick kilns owners. We had to convince them to continue our war of law.”





Photo: Ajita Banerjee

Fig. 2. Social Worker noting down details of the incident to file a case against the kilm owners for the attack on workers. Victims of attack pointing out to the bullets marks.

While civil societies have, time and again, fallen into extremely risky situations to protect the rights of workers, government bodies have denied the existence of bonded labour.

9 YEARS OF REACHING PEOPLE, CHANGING LIVES

## Thanks to MGNREGA No bonded Labour anymore

It is important to mention that the benefits of MGNREGA are only an aspect of the growing employment in the public. Nothing could be further from truth. The impact of MGNREGA has been far-reaching. It has become a major instrument of social change in the country.

MGNREGA projects in the rural district of Bhadrachalam are good examples of the economic and social transformation that such projects can bring about in rural areas. It has constructed in the village of Bhadrachalam, MGNREGA has developed a platform for social interaction between people of various backgrounds.

The hundreds of ST and BPL population from which earlier worked as bonded labour on farms of rich land lords has become free from their clutches owing to MGNREGA projects.

Social and religious events are held there regularly in which all participate together. This has helped breaking the caste and class barriers, caste and class identity from the economic perspective, the poor has brought together and other related activities that were absent in the vicinity.

The option given of a regular wage under MGNREGA is a desirable alternative to the uncertain, irregular and meagre wages of bonded labour. They enjoy better health, good clothing and improved dietary habits.

The MGNREGA, with its legal framework and rights-based approach, has helped in bringing up to one hundred days of guaranteed wage employment in a financial year to every rural household where such members are engaged in the unskilled manual work.

Under MGNREGA, an average of 1.25 lakh households directly or indirectly benefit from the scheme. It has provided 25 per cent of India's rural households.

Operational in 626 districts of the country, MGNREGA, under the Union Ministry of Rural Development, is one of the most radical schemes of the Government of India in the last decade. It now provides employment to 25 per cent of India's rural households.

Ministry of Information and Public Relations  
Government of India

भारत सरकार  
सर्वोच्च न्यायालय

Advertisement by the UPA government claiming eradication of bonded labour owing to MNREGA.

In May, 2013, the UPA government had advertised celebrating their 9 years in power by claiming that they had been successful in abolishing bonded labour through the National Rural Employment Guarantee Act 2005 (NREGA), later renamed as the 'Mahatma Gandhi National Rural Employment Guarantee Act' (MGNREGA) that aims to ensure livelihood security in rural areas by providing at least 100 days of wage employment in a financial year to every household whose adult members volunteer to do unskilled manual work.<sup>27</sup>

Unlike its precursors - Jawahar Rozgar Yojana, Employment Assurance Scheme, Food for Work Programme, Jawahar Gram Samridhi Yojana and Sampoorna Grameen Rozgar Yojana- the MGNREGA recognized employment as a constitutional right. In accordance with the Article 21 of the Constitution of India that guarantees the right to life with dignity to every citizen of India, this act imparts dignity to the rural people through an assurance of livelihood security.<sup>28</sup> Article 16 of the Constitution guarantees equality of opportunity in matters of public employment and prevents the State from discriminating against anyone in matters of

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<sup>27</sup> [The Mahatma Gandhi National Rural Employment Guarantee Act 2005](#).

<sup>28</sup> Ministry of Law and Justice 2008, [Constitution of India](#), p. 10

employment on the grounds only of religion, race, caste, sex, descent, place of birth, place of residence or any of them.<sup>29</sup> NREGA also follows Article 46 that requires the State to promote the interests of and work for the economic uplift of the scheduled castes and scheduled tribes and protect them from discrimination and exploitation.<sup>30</sup>

Despite the progressive scheme, the rural poor faces abject poverty and unemployment that propels their migration to exploitative industries like brick kilns as it assures the employment for 8 months in a year. Since the gram panchayats (local government in rural India) are the implementing agency for MNREGA, the labour becomes bound by the discretionary authority - the panchayat head. There is immense amount of `corruption that seeds into the process of implementation. Funds are siphoned off by the ones in power and the contract for work is handed over through nepotism.

In an interview, a former bonded labour from Bihar told me how they would have to beg the *sarpanch* (panchayat head) for NREGA work but he would tell them there was no work as the government has not allocated any funds.

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<sup>29</sup> Ibid. p. 7

<sup>30</sup> Ibid. p. 23

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“If at all we got work, we would never be paid in time. I worked for 15 days once and was not paid a penny. That’s why migrate to brick kilns. What else can we do? We are not capable enough to fight with the ‘sahibs’. They are all powerful landlords and they are from an upper caste. We are poor *musabar* people. We are illiterate. We have no education and no weapons. How can we fight them?”

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## VII. Conclusion

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**T**he poorest and socially most vulnerable communities are susceptible to slavery as they have been deprived of gains from developmental plans, education and political empowerment. Most bonded labourers do not have access to formal credit hence depending on the usurious moneylenders. At the time of desperate need for money due to ill-health, death or marriage the poor have no choice but to opt into this vicious system that capitalises on their poverty.

It was observed during the research that there is a definite sinister design behind the brick kiln owners preference to employ migrant labour, as they are likely to be less assertive of demands and their movement can be restricted more easily. Often employers confiscate the identity cards of the workers in order to control their mobility. Since the workers have no savings to bank on, they depend on the employer to provide them with sufficient money for the journey back home. Until then, they remain confined to the site of work, slaving away under harsh conditions.

It is to be understood that bonded labour cannot be looked at in isolation or be eradicated by the use of law. The band-aid philosophy of the current rehabilitation programme of the government is not only ineffective but also counterproductive. A meagre sum of Rs. 20,000 is provided to the rescued bonded labourers as a means of 'rehabilitation'. Sometimes this sum is either not entirely paid or is paid in instalments. Although the rehabilitation scheme, promises homestead land, assets as well as livelihood opportunities for the rescued labourers, in reality it fails to deliver the same. In the absence of employment opportunities, education opportunities and access to financial assistance, the poor are doomed to a life of bondage, irrespective of their release certificates. Such lackadaisical measures do not enable the landless, illiterate workers, to lead a life free of bondage. It only means that they would now change their master and look for the next brick kiln.

As per the Bonded Labour Rehabilitation Rules, Vigilance Committees are ought to be constituted in each district to prevent the incidence of bonded labour and to facilitate economic and social rehabilitation of the rescued labourers. Additionally, the committees are also to coordinate with rural banks and cooperative societies in order to canalise credit to

the freed labourer for housing and starting small businesses. In reality however, these committees either don't exist or are completely defunct. During a brick kiln visit in Ferozepur, Punjab, I went to the Labour Department to enquire about the vigilance committee and their work. It was found that the committee constituted on paper had never met or engaged in bonded labour issues and the officers justified it claiming that there are no instances of bonded labour in all of Punjab. Despite these comprehensive provisions, very few vigilance committees have been formed or are actually operative. The extent to which bonded labourers are identified, released, and rehabilitated by Government officials is negligible. The result is that the rights set forth in the Bonded Labour System (Abolition) Act, 1976 are never realised by the vast majority of those persons the Act was meant to protect.

Since the illusionary 'abolition' of bonded labour in 1976 by the State, there have been no other significant efforts to tackle the complex issue of bonded labour. Civil society engages in rescue and rehabilitation which in certain cases is insufficient or even counterproductive. Bonded labour is not an issue in itself but the result of unresolved labour rights violations since years. The government bodies need to go beyond the

paraphernalia and proactively strengthen labour laws and prevent atrocities on minorities. The State Governments should dovetail the bonded labour rehabilitation scheme with other welfare schemes concerning housing, education and livelihood. Preventive methods to recognize the socio-economic dimensions of bonded labour need to be adopted to address the issues through awareness, literacy, organizing workers, right to cultivable land, vocational skills development and access to credit market.

There is a need for more investment in agriculture and rural enterprises that prevent distress migration and the issues associated with it. Employment generating avenues need to be encouraged and schemes like MNREGA to be implemented with stringent checks and balances in order to eradicate any element of corruption.

The respective Labour Departments of states should ensure the implementation of laws such as the Building and Other Construction Workers (Regulation of Employment and Condition of Service) Act, 1996<sup>31</sup>, Inter State Migrant Workmen (Regulation of Employment and Conditions of

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<sup>31</sup> [The Building and other Construction Workers \(Regulation of Employment and Conditions of Service\) Act, 1996.](#)

Service) Act, 1979<sup>32</sup> and Minimum Wages Act, 1948. There needs to be some amount vigilance on migration, in some cases trafficking of labourers, to prevent their exploitation in a new state by ensuring they are entitled to social security benefits and MNREGA in their native place.

The grave problem of bondage should be contextualised in policy discussions and labour movements to improve labour standards: the urgent need to provide basic protection and security to the most vulnerable segment of the informal sector workforce hired in temporary attachment and fired when they have become redundant again. In addition to regularising employment, the payment modality should be changed from piece rate to daily wage and additionally for the overtime.

Despite the progressive statute outlawing bonded labour the major influx of unorganised labourers work in inhumane conditions. It is the complacency of the State that makes bonded a continuing reality

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<sup>32</sup> [The Inter-State Migrant Workmen \(Regulation of Employment and Conditions of Service\) Act, 1979.](#)

## VIII. Policy Recommendations

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**B**ased on the findings of this research, it is established that occurrence of Bonded Labour is still rampant in brick kilns industries and is a highly underreported issue. There exists a lacunae in the laws around trafficking and migrant workers that enables the employers to escape prosecution. In a conversation with Nirmal Gorana, from Bandhua Mukti Morcha, he said that the number of prosecutions under the Bonded Labour Act are negligible.

“The rescued workers are handed the money (Rs. 20,000), sometimes not even in entirety and sent back to their native villages. There is hardly any instance of criminal charges against the employer. Bonded Labour is not treated as a grave crime. It is however the worst face of our democracy.”

The analysis of the research findings, propose the following policy recommendations that would help tackle the issue of modern day slavery.

### **Access to Social welfare schemes**

Most of the migrant workers are extremely poor and do not have any assets including a homestead land. They migrate to brick kilns so that they have a place to stay for at least 6-8

months in the year. Assurance of shelter and food is what draws the workers to the otherwise exploitive brick kilns. Access to welfare schemes such as Indira Awas Yojana, Rashtriya Swasthya Bima Yojana and Antyodaya Anna Yojana would prevent distressed migration.

### **Enabling rural employment and enterprise**

National Rural Livelihood Mission was launched in 2011 with the aim of organising the rural poor into Self Help Groups and enable self-employment through skill based work. MGNREGA if properly implemented, would also be instrumental in preventing labour to migrate and join exploitative industries. The National Skill Development Mission that aims at training skilled artisans must widen its scope to include indigenous artwork produced by some tribal communities in order to promote their potential and prevent exploitation.

### **Financial Inclusion**

In the absence of a steady income, the rural poor face several economic shocks during illness or death of a family member which forces them to borrow money from local moneylenders. Lack of formal credit facilities leads to exploitation of the rural

poor at the hands of these moneylender who charge an exuberant rate of interest on the borrowed sum. Schemes such as the Jan Dhan Yojana and scaling up of micro-finance for the rural poor would prevent debt-bondage which is at the root of bonded labour.

### **Prevention of intergenerational slavery**

Children of brick kiln workers, who are often born on the kilns, start working from a very young age with their parents and never receive an education. They become bound by circumstance to continue working at the kilns as that is the only skill they acquire. Education along with skill building of children of the brick kiln workers would enable them to break away from the cycle of intergenerational slavery.

### **Constitutional safeguards**

Protection of migrant labour under respective labour laws and stringent application of the Bonded Labour Abolition Act with more prosecutions would help in eradicating the practice. The labour must be paid wages in accordance with the minimum wages and not piece rate wages. The vigilance committees constituted in each district must conduct regular inspection raids as prescribed by the law to ensure that there is no occurrence of bondage.

**Prevention of re-bondage**

In many situations, rescued bonded labour, in the absence of any viable alternatives get employed under another brick kiln and work as bonded labour. The 'rehabilitation package' is so designed that it does not enable the rescued labour to start and enterprise of their own. The meagre amount of Rs. 20,000 for a family of five is not a real solution for preventing bonded labour. The amount of compensation needs to be increased along with housing facilities, enrolment of children in school and enabling rural enterprises.

Industries like brick kilns absorb the floating army of 'footloose labour'<sup>33</sup> where they are consumed as temporary labour power. The labour is not protected under a formal contract that assures dignity of work, wages and working hours. Unionisation of unorganised labour would help steer the movement towards assuring labour rights and put an end to slavery.

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### **Constitutional safeguards**

Article 21. Protection of life and personal liberty – No person shall be deprived of his life or personal liberty except according to procedure established by law.

Article 21 A. Right to education – The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

**Article 38. State to secure a social order for the promotion of welfare of the people:**

The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political; shall inform all the institutions of the national life.

The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also groups of people residing in different areas or engaged in different vocations.

**Article 39. Certain principles of policy to be followed by the State:**

The State shall, in particular, direct its policy towards securing, that the citizens, men and women equally, have the right to an adequate means of livelihood;

- a. that ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- b. that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- c. that there is equal pay for equal work for both men and women;
- d. that the health and strength of workers, men and women, and the tender age of children

1. are not abused and that citizens are not forced by economic necessity to enter a vocations
  2. unsuited to their age or strength;
- e. that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

**Article 41. Right to work, to education and to public assistance in certain cases:**

The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

**Article 43. Living wage, etc., for workers:**

The State shall endeavour to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co- operative basis in rural areas.

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