

Between modernism and archaism: The bonded labour situation in India

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Executive summary

This thesis explores the Indian situation regarding bonded labour. This form of forced labour, which corresponds to a "practice similar to slavery" according to UNO, corresponds schematically to the setting in constraint of a person because of the contraction of a debt. Because of this borrowing of money, the person mortgages one's freedom and must work relentlessly for the person she or he will often call "Master". All this happens in a climate of great psychological and physical violence. This form of setting in constraint exists in many countries, but finds in India reasons enabling its "blooming", since millions of people are concerned by this. First of all because of poverty: 430 million people live under the poverty line. As well because of the Indian social structure: the division of society in hierarchical castes leaves the "outcast", also called "untouchable" or "dalits" outside the system. The "dalits" historically reserved for the service of the members of the high castes are in danger with respect to bonded labour, considering that this social diagram is still interiorized by many, including dalits themselves. This system comes from the very remote Indian times. One could think that the Indian social, political and economic evolutions would naturally tend to make it disappear. On top of this there is an Indian law which prohibits this practice. This work, completed on the basis of survey carried out in various States of India and the encounter of many actors, proposes to analyze the way in which the system of dependent work evolves today, while trying to point out the capacities of resistance and adaptation which it had developed. The role of the Indian administration is also studied, and the dramatic gaps in the implementation of the law are described. Lastly, proposals are elaborated for various actors, of which the CCFD and its partners, with the aim of developing a strategy to fight against this scourge.

Key words: Forced labour, bonded labour, Dalits, Tribes, caste system, Indian administration, ILO, coolie, National Commission on Human

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Objectives of the Study – Methodology

I - OBJECTIVES

The scope of a study on bonded labour in India is simply colossal, commensurable with the size of the country itself. Done within the framework of an internship at the end of a Master's program, this study merely hopes to shed light from one specific angle, i.e. to improve the knowledge of this problem in the context of the work of the NGO that hosted me, namely the Catholic Committee against Hunger and for Development (CCFD). Thus, this study will endeavour to contribute to an increased understanding of the issues that are at stake today so as to provide some perspectives for the future action of CCFD on this problem. At present, bonded labour is not yet a specific working issue for CCFD or its partner organisations, even if various partners have encountered isolated cases in the course of their work. On the other hand, CCFD has been very involved in the social problems of Dalits. And as we will see here, the problems of bonded labour are as intricately linked to the issue of discrimination within the caste system as the Dalit problem.

The classical, or perhaps a more sociological and academic approach to the problem, would have been to begin with a geographically confined, in-depth case study. There are several reasons which dissuaded me from following this approach. First, this study was done as part of a CCFD internship that was not intended primarily as an “academic research” task. Secondly, in order to pursue the classical approach, one or several NGOs would need to be mobilised over a much longer period of time. Lacking specific contacts on this issue, this would have been difficult to carry out even if a defined zone such as Tamil Nadu (where most of the partners of CCFD are based) were targeted. In addition, there are few organisations that specialise on this problem. Moreover, the ILO which implements a specific program on this subject refused to give me its

contacts for fear that these organisations which have been asked to participate in another on-going study during the same period would feel “overwhelmed”.

The objective of this work then is more to get an overall view of the problem while trying to suggest some answers to the following questions:

- How to characterise the existing relationship between the owner (“the master”) and the bonded workers? What are the consequences of bonded labour on the life of a bonded worker?
- Who are the actors involved (bonded labourers, owners, NGO, administration, police, etc.)? How do they interact?
- What is the role played by the NGOs on the ground? What are their strategies? Their means of action?
- Is the assumption that invoking the law is sufficient to obtain the liberation of bonded labourers confirmed on the ground?
- What are the conditions for the application of the law by the authorities?
- What lessons should be drawn by CCFD and its partner organisations?

I formulated the working methodology for my fieldwork based on a reading of ILO reports. The NGOs most involved in the struggle against this system were cited in these reports. These included Jeevika in Karnataka, Volunteers for Social Justice (VSJ) in Punjab, Bandua Mukhti Morcha near New Delhi. The idea was to bring together CCFD partner NGOs that encountered this problem with these “specialised” NGOs. The aims were:

- To benefit from the competence of at least one of these specialised NGOs to obtain necessary information for study, and to obtain a perspective on possible strategies to develop to struggle against this system;

- To raise awareness among CCFD partners of the significance of this problem, and if they so desire, to enable them to benefit from the competence of the specialised NGOs through establishing contact.

II - METHODOLOGY

1. Organisation of the fieldwork

The fieldwork proceeded through different stages:

- *02/07/05 to 09/07/05*: I spent one week with a small organisation, MACT, near Chennai. This extremely dynamic association works with the children of bonded workers in the brickyards to ensure that they go to school while their parents move around in the region for several months before returning home;
- *25/07/05 to 30/07/05*, I spent slightly less than a week with Human Rights Forum for Dalit Liberation, a “network of networks” of Dalit associations which is a CCFD partner in southern Tamil Nadu;
- *31/07/05 to 09/08/05*, I was hosted for about ten days by JEEVIKA in Karnataka, Bangalore;
- *11/08/05 to 15/08/05*, I stayed with DBSU (Dalit Bahujan Shramik Union), formerly an association of Paul Divakar who led the National Campaign on Dalit Human Rights in Hyderabad, Andhra Pradesh;
- *18/08/05 to 27/08/05*, I spent slightly over a week in New Delhi without assistance from any specific group in the hope of meeting Swami Agnivesh of Bandua Mukthi Morcha, Jai Singh of Volunteers for Social Justice and a number of other actors (at the ministry and Supreme Court, researchers, the person-in-charge of ILO, members of the National Commission of Human Rights)

The period between 10/07/05 to 23/07/05 was devoted to another task for CCFD, namely the formation of a group of students who came for an immersion program in Tamil Nadu.

As much as possible, I tried to meet various actors as follows:

Bonded labourers, NGO, officials at various levels, members of different Commissions, politicians, journalists, lawyers, researchers, etc..

Unfortunately, it was not possible for me to meet as many people as I would have liked. In particular, the personnel of the ministry were not available during this period owing to parliamentary discussions on important laws. I also did not have the contacts to arrange an interview with someone from the perspective of the Supreme Court. In Tamil Nadu, members of the State Assembly had returned to their respective regions since no sessions were then being held at the Assembly in Chennai; it was only possible to meet one single political leader (from PMK party). Other attempts to meet officials in Karnataka or in Andhra Pradesh were also unsuccessful, owing to “festivals” or demonstrations. Direct information from highly placed officials could only be obtained on very rare occasions, such as with A. Mishra in Chennai, Joint Secretary at the Ministry of SC/ST responsible for the problem of bonded labour.

2. The interviews

Fieldwork was done through interviews. Conditions under which these interviews were realised varied depending on the interlocutors.

In the first place, there is an inherent difficulty related to this type of study, that of translation. The bonded labourers encountered were often illiterate and understood no English. So interpretation was assured by a team member of the NGO, usually someone from the grassroots of these associations who therefore understood well the problematic and my objectives. Although the translation was well done in most cases, the inevitable loss of some information to is still regrettable. I was not in a position to verify the accuracy of translation from English to Tamil, Kannada or Telegu, nor especially the translation from local languages into English. More often than not, the ideas appeared to have been re-organised before being conveyed to me, owing especially to the difficulties experienced by the bonded labourers to express their ideas as soon as our discussions went beyond factual information.

As for the officials, the encounters often took place during on-going meetings or the break in between. The lack of time and the public situations in which these interviews were held also hindered the collection of information in certain cases. Quite often these officials were very suspicious of a foreign interlocutor who came to research on such a sensitive subject, and it takes time to break down such barriers. Besides, these exchanges at times took place in the presence of NGO people, and the discussions became distracted with particular cases linked to current affairs. It was difficult to ensure that these generally very lively discussions be carried on in English

Introduction

“The world should understand that India has changed”. Effectively, India has changed, as announced by Manmohan Singh during the switch from the decades-old socialist policy to the liberalisation of the Indian economy at the beginning of the 1990s. The result since then has been a growth rate of more than 6% and a constant increase in the foreign investment inflow as India welcomes foreign enterprises with wide-open arms and commences its quest for new economic conquests. The dynamic Indian diaspora remits even more funds than come from the foreign investments while Indian dependence on public development aid continues to decrease regularly. India even enjoys the luxury of refusing particular foreign aid that is judged to be too critical of certain aspects of its social life, especially in reference to the discrimination linked to the caste system.

It has often been said that India is a land of contrasts. The economic boom experienced by big cities did not eradicate the slums of Bombay, of Madras, of New Delhi... though the authorities tried to do so often in a brutal way. The park established with high-tech factories of pharmaceutical or informatics industry at Bangalore is only separated by a few kilometres of bumpy and dusty road from the parched villages, where subsistence is the order of their existence. Indian villages are a depressing sight. Although the Green Revolution has helped the country to attain self-sufficiency in its grain production, and enabled it to export a great quantity of rice and grains, many villagers need to obtain their basic foodstuff at the ration-shops with their ration card. While the fertile plains of Punjab provide several harvests per year, the barren fields of Bihar are unable to feed the peasants who are deserting the villages to find other means of subsistence.

At a time when India is grabbing headlines with its economic dynamism (even though this is less than its Chinese cousin) and is campaigning for a permanent seat on the UN Security Council, a large majority of its immense population (more than a billion inhabitants) seems condemned to a life of poverty or even misery. Thus, while India dashes towards modernity, it is leaving in its

wake millions of illiterate, undernourished and poor without a future or even a real social existence.

However, while there are great lines of divide within the country in economic matters, the whole of Indian society is in fact profoundly divided by its social structure. The caste system separates the population into complementary and opposing categories. These categories are positioned on different ranks according to a scale of purity which is omnipresent in the consciousness of everybody. The three superior *varna* are high castes consisting of the Brahmins (educated, priests), the Ksatriyas (warriors, rulers) and the Vaisyas (merchants). The lower caste Sudras (servants) are required to be at the service of these high castes. An integral part of Hinduism, this system relegates to its periphery those on the lowest rank of its purity scale, the “outcasts” or the untouchables (or Dalits). All these castes are further sub-divided into a multitude of sub-castes, or *jati*, which group together individuals originally engaged in a particular profession for a given geographical zone. Without exception, the untouchables are also sub-divided into a hierarchy of *jati*, which historically has constituted an obstacle of their unity as a social force right up to the present. This system, which is said by some to operate as a balancing factor, contributes in reality to the structuring the country, particularly the villages. The notion of relative purity has resulted in a system of discrimination, relegating the untouchables to do the dirtiest tasks and to live in isolated zones away from the high caste Hindus in the villages. There are numerous manifestations of this discrimination such as prohibition of access to the village wells and to tea-shops, under-development of facilities in the areas where they live, poor schooling facilities, difficult access to land. Untouchables are also victims of innumerable acts of atrocity and extortion. These practices are certainly decreasing as a result of the joint action of local and sometimes international NGOs as well as the positive discrimination measures provided by Indian laws. However, they are still part of the daily lives of many Indians especially in the villages.

Poverty and social injustice provide a rich fodder for social marginalisation and lead easily to human tragedy. One particular example among a plethora of others is that of bonded labour, especially debt bondage, on which this study hopes to shed some light. Debt bondage labourers operate under a very peculiar employer-employee relationship devoid of freedom. The problem of debt bondage labour exists in many countries but sadly India seems to hold the worst record. This relationship, described by the UN as a “practice similar to slavery”, is characterised by an obligation for a person to work under deplorable conditions for another individual to whom that person owes a debt. It has existed under different forms throughout Indian history and in different regions. It is prohibited by international regulations such as the Conventions of the International Labour Organisation (ILO) that India has signed and ratified. The Indian Constitution also proscribes it explicitly and for this purpose enacted the Bonded Labour System Abolition Act in 1976. Two questions are in order here. In the context of Indian society in great mutation, is the ancient system of debt-bondage in decline or is it benefiting from this new situation to resist eradication or even to flourish in the new social context? Are legal measures necessary and sufficient to ensure the abolition of this system or at least for it to be relegated into a “species in danger of extinction”? At the very least, are these measures reliable weapons for NGOs working on the ground to assist bonded labourers?

Posing these questions requires first of all taking a hard look at the symptoms and evolution of this phenomenon, while questioning it from the perspective of the Indian social structure. It also implies asking oneself if there is a real will on the part of the government to act decisively to change the system and to analyse the actions carried out by the authorities from the perspective of possible legal action. It means finally endeavouring to understand the existing social forces at work as well as to identify the different actors and analyse their interactions. While this paper is certainly incomplete owing to the immensity of the field of study and to the difficulty in obtaining certain information, this study tries to propose various responses to these questions. The last part of the study also seeks to go beyond the frontier of the academic approach by proposing a list of recommendations for different actors in this field and a rough sketch of a plan

of action. Of course, this plan is not intended to be directly applicable at the grassroots, but to serve as the basis for reflection in CCFD and among its partner organisations.

Part I: General Framework and Characteristics of India

I – LEGAL CONCEPTS AND FRAMEWORK

1. Forced labour, is it slavery? Definitions and international regulations

1.1. Forced labour: some general aspects

“Clearly, slavery has been abolished. These practices belong to another era and no longer exist!”

This is in essence what most people would probably have in mind when thinking about this subject, generally linking it with the images of blacks in the American cotton fields.... Yet, doesn't this primary and violent form of deprivation of liberty correspond to the very archetype of a phenomenon (slavery) that has multiple expressions and continues to exist in the view of many people? In any event, is it not equivalent to slavery to find subservient debt-bonded labourer in India or elsewhere working non-stop in sometimes terrible conditions?

The practice of forced labour certainly dates back to a time immemorial. From the young girl offered at the Indian temples to the Brahmin rounded up by the army to participate in the construction of military bases, from Russian political prisoners sent to work in the gulags to the blacks who were victims of an international slave trade, from an Indian garbage collector relegated to the execution of disgusting tasks due simply to his caste identity to a Togolese prostitute dispatched to the Parisian pavement, the forms in which forced labour takes are diverse and evolving. This complexity also exists within Indian territory itself. The objective of this study is evidently not to discuss forced labour in all its dimensions. The phenomenon studied in the framework of this research is debt-bondage. Yet giving a definition of debt-bondage and the related international regulations without briefly presenting briefly the general framework of forced labour would lead to regrettable omissions that would limit our general comprehension of the meaning of the various terms that we use here and the clear demarcation of our field of study.

The evolution of international regulations has also contributed to the definition of various terms. Providing a brief panoramic overview therefore seems appropriate.

The Slavery Convention adopted by the League of Nations on 25 September 1926 defines slavery as the “status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.” (Art.1) Forced labour is also differentiated from slavery, since “compulsory or forced labour may only be exacted for public purposes” but with the conditions that all necessary measures should be taken “to prevent compulsory or forced labour from developing into conditions analogous to slavery.” (Art.5)

In 1924, the Temporary Slavery Commission established a list of various forms of slavery, including “all forms of pledging or reducing to servitude of persons for debt or other reason” which were included as “condition(s) analogous to slavery”.

By calling for the “suppression of slavery in all its forms”, the Convention also applies to debt bondage.

The 1956 “Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery” enlarged the scope of application to other practices analogous to slavery (such as serfdom and debt bondage, see below).

The definition of slavery given by the 1926 Convention has hardly evolved since. It was formulated by the United Nations¹ (UN) as “all forms of treatment of human beings leading to forced exploitation of their labour”.

Determining whether there is slavery involves discussing whether “any or all of the powers attaching to the right of ownership are exercised” on a person. Debt bondage, in some of its expressions (see below), appears to fall within the scope of definition of slavery. However, the ILO, which is the organ that has the principle role of fighting against forced labour, has established two conventions for these purposes based on a distinction between forced labour and slavery.

¹ Document E/CN.4/Sub.2/1982/20

In 1930, “*Convention No. 29 concerning forced labour*” abolished and defined forced labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” (Article 2.1) **This Convention was ratified by India in 1954**, which pledged to “suppress the use of forced or compulsory labour in all its forms within the shortest possible period.” (Article 1) The second major instrument established in 1957 by the ILO is “*Convention No. 105 concerning the abolition of forced labour*”. Through this new Convention, certain rights of recourse to forced labour that states could previously exercise such as for economic development or as a measure of political education were rendered invalid. Yet, Article 23 of the Indian Constitution allows the state to implement compulsory labour. India therefore did not ratify this Convention. On the other hand, the ILO includes debt bondage within the scope of application of Convention No. 29.

Among the other principal legal texts relating to fundamental liberties, the Universal Declaration of Human Rights is uncompromising, proclaiming that “no one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms” (Article 4).

In the judgment of the International Court of Justice, slavery and practices similar to slavery and forced labour constitute “a crime against humanity” when this crime is committed by agents of the state against all persons, regardless of circumstances and nationality. An “ordinary international crime” when it is committed by agents of the state or an individual against any person²”.

In his report, “Abolishing Slavery and its Contemporary Forms³”, addressed to High Commissioner for Human Rights, David Weissbrodt of the Antislavery International association

² M. Cherif Bassiouni, “Enslavement as an international crime”, New York University Journal of International Law and Politics, Vol.2, p. 445, 1991.

³ <http://www.ohchr.org/english/about/publications/docs/slavery.pdf>

provides a complete overview of existing texts concerning migrants, child labour, minimum salaries ... all of which overlap more or less with forced labour and sometimes more specifically with debt bondage. It is beyond the scope of this study to analyse or even present them here but issues related to these different texts need to be noted.

In the end, forced labour is characterised by one or the other of two elements, namely either the absence of consent by the affected party or the use of threat to procure his labour. In its report “Global Alliance against Forced Labour⁴”, the ILO notes some of the forms in which constraint factors may take such as the existence of a debt, physical constraints, the sale of a person to another individual, detention at the workplace, non-payment of wages, confiscation of identity documents, denunciation to authorities, threat of loss of employment if the person refuses to work more than envisaged under the contract initially signed....

1.2. Bonded labour: a form of forced labour

A discussion on the definition of bonded labour related to India can be found in the second part of this study. However, bonded labour is a form of work obliged to be accepted by an individual in situations other than that of the labour market owing to indebtedness. This debt may be a “social debt”, as in the case, for instance, of belonging to a particular caste. It may also be financial, which amounts to debt bondage.

The definition of debt bondage (Section I, Article 1 of the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery) which is part of these “practices analogous to slavery” is clear. It means “the status or condition arising from a pledge by a debtor of his personal services or those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and the nature of those services are not respectively limited and defined”.

⁴ ILO: “Global Alliance against Forced Labour”, Annual Report, 2005:
http://www.ilo.org/dyn/declaris/DECLARATIONWEB.DOWNLOAD_BLOB?Var_DocumentID=5060

2. Forced labour: The extent of the phenomenon

The International Labour Organisation (henceforth ILO) plays a pivotal role in studying and fighting against forced labour. This organisation, which “seeks the promotion of social justice and internationally recognised human and labour rights”, has a unique tripartite structure that simultaneously brings together workers, employers and governments. It establishes international conventions specifying the minimum norms to be respected in the domain of its competence which includes forced labour. It contributes technical expertise and conducts field programs through its regional offices. It plays a big role in the dissemination of information through publication of studies and reports such as the 2005 annual report entitled, “*A Global Alliance against Forced Labour*⁵”.

This study differentiates several types of forced labour (i.e. forced labour imposed by the state, sexual exploitation, exploitation of economic nature and mixed forms). It gives estimated figures for each of these forms of forced labour, classified by principal geographical zones. Some of the more detailed elements of this study are presented in the appendix. According to the ILO, 12.3 million people are subject to forced labour throughout the world. Economic exploitation, the category to which debt bondage belongs, is the biggest group (almost 8 million individuals), especially in Asia / Pacific (6 million people). These figures may of course be subject to dispute, however, the study at least makes it clear that forced labour concerns adults as well as children, both men and women, local people as well as migrants, it may involve a simple relationship between two persons or a whole mafia network, and it concerns a wide spectrum of occupations and with different elements of constraint being applied. Taken as a whole, this complex, multi-form and constantly evolving phenomenon goes beyond the scope of this study. Therefore, we will concentrate here on debt bondage in India.

In Part I, after giving a few elements enabling us to apprehend the extent of these practices in India, we will outline the types of relationship existing between the forced labourers and their “employers”. We will try to analyse for instance the way in which an agreed cash advance or loan influences the working conditions and the life of a bonded labourer. We will also provide a number of elements relating to this debt. Why is it incurred? Who gives it? Who takes it? What are the means of reimbursement? The second part of the study will try to shed light on the persistent nature of the phenomenon of bonded labour as well as on the behaviour of different actors concerned.

II – BONDED LABOUR IN INDIA: A QUANTITATIVE APPROACH

The first question that could be posed concerns the prevalence of the phenomenon. Should one talk about isolated cases in the villages? Or of a more “institutionalised” system, present almost systematically in every domain of activity? Is it possible to know how many bonded labourers there are in India?

Chamal Lal, the special *rappporteur* to the National Commission on Human Rights (NCHR) gave the following answer to this question. “I can’t give you any figures. It is just impossible to know how many people are in this situation. There is no survey which could provide us a figure. Each person proposes figures which serve his interests. The government gives fanciful figures but the NGOs have a tendency to inflate the figures.” (Page 81)⁶

Thus, according to Chamal Lal, who represents an important institution for following up on the application of the law concerning bonded labour in India⁷, proposing an overall figure is an impossible task. However, estimates have been made by various bodies and the Indian government publishes figures every year. The following information thus enables us to get some idea of the amplitude of the phenomenon.

- *Report of the Gandhi Peace Foundation*

⁶ See also the interview with Mrs Bansari, page 72, for whom the number of bonded labourers is still be in the order of “millions”.

⁷ See Part II-3 of second part.

This is one of the often quoted studies in the literature and it represents an initial attempt to quantify the phenomenon. The final report of the study was published in 1981⁸.

The study only covered 10 States and solely in the agricultural domain. The published figures were an extrapolation of the results of survey done in 1,000 villages.

	Andra Pradesh	Bihar	Gujarat	Karnataka	Madya Pradesh	Maharashtra
Number of BL	325 000	111 000	171 000	193 000	500 000	100 000
% of BL among the agricultural workers	5%	1,7%	9,5%	7,6%	12,6%	2%
% of villages having BL	40%	21%	54,8%	58,5%	47,1%	29%

	Orissa	Rajasthan	Tamil Nadu	Uttar Pradesh	Total
Number of BL	350 000	67 000	250 000	550 000	2 617 000
% of BL among the agricultural workers	18,4%	9,4%	6%	10,4%	5,7%
% of villages having BL	61%	33,8%	58,2%	44,3%	46,4%

BL: Bonded Labourer.

- *The report of the National Sample Survey Organisation (NSSO) - 1978*

These estimates are very much lower owing to a more restrictive definition of bonded labour based on the BLSA Act than that taken by GPF. According to the NSSO, the estimated number of bonded workers in agricultural and other sectors inclusive was 345,000.

- *Human Rights Watch*

In its 1996 publication⁹ devoted to bonded child labour an estimation made by Anti-slavery International¹⁰, this organisation estimates that a minimum of 15 million children would have been in this situation (reference age is not mentioned).

⁸ Sarma Marla, "Bonded Labour in India - National Survey on the incidence of Bonded Labour", Final Report, 1981.

- *Report of the Commission on Bonded Labour in Tamil Nadu*¹¹

By order of the Supreme Court on 6 March 1995, a lawyer and a social worker were nominated to carry out a survey on bonded labour in Tamil Nadu. This Commission estimated that the number of bonded labourers in the state of Tamil Nadu is more than a million.

- *Jeevika* estimates that there must be 500,000 bonded labourers in Karnataka, a figure lower than that proposed by Volunteers for Social Justice in Punjab (850,000). Basing himself on the “extended” definition of bonded labour (taken from a judgement of the Supreme Court, according to whom all those who earn less than the minimum salary are considered bonded labourers, see below), Swami Agnivesh of Bandua Mukhti Morcha suggested the figure of 470 million bonded workers in India.
- *The government* provides yearly consolidated information on the number of bonded labourers¹². This concerns the number of identified bonded labourers who have officially been freed since 1976. Up to the present, 285,886 bonded workers have been identified and liberated, of whom 265,924 have benefited from rehabilitation programs.

It is impossible to obtain really representative figures on this issue. However, it can be seen from this brief review that the system of bonded labour is very extensive, probably concerning millions of people on Indian territory. The study of the Gandhi Peace Foundation is eloquent, recording the presence of bonded workers in almost half of the villages and considering that 6% of the agricultural workers are bonded labourers.

III – CHARACTERISTICS OF “BONDED LABOUR”

District: Nagapattinam

⁹ Human Rights Watch, “The small hands of slavery - Bonded child Labour in India”, 1996.

¹⁰ Anti-Slavery International, “Children in bondage: Slaves of the Subcontinent”, 1991.

¹¹ Felix Sugirtharaj and Siraj Sait: “Report of the Commission on Bonded Labour in Tamil Nadu”, Madras, 1995.

¹² Ministry of Labour, *Annual Report*, 2004-2005, § 9.

Village: Nemale-Nepathur

Name: Kalimuthi

Activity: Village leader

What happened in the village?

An agent came to the village to recruit people to work in a neighbouring brickyard (that of Radjah Sudhakaram). He offered cash advances for 7 persons (3,000 Rupees). These persons worked there for one and a half years.

Under what conditions?

They have to work the whole day for about 15 hours. And the accounts were rigged. They should normally be paid 140 rupees per day with 80 rupees going towards the reimbursement of the cash advance. In fact, when they did the accounting at the end of the season, they owed even more money owing to accumulated interest. No accounting was done for the reimbursements. The owners forced them to work and even lodged a complaint against them.

What happened to the workers?

Two among them (Kanam and Karthideyam) left without reimbursing all that was asked of them. One day while they were at the market some men came in a car and kidnapped them. They brought them back to the brickyard to force them to work. They tied them to a tree, beat them and electrocuted them. Other people from high castes advised them not to beat up the workers like that or else they may have problems. They then lodged complaints against the workers to force them to pay or to work for them. The police as well as politicians such as Kortavamoorthi of the PMK¹³ came. They defended the interests of the owner and it was decided at a reconciliation meeting that the workers had to reimburse at least part of the debt or else they had to return to work there. The whole village is now responsible for the reimbursement of the debt. It was on this occasion that the other 9 workers (there were 4 others from another village) were taken from the brickyard.

How could it be possible that the politicians and the police, who are supposed to know the laws, did not condemn the owner but have asked you to reimburse this debt?

A man with whom the owner has had a problem before came to warn me that the latter had given 20,000 Rupees to the police so that they would hush up the falsification of accounts. And the political parties are related to the owners. In fact, the owner is from the family of a former minister of the federal government.

Arrival of Jayalakshmi, one of the persons in the list of those who had worked in the brickyard.

We had to work 18 hours per day. We have lost all our kitchen utensils, all was left there. Initially we received a cash advance of 3000 rupees. Then after a few months our debt rose to 7000 rupees. There are good brickyards around but this one is terrible. The two workers who were beaten up are still handicapped.

Did you lodge complaint under the Bonded Labour Abolition Act?

No, nobody here knows about such things. And then if a simple worker wants to lodge a complaint to the police, they would never receive us. We are too weak and they are too powerful.

¹³

Pattala Makal Katchi, the third political party of Tamil Nadu

This interview, which took place in the state of Tamil Nadu on 29 July 2005, is interesting in the sense that it highlights several aspects of the problem and the actors involved in bonded labour.

- the bonded labourer, who incurred a debt towards an employer,
- the agent to whom the employers have sometimes resorted to recruit bonded workers,
- the owner who takes advantage of his position of force to under-pay the worker by rigging the accounts and who resorts at times to violence and intimidation,
- the authorities and a police force who do not act, and are susceptible to corruption,
- the link between the owner and political powers.

1. Profile of bonded labourers

1.1. Caste and bonded labour

The study carried out by Jeevika in the agricultural sector of Anekal Taluk¹⁴ indicated a highly skewed distribution by caste of the bonded labourers. The Dalits and Tribal people constitute 96% of the bonded workers. The “Backward Castes” form 2.5% of the identified bonded labourers, and the members of dominant castes (Reddy), 1.5%. A study by the Gandhi Peace Foundation¹⁵, once again realised in the agricultural sector, demonstrates the benefits of extending the scope of study to 10 States. The distribution by caste confirms the previous figures as the bonded workers again more or less come from the SC¹⁶ (61.5%) and ST¹⁷ (25.1%) communities. The “Backward Castes” form 6.9% of all the bonded labourers and only 2.2% for the Hindu high caste. A study by the Commission on Bonded Labour in Tamil Nadu¹⁸ looked at around 20 sectors of activities. Together, the Dalits and the Tribal people represented 50 % of all the bonded labourers, with the rest coming from the Most Backward Castes (MBC: 26%) and

¹⁴ Bonded Labour in Anekal Taluk, Bangalore Urban District - An analysis, 1991.

¹⁵ Sarma Marla, “Bonded Labour in India - National Survey on the incidence of Bonded Labour”, *op. cit.*

¹⁶ Schedule Castes: The untouchables, Dalits.

¹⁷ Schedule Tribes.

¹⁸ Felix Sugirtharaj et Siraj Sait: “Report of the Commission on Bonded Labour in Tamil Nadu”, *op. cit.*

Backward Castes (BC: 24%). The distribution by caste varies greatly depending on the sector of activities. In agriculture the Dalits constitute 95% of the whole. In the quarries, the SC/ST comprise 50% of the bonded workers but only 30% in the brickyards. These figures contradict the observations of Cyril, the director of MACT, an NGO who works with children of bonded labourers in the brickyards in the District of Thiruvallure, near Chennai. According to the latter, the Dalits form about 80% of the bonded workers in this sector (Page 5). The report of the Commission indicates that the presence of Dalits is nil or almost so in certain sectors such as weaving. This is perhaps due to the professional specialisation of certain castes belonging to BC or MBC. Field observations correspond largely with these data. With respect to workers in the brickyards and in the field of precious stone cutting, our meetings with them were not sufficiently numerous to be able to deduce statistical data. Bonded workers generally came from low castes (BC, SC...). In the agricultural domain, almost all the bonded workers were Dalits. The most important fact is hence the over-representation of SC and ST among the bonded workers. While they form 25% of the Indian population, they may constitute up to 100% in some of the sectors, especially in agriculture. According to Chamal Lal of NCHR, “*the majority of the bonded workers are Dalits or Tribal people.*” (Page 81)

1.2. Sex of bonded labourers

Gender distribution varies greatly depending on the sector of activity. While a lot of women are involved in floriculture (70%) or beedie making (40%) (data from the Commission on Bonded Labour in Tamil Nadu report), men constitute an overwhelming majority of bonded labourers in almost all other domains. This is especially the case in agriculture where the same study concluded that 98% of bonded workers are men. In the study by Jeevika as well as that by GPF, the gender ratio is extremely skewed with 98% of bonded workers being men.

The precious stone cutting industry engages both men and women and I encountered workers of both sexes in a more or less equal ratio. However, according to the Tamil Nadu Commission

Report (denoted as the “Commission Report” from now on), women only represent 10% of the bonded labourers in this domain (from a sample of 150 persons). The quarry mining and brickyard activities employ many migrant workers. Quite often they move around in family groups. Hence a certain proportion of women are found in these domains with 20% in the brickyards and 10% in the quarries according to the Commission Report.

1.3. Education Level

A very big majority of the bonded workers that I encountered have had very little formal education and quite often know neither how to read nor to write. The report of the GPF makes the same observation since more than 85% of the identified bonded labourers have not gone to school at all. The statistics suggested by the Report of the Commission indicate that 60% of the bonded workers are illiterate. Less than 15% of them have studied beyond the equivalence of Primary Five in France.

1.4. Age of bonded labourers

The first observation is that the majority of the workers are in the prime of their lives. There are very few “old” bonded workers, since according to the GPF report, just slightly more than 10% of them are older than 40. The Commission Report estimates that around 25% of them are in this age group, which is higher than the 15% figure suggested by Jeevika.

Child labour also emerges from other studies. For example, children under 15 years old still constitute 10% of the bonded labourers in the Tamil Nadu Commission sample, 9% in that of GPF. This figure increases to 25% in the zone investigated by Jeevika.

2. The role of debt

Debt plays a major role in the process of bonded labour since it enables the owner to keep his workers in captivity. We will illustrate the consequences of the existence of this debt on the life

of bonded labourers. We will begin first by studying the ways in which the debts were incurred which varies from one sector of activity to another.

2.1. Debt: The only solution available for escaping from poverty

There is a myriad of reasons leading to the situation of indebtedness. It is often thought that this debt is incurred to meet exceptional expenses, such as a marriage, a health problem.... This is sometimes true given the fact that many of the families can barely meet their daily expenditure and cannot absorb the shock of an exceptional expense. However, cash advances are often taken out with the simple intention of meeting daily needs. Moreover, by leaving one's child with an employer, the parent is relieved of one more mouth to feed... In half of the cases studied by Jeevika (50%), the debt was incurred to meet daily needs. According to the same study, the second most important cause is the organisation of a marriage in the family (27%). The construction of a house (7%), the reimbursement of an old debt (4%), medical care (3%) and child delivery (3%) are among other most often cited reasons. The rest of the cases refer mainly to one-off events such as a funeral, the purchase of a cow, etc. The GPF study came to the same conclusion: meeting daily needs was the principal cause of the engagement of a debt. In more than 60% of the investigated cases, a cash advance was accepted to cope with daily necessities. This is also the reason most often mentioned by the bonded workers whom I encountered.

The majority of the rural population live from agriculture, principally (especially for the Dalits, see below) as agricultural workers. The difficulty of finding a regular job, especially because of drought, and the payment of low wages lead to a situation of critical poverty for many rural people who are unable to find any solution other than accepting a cash advance against which they agree to work for a person whom they call their "master". The experience of Venkateshappa (35 years old) illustrates this process: "*I started at 20 years old. I could not find enough work, hence I went to see a master and proposed myself to work for him. He accepted.*"

(Page 44) Thus, lacking any other means to face the future – or indeed even present daily needs - Venkateshappa sees no other way than to offer himself up to a land owner and become a bonded labourer.

Another frequently encountered situation is the problem of alcoholism in the villages. The story of Prabhakar (14 years old) is illustrative of such cases: *"I began at 7 years old. Then I worked for 7 years at several locations. My father drank. One day, he came home drunk. He beat up my mother. She committed suicide by swallowing poison. In order to pay for the funeral, he borrowed money from a landlord. I don't know how much. I then had to go there to work. There was an agreement for 5 years."* (Page 67)

2.2. Providing an advance: various strategies to respond to different needs

The needs of the owners vary depending on the sector of activity. Consequently, the strategies developed by them in order to consolidate their control over their workers differ, although debt remains the tool of enslavement that forms the basis of all their strategies.

2.2.1. Agriculture

2.2.1.1. Recruitment of bonded labourers

Labour in this sector is, without exception, very widely available in rural areas where the majority of villagers work as daily agricultural workers. Having a bonded labourer is therefore something of a “bonus”, a way to pay even less for labour while retaining a worker virtually on call 24 hours per day. Even if the amount of work fluctuates seasonally, it is beneficial for an owner to have a worker around throughout the year. There is always work to do: taking care of the land, feeding the animals.... The relationship between agricultural workers and the land owners is somehow a close and long term relationship: in the villages, everybody knows everybody. To go and meet the owner and offer oneself (or one's son) to work for him against a

cash advance or loan is something done quite naturally. Hence it is frequent that a worker incurs the debt at his own initiative. Sometimes it is also the owner who makes the proposal, as in the case of Subrayappa (40 years old): *“I began at 25 years old. I was married with two children. It was difficult to find work, and I had difficulties to feed my family. I was working as a labourer for an owner who told me that if I stayed all the time with him, he would provide food for me and give me 3000 Rupees per year. So I accepted.”*

2.2.1.2. Ways of reimbursement

At first sight, reimbursement of a debt means repayment of the sum borrowed. In the agricultural world of Karnataka, however, the mechanism in operation is different. The bonded worker reimburses the creditor “master” by working time rather than in cash. Hence a bonded labourer receives the equivalent of a ridiculous sum as salary, and finishes by depending on the food provided by the master to survive. The borrowings, which are agreed to for a lengthy period of labour, never allow for the accumulation of capital, rendering any intention to reimburse the sum borrowed (hence liberation) illusory. The initial agreement defines the period of labour that must be provided to the master against the sum that the worker wishes to borrow. Generally the duration fixed in the initial agreement lasts from one to several years, according to the findings of the Jeevika survey. In the area under study, it is rare to encounter cases of indebtedness that lead to generational transmission of enslavement. The “salary” (i.e. the sum to be reimbursed by a given period of labour, generally one year) depends on the age of the worker (in the case of a child, the monthly/annual remuneration is low but increases with time) and the sum borrowed. Generally, the higher the sum advanced, the lower the remuneration. In the zone investigated, more than 90% of the workers receive an annual remuneration; a very small proportion of the workers get monthly payment. The data of 1991 indicate that 65% of the workers received between 750 to 2000 Rupees per year; almost all the rest were given less than 750 rupees per year. This for instance is the case of Das (above), who for a specific amount was engaged for a

period of 5 years. The cash advance may also involve a shorter period of engagement of two or three years, or even quite often for a period of one year, which is in fact renewable annually. The sum advanced may also be increased quite regularly, especially when the workers involved are children. It is fairly common for a young child to be engaged for a very low advance, and that this advance increases gradually, particularly when he gets older and reaches adulthood, becoming capable of carrying out more difficult activities.

A very common practice in Karnataka is to change master once the initial contract is fulfilled. Bonded labourers who have repaid their debt with their labour change their master quite frequently at this time in order to find another owner who would pay them a bit better. Amathya (35 years old) shares his experience: *“I began at 14 years old. My father has two wives. I am from the second. My father is old and he can no longer work. In order to build his house he sold me to a master for 6000 rupees. For this I worked for two years. Then my father took 4000 rupees from another master for the marriage of my sister. I worked for another two years. Now I am working for a third master. I began this year. For 5000 rupees, I have to stay for a year.”* (Page 51) Venkateshappa could also move to another owner: *“Since I did not earn enough money, I went to work for someone else. He did not force me to stay. For six months now I have worked for a new master.”* (Page 44) Based on the Jeevika study, this type of changeover takes place every two or three years. Prabhakar provides another example of this practice but this time the initiative for a switch comes from the master: *“I changed master after three years, I did not want to work any more. I did not work sufficiently, so the master beat me. One day, he went to see my father, telling him that I don’t work well and that he wanted the cash advance to be reimbursed. So my father repaid him by borrowing from someone else. I went to work there. My former master took somebody else.”* (Page 67)

Everything that happens indicates that owners know that they are able to tap in to the vast reservoir of labour. Having a bonded labourer on call amounts to a windfall, and the latter can be

freed once his labour time is completed. The master will always be able to find another bonded worker to replace him. Sometimes, the bonded worker may even leave his owner in the middle of the prescribed duration by redeeming his debt. In reality, however, redemption of the debt functions as a simple transfer. The labourer borrows the required sum from another master and makes himself available in turn to his new master.

The wages paid to bonded labourers are very low, less than the legal minimum salary. For instance, Amathya earns 5000 Rupees for a year, which is equivalent to about 15 rupees for a day of labour whereas the normal salary for a male labourer is usually 40 to 70 rupees per day. This is also shown by the GPF study, which documents that the negotiated salary (that is the sum advanced for a year of work) was on the average 717 rupees (1980 value), amounting to roughly half of what a labourer would have earned by working everyday for a year at the current daily wage (3.57 rupees per day). In addition, out of the 717 rupees, only 490 rupees were effectively paid by the master....

Sometimes, owners may also use the debt to keep a bonded labourer for a very long period of time by charging correspondingly very high interest. Through his work, Murthi (23 years old) only manages to repay the interest on his debt: *“My father took 8,000 rupees of advance for the marriage of my sister. Then he was hospitalised. He has had to borrow 15,000 Rupees more. Owing this debt, I have to work for this master. But my work does not reimburse the debt, only the interest. My mother also had to accept an advance when she fell sick. She has taken 10,000 Rupees from a master. My younger brother (9 years old) was obliged to stop schooling to stay at the house of this master. There he takes care of livestock. He also works just to repay the interest. I don’t know how to repay the money. I want to be free but I don’t know how to achieve it. There is no way.”* (Page 58) Besides, the owners also often take advantage of illiteracy of bonded workers to rig the accounts and to maintain them in bondage. The workers of Sanjeerarayankovil have lived through such a situation: *“After admitting our debt, we had to*

engage ourselves to work for the owner under his terms. Otherwise we would have to pay the interest. We earn 6 kgs of rice (paddy) per day, plus 5 rupees. The rice was not given everyday and the owner lied about the number of days that we worked. He promised us that the debt will be reimbursed by labour but he lied. We always owed him something, we always had to continue to work for him. [This community is almost totally illiterate]. Even if we wanted to work for another owner who would pay us better and who could redeem our debt, it was not possible. The owner would not let us do it. He beat us up.” (Page 28)

The majority of the bonded workers in this region, however, are able to change their master quite regularly. Yet the practice varies from one region to another of India and we need to resist the temptation to generalise this mode of functioning for the rest of the country. Jai Singh, director of Volunteers for Social Justice, explains that in the Punjab owners try regularly to keep their bonded workers through the leverage that they have on interest and by hushing up the sums involved: *“I have met many workers who became indebted like this for more than 100,000 rupees through not being paid and owing to tricks played by employers. The average sum of debt is between 30,000 and 40,000 rupees. There is interest to be paid on the cash advances, often at between 3 to 5%.”* (Page 77) According to Jai Singh, the situation in this state is different since labour is much less available when compared with other regions. The reaction of the owners is to try to conserve this labour by maintaining the workers in bondage over a long period of time.

2.2.2. Brickmaking

2.2.2.1. Recruitment of bonded labourers

This industry induces different practices in the employer-employee relationship, as is already indicated by a semantic shift. In the agricultural sector, the bonded workers generally use the word “master” when referring to their “employer”. In the case of workers at the brickyards, this

term is not used: they speak of “owner”. This is perhaps rightly linked to the type of debt incurred: short term debt. The activity of the brickyard is in effect seasonal. The work consists of cutting up small cakes of earth (the raw bricks) before baking them. In addition, there is another interesting semantic element that seems to illustrate the extent to which the system of “debt against labour” seems natural and has become perfectly ingrained as a process and as part of the “employer-employee” relationship. The workers never speak about having *borrowed* money from the owner, loans being considered as somewhat unusual. They only speak about their “advance”. This advance seems to be the natural point of departure for the relationship between the owner of the brickyard and the worker. This type of activity is heavily dependent on the weather. The earth is unusable if it is soaked with water. Thus, activity stops during the rainy season. In this case then, the debt is used to retain workers “only” during the period of activity, i.e. for a season, and is reimbursed according to the means described below. The sum borrowed is variable but is generally relatively high. In this manner, Sankarina (23 years old) received an advance of 10,000 rupees for the season (Page 2); the workers of Vayalalallur got between 10,000 to 15,000 rupees (Page 6); Kalaivani was granted 20,000 rupees (Page 7)....

We have seen that in the agricultural sector, indebtedness often occurs in the context of a close relationship between the worker who is an agricultural labourer and the “master” who is the landlord of the village. In the case of the brickyards, the mechanisms at work are different. First of all, given the fact that the working conditions in the brickyards are very harsh, it is difficult to find enough local labour. This was confirmed by Vetranikasalam, the owner of a brickyard in the District of Thiruvallure: “*Yes, it’s difficult. The local people work in other sectors such as agriculture. In order to find people, we have a few contacts*”. Nevertheless, he appears to feel embarrassed about using agent recruiters: “*Many people come by themselves. They know that there is work.*” He admits that it is very competitive among the owners to recruit the labourers: “*Yes. In order to get people, we try to propose the best conditions: better shelters, better tools, and we take good care of them when they fall sick...*” (Page 11) This owner discreetly mentions

a general practice in his sector, namely the massive recruitment of migrant workers. The needs of this industry are very different from those of the agricultural sector. It is difficult to find workers. While following different procedures, it is still the grant of an advance that enables them to recruit and retain the workers. Interviews with workers indicate that recruitment through agents is very widespread and that workers have been mobilised to work at the brickyards from villages very far away. For instance, Sankarira (23 years old) who comes from Rajapavam which is 900 kilometres away from Thiruvallure gives us the following explanations: “*A person came to my village. She proposed to give money to me and my husband so that we would come to work here. I am not the only one from my village. There are 10 buses that brought 60 persons each to come to this region to work.*” (Page 2) The adults working in another brickyard of the same district have also been recruited very far from their workplace: “*We come from two villages, situated in the south, about 900 km from here. For the majority among us, we have been coming here for years. We were recruited by a person who came to propose money to us.*” (Page 6) Kalaivani (20 years old) comes from Villupuram, a few hundred kilometres away, and I asked her whether she came through an agent: “*We have seen at least five or six. We have received 20,000 rupees that we need for the marriage of our daughter and so we came here.*” (Page 8) The recruitment of labourers in the District of Nagapattinam went through the same procedure as explained by Vijayakumar: “*Every year, people come to look for labourers to work near Kerala. People leave to work for about three months from October to December. Then they come back here for the agricultural season. People come to collect them in a van and they leave by the whole family, with all their affairs. [...] The agents come here. They propose cash advances (in the order of 10,000 rupees).*” (Page 31)

One of the salient points of this presentation is that the labourers in the brickyards are essentially migrants, who are attracted to and who become trapped by a cash advance agreed through an agent recruiter.

2.2.2.2. Methods of reimbursement

Here again, repayments are made through labour but on a different basis. In agriculture, the initial agreement defines a duration corresponding to the sum to be reimbursed. In the case of the brickyards, the labourers are paid “by brick”. Salary is fixed and uniform and the labourers get paid according to the number of bricks produced. To a certain extent, they are able to organise themselves as they please so as to come out with a maximum output of bricks. A portion of the manufactured bricks is used to repay the cash advance and the rest of the extra output would be paid accordingly. In general, the labourers receive their wages every week, depending on the number of bricks made, out of which a specific sum would be for the repayment of the debt. The accounts are “adjusted” at the end of the season. Generally, the debt is cleared at this time and the labourers would return to their home. However, as admitted by the workers at one of the sites: *“We have had between 10,000 to 15,000 rupees of cash advance. In order to clear our debt, we have to produce sufficient quantity of bricks. If we can’t make it, we will have to return the following year”*. When I asked them what would happen if they do not return, Cyril from the MACT association intervened: *“There is no such issue. It is far too dangerous. There will always be someone who would come to find them...”* (Page 6)

As a general rule, the labourers are paid on the basis of around 200 rupees for 1,000 bricks produced. According to Cyril, *“they should be earning 500 rupees for 1,000 bricks, which would correspond to the ongoing practices in the rural sector for this work. It is due to the advance that the salary is reduced. The repayment is deducted from these 200 rupees. What is happening at Thiruvallure is not normal...”* (Page 6) One other important issue is the remuneration. The workers are paid for those bricks that are ready, i.e. baked. Yet, the process is quite lengthy, and in all cases lasts for several days from the time when the earth is prepared until it is put in the oven for baking. If there is any rain, the earth is softened and the bricks are lost. Some labourers lost several days of work like this and were not paid...

Once again, the method of repayment varies according to the region. In most of the cases encountered in Thiruvallure, the labourers clear their debt within one season but at the price of truly inhuman exertion. A study conducted in the District of Gautam Budha in Uttar Pradesh revealed that the cash advances given to the workers were often “preserved” from one season to another with the recruiter agent held responsible for this debt by the owner¹⁹. In any event, the methods of repayment aim to force the labourers to work in the most profitable way for the owners. The need to produce a maximum quantity of bricks to be able to repay the advance also frequently leads to the use of child labour, as we have seen above.

2.2.3. Cutting precious stones

2.2.3.1. Recruitment of bonded labourers

The activity of cutting precious stones is very well developed in Tamil Nadu, particularly in the District of Trichy. This industry seems at times to be in difficulty, if we believe Ganesh, the Revenue District Officer of this district: *“One of the problems is that the activity of cutting synthetic stones is declining rapidly, owing especially to competition from the Chinese. If the minimum salary (135 rupees per day) is applied strictly, the whole activity will collapse.* (Page 10)

The sum of debt incurred is variable. Based on the cases I encountered, it varies from 3,000 rupees (Veerasanjan, 33 years old, Page 12) to 10,000 rupees (Allangammal, 25 years old, Page 15) or even more.

As in the cases described for the agricultural bonded workers, it is possible at times to change owner by redeeming one’s debt. This was the case, for example, for Allangammal: *“I received*

¹⁹ S. Srivastava: "Bonded Labour in India: Its incidence and patterns", *op. cit.*, p.19.

an advance of 10,000 rupees. After that, I could not work any more for someone else. But I was able to change owner. Another owner paid for the advance. Now I work for him.” (Page 15)

The role of the agreed advance is first to attract labour and then to oblige labourers to continue to work for the owner. In the precious stone cutting industry, as in the case of the brickyards, though in different ways, the recruitment of workers and hence the engagement of the debt takes place through agents. In the end it becomes a “two sided” process. In addition to the debt that enslaves the labourers, the agents are also held responsible for the debt towards the owner. As the agent generally recruits labourers from his own milieu, it is quite a cunning mechanism of shared responsibility that gives the owner a firm hold over his workers. Nalisami, an agent for the owner, informs us of the mechanisms at work: *“In fact, it is me who is responsible for the debt of the labourers. When the business began to take off, the owner asked me to find more workers and to get them to work. In order to do so, he told me to give them cash advances. In fact, the owner is giving me cash advance for me to give to the labourers. Hence it is me who owe the owner this money: if I want to repay him, the labourers have to repay me first. But they cannot. [...] Often, I choose workers from among the people that I know a bit or who are my distant relatives or from the same caste as me. [...] It is difficult for me to put pressure on the workers, since we are often all from the same family or from the same caste. I owe about 100,000 rupees to the owner.”* (Page 23) The workers from Pusaripathy and Udayapathy began working in this sector as a result of these advances: *“In the beginning, nobody wanted very much to work in this sector so the owners proposed money.”* (Page 11) The advance given to the workers succeeded in drawing them. The very low salary given to the labourers would ensure that the reimbursement of the advance would not be possible. In this way, the worker remains bonded to his owner.

2.2.3.2. Methods of reimbursement

The workers are also paid according to the number of pieces produced. In the cases encountered, the workers make no reference to the repayment of their advance. On the contrary, the labourers

who earn very little are obliged to borrow regularly, hence augmenting their indebtedness and dependence. The workers of the villages of Pusaripathy and Udayapathy present their dilemma this way: “*We have borrowed between 5,000 to 20,000 rupees on average. This is at least what we owe them today because we don’t earn enough to make our daily ends meet. As soon as we are confronted with an exceptional expenditure (such as marriage, health problem, etc.), we have to borrow more money. Even if we don’t pay any interest, our debt increases. Hence we are not free, and we have to continue to work for our employer. We earn 40 rupees per day at the maximum. We often work 12 hours per day.*” (Page 11) The testimony of Veerasanjan enables us to understand the implications of this debt that cannot be reimbursed: “*It’s been 12 years now that I cut precious stones. [...] When I started, I received an advance of 3,000 rupees. But this was not sufficient for living. So, for instance, when I have had health problems or when I was married, I had to ask for more money. Today, I owe 11,000 to the owner. [...] Since I earn very little money and I have to regularly ask for advance, the sum increases. [...] I earn between 40 to 45 rupees per day.*” (Page 12) The extremely low salary renders all possibilities of clearing the debt illusory, as explained by Allanagamal: “*For 100 stones cut, I earn 35 Rupees. This takes one whole day of eight hours of work. [...] I have had an advance. After that I could no longer work for someone else. [...] I don’t pay any interest but in fact I earn less money ever since I have had the advance.*” (Page 15) This process is the same as described by most of the workers encountered (see interviews). Among the persons encountered, only Palani managed to escape the yoke of the owner but at the price of great difficulties: “*Today, I work in building. Before, I cut precious stones. [...] I escaped. It was three years ago. I have had to borrow money from the owner, since I did not earn enough for my spending, especially when I got married. Hence my advance increased. I earned really very little, 5 rupees for 100 pieces. Therefore, I worked very little. The owner came to see me and asked me to repay him the debt. I could not so I escaped. In fact, he first detained me in a house but I succeeded in getting out of the house. I left for a village about 150 kilometres from here. But the owner made an enquiry; he asked a lot of people. He found me. He obliged me to repay him. The leaders of the Panchayat also put*

pressure on me to reimburse him. Then I found another job where I could earn a bit more money. I have reimbursed about half of my advance (5,000 rupees in total). But here, there is no work due to the drought. I have had to go somewhere else.” (Page 18)

As in the case of the brickyards, the workers reimburse their debt according to the number of pieces that they produce. The maintenance of extremely low salary ensures that the debt can never be repaid. This type of contract also puts pressure on the parents to make their children work so as to help them to fulfil their obligations.

3. Parental debt, child labour

The person who incurred the debt does not necessarily become a bonded labourer himself. We found many bonded workers who are children. In the zone investigated by Jeevika, it was the worker himself who incurred the debt in 43% of the cases. But the situation whereby a father takes on a debt but engages his son to the owner is more frequent, amounting to 47% of the cases. It is rare for the mother to incur debt (5% of the cases). The remainder of the cases mainly concern uncles, grandfathers, brothers-in-law and husbands. Practices differ from region to region, since according to GPF, 98% of the bonded workers in Gujarat incurred the debt by themselves.

3.1. Agriculture

In the zone under investigation, we were very frequently able to observe the phenomenon of enslavement of the son by his father. Chikanarsimupa (45 years old) provides such an example: *“I began at 12 years old. My parents were coolies. They did not have money and were not educated. They sent me to a master, who gave them 400 rupees, with 45 rupees of interest. I worked for 15 years.”* (Page 47) The witness of Puttamadu (28 years old) is similar: *“In my family, we were very poor. As soon as one did not find any work, we did not have anything to eat. When I was 12 years old, my father sold me to an owner. He said that if I go to school, I*

would have nothing to eat and that it would be better like this. At that time, my father was also a bonded worker.” (Page 56) Das (12 years old) began to work at an even younger age: “Before, I went to school. I went until Standard 2. Then my parents received an advance of 3,000 rupees from an owner because they did not have anything to feed the family. Then I went to work there.” (Page 66) The interviews again indicate that day-to-day misery is at the root of the indebtedness. Engagement of one’s son rather than engaging oneself has several advantages. The child who goes to school is not productive for the family and costs money. Given the low level of education in the rural area, many do not realise the importance of schooling. The sale of one’s son to a master would first of all reduce a mouth to be fed since the child would generally go and live with his master. This would also enable some economic return from the child through the little advance that would be agreed on by the owner. The children are allocated work on the farm that requires relatively little physical effort. Generally they take care of animals. This is what is explained to us by Das: “I began at 6 o’clock in the morning. I took care of the livestock, cleaned the animal sheds, brought them to the field, I cut grasses to feed them. I went home at about 10 o’clock at night.” (Page 66) Prabhakar (14 years old) had a similar work schedule: “I began at 7 years old. I washed the animal sheds. Then, I went to fetch well water for the whole family. Then I brought the livestock to the field. I cut grass for the animals. I spent the whole day at the field. At noon, I ate the bread that master gave me. Towards 6 o’clock, I brought back the animals. I could rest a bit since I was taking care of the animals.” (Page 67)

3.2. Brickmaking

The children were not “sent” to the brickyards in the same way as to a “master” in the case of the agricultural sector. As we will see, those who work in the brickyards are often migrant workers, who come seasonally to work in families before going back home. Children sometimes accompany their parents in these migrations and we could observe that the children themselves also often have to work. This is the case of Muthamar (14 years old): “I work at the brickyard. I

prepare the bricks before the baking. It is difficult work. I work from 3 o'clock in the morning till 2 o'clock in the afternoon. I have to begin early every day in order to get to prepare 3,000 bricks. I also work in the afternoon until 6 o'clock in the evening to wash the bricks. It is only on Sunday that I don't work. Then I would do housework.” (Page 1) Roja (7 years old) explains his activities after the class held at the brickyard by MACT association: *“I work at the brickyard. I sift the sand. I also take care of my younger sister when my mother works. I also help my uncle to put the bricks on the cart. I do housework and I go to fetch water.”* (Page 1)

Sometimes the children are made to contribute from a very tender age. They are generally used to carry out manual work such as washing the bricks... but the living conditions are terrible, and the work after all is difficult, as shared by a child of Chookassalur: *“I work hard. It is difficult. When I work, I could feel that my heart beats very fast.”* (Page 7)

In total, 800 children have been identified, many of whom have to work with their parents, only in the brickyards where MACT was involved (in the District of Thiruvallure).

3.3. Cutting precious stones

In this sector also, the children have to work to help the parents to repay their advance. The workers of the villages of Pusaripathy and Udayapathy explain: *“Our children go to school. After school, they often come to help us. Some don't go to school but just work.”* (Page 11) Veerasanjan also had to ask his children to help him to produce sufficient number of stones: *“My children help me for a few hours everyday.”* (Page 12) One woman told us: *“I began at 10 years old. The poorest made their children work at an even younger age, from 6 or 7 years old. It was my parents who wanted me to work until my marriage. This would provide them with supplementary income.”* (Page 15) It seems that the practice of child labour does not take the same form as in the agricultural sector whereby the child is “sold” to the master. In the precious

stone cutting industry, the parents generally take the debt on themselves but make their children contribute by helping them to produce sufficient number of stones. The Report of the Commission of Tamil Nadu recorded only two bonded workers of less than 15 years old over a total of about 150 persons. Although there are fewer bonded child labourers than the agricultural sector, the precious stone cutting sector also engenders substantial child labour as in the brickyards but it remains more indirect and hidden.

4. Living conditions of bonded labourers

One of the first effects of debt bondage is the impossibility for all the bonded workers to accumulate even a minimum of capital. Owing to the debt, the already weak negotiating power of the workers disappears totally and as a consequence their remunerations are extremely low. The trap then gets tighter. Not having any decent revenue, it is impossible to repay the debt, which on the contrary often increases with time. Poverty which lies at the origin of the debt bondage is equally a consequence of bonded work. But the effects of debt bondage go beyond monetary poverty. The very freedom of the workers has been traded. Working conditions are often extremely taxing and violence committed by the “master” frequent since the worker has nowhere to escape. Changing masters is sometimes possible – by re-entering debt bondage. If no other master accepts to redeem the debt, even the freedom of choosing another employer does not exist. And the liberty of movement outside the workplace is often reduced, and even at times non-existent.

4.1. Agriculture

The recurring themes which emerge from the interviews are: extremely lengthy days of work, bad quality of food, absence of freedom of movement as well as psychological and physical violence.

First of all, the bonded workers only have very little rest time. This was the case for Kalyaniah: *“I worked every day from 6 o’clock in the morning till 7 o’clock in the evening. Sometimes, I have to work even longer hours. [...] I used to have a free day every fortnight but in fact I have had to replace these days at the end of the year.”* (Page 57) Venkatesh “worked from 4 o’clock in the morning till 10 o’clock at night”; the workers of Hosasudra “did not have a timetable, sometimes [they] could only sleep for three or four hours and have to work for all the remaining time”; Subbrayappa “had to work from 6 o’clock in the morning till 8 o’clock in the evening, every day and sometimes at night as well, when they have to irrigate the land”; Srinu “worked from 5 o’clock in the morning till late at night, there was no fixed timetable”....

Therefore, a bonded worker almost does not have any rest day and has to work countless hours every day. But at the end of the day it is generally impossible for him to go back home. He must be entirely at the disposal of his master, and as if he were the property of the owner, he must sleep at the farm – generally in the animal shed. Bonded labourers are also far away from their family, and often married men can only see their wives very rarely. Moreover, while prisoners at their workplace, these bonded workers are often very badly nourished. Venkatesh has undergone several years under the following conditions: *“I slept in a shed near the field. If I wanted to go home, the master came to get me and beat me up. There were two meals per day, and there was no fixed time for eating. They were the leftovers from the master.”* (Page 41) The situation of Subrayapa was similar: *“I slept in the electrical room. My wife lived in my house. I could see her once every fortnight”*. Srinu also got stuck at the house of his master: *“In the evening, I slept at the owner’s place, in a shed near the field. I could go home once or twice per week”*. The children, just like the adults, were kept prisoners at the premises of the owner. Kasi (15 years old) lived through a similar situation: *“I have to stay at the owner’s place. I slept on the verandah which is locked by key. But I could not go into the house, I went to toilet outside. During the harvesting season, I slept outside, near the fields. Even if it rained, I stayed outside. I could go home once every week.”* (Page 69) Prabhakar (14 years old) lived in the same

conditions: *“I slept in the animal shed. I did not think of escaping. I knew that I would be caught and that I would be beaten up. Sometimes, I cried thinking of my mother [who committed suicide].”* (Page 67) Imprisoned, malnourished and condemned to endless work, the bonded workers were often at the mercy of their master’s violence. Venkatesh testifies: *“The master often beat me up with a stick [the scars are still visible]. One day, I hurt myself while working. I cut my finger quite badly. This really made me suffer. I could not go to the hospital. I had to immediately go back to work with the other hand. [...] We were 5 bonded workers and 20 coolies. We could not discuss among ourselves. If we gathered together, the master would beat us up”*. The violence was at times extreme: *“One day, my brother wanted to stop working for him. Then the master accused him of stealing his jewels. Together with other owners, he tortured my brother. They pierced needles under his nails and beat him up. He had to be hospitalised.”* (Page 41) The workers of Hosasudra lived in fear: *“Some of the masters were very violent. They beat us with fists, feet and sticks. Nobody could say anything. Everybody was afraid, even just to look at them.”* (Page 43) Subrayappa went through a period akin to “initiation” or “training”: *“The master often shouted down at me. At the beginning, during the first year, he often beat me, twice or thrice every week. Then when I worked as it should be, he did not beat me any more. I don’t like this master. He shouted at me and forced me to work all the time. Even when I was sick, he forced me to work”*. Pennapa underwent similar physical violence: *“The master was cruel. He beat me up when he was unhappy. I could say nothing. Often, I cried.”* (Page 51)

The allusion to violence of the master surfaced in many of the interviews. There were times when the bonded workers could no longer stand their condition. Baliarha (50 years old) wanted to take his own life: *“The master was brutal, he insulted us using the name of our caste. We were the only Dalits of the whole village, nobody could help us. We were on our own. One day, I worked in the field. I had difficulties to plough one part of the land. He beat me up with a stick. I suffered a lot. I wanted to commit suicide. There was some insecticide in a bottle. I drank it. However, people alerted my wife. She came to look for me and brought me to the hospital. The*

master came to the hospital with another landlord; he explained that I was sick because I drank alcohol.” (Page 65)

More than an employer-employee relationship, it is really a dominant-dominated relationship that is maintained, even sometimes owner-property relationship, such as the case of the workers in Punjab who, according to Jai Singh (director of Volunteers for Social Justice NGO), were the objects of exchange at a fair: *“There was a tradition in the northern India. Towards mid-June, we celebrate the new agricultural year. During this time, the employers exchange their bonded labourers. This is a very popular tradition, even till today.” (Page 77)*

The living conditions of the bonded labourers are terrible. They often live in reclusion in the premises of their master and are often cut off from their families. At the mercy of violence at times extreme, they are malnourished and sleep in the animal sheds, even in the open. Deprived of all liberty in this relationship with the master who granted them an advance, they receive a ridiculous sum as salary. And in addition to the pathetic salary, some owners even take advantage of their dominant situation to deprive the bonded labourers of their eventual possessions. Somaiah experienced this misfortune: *“My father was a bonded labourer for a master. He has had to work for four years for 1000 rupees. In order to borrow this money, he had to mortgage his land. One day, the master lodged a complaint wanting to claim the land. He took it from him.” (Page 57)* This type of practice, which is unfortunately rather common, also constitutes a means to increase the dependence of the already marginalised population such as the Dalits on the landowners and could be used as a “catalyse” for the recruitment of bonded workers.

4.2. Brickmaking

The living conditions of the bonded workers in the agricultural sector are determined by long term relations, often a close one between people living in the same village. As for the brickyards, we have seen that the workers often came from far away and were only present at the industrial sites seasonally for about 6 months. The advance taken has to be cleared within this lapse of time and the requirement to produce sufficient number of bricks to repay a relatively significant debt lead to a killing rhythm of work. Vetranikasalam, owner of a brickyard, admits with understatement: *“Some find that it is quite difficult”*. It is true that often the owner does not oblige the workers to follow a particular rhythm. *“This depends on the families, one could decide when one would work”*, explains Kalaivani (20 years old). But this “liberty” is in fact illusory. The indebtedness is a sufficient means of pressure. Kalaivani says again, *“We have to reimburse the debt so we work for long hours. We sleep for 3 to 4 hours every day, for the rest of the time, we work. Often, it is preferable to work especially at night as it is not so hot.”* (Page 8) Sankarira (23 years old) also explains: *“This is a very difficult work. I work from 11 o’clock at night till 8 o’clock in the morning. I take a little rest and I begin again at 11 o’clock. I cut and I wash the bricks till 6 o’clock in the evening.”* (Page 2) The workers of Vayalalallur work no less: *“We work from 1 o’clock in the morning to 8 or 9 in the morning. We pause for a little while, then we work for another two hours to wash the bricks. After that, we use another two hours to prepare the materials for tomorrow’s work. We rarely sleep for more than 3 to 4 hours in a row. It is very difficult, but we had no choice.”* (Page 6) As in the case of the relationship between “master” and bonded workers in agriculture, illiteracy among the workers is used by some owners to trick them, to keep them in servitude and to make them work more. Uthrapathi (27 years old) told us his story: *“I worked in a brickyard in the District of Erode 600 km from here. Every time the owner did the accounts, there was always something to be paid. My parents, as the other members of the family, are totally illiterate. They had to accept whatever that was told by the owner. They signed all the papers (with their thumb).”* (Page 35)

Besides the problem of the rhythm of work, it seems that the brickyards are also very violent places. These enclosed sites in which weakened and trapped populations are confined due to the debt incurred become potential sites for the development of violence. Living conditions are very difficult, habitats are precarious (often very tiny huts with branches as the roof), insufficient food... The communities do not mix and spread over the brickyard compound just like in the villages. Kalaivani comes from a “Most Backward Caste”: *“We don’t mix with the Dalits and the Tribal people. We live in separate zones of the brickyard. We don’t talk to them, except for work. If we come too close to them, there will be community problems. But we don’t fight against each other, we share water from the same well.”* (Page 7) According to Cyril, Director of MACT NGO, *“there is no contact between the local population and the migrant populations who live in reclusion in the brickyards. Nevertheless, there are a lot of problems within the migrant group itself. 80% of them are Dalits. Caste discrimination can be observed quite frequently. There is a lot of tension and, helped by alcohol, clashes could frequently degenerate ... but these problems remain confined inside the brickyard. People also sometimes talk about rape of women and children, sometimes within the community, but also by the owners or their employees who feel that they are ‘safe’ due to the debt incurred...”* (Page 23) The experience of the villagers of Nemale and Nepathur has already been cited (cf. introduction to chapter III). It reveals the type of violence the workers may be subject to by the owners. The case of the workers of Surendhar is also pathetic. An extensive interview, detailed in Part III-2.2 of the second part, illustrates the way the labourers were kept like prisoners within the compound of the brickyard guarded by gangsters and were beaten up, causing the death of one of them. The case of the workers in the brickyard differs from that of agricultural workers since they were migrant populations living in large number within an enclosed site. Their number does not, however, spare them from atrocious violence, and the working hours are always lengthy.

4.3. Cutting precious stones

The problem seems to be posed in a different way for this activity. In the cases that we encountered, the people worked at home. They were therefore spared from a sort of daily pressure and were able to stay at their own place and not within the premises of a brickyard or in the sheds of the owner. However, working conditions are difficult and high output is demanded. The pressure of the owner can also be as strong and may translate into violence. The inhabitants of Navarayakanmathy have lived under the threat of their owner: *“We have had a lot of problems with the owner. He beat us up. We did not have whatever is needed for a living. Therefore we have had to borrow money from him and our debt accumulates.”* (Page 14) The workers of Pusaripathy mention a similar experience: *“We are not free. We have to continue to work for our employer. We work often 12 hours per day.”* One of them adds: *“The work is quite dangerous. I think that even if I am paid more, I would still have wanted a different job. In all cases, there is no chance to be paid more here. And there are a lot of problems with our employers. If we don’t work enough, our employers could beat us up. We really have to find something else.”* (Page 11) Veerasanjan goes further: *“I work from 7 o’clock in the morning till 6 o’clock in the evening every day. I work at home. It is a difficult work, and even a bit dangerous, since we work with fire. The owner does not give us any protective gear. I have asked for one but he refused. [...] There are a lot of problems with the owner. Even if one is sick, he still obliges us to work. He hits us. If we cannot work, he says that he would oblige us to repay the advance”.* And the existence of the debt contributes to the exploitation of worker beyond even his ‘normal’ work: *“Since I owe him money, he sometimes forces me to help him with his agricultural work for free. He does it with a lot of people among us.”* (Page 12) This practice is confirmed by Allangamal, from the village of Karaikanpatthi: *“[our owner does not force us to work for free for him], but others do. Some also beat up the younger ones if they don’t want to work or if they do not work enough. And if they cannot work because they are sick, they don’t care. They come to look for them and threaten to oblige them to reimburse their debt if they don’t work.”* (Page 15)

In all these three activities, the relationships between “employer” and “employees” are regulated by a particular practice, namely the debt, which is at the origin of an extremely asymmetrical relationship between the parties. Due to the existence of this debt, absolutely degraded working conditions, accompanied at times by extreme violence are imposed on the workers. Further in this thesis, we will have a brief discussion on the role of debt in the notion of “bonded labour”. This debt is a weapon in the hands of the owners. But if this weapon works so well, it is because it benefits from the facilitating effects of the Indian social system and its caste organisation.

Part II: The resilience of an iniquitous system

Although forced labour exists all around the world (in various forms including debt servitude), nevertheless, it seems that India is particularly affected by this problem. Debt servitude undoubtedly grows out of poverty which is still widespread in India but the very high proportion of Dalits and tribal people who are caught up in bonded labour constitutes one of the main characteristics of this phenomenon. The Indian social structure thus seems to play a vital role in the development of bonded labour in this country. With its roots in ancient India, this phenomenon has survived the establishment of democracy, the economic development of the country and the introduction of restrictive rules by finding new forms of expression.

By analysing these three factors I will attempt to shed light on the reasons for the development and maintenance of this practice in India. I will then look at the ways in which the authorities and other actors mobilise to fight this evil.

I – FACTORS OF RESISTANCE TO THE SYSTEM OF BONDED LABOUR

1. Persistent poverty as the basic cause of the continuation of bonded labour

1.1. The economic structure of India: An overview

Since Independence and the dreams of autonomy of its early leaders, India has embraced a variety of different outlooks. From an extremely self-centred development policy at the time of liberation from English rule, India has now arrived at a turning point which should enable it to take its place in the “court of the powerful”. “Shining India” was the slogan of the BJP during the 2004 electoral campaign. It is true that India has begun to shine. With its growing exports and its increasingly developed service sector India has started to attract investors and wishes to take its place under the globalisation sun. Slowly, the country is opening up with the launch of

economic reforms at the beginning of the 1990s. However, if the BJP lost the elections bringing to power a coalition led by Congress under the leadership of Manmohan Singh, the reason was that for many people India did not shine brightly enough for them...

Several social indicators help give an idea of the problems that still exist in India. Life expectancy is increasing; it was 63 years in 2003. The rate of infant mortality is decreasing as is the illiteracy rate (although it is still 50% for women and 30% for men)... But these figures are still a very long way from those of the industrialised countries. Moreover, they also hide the enormous disparities that exist within the country, between the states and between city and country. Nor does India shine in terms of Human Development Indicators. Indeed, it is even in decline going from 94th place (out of 130) in 1994 to 27th place in 2003²⁰. 430 million people live below the poverty line (defined as one dollar per day) of which the majority are to be found in the states of Orissa, Uttar Pradesh, Bihar and Madhya Pradesh. In Bihar, for example, 42% of the population still lives below the poverty line.

It is striking to note that in India today, the great majority of the population still live (or try to live) through agriculture. It is as if India is cut in two with a dynamic economy feeding an emerging middle class (estimated at 30% of the total population) and leaving in its wake the countryside which is still often totally dependent on climatic conditions and where finding a job is a daily struggle for people whose only professional opportunity is work as daily agricultural labourers (“coolies”). Today, 93% of the population works in the informal sector.

The following tables summarise the main characteristics of the “economic background” of India²¹:

- Share of GDP by sector

²⁰ Source: UNDP.

²¹ Gilbert Etienne, article in Christophe Jaffrelot: “L’Inde de 1950 à nos jours”, new edition in progress.

	1950	1980	2001
Agriculture	56.5	38	25
Industry	15	26	26
Services	28	36	49

- Share of active population in %

	1950	1980	2001
Agriculture	72.1	70.6	58
Industry	10.7	12.9	13
Services	17.2	16.5	29

- Share of the population

	1950	1980	2001
Urban	17.6	23.3	28
Rural	82.4	76.3	72

India is thus still overwhelmingly a rural country with a very large informal economy. For many people it is extremely difficult to escape poverty with the result that a large proportion of the population are still in danger of falling into the trap of bonded labour. Under pressure from the left wing Communist Parties, Congress led by Manmohan Singh is endeavouring to develop a social policy and to fight poverty. In effort to achieve this, the government recently passed a law guaranteeing a minimum number of days of work per year to rural households who receive the minimum salary. With its focus on a select number of Districts that are particularly drought affected, the implementation of this program leaves many observers sceptical.

1.2. A few socio-economic statistics

First, the “impurity” of Dalits understood as their “untouchability”²², has led to the structuring of the Indian environment. In the rural areas, the villages are always comprised of two zones: the “main village” where caste Hindus (who are themselves divided into different zones for members of different *jatis*) live and the part reserved for untouchables. Dalits are victims of

²² See “Le système de castes”, Chapter 2.1, cited below.

discrimination of every kind. Some of these are social such as prohibition from entering temples, wall dividers in *tea-shops*, access to wells refused, etc. Some are economic and exist on a macro-economic scale as presented by S. Thorat in his article “Caste, Economic Exclusion and Poverty – Dalit Deprivation in India”²³ .

The main source of income for the majority of Indians comes from agriculture. According to figures from the National Sample Survey (1999/2000 statistics), 16.4% of Dalits are able to be self-employed in this field (against 41% for other population groups). 51.4% of Dalits work as agricultural workers (against 19% for other groups). Looking at other economic activities besides agriculture, 61.4% of Dalits living in rural areas are day workers (against 23.5% for the others).

In urban areas, the breakdown is a little different. 27.3% of Dalits are self-employed (against 35.5% for others), 37.6% receive a regular salary (against 46% for other people) and 26% are day labourers (against 7.4% for others).

Thus more than half of rural Dalits gain their living as day agricultural workers. This population group is particularly vulnerable because the unemployment rate in rural areas was 46% for day labourers in 2000. It has been estimated ²⁴ that the average daily income for a daily agricultural worker was 174 .5 rupees for Dalits and 197.5 rupees for members of other communities.

What this means in reality is indicated in the statistics on poverty. In 1999, 46.20% of Dalit agricultural workers lived below the poverty level (compared to 39.4% for other sectors of the population), similarly for 30.11% of self-employed Dalit agricultural workers (17.97% for other

²³ S. Thorat, “Caste, Economic Exclusion and Poverty – Dalit Deprivation in India”, DFID sponsored paper, Indian Institute of Dalit Studies, 2004.

²⁴ Dubey Amaresh, “Note and statistical tables on social groups”, prepared for DFID, Delhi, 2003.

groups), 32.76% for Dalits self-employed in other fields (21.06% for others). In total, 38.38% of Dalits in rural areas in 1999 lived below the poverty line as well as 23.23% of non-Dalits.

These figures show that access to land is one of the major problems in rural areas:

75% of Dalits possess less than 0.5 acre (65%), or indeed have no land (10%). Individuals owning land are less likely to fall below the poverty line.

In urban settings at the same date, 37.84% of Dalits lived below this line as well as 35.1% of ST and 19.98% of other categories for an average of 23.7% of the population.

It thus emerges that:

- 70% of the Indian population live in rural areas
- 68% of rural Dalits depend directly on agriculture for their living of whom 51.4% are day labourers,
- 60% of rural non-Dalits depend directly on agriculture, 41.4% of whom are self-employed,
- 38.38% of rural Dalits and 37.84% of urban Dalits live below the poverty line,
- 48.02% of rural STs and 35.15% of urban STs live below the poverty line,
- 23.23% and 19.98% of members of other communities live below the poverty line in rural and urban settings respectively.

Behind the dynamic India which is setting out on the path of modernity there lies another poor India where survival is a daily struggle. The social structure of the country contributes to causing profound inequalities in the population. The Dalits, untouchables, are victims of wholesale discrimination and atrocities. In rural areas, more than 50% depend on landowners, mostly caste Hindus, to earn enough to survive from day to day. Moreover, 93% of the labour force can only find work in the informal sector²⁵.

²⁵ Ministry of Labour, *Annual Report*, 2004-2005.

Omnipresent poverty and a deeply unequal social structure are two major factors in the development of bonded labour and debt servitude. The present phenomenon has its roots in ancient India where a caste system evolved in which marginalised social groups have been placed at the service of others. The significance of this system is certainly diminishing to some extent as Dalits and Tribal people benefit from positive discrimination programmes and slowly raise their profile in Indian society. Nevertheless, life in the countryside remains very much affected by this system and the practice of untouchability is far from disappearing. The internalisation by each person of the social scheme in which “Dalit” are at the service of the community comprises the least visible but perhaps the most important part of the system of forced labour and debt servitude that keeps these people in poverty.

2. The Indian social structure as a system based on servitude

2.1. The caste system

“I have become convinced that there cannot be equality for the Depressed Classes among the Hindus because Hinduism itself is based on non-egalitarian principles. We no longer wish to belong to this society.”²⁶

These words spoken by Ambedkar in 1942 have today become the rallying cry of the struggle for emancipation of the untouchables. This is because Indian society is still dominated by an extraordinarily complex structure based on two fundamental principles, namely purity and its corollary, hierarchy. According to Hindu mythology, man was originally created from the different parts of Brahma’s body. Four main groups (the main castes known as *varna*) may be distinguished. Corresponding to the mouth of Brahma are the Brahmins (priests, intellectuals)

²⁶ Speech by Ambedkar, 28 April 1942, cited in Christophe Jaffrelot, “Dr Ambedkar, leader intouchable et père de la constitution indienne”, Presses de Sciences Po, 2000.

who rank highest on the scale of purity. The other three castes are the Kshatriyas (warriors, power holders) originating from his arms; the Vaishyas (traders) from his stomach and the Shudras originating from his thighs who rank lowest and who work at the service of the three higher *varna* (in particular, they work the land). “Outside the castes” come the untouchables (because they are considered as impure) who also make up part of the social system, precisely in fulfilling the impure tasks necessary for the service of the community.

In fact, the system is even more complex than this because the *varna* are divided into thousands of *jati* sometimes known as “sub-castes”. Based on very well defined professional specialisations, each of these groups is sealed off from the others by the practice of endogamy (intra-caste marriage) and each one has a clear place in the caste hierarchy. Members of the lowest castes work at the service of the members of the higher castes.

Thus, each *jati* sees itself as an integral part of a system in which they occupy a well determined place but based always on a relationship of inequality. Various dynamics are also at work within the system and each person can seek to rise up the caste ladder by adopting the practices of the “high castes” (vegetarianism) according to the logic of sanskritisation. One remarkable aspect of this system is that it is difficult to break down the unity of the lower castes especially the untouchables even though they are the victims of powerful discrimination. This is due to the fact that “the one who is low wants to cause the one who is high to fall but he does not wish to join with those who are his peers for fear that that person may rise and become his equal. In a system of graduated equality, [...] even the lowest enjoys privileges with respect to those who are lower. Thus each class sees itself as relatively privileged and each one is interested in the maintenance of the system”²⁷. In the context of the struggle of the untouchables and the other “backward castes” to defend their rights, this raises certain problems insofar as it contributes to

²⁷ B.R. Ambedkar, “Untouchables or the Children of India’s Ghetto”, *ibid.*

the fragmentation of the movements who have great difficulties in going beyond these identity issues. In order to combat the inequalities inherent in such a social division, the Indian government has implemented a positive discrimination policy reserving posts in the administration, schools, universities as well as in parliament or at the head of *panchayats* (roughly equivalent to municipalities) to representatives of different communities on the basis of quotas representing the respective proportion of each different population group. For this purpose, the *jati* comprising the untouchables were counted by census which led to their generic name of Scheduled Castes.

2.2. Servitude in India: Historical aspects

In order to study the debt servitude issue in India today it is also necessary to look back at history even if briefly. This phenomenon is not new and it is thus necessary to avoid a “static” picture as if it came from nowhere and is simply an economic problem affecting the most vulnerable sectors of the population.

Studying “historical” India shows that bonded labourers form part of a social scheme that goes back to the Aryan epoch. Uma Chakravati²⁸ insists that in speaking of slavery the choice of words must be rigorous and it is important to distinguish between the products of Western and Indian history. Did slavery exist in India? The ancient clearly show that this was the case.

But the Sanskrit term, *dasa*, which was generally accepted as synonymous with that of slave, in fact refers to a whole series of “master-servant” relationships which cover a continuum in the degree of deprivation of liberty of the servant and the degree of power of the master. The difference is particularly important with the polarisation of the Greco-Roman system which distinguishes between a freeman and slave. Kiran Prasad considers this distinction as

²⁸ Uma Chakravarti, “Of Dasas and Karmakaras”, in “Chains of servitude, bondage and slavery in India”, Sangam Books, 1985.

fundamental since in his view real slavery never developed in India precisely because of the existence of a social structure that enabled the mobilisation of the labour of whole categories of the population (see *infra* and the interview at Page 37).

Several ancient texts provide details of the categories of *dasas*. Among others, the *Arthashastra* (composed by Kautilya in the 4th century B.C.) defined a list of nine kinds of *dasas*: (1) persons captured in battle, (2) the *dasas* born in the household of their master, (3) those reduced to this status in return for giving food, (4) *dasas* who had been purchased, (5) those who had been received as gifts, (6) those who had been inherited, (7) those reduced to this condition by judicial order, (8) those who had mortgaged their freedom, (9) those who had sold themselves as *dasas*. Kautilya distinguishes the category of *dasas* who had mortgaged their freedom from the other categories place on a lower level of servitude and raising the possibility of repurchasing their freedom by reimbursing the debt.

This category also appeared in the first classifications, such as that proposed by the *Jataka*. According to Uma Chakravarti, since there was a risk that the other categories of *dasas* would no longer be capable of providing sufficient labour. A need emerged for other kinds of workers. This need was met by drawing on the population groups who had become available through demographic growth and the concentration of lands in the hands of the few that was already under way.

Servitude and notably debt servitude has its roots in the history of ancient India and draws its nutrients from the social structure of the country. Utsa Patnaik²⁹ described the petty nobility of southern India who cultivated their lands at the beginning of the colonial period (18th century) but according to practices which went back centuries by utilising untouchable workers in a state

²⁹ Utsa Patnai, "Introduction" in "Chains of Servitude", *ibid*.

of servitude from generation to generation. These untouchable workers could be sold or exchanged by proprietors depending on the region and used to carry out the most impure and degrading tasks in the community such as disposing of dead animals or cremations. They were never paid for their work but received food. These traditional forms of servitude evolved during the English period. The British drew considerably on the Indian population to implement major works (plantations, mines, etc.), and had no hesitation in organising mass migrations inside India or towards other Empire countries. Moreover, the agricultural policy led by the colonists and the growing monetarisation of exchanges led to the pauperisation of a large number of landless rural people. These factors contributed to the evolution of the traditional forms of servitude towards more modern monetarised forms such as debt servitude (even though this had also existed in ancient India, *supra*).

2.3. Internalisation of the caste system and its consequences on the victims of bonded labour

Kiran Prasad describes the way in which tasks are distributed in the villages of ancient India (Page 37). As a result of this form of social organisation the role of Dalits was to serve other communities without receiving salaries. It may seem as if India has evolved since then, that castes have disappeared or at least that their worst forms have been wiped out. However, it seems to me that this system which is internalised by the high castes as well as the untouchables always end up placing the Dalits in an inferior situation on the scale of Indian values. Thus, the over-representation of Dalits among bonded labourers illustrates the maintenance of inter-caste relations based on a hierarchical view of the world. One of the consequences of this is to place untouchables “outside the system” which naturally relegates them to the position of individuals whose role is to serve others and which leaves them at the mercy of society. Certainly, I do not claim that the relations between *all* Dalits and *all* caste Hindus can be understood in terms of the practice of untouchability and servitude. The NGOs also admit that the situation is improving,

especially over the last twenty years. However, these practices have not disappeared, far from it. In reality, masters treat bonded labourers virtually like beasts of burden with very long working days, nearly total deprivation of freedom, reliance on violence, making the stables available for their short night's sleep. Fairs are even organised for exchanging bonded labourers. This system of domination and servitude is thus still highly present in the minds of the dominant castes. What is perhaps more surprising is that very often the Dalits themselves seem to accept their situation, a fact that I was able to observe myself. Workers may even feel a sense of gratitude towards their masters.

Allangammal, a synthetic stone cutter, admitted: *"I feel sad in this situation. It seems that we cannot do anything. Even if we are sick, they force us to work. I am in this situation because of my parents and I am suffering."* And yet when asked if he wished take legal action against his owner as the law allows, he answered unambiguously: *"No. The owner helped me by lending me some money. I don't want to take legal action."* (Page 15) Another woman of the same village also explained: *"Two years ago we had a problem with our owner. A monitoring network identified us as bonded labourers and we took legal action. But nobody among us wanted to do it. Some did not want to betray the owner."* (Page 15) However, it is a fact that the way in which the system is implemented tends to implicate someone other than the "real" owner, in other words, the intermediary who sometimes recruits among his own family and among members of his own community.

The most striking examples are to be found in the agricultural world. It is noteworthy that the main preoccupations of bonded labourers come down to some basic issues, namely food and absence of violence. This was expressed by Venkateshappa who stated that: *"I work from late night until 6 o'clock in the evening. They give us a little hut for sleeping. If I work hard, the master is not harsh. If not, he shouts at me [...] I am not happy but there is no work for coolies. If I can at least get good food then I am satisfied."* (Page 44) When the horizon of freedom is

completely blocked, the bonded labourers re-centre their expectations on the vital minimum and as a result of a strange reversal seem to show a kind of gratitude for those who have deprived them of their liberty as long as they are not beaten and are well fed. Hanumanthappa, a bonded labourer for 14 years said: *“I was working from 6 o’clock in the morning until 6 in the evening every day. The master did not beat me. I had three meals a day. He was a good master.”* (Page 42) Venkateshappa illustrated an even more striking form of acceptance: *“We began to work in the night and continued to work until 10 in the evening. We had 2 meals a day. If we did not work well, he shouted at us and he beat me.”* Nevertheless, when asked if his master was a bad man, he simply said: *“No, he gave me enough to eat. But I was not happy, sometimes I cried. And he gave me bad food.”* (Page 44) Potalappa also showed similar gratitude in spite of the terrible conditions of life: *“The master made me work all the time. I started at 5 o’clock in the morning and worked until 7 in the evening. I could not stop or else he would beat me terribly. I could not go home. [...] My master was not so bad. He fed me. He gave me money... If I think about it, I know that he was not good and did not give me much money.”* (Page 47) Chikanarsimupa lacked any kind of objectivity: *“I used to work 12 hours a day every day. I had to stay with the master, I could only go home once a week. He was quite violent and sometimes he beat me.”* But when asked if he was a “bad master”, the answer was: *“No. He gave us a little money.”* (Page 47) This lack of desire to see the master for what he was repeated itself often as a leitmotiv. Ramesh (30 years), expressed the same thought: *“I used to begin work at 6 in the morning. I worked every day. Sometimes when we were irrigating I also worked at night. I slept in the shelter with the cows. I could never enter the house. The master shouted at me sometimes and also struck me occasionally.”* But here again: *“He was not a bad master, he gave me good food and I had three meals a day.”* (Page 51) Shivanna (36 years) was similar: *“I used to work every day from 6 in the morning until 8 in the evening. Sometimes I also had to work at night when we were irrigating. I stayed at the master’s house and slept in a stable. I could only go home once every three months for festivals or when someone was sick. My master was quite polite. He did not beat me and he did not shout at me.”* However, *“the food was not very good.*

We just ate his leftovers.” (Page 53) Although Kalyaniah (38 years) clearly expressed his ambivalent feelings to his master, he nevertheless refused to criticise him: *“This master was not very good. He told me: ‘You have borrowed money and you must work!’ But he did not beat me.”* However, when it was put to him that he was not a good master, he responded immediately saying: *“He was a good master. He gave me good food. I could go home every day.”* (Page 58)

The interview with Srinu (35 years) also illustrated the ambiguous feelings of the bonded labourers: *“My master was sometimes violent. If I arrived late or if I worked late, he beat me. Sometimes with a stick, a rope, a branch... and he insulted me.”* If asked whether he was a good master, all the former workers responded simultaneously saying: *“I can’t say if a master is good or not. He feeds us. If we work well, he is happy. But if we work badly, he beats us.”* (Page 64)

This way of looking at the master was quite striking especially in the agricultural field where relations between owner and worker are close and long term. Even when the objective description of the master’s behaviour leads bonded labourers to emphasise the atrocities, it is still often impossible for them not to express some form of gratitude or at least submission/acceptance. This submission/acceptance relationship probably explains the origin of the misadventures of Puttaswamy (42 years): *“I became a bonded labourer at the age of 35 years. I did it to earn money because I wanted to send my children to school. I earned 5000 rupees a month for 6 years. This sum was paid in several instalments. The master cheated me on the amount. But I could not say anything... since he also helped by giving me some money. Later I fell ill. I went to hospital. But I was weak and unable to work properly... I asked my son to come to work there but he refused. So the owner took legal action against me. Before I went to hospital, he made me sign a paper. He told me that as I had worked well for him for several years he wanted to give me a small piece of land. I did not know how to read but I signed the paper. In fact, it was a recognition of the debt, claiming that I owed him 20,000 rupees. Now I have to go before a judge and I could never give that amount of money. I don’t know what to do. I am ruined.”* (Page 59) Trapped by a proprietor who exploits him and cheats him his salary, the submission of Puttaswamy is so total that it is transformed into confidence.

A HRFDL³⁰ worker used the analogy of the link between “the dog and his master” in the sense that the hand that beats is also that which feeds and one must not judge the hand that feeds. At first glance, such a degree of submission may seem surprising even if this kind of mechanism is common in establishing relationships based on domination (for example with beaten woman). However, the generalisation of this feeling of submission to the master seems to me to have its roots in the Indian social and caste system which places Dalits on the bottom rung of values at the service of high castes. The bonded labourers of Hosahudya shared their thoughts on this. When I asked them if they thought it was normal that as Dalits they had to serve the members of the high castes, they responded: “*Yes, we thought so at the time.*” (Page 43) Even if all the workers I interviewed did not give this response, nevertheless it was very common. Venkateshappa also thought so: “*It is the custom.*” (Page 44) Ramesh and Pennapa agreed: “*Yes, because we are Dalits as well as being poor, we thought it was our role.*” (Page 51) Shivanna was no exception: “*At the time, I thought that as a Dalit my role was to serve a high caste master.*” (Page 53) It was also similar with the bonded labourers in the village of Belagandahalli (except for Puttamadu): “*That’s how the system works... everyone thinks they have to serve the high castes.*” (Page 56)

Thus everything seems to happen as if the debt constitutes the visible part of the relation between the bonded labourer and the “master” with the roots of the practice located in the Indian social system as a result of the internalisation (by both high and low castes) of a hierarchical social scheme in which Dalits are naturally at the service of the high castes.

³⁰ Human Rights Forum for Dalit Liberation.

3. The evolution of bonded labour and its capacity to adapt

The classical form of bonded labour can probably best be illustrated by the “master/servant relationship in the agricultural sector. This system originated over 2000 years ago and has lasted in the same form up to the present. Bonded labour has also spread to a broad range of extremely varied activities, sometimes assisted in its spread by relatively recent phenomena such as the massive reliance on migrant populations. While primitive forms of bonded labour were almost exclusively long term arrangements, the system has evolved to meet the needs of various industries which required consolidation of seasonal work. Several authors have been able to show that the nature of bonded labour is evolving at least insofar as it can be observed at a local level. A study by the Centre for Education and Communication in Delhi echoes these changes³¹. This point is also insisted on by Mrs Bansari, who is responsible for the bonded labour issue at the CEC: *“The nature of the bond has evolved. Today, there are more and more labourers bonded by season, for example. This is particularly the case in brickworks. The workers are free to leave... once the debt is reimbursed. However, there are no other employment opportunities... and employers sometimes get workers to sign documents stating that they receive the minimum salary, which is false. In any event, the workers do not receive the money. What can happen is that a certain amount is in fact given to the middle man who has found employment for the workers. So they only receive a part of it. This type of bonded labourers is quite difficult to identify.”* (Page 72) The need to stabilise the agricultural workforce for fixed production periods pushes landowners to bond workers for shorter and shorter periods in line with production needs. This kind of phenomenon can also be found in a more pronounced manner in fields which are typically seasonal such as in the brickworks as we observed during our field study. To achieve this, employers often make use of migrant workers. S. Srivastava noted this aspect of the problem: *“In fact, there are many migrant workers who leave their home region in search of work. Precise figures are not available but I estimate the number of seasonal migrants at 30 to*

³¹ Center for Education and Communication: “Debt bondage in India: An Indicative Report”, CEC, 2004.

40 million persons each year. Around a third of these leave their home states. Eighty to ninety per cent work in sectors other than agriculture such as brickworks, quarries, construction, diamond polishing. In certain sectors such as carpet making, cotton pollinating, fish preparation, etc. there are also many children involved. [...] This is a totally flexible and underpaid workforce. When there is no need for them, they are got rid of. The new situation linked to globalisation pushes people to migrate. For example, tribal people traditionally produced fruits, plants, traditional medicinal herbs in various places. This activity used to be regulated by the government. Today, large companies have entered the field in these areas and fields of production. Whereas local populations exploited these resources in a reasonable manner, these companies have sometimes ruined everything within a short time. There is nothing left. The companies move on and the tribal people are left to migrate in search of work. These populations are then forced to work in conditions of “total flexibility”, will be totally submissive and will be sent away when they are no longer needed. In effect, it amounts to a new form of the bonded labour phenomenon.” (Page 83)

Reliance on migrant populations also occurs in the agricultural field and has caused the nature of the linkage between master and bonded labourer to change. This phenomenon is described by Jai Singh, director of the NGO Volunteers for Social Justice: *“This is a new practice in the field of bonded labour. Rather than giving an advance, they get the migrant worker to come and do not pay him completely. When he returns home, he only receives a part of what he is owed and hence he is obliged to return...” (Page 78)*

The fields affected by this phenomenon are extremely numerous. Quarrying is one of the activities in which many bonded labourers are employed. Other activities include dehusking rice, beedie (Indian cigarette) manufacture, building construction, seafood, jewellery, salt making,

mattress making, plantation work... the list goes on. In a study for the ILO³², S. Srivastava, provides an overview of this phenomenon.

We also find bonded labour being used to meet new needs. The emergence of a middle class for example leads to *“the evolution of child labour since there are increasing numbers of child labourers. Working couples often need someone to take care of the children during the day. They sometimes approach poor families asking them to provide their own child to do the work. They promise a beautiful life for the child: good food, clothing, watching TV... In reality, the children find themselves locked up all day in the house and have to work until late in the evenings. They have no life for themselves...”* (Interview with Leslie, coordinator of the DBSU association at Page 60).

Bonded labour appears to affect millions of people in a large range of sectors. The origins of these practices goes back to ancient India which organised itself on the basis of a discriminatory and strongly hierarchical social scheme. The colonisation period appears to have fostered the growth of debt servitude by promoting monetarisation of exchanges in rural areas.

Still existing in forms that are close to ancient practices, this phenomenon has withstood the major transformations of the country finding new modern forms of expression, some of which appear to be linked to the globalisation process. While the economic dimension seems to be most important at first with so much poverty in rural areas, the Indian social structure which remains highly internalised certainly forms one of the main factors of resistance to this

³² S. Srivastava: “Bonded labour in India: Its incidence and pattern”, ILO working paper, 2005; http://www.ilo.org/dyn/declaris/DECLARATIONWEB.DOWNLOAD_BLOB?Var_DocumentID=5071

phenomenon. Yet India has many laws to fight against these different kinds of forced labour. The first regulations date back to the Bonded Labour System Abolition Act of 1976. Since then, many laws have been adopted which aim to control or abolish these practices³³. The Indian Constitution itself formally prohibits all forms of forced labour at the behest of individuals. Thus the question that arises is whether the Indian government and administration have adequate legal means available to deal with this problem? What can do in the field? Do they have the means to identify bonded labourers and to free and rehabilitate them? At a very minimum is the Indian administration willing to take up the cases of bonded labourers identified by the numerous dynamic NGOs and to implement the law?

In order to provide a few elements of response to this question, we will begin by a fairly detailed outline of the legal provisions, something which is fundamental in order to understand the extent of the responsibilities of the government as well as the means available to it. We will then draw on the results of our field survey and on a number of documents in order to describe the behaviour of the government and the other main actors operating in this field.

³³ R. Nainta: “Bonded Labour in India: A socio-legal study”, *op. cit.*

II – THE ACTORS AND THE MEANS AT THEIR DISPOSAL

1. INDIAN REGULATIONS

1.1. The Indian Constitution

In Article 23, the Constitution prohibits all forms of forced labour imposed by an individual: “Traffic in human beings and *begar*³⁴ and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.”

1.2. The Bonded Labour System Abolition Act of 1976

1.2.1. Definition of bonded labour

"Bonded labour system" means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect;

- in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by the document) and in consideration of the interest, if any, due on such advance, or
- in pursuance of any customary or social obligation, or
- in pursuance of any obligation devolving on him by succession, or
- for any economic consideration received by him or by any of his lineal ascendants or descendants, or
- by reason of his birth in any particular caste or community,

The person would:

³⁴ Term used in the Constitution to refer to compulsory unpaid work.

(1) render, by himself or through any member of his family, or any person dependent on him, labour or service, to the creditor, or for the benefit of the creditor, for a specific period or for an unspecified period, either without wages or for nominal wages, or

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

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

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

1.2.2. Key points of the Law

- Abolition of bonded labour :

Article 4: (...) the bonded labour system shall stand abolished and every bonded labourer shall, on such commencement, stand freed and discharged from any obligation to render, any bonded labour.

No person shall- (a) make any advance under, or in pursuance of, the bonded labour system, or
(b) Compel any person to render any bonded labour or other form of forced labour.

Article 5: (...) any custom or tradition or any contract, agreement or other instrument (whether entered into or executed before or after the commencement of this Act,) by virtue of which any person, or any member of the family or dependent of such person, is required to do any work or render any service as a bonded labourer, shall be void and inoperative.

- Liability to repay bonded debt :

In this chapter III, the law frees any bonded labourer from the liability to repay bonded debt.

Article 6.1. ; every obligation of a bonded labourer to repay any bonded debt, or such part of any bonded debt unsatisfied immediately before such commencement, shall be deemed to have been

extinguished. Article 6.2. : After the commencement of this Act, no suit or other proceedings shall lie in any civil or before any other authority for the recovery of any bonded debt or any part thereof.

Article 9.1., 9.2. and 9.3. : (1) No creditor shall accept any payment against any bonded debt which has been extinguished or deemed to have been extinguished or fully satisfied by virtue of the provisions of this Act. (2) Whoever contravenes the provisions of sub-section shall be punishable with imprisonment for a term which may extend to three years and also with fine. (3) The court, convicting any person under sub-section may, in addition to the penalties which may be imposed under that sub- section, direct the person to deposit, in court; the amount accepted in contravention of the provisions of sub-section, within such period as may be specified in the order for being refunded to the bonded labourer.

- Freed bonded labourer not to be evicted from homestead :

Article 8.1. and 8.2. : No person who has been freed and discharged under this Act from any obligation to render any bonded labour, shall be evicted from any homestead or other residential premises which he was occupying immediately before the commencement of this Act as part of the consideration for the bonded labour ; If, after the commencement of this Act, any such person is evicted by the creditor from any homestead or other residential premises, referred to in sub-section, the Executive Magistrate in charge of the Sub-Division within which such homestead or residential premises is situated shall, as practicable, restore the bonded labourer to the possession of such homestead or other residential premises.

- Authorities who may be specified for implementing the provisions of this Act :

The State Government may confer such powers and impose such duties on a District Magistrate as may be necessary to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer so specified.

- Constitution of Vigilance Committee :

Every State Government shall, by notification in the Official Gazette, constitute such number of Vigilance Committees in each district and each Sub-Division as it may think fit.

Each Vigilance Committee, constituted for a district, shall consist of the following members, namely- ; (a) the District Magistrate, or a person nominated by him, who shall be the Chairman; (b) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the District, to be nominated by the District Magistrate; (c) two social workers, resident in the district, to be nominated by the District Magistrate; (d) not more than three persons to represent the official or non- official agencies in the district connected with rural development, to be nominated by the State Government; (e) one person to represent the financial and credit institutions in the district, to be nominated by the District Magistrate;

Each Vigilance Committee, constituted for a Sub-Division, shall consist of the following members, namely; (a) the Sub-Divisional Magistrate, or a person nominated by him, who shall be the Chairman; (b) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the Sub-Division, to be nominated by the Sub-Divisional Magistrate; (c) two social workers, resident in the Sub-Division to be nominated by the Sub-Divisional Magistrate; (d) not more than three persons to represent the official or non- official agencies in the Sub-Division connected with rural development to be nominated by the District Magistrate. (e) one person to represent the financial and credit institutions in the Sub-Division, to be nominated by the Sub-Divisional Magistrate; (f) one officer specified under Section 10 and functioning in the Sub-Division.

Each Vigilance Committee shall regulate its own procedure and secretarial assistance, as may be necessary, shall be provided by; (a) the District Magistrate, in the case of a Vigilance Committee constituted for the district; (b) the Sub-Divisional Magistrate, in the case of a Vigilance Committee constituted for the Sub-Division.

No proceeding of a Vigilance Committee shall be invalid by reason of any defect in the constitution, or in the proceedings, of the Vigilance Committee.

The functions of each Vigilance Committee shall be,- (a) to advise the District Magistrate as to the efforts made, and action taken, to ensure that the provisions of this Act or of any rule made there under are properly implemented. (b) to provide for the economic and social rehabilitation of the freed bonded labourers; (c) to co-ordinate the functions of rural banks and co-operative societies with a view to canalising adequate credit to the freed bonded labourer; (d) to keep an eye on the number of offence of which cognizance has been taken under this Act; (e) to make a survey as to whether there is any offence of which cognizance ought to be taken under this Act; (f) to defend any suit instituted against a freed bonded labourer or a member of his family or any other person dependent on him for the recovery of the whole or part of any bonded debt or any other debt which is claimed by such person to be bonded debt.

A Vigilance Committee may authorise one of its members to defend a suit against a freed labourer and the member so authorised shall be deemed, for the purpose of such suit, to be the authorised agent of the freed bonded labourer.

- Burden of Proof :

Whenever any debt is claimed by a bonded labourer, or a Vigilance Committee, to be a bonded debt, the burden of proof that such debt is not a bonded debt shall lie on the creditor.

- Punishment for enforcement of bonded labour :

- Whoever compels any person to render any bonded labour shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

- Whoever advances any bonded debt shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

- Whoever enforces any custom, tradition, contract, agreement or other instrument, by virtue of which any person or any member of the family of such person or any dependent of such person

is required to render any service under the bonded labour system, shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day for which the bonded labour was extracted from him.

- Whoever, being required by this Act to restore any property to the possession of any bonded labourer, omits or fails to do so, within a period of thirty days from the commencement of this Act, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day during which possession of the property was not restored to him.

- Whoever abets any offence punishable under this Act shall, whether or not the offence abetted is committed, be punishable with the same punishment as is provided for the offence which has been abetted.

- Offences to be tried by Executive Magistrates :

(1) The State Government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the first class or of the second class for the trial of offences under this Act; and, on such conferment of powers, the Executive Magistrate, on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973 (2 of 1974), to be a Judicial Magistrate of the first class, or of the second class, as the case may be.

(2) An offence under this Act may be tried summarily by a Magistrate.

Every offence under this Act shall be cognizable and bailable.

- Offences by Companies :

Where any offence has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence

and shall be liable to be proceeded against and punished accordingly. (2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

- Jurisdiction of Civil Courts barred :

No civil court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Act.

1.3. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

This law also prohibits forced labour in *Article 3, Paragraph (vi)*: “Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, compels or entices a member of a Scheduled Caste or a Scheduled Tribe to do 'begar' or other similar forms of forced or bonded labour other than any compulsory service for public purposes imposed by Government, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.”

Moreover, Article 4 endeavours to impose a radical application of the law by the authorities: “Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, wilfully neglects his duties required to be performed by him under this Act, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.”

Article 7 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules 1995 (a kind of decree of implementation) imposes a point of procedure: “An offence committed under the Act shall be investigated by a police officer not below the rank of a Deputy Superintendent

of Police” who shall be appointed “taking into account his past experience, sense of ability and justice”.

Among other points, Appendix 1 of these Rules also foreshadows that a bonded labourer shall receive “at least Rs. 25,000 to each victim” with “payment of 25% at First Information Report stage and 75% on conviction in the lower court”.

2. The decisions of the Supreme Court

Several decisions of the Supreme Court shed important light on the law and its mode of implementation. In particular, two judgments deserve to be noted³⁵.

2.1. People's Union for democratic Rights and others vs Union of India and others

Dated 11 May 1982, this decision was the outcome of *Writ Petition No. 8143 of 1981, D/18-9-1982* in a matter better known under the name of the “Asiad Workers Case”.

The first fundamental aspect of this case concerned a procedural matter, the *Public Litigation Interest*. The judge, Justice Bhagwati, noted that “considering the particular socio-economic conditions and the poverty of India where illiteracy and ignorance prevent access to justice, it would amount to closing the gates of justice in the face of the poor and the most vulnerable members of society if the traditional common law rules where only the victim may take action were followed; [...] it is therefore necessary for the traditional rules to evolve so that justice may be equally accessible to the poorest. [...] When a person or a group of person are the victims of an injustice in the eyes of the law and as a result of ignorance and poverty they are unable to take legal action, then any member [of civil society] may do it in his name by addressing a letter to the Court”.

An NGO or an individual therefore has a right to take action in the Supreme Court to denounce the failures of the state in the implementation of the law.

³⁵ Details of these judgments may be found in Jai Singh, “Liberation from Bondage”, Volunteers for Social Justice, 2003.

The second point arises from the very definition of bonded labour as it must be understood by those responsible for the application of the law. The notion of constraint is analysed in this judgment. This constraint cannot be limited to the physical dimension: “forced labour may take different forms. It may consist of physical constraint [...] but it may also be linked to misery or hunger. Any factor depriving a person of alternatives or forcing him to adopt particular behaviour may be interpreted as an “obligation” and any work or service rendered in regard to this obligation may be considered as forced labour.”

Concluding that no person would accept to work for less than the minimum salary, Justice Bhagwati wrote that “when a person works for less than the minimum salary, this work must be considered as forced labour in the sense of Article 23 of the Constitution.” Justice Bhagwati also held the state up to its responsibilities: “Whenever the fundamental rights of individuals under Articles 17, 23 or 24 of the Constitution are infringed, it is the responsibility of the state to take all measures to prohibit such violations and to ensure that the fundamental rights are respected.” This judgment set out several fundamental principles and gave a very broad definition of bonded labour:

- The state is responsible for ensuring the respect of the fundamental rights of each person and any person or association has standing to bring an action in the Supreme Court to denounce failures,
- The coercive aspect must be understood in its widest sense: poverty comprises a coercive element in the sense implied in Article 23 of the Constitution speaking of forced labour;
- Any work carried out for less than the minimum salary should be considered as forced labour.

2.2. Bandua Mukti Morcha vs Union of India and others

This case, which was based on Writ Petition No. 2135 of 1982, D/16.12.1983, marks another turning point in the legal history of bonded labour. The case began when Bandua Mukti Morcha (BMM), directed by Swami Agnivesh (and Jai Singh, who is now director of Volunteers for

Social Justice) identified many bonded labourers working in the quarries of Faridadabad in Haryana. BMM made many complaints to the government which refused to recognise the workers as bonded labourers (and thus to rehabilitate them) on the grounds that they needed to provide proof that they were bonded to their employer by a debt. This decision extended an earlier judgment linking “forced labour” and “bonded labour”. First, Justice Bhagwati repeated his analysis of the difficulty for the poor and illiterate to take legal action: *“It would be cruel to require bonded labourers to utilise a formal judicial procedure and to provide proof. This would be a totally useless process because it is clear that a bonded labourer could never take legal action and the State may as well abolish the law from our legal system.”*

Moreover, considering that a person would not place themselves in a situation of forced labour except for the fact that an advance had been given and against which he is required to work, there ought to be a presumption that any person who corresponds to the criteria for forced labour has received an advance which placed him in that situation. *“Consequently, as soon as a person is subject to forced labour, the Court will presume that that person has ended in that situation because of a debt or another economic reason and that he is thus a bonded labourer. The employer and the state may refute that presumption if they wish but to the extent that satisfactory elements are not provided, the Court will consider the workers as bonded labourers falling under the provisions of the Bonded Labour System Abolition Act.”*

Justice Bhagwati emphasised the identification issue and the responsibility of the states in training of District Magistrates. Going further, however, in Justice Bhagwati’s view serious and honest work can only be undertaken *“if associations truly dedicated to the cause of SC/ST, agricultural workers and informal sector workers become involved in the process of identification and liberation of bonded labourers”*.

The second major aspect of this judgment concerns rehabilitation because *“if bonded labourers are identified and freed but not adequately rehabilitated, then their condition will worsen and*

they would be susceptible to falling back into servitude even in the absence of any coercion; the States must therefore develop genuine rehabilitation programmes by following the four following principles:

- 1) Psychological rehabilitation must also accompany physical and economic rehabilitation,*
- 2) Physical and economic rehabilitation comprises 15 elements: provision of cultivable land and land for building; low priced furniture for houses; credit assistance; skills training; availability of paid employment and implementation of minimum salary laws; medical and health programmes; education for children of bonded labourers, etc.*
- 3) It is also advisable to develop an integrated approach for the various programmes of the central government and the states in order to avoid duplication and to guarantee quality rehabilitation,*
- 4) The freed worker should be able to choose from a variety of rehabilitation programmes.”*

This judgement sheds light on the modalities of the implementation of the fundamental aspects of the law:

- Workers do not need to provide proof of the existence of a debt in order to be considered as bonded labourers: it is up to the owners to prove that the worker falls outside of the field defined by law;
- Rehabilitation programmes must be developed by the states in accordance with clearly defined conditions.

3. The actors

3.1. The administrative system: General overview

3.1.1. The federal system

The huge size of India (“the sub-continent”) led the English to progressively divide the country into provinces (around ten) and princely states. These provinces benefited from a relative wide autonomy, especially after the reforms of 1935. The principle of dividing up the country was largely maintained after independence. The map was simply modified: India now comprises seven Union Territories that are directly administered by New Delhi (Pondicherry, Andaman and Nicobar Islands...) and 28 States. A double system regulates the functioning of the country. The national parliament is located in New Delhi. The central government is formed by the party or coalition which holds the majority. The same system is found at state level with a legislative assembly elected by universal suffrage. The party representing the majority of parliamentarians holds power. The government is under the responsibility of a “Chief Minister” nominated by the state governor who is also appointed by the central government.

Legislative power is shared between the national parliament and the state assemblies. The national government is guarantor of the common good and the laws seek to protect the common good come under the jurisdiction of New Delhi (as for example the Bonded Labour System Abolition Action, cf. *supra*). Generally speaking, the federal government plays the major role but the power of the States of the Union is not negligible. Political manoeuvring often results in state representatives finding themselves in situations of “cohabitation” with the federal government which can often impact negatively on the harmonisation of policies within each territory and the proper implementation of federal laws.

3.1.2. India, a red-tape state?

English colonial rule was based on the organisation of all powerful administration. Once liberated, India inherited this administration. Despite the destabilising context of the accession to

independence and the partition, the administration was successfully mobilised in the service of unifying the country. Extremely hierarchical, this administration has endured although it is not without problems, especially concerning the sharing of authority between the state and the federal administrations. It may be true that the administration derives its strength from these conditions of its creation but it is also true that it has become extremely punctilious and even sometimes corrupt.

3.2. The administration of the States of the Union

The following table provides an administrative overview of the state administration. This presentation is not “universally valid”. There are a number of differences between states both in the terminology used as well as in the administrative structure itself. Moreover, this outline which is based on the example of Karnataka state is also somewhat simplified.

ETAT		Revenue Administration "Law and Order"	Development & Decentralisation "Rural Devpt and Panchayat Raj"
Division	4	Divisional Commissioner (IAS rank)	
District	27	Deputy Commissioner (IAS) = District Magistrate = District Collector	Zilla Panchayat (ZP): 20 to 25 elected members, including the President <i>Secretary</i> : Chief Executive Officer (normally IAS rank)
Sub-Division	2/District 52/State	Assistant Commissioner	
Taluk	~ 5/District 175-State	Tashildar (normally KAS rank)	Taluk Panchayat (TP): 15 to 20 elected members, including the President <i>Secretary</i> : Executive Officer (normally KAS rank)
Hobbli	~ 5/Taluk	Revenue Inspector	
Cluster of Villages (around 4000 adults: ~1 to 25/30 villages)			Gram Panchayat (GP) 10 to 15 elected members, including the President [1 per 400 adults] <i>Secretary</i> : GP Secretary -Gram Sabha: assembly for the GP -Ward Sabha: assembly for each village

Revenue Village (for 1 village or several small villages and hamlets grouped together)	~ 250/Taluk	Village Accountant	
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Two great administrative services exist side by side. The most important of these is the Revenue administration which is responsible for collecting taxes and which represents “law and order”. It is managed at local level by the District Magistrate, known as the Deputy Commissioner in Karnataka and as the District Collector in Tamil Nadu. The “Development” service is responsible for rural development and the implementation of the Panchayat Raj, which basically refers to the process of decentralisation. This is the service which manages the transfer of funds for development of marginalised communities such as the Dalits. Both of these services are operated by government officers with different responsibilities (from District to village level) and various ranks of the Indian administrative system (with the rank of IAS or “Indian Administration Service” ranking among the highest). Alongside the representatives of the administration are the elected assemblies whose power is growing. The Gram Panchayat corresponds to an administrative level representing several villages of which the number varies according to the local population. The elected assembly corresponding to this administrative level is the Gram Sabha which is playing an increasingly important role in Indian life. One government official, the Gram Panchayat Secretary, is a member of this assembly.

Until recently the general process for identifying and freeing bonded labourers was as follows. The list of labourers identified was given to the District Magistrate by the Tashildars. This list often resulted from a survey carried out by the administration itself but it is usually provided by an NGO working in the field. The District Magistrate is the person responsible for identifying, freeing and rehabilitating bonded labourers. Once the list is provided, the District Magistrate will

request the Tashildars to carry out enquiries which are implemented under orders by the Revenue Inspectors. An “official” list is thus established which is given to the District Magistrate via the Tashildars. Generally, the District Magistrate will approve the list. Once the bonded labourers have been identified, the District Magistrate will sign the certificates of liberation and launch the process of rehabilitation (cf. *infra*). The “Development” service was not directly involved in this process but it is responsible for the transfer of funds to other development programs including especially those for SC/ST communities. However, the objective (or at least the stated objective) is to increase convergence of the various development programs targeting freed labourers. The two services are therefore obliged to cooperate.

In Karnataka, the decentralisation process that has begun has also been implemented in the application of the Bonded Labour System Abolition Act. Since about 6 months ago, the task of identifying bonded labourers no longer belongs to the Tashildars but to the Gram Sabha who must now carry out enquiries and provide lists to the District Magistrates who are also responsible for administering the money transfers for rehabilitation. Questions may also be posed about this new process and we will come back to this point later in Chapter III 2.3.3.).

The Vigilance Committees, as we will also see below, are charged with following up the implementation of the process.

3.3. The Vigilance Committees

The composition of the Vigilance Committees is defined in Chapter V, Article 13 of the Bonded Labour System Abolition Act.

- **Constitution of the Vigilance Committees at District level³⁶:**

- | |
|--|
| <ul style="list-style-type: none">- The District Magistrate (or a person to whom he has delegated his power) presides- Three members of the SC/ST community residing in the District and nominated by the DM- Two social workers residing in the District, nominated by the DM |
|--|

³⁶ Certain names are not easy to translate into French since they correspond to titles of posts or services specific to the Indian administrative system. We will therefore maintain certain terms in their “original” form.

- Up to three representatives of governmental or non-governmental agencies involved in rural development, nominated by the DM
- One person representing the financial and credit institutions of the District, nominated by the DM.
- Joint Collector³⁷
- The Superintendent of Police³⁸
- The District Labour Office³⁸
- The Head of service “Social Welfare”³⁸
- One representative of the District Legal Services Authority³⁸

- Constitution of the Vigilance Committees at the Sub-District level:

- The Sub-Divisional Magistrate (or a person to whom he has delegated his power) presides
- Three members of the SC/ST community residing in the Sub-Division, nominated by the SDM
- Two social workers, residing in the Sub-Division, nominated by the SDM
- Up to three representatives of governmental or non-governmental agencies involved in rural development in the Sub-division, nominated by the DM
- A person representing the financial and credit institutions of the Sub-Division, nominated by the SDM
- An officer representing the DM³⁸
- The Deputy Superintendent of Police³⁸
- Assistant Labour Officer³⁸
- Assistant Social Welfare Officer³⁸

- The role of the Vigilance Committees is set out in Article 14 of the law:

- Inform the DM of the actions carried out, satisfy himself that the legal and regulatory provisions mentioned above have been correctly followed
- Provide for the social and economic rehabilitation of bonded labourers
- Co-ordinate the actions of rural banks and cooperatives with the objective of providing adequate credit for bonded labourers
- To monitor the number of cases documented under this law
- To carry out investigations to determine whether infractions of the law have been committed
- To protect bonded labourers from all attempts to recover their debt

The Supreme Court redefined its role in its decision of 19 November 1996, *Writ Petition 3922/85*³⁸

³⁷ These members were added to the list by order of the Supreme Court on 19 November 1996, *Writ Petition 3922/85*.
³⁸ In CEC: “Debt bondage in India: An indicative report”, *op. cit.*

- Identify the bonded labourers
- Study their working conditions and renegotiate their rights
- Involve the police and the representatives of the Department of Labour in the phase of freeing the bonded labourers
- Provide the bonded labourers with transitional assistance before their rehabilitation
- Advise and mentor bonded labourers and their families
- Protect bonded labourers from all attempts to recover their debt, eviction from their home, or of repossession of any material possession
- Consult the bonded labourer with the objective of identifying their desires concerning rehabilitation
- Provide the bonded labourer with a new job
- Provide the bonded labourer with the necessary training to develop new skills

These Committees are the cornerstone of the whole structure. It is their task to monitor the implementation of the law adopting a pro-active attitude. Going beyond the identification of bonded labourers, they need to play a vital role in the implementation of the rehabilitation programs taking advantage of the presence of economic actors.

3.4. The National Commission on Human Rights

Ordinarily the Commission plays a consultative role and makes recommendations in all domains concerning human rights. In the particular case of bonded labour, its power is considerably extended since the Supreme Court gave it the responsibility of monitoring the application of the law in its decision of 11 November 1997 in the case of *PUCL vs State of Tamil Nadu and others*. Chamal Lal, Special Rapporteur for the Commission, described its role as follows: *“The Supreme Court has given the Commission the responsibility of applying the law. Two special rapporteurs have been nominated. I am responsible for the northern states of India and a second rapporteur is responsible for the southern states of India. He is based at Hyderabad. We interact with the government, with District officials, NGOs, etc... We gather information on the number of bonded labourers, the conditions for their liberation and rehabilitation. We monitor the attribution of the certificates of freedom to the bonded labourer. We try to build convergences between a certain number of government assistance programs that target the poorest including the population sectors often most concerned (Dalits and Tribals) and preferentially towards freed workers. Moreover, we have observed that the employers of bonded labourers have never*

been pursued even though the law foreshadows their condemnation. We are trying to change this. The Commission is a consultative organ and we do not have the force of law behind us, we simply make recommendations. In the case of bonded labour, things are different because the Supreme Court has given us wider powers. If we judge that an individual is a bonded labourer, then our advice binds the officials who must free and rehabilitate him.” (Page 81)

The Commission is the organ that is responsible at federal level to ensure the application of the law. It publishes an annual report detailing the situation in most states³⁹.

In 1998, the Commission created an Action Group which is meant to work on several issues⁴⁰:

- To set up a working group bringing together government representatives and NGOs with the objective of raising awareness of the different actors
- To prepare a manual for government officials involved as well as an outline questionnaire to enable bonded labourers to be identified
- To set up a follow up process at District level in order to mobilise people on this issue, to provide freedom certificates, to assist freed labourers, and to ensure the correct functioning of the Vigilance Committees, etc.
- To set up a mechanism to ensure follow up and organisation so that the Union states and the federal government provide regular reports to the Supreme Court.

During its first meeting, the Action Group looked at a number of Districts and sensitive aspects relating to bonded labour. Since then the Group has not met again. In the meantime, another group established under the leadership of Chamal Lal prepares reports on the bonded labour situation and makes recommendations. A list of Districts particularly likely to harbour many bonded labourers has been made (See Appendix 6).

³⁹ NHRC annual report, 2002/2003: <http://nhrc.nic.in/Documents/AR/AR02-03ENG.pdf>
⁴⁰ In Center for Education and Communication: “Debt bondage in India: An indicative report”, *op. cit.*, page 88.

As the organism responsible for applying the law, the Commission receives complaints from NGOs when the latter experience refusals to act on the part of their District authorities. In such cases, the Commission may order an enquiry and impose its own judgment on the District Magistrates.

3.5. The Supreme Court

The Supreme Court has played a very important role in the legal history of bonded labour. As a result of several very known decisions (see § II-2), it has helped to throw light on the notion of bonded labour and has thus provided valuable decisive elements to members of the administration charged with the correct application of the law.

These judgments express a real desire for social justice, often in rather lyrical terms, proclaiming that justice must serve the needs of the poorest and the most humble. Through these decisions, the Court consistently recalls the constitutional responsibilities of the states (cf. *People's Union for democratic Rights and others vs Union of India and others*) and sometimes orders them to apply the law correctly (*Bandua Mukti Morcha vs State of India* for example). It also plays a very important role in ordering various states to carry out investigations and to identify bonded labourers as was the case in Tamil Nadu (*People's Union for Civil liberties vs State of Tamil Nadu and others*) leading to the report to the Commission on bonded labour in Tamil Nadu in 1995 which was in turn followed by a field investigation that enabled 25,000 bonded labourers to be freed. In fact the judges in a decision dated 6 March 1995⁴¹ asked 13 states to launch enquiries and to do the work of identifying bonded labourers. Of the 13 states, only Tamil Nadu was able to provide the information needed.

Mahavea Jain, of the National Labour Institute, referred to this problem: “*Recently, in 2002 the Supreme Court ordered several states to provide an investigative report on this subject. Only Karnataka and Tamil Nadu responded. According to the other states, 'there are no bonded*

⁴¹ In Center for Education and Communication: “Debt bondage in India: An indicative report”, *op. cit.*, page 91.

labourers'... The Supreme Court has a genuine authority but there is an administrative problem ... so how to follow this up effectively?" (Page 75) Thus the Supreme Court does not have all the means necessary to implement the authority that it has over the states. On the other hand, the position of the Court is equally dependent on the judges. And as many activists have noted, bringing a case to the Supreme Court is often discouraging as it may be several years before judgments are handed down.

3.6. The NGOs

The NGOs have a vital role to play in the struggle against bonded labour. Owing to their presence in the field, they are able to identify bonded labourers and they often involved in action with the communities in which bonded labourers live. As a result of their commitment to the local populations, they are theoretically the ideal partners for carrying out the task of identification and in ensuring the rehabilitation of the workers. We will look at the example of Jeevika, an organisation in Karnataka totally dedicated to this process, in more detail in Part III.

3.7. The trade unions

It would have been interesting to meet some grassroots trade union leaders in order to complement this analysis and it is clear that they have a role to play in this area. In spite of several requests, however, it was not possible to meet them. A number of cases were reported in which trade unions assisted bonded labourers to free themselves as in the rice threshing factories in Thiruvallure (see the interview with Jeeva at page 19). Bonded labour tends to develop particularly in the informal economy and in closed environments where traditional trade unions are not well represented. A number of aspects in the CEC document also tend to show that the problematic of bonded labour is little understood overall by members of the major trade unions⁴². However, the struggle against bonded labour also possesses a preventative dimension. In this area, the trade unions have an important role to play in providing workers with a capacity for negotiation that they do not possess individually. One of the major causes of falling into

⁴² *Ibid*, page 100.

servitude is poverty and negotiating better pay through building solidarity between individuals provides a not-negligible safety net. Many NGOs also work for this objective including DBSU in Andra Pradesh (see interview at page 60), Jeevika, which created a trade union, Bandua Mukti Morcha (Page 70) or ADATS (Page 45)...

III – THE APPLICATION OF THE LAW IN PRACTICE

“In the beginning, like Swami Agniveh, we thought that things were simple enough. To the extent that there was a law forbidding bonded labour, we thought that it would be enough to gather the needed elements and to present them to the authorities. We were completely wrong...”

Jai Singh, director of Volunteers for Social Justice

1. Resistance at top levels of the Federal government

Each year the Indian government publishes the number of bonded labourers freed and rehabilitated in the annual report of the Ministry of Labour⁴³.

For the last four years, the figures are the following (they correspond to the number of bonded labourers freed and rehabilitated since the current law came into force in 1976):

	2001/2002	2002/2003	2003/2004	2004/2005
Freed workers	282 135	283 168	285 379	285 886
Rehabilitated workers	260 714	261 791	265 417	265 924

In fact, the government officially recognised the existence of **1023** bonded labourers in 2002 and 2003, **2211** bonded labourers in 2003 and 2004, and of **505** bonded labourers in 2004 and 2005.

Not all of these bonded labourers are rehabilitated because some were not able to be located, or have died, etc. However, every year the number of persons rehabilitated is higher than the number of bonded workers freed, a fact which is probably due to the important delays between freedom and being rehabilitated (rehabilitated workers having been identified in earlier years).

The pages accompanying these tables emphasise the importance of applying the law, of the various government programs and of the need to provide security for bonded labourers. No

⁴³ See <http://labour.nic.in/annrep/annrep2004.htm> for the 2004/2005 Report.

official statistic refers to the number of bonded labourers identified and not freed. Although morally unacceptable, this problem is said by the government as marginal from a quantitative point of view. Since 2001, the number of bonded labourers recognised by Tamil Nadu is zero. In Karnataka, however, 610 were freed in that year. In the Punjab, 69 bonded labourers have been officially identified since ... 1976 and none since 2001...

How to explain that the number of bonded labourers recognised by the authorities is so low? The central government allocated funds to states to carry out field studies and to identify bonded labourers⁴⁴. It occasionally communicates on this subject, sends out circulars... Does resistance arise exclusively from below at District level which is the level at which the law must be applied? Is there a political will at the highest levels which is blocked by a poor implementation of the law at the lowest level? Julian Parr is a Special Adviser to the ILO, and works with the federal government on bonded labour issues. In his view, *“there is clearly no political will to abolish bonded labour. The highest officials and government members are in denial. And within the context of international trade that favours the economy of the country, India does not want bad publicity”* (Page 74). Mahavea Jain, of the National Labour Institute (who was a Special Rapporteur nominated by the Supreme Court in the “Bandua Mukti Morcha” case) agrees with this view. According to Mahavea Jain: *“First of all, there is a taboo on the issue. The government does not want to recognise the existence of bonded labour. This type of work is sinful... it is like the people who die of hunger and people refuse to recognise their existence”* (see page 75). Chamal Lal, Special Rapporteur of the National Commission on Human Rights responsible for bonded labour also explains that *“Most members of the government totally deny the existence of bonded labour. Broadly speaking their discourse is as follows: 'there is no real problem as we have a law that forbids this practice and it has disappeared”. I think that in their minds the existence of the problem must be a shameful thing, like a proof of their incompetence”*

⁴⁴ Ministry of Labour, *Annual Report*, 2004-2005, § 9.

(Page 82). A high level official of the Indian administration with the rank of Federal Minister who wished to remain anonymous also told us that “*Manhoman Singh has a true social will but generally speaking the ministers are totally unconcerned by the problems of marginalised communities such as Dalits and tribal people*”.

Government agencies such as the Centre for Labour Studies also maintain this official discourse. Thus, Dr Venkatarama turns the situation around completely: “*Workers are often pressured by NGOs to take under the Bonded Labour Act in order to get money. Forces labourers do not exist. Perhaps it did exist previously during the time of the English when the administration was not yet properly established.... The forms of forced labour are the following: high interest debt locks in several generations where the person is physically forced to work. What happens here is that working conditions are very difficult but this is not forced labour. It is very difficult scientifically to prove servitude.*” (Page 22)

At the highest level, the attitude adopted is thus a posture of denial accompanied by a lack of will expressed in the ridiculously low officially recognised figures for the number of bonded labourers.

2. Difficulties in implementing the law at the level of States of the Union and the Districts

“We cannot understand why the administration should be ashamed to admit the existence of bonded labour. It is not the existence of bonded labour which shames the administration but rather its inability to provide for and to take all the necessary measures to ensure that it is eradicated by quickly identifying the bonded labourers in order to free them and rehabilitating them in a lasting manner.”

Justice Bhagwati⁴⁵

2.1. Resistance at the level of States of the Union

Mahaeva Jain, of the National Labour Institute has already mentioned this: “*Recently in 2002, the Supreme Court gave the order to several states to provide an investigative report on this subject. In fact, only Karnataka and Tamil Nadu have sent anything. According to all the others,*

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Extract from a judgment of the Supreme Court, *Bandhua Mukti Morcha vs Union of India and others*.

'there are no bonded labourers' (Page 75). It is not the first time that the States of the Union have failed in their responsibilities. The Report of the Commission on Bonded Labour in Tamil Nadu⁴⁶ provides a gripping account of the state administration. Following the complaint made by the PUCL association followed by the judgment of the Supreme Court⁴⁷ in 1994, the state of Tamil Nadu when summonsed to provide information on the situation of bonded labour on its territory, answered as follows: 'A number of isolated cases of bonded labour have been noted in Tamil Nadu⁴⁸'. This evidence of evident bad faith and bad will led the Supreme Court to set up a Commission of Enquiry that made its report in 1995. This enquiry by the Commission shed a dramatic light on the behaviour of various actors and on the lack of care by the administration overall.

The many problems identified included vacancies in ministry posts related to bonded labour, passing the buck, inability to coordinate the work of the different services involved, total misunderstanding of the issues and the law, and lack of means. The buck passing problem and the inability of various services to fulfil their role is also mentioned by Chandra Sekar. In Tamil Nadu, *"there are many administrations concerned that generally do not have the same global view of the situation. If you go to make a complaint to the police, for example, you will be told that the worker is indebted to the proprietor and he just needs to reimburse it. If you go to the Labour Department, you will be sent to the Revenue Department which do likewise. The ministry which is actually in charge of the problem is the SC/ST Department. But the latter will tell you that it is the District Collector who is responsible. In the end, virtually no-one really understands the problem."* (Page 13) Chamal Lal, of the National Commission on Human Rights also mentions the resistance of States of the Union who fail to carry out the investigations requested: *"The federal government provides funding to the states to carry out field studies. But*

⁴⁶ F. Sugirtharal and S. Sait: "Report of the Commission on Bonded Labour in Tamil Nadu", *op. cit.*

⁴⁷ Writ Petition No. 3922 of 1985, PUCL vs State of Tamil Nadu and others.

⁴⁸ Center for Education and Communication: "Debt bondage in India: An indicative report", *op. cit.*, page 95.

it is always the same, the result is zero! These enquiries should be confided to NGOs or carried out with them. We can pressure the states to carry out surveys. But if they are done and the result is negative, what can we do?" This view of the behaviour of the states by a person who is responsible for the application of the law is particularly critical and the latter also highlights the limits of his capacity to act which amounts to an admission of impotence. And he concludes: *"We are not happy about the way in which this happens."* (Page 82)

Every year the central government publishes very poor results concerning the identification of bonded labourers without really making an issue of it. The States of the Union seem to play a "complicit" role and the relations between the federal government and the states are a kind of "win-win" situation where the central government occasionally reminds the state governments of their obligations to carry out enquiries creating the illusion of fulfilling its responsibilities and the state governments send back low figures which do not embarrass the federal government. The main actors involved in identification in the field are also located at another level from the District. It is useful to study this level in order to better understand how the system of struggle against bonded labour is paralysed or even totally corrupt.

2.2. Difficulties in interpreting and implementing the law: The situation of the Surendha workers, a special case

The case of these villagers highlights a gap in the law that is the object of a recommendation to the Indian government in Part III of this research paper.

26/07/05

District: Nagapattinam

Village: Surendhar

Profession: Daily agricultural worker

What is your occupation?

Usually I am a daily agricultural labourer. However, since the tsunami the fields have been salinated and cannot be cultivated. So I no longer have work.

Two years ago, you were subjected to forced labour. How did that happen?

Here, the agricultural season lasts around three months. The rest of the year it is necessary to find other work. For 8 years I worked in a local fishing company. I used to take the fish to Kerala and I earned 110 rupees per day.

One day one of my friends from a neighbouring village, Ramamuthi, came to see us saying that he had some work to offer us. He worked with 9 other persons in his village in a brickmaking plant in Kerala. The owner of the brickworks had given him some money to come to look for us and he paid our transport. The work was quite well paid (150 rupees per day) and they were well fed. So we agreed to go down there.

Did you receive any advance?

No, we were supposed to get one but we refused. We thought that if we took the advance they would have made us pay for the transport.

What happened then?

Everything changed upon our arrival. We had to work from eight in the morning until ten in the evening. We worked the bricks until 5 o'clock and then we went to prepare the fields nearby for the extraction of more earth (the adjoining lands were occupied by Adivasis). However, the relations between the proprietor and a local MP enabled him to appropriate these lands. And we were never paid.

Did you sign a contract on your arrival?

No, none.

What were the working conditions like?

We were often beaten with whips. One man broke an arm. Another was so badly beaten particularly about the head that he went crazy and died 6 months later.

How did you react?

We could not do anything. During the first few days when we realised that we had been lied to we decided to escape at night. But it was impossible since there were guards with torches. So we decided that Ramamuthi would flee by himself. His wife was pregnant and in hospital because of health problems. Ramamuthi said that he needed to give blood there. The proprietor accepted that he would leave for a week. He told him that if he did not come back he would kill the rest of us. When he left he went to contact HRFDL to explain the situation and HRFDL freed us.

How long did you stay working there?

45 days.

What happened?

The police arrived. The owner tried to flee but they caught him. They brought us back here in a truck.

Did you receive the money for your rehabilitation?

No, never.

This is an interesting case because it goes to the limits of the law which have perhaps never been analysed by the association that defended the workers concerned. HRFDL pleaded in this case for the application of the Bonded Labour System Abolition Act. The working conditions of the persons correspond to that set out in the law namely non payment of minimum salaries, loss of freedom of freedom of movement. According to the BLSAA, the causes of bonded labour are as

follows: loans or other economic reasons; belonging to a particular caste; an inherited debt. The jurisprudence of the Supreme Court means that workers do not have to provide proof of the existence of a debt to be able to be considered as bonded labourers. Rather, proprietors must show that a worker is not covered by the legal definition of bonded labour. Another decision of the Supreme Court confirms⁴⁹: “When it is shown that a worker is forced to work without being paid or is paid a derisory salary, there is a presumption that the worker is a bonded labourer.” However, in our analysis, the presumption concerns the existence of the debt which makes the worker a bonded labourer and does not mean that a bonded labourer automatically falls within this category. It is necessary that the debt exists (or else one of the other conditions mentioned previously such as another economic reason, caste, etc). In the present situation and according to the information available to us, the workers themselves must state that they have not received a loan. Moreover, they must have received a decent salary.

The District Collector of Malappuram in Tamil Nadu decided this case. By a letter dated 13/08/2004 addressed to the District Collector of Nagappatinam in Tamil Nadu, he held as follows: “I have already informed you that according to my decision this case does not fall under *the Bonded Labour System Abolition Act*. [...] I would like the workers concerned to present their plaint within the framework of the *Industrial Dispute Act 1947*”. According to the analysis presented above, it would seem that the point of view of the DC according to which the workers are not bonded labourers is legally correct (again, this is based on the elements available to us). In the legal sense, “belonging to a particular caste” concerns cases such as those of the garbage collectors who can be obliged to work in this field owing to their belonging to a caste of which this represents the traditional activity. The fact that the workers of whom we are speaking are Dalits does not seem to invoke the application of the BLSA Act. The workers were promised normal salaries and insofar as there is no debt that pressured these labourers to work for a “non-

⁴⁹ Neeraja Chaudhary vs State of MP, Writ Petition No 1263 of 1982

existent derisory salary” then the fact that they did not receive their salary seems to fall under another law (such as the Minimum Wages Act or another law) rather than the BLSA Act. As a consequence of this, it seems to us that in spite of the requests of the HRDFL this case is not covered by the BLSA Act. Nevertheless, several comments may be made:

- The initial approaches by HRDFL to the administration produced no results. It was necessary to obtain the support of the Regional Commission of the SC/ST and its intervention with the District Collector for action to be undertaken to obtain the freedom of the workers;
- The workers were all Dalits. It seems that the SC/ST Prevention of Atrocities Act could have been invoked which would have enabled workers to obtain substantial damages;
- In a letter dated 7 April 2004, the Director of the Commission for the SC/ST refers to a telephone discussion with the District Collector according to which “the period of 4 months during which the workers were forced to work is too short for them to be considered as bonded labourers.” This declaration was quite contrary to the provisions of the law which stipulates that it must be applied in cases of work “for a definite or indefinite period” (article 2). All this goes to show that the District Collector was perhaps correct in taking his decision but that the decision was probably not based on a complete and impartial analysis of the problem. Moreover, the Director of the HRDFL member association who intervened in this case was furious at the lack of involvement of the District Collector in this case: “*He totally refused to receive us on this matter. He explained that he did not have the time to be concerned with this when he needed to prepare for the visit of the Chief Minister to his District.*” (Page 40) A real will to respond to the prejudices experienced by the victims would have certainly led to another outcome based on the resources of Indian law which are extremely strong on paper...

One point deserves discussion here. According to the jurisprudence resulting from the decision in the case *People's Union for democratic Rights and others vs Union of India and others*, any person working for a salary inferior to the minimum salary must be considered as a bonded

labourer (voir supra). If this decision is accepted, the Surendhar workers are effectively bonded labourers in the legal sense. It is on the basis of this judgment that Swami Agnivesh, of Bandua Mukti Morcha, claims: *“I consider that there are 370 million workers in the informal sector who can be considered as bonded labourers”* (Page 70). This point of view is not without its problems. It is extremely difficult to obtain the freedom of a labourer who is “truly” bonded. How to imagine applying the BLSA Act to all persons who earn below the minimum salary? Chamal Lal, of the National Commission on Human Rights, expresses his point of view as follows: *“I do not agree with the approach of Swami Agnivesh who bases himself on this broad view of the problem by arguing that all persons who earn less than the minimum salary are bonded labourers and therefore ought to be freed and rehabilitated. In any event, this would be materially impossible. The problem of the minimum salary falls within the framework of the Minimum Wages Act, not the Bonded Labour System Abolition Act.”* (Page 81) Activists from other NGOs that I met also agree with the judgment of Chamal Lal, in particular Jai Singh who said: *“I do not agree at all with Swami Agnivesh concerning his definition of bonded labour. One worker in two in India is a bonded labourer? This is meaningless... It amounts to a mockery of the slavery problem. A bonded labourer has no choice as to his employer. The fundamental is that of freedom. Someone who earns less than the minimum salary lives in an abnormal situation. However, it is always possible to change it, to get organised, to protest... This way of speaking about things can have negative consequences. It dilutes the debate on the issue. It is hardly the same thing to speak of salary and freedom!”* (Page 80)

Basing oneself on this particular aspect of jurisprudence to define bonded labour amounts to a kind of radical posturing. In the strict sense of the law, the Surendhar workers could be considered as bonded labourers but this does not mean that it is possible to rely on it if one considers the normal manner of “applying” the law.

If this case can be considered as a “limit case”, field observations concerning the application of the law at District level make it clear that there is a general lack of will or indeed a strong resistance on the part of the administrative apparatus to apply it.

2.3. The problem of identifying bonded labourers and the resistance of local administrative officials

“There are many bonded labourers particularly in the rice threshing factories. What is clear is that there is no political will at all to eradicate forced labour at any level. There are so many laws but when you get down to the District administrations there is absolutely political will. Nobody even knows the definition of forced labour. For them, it would mean that there exist people who are bonded in the ultimate sense...”

*Jeeva, journalist at the *Indian Express*.*

2.3.1. A generally passive administrative system

We saw in paragraph 1 that the number of bonded labourers recognised by the national authorities is very low relative to the prevalence of the phenomenon. This figure corresponds to the figures compiled by the authorities at District level. It is therefore useful to look at the modalities of application of the law at this level in order to highlight the blockages.

The District authorities are responsible for identifying, freeing and rehabilitating bonded labourers. It might therefore seem that the work of the NGOs who work with marginalised people and who identify bonded labourers by reporting them to the authorities would be perceived as welcome. However, the striking this arising from discussions with NGO representatives is the difficulty met in validating lists provided by the District Magistrates. One of the most spectacular cases is that of Jai Singh, director of Volunteers for Social Justice who says: *“Since we have worked here we have freed 4000 bonded labourers. Only 80 of these have been recognised as such by the authorities and rehabilitated... This is because of a weakness in the law whereby everything happens at the discretion of the District Magistrate.”* (Page 78) In fact, according to government figures, there are 69 bonded labourers who have been recognised by the Punjab authorities since 1976. Without proposing an alternative solution, Jai Singh highlights an important issue, namely *“accountability”*, or in other words the responsibility of the authorities to *“give an account”*.

In Tamil Nadu, Chandra Sekar is director of an NGO which works with bonded labourers in the field of synthetic stone cutting. He also complains of the way in which authorities deal with cases that come before them. *“We submitted 260 cases to the authorities last year in 3 Districts of Tamil Nadu. None of them were freed. We would have needed 'admissions' from the proprietors. Plus, the problem is the length of the process. What happens often is that the proprietor will sack everyone as soon as a complaint is made. By the time of the enquiry, how is it possible to free someone who does not work there?”* (Page 13) Once again, many bonded labourers have been identified by an NGO without the authorities taking the necessary measures. There are two important aspects here. First of all, the officials rewrite the law in imposing the requirement that admissions are necessary from the proprietors in order for the recognition of the situation of bonded labourers. Next, rehabilitation must be considered as the end point of the process as Justice Bhagwati stated in his decision in the case of *Bandua Mukti Morcha vs Union of India and others* (cf. *supra*). However, the procedure requires that rehabilitation cannot be made without a certificate of freedom provided by the District Magistrate. Lastly, the authorities only accept to provide a certificate of freedom for bonded labourers who are still in servitude at the time of the enquiry. The law provides no indications concerning this, however, the spirit of the law means that it should be able to be applied to labourers who have freed themselves⁵⁰. The problem of the speed of intervention by the authorities is therefore vital. If the enquiry is carried out a few months or a few years after the plaint is deposed, the bonded labourer may end up by freeing himself with the assistance of an NGO that has identified him. In such a case, the administration refuses to recognise the condition of the bonded labourer who has no right to be rehabilitated. Hanismantha, co-ordinator of the Taluk of Jeevika, has often encountered the same problem: *“Since 1995, we have identified 553 bonded labourers. Nearly all have been freed. But only 17 have been rehabilitated. The enquiries took 3 years and all the others had already been freed by the time of the enquiry.”* (Page 48). The Coordinator of the Mysore District of the same

⁵⁰ This point was noted by the Report of the Central Committee on Bonded Labour submitted to the Indian government on ...

association has experienced identical difficulties: *In 1998, 650 bonded labourers were identified in this Taluk. All have been freed by Jeevika. The list was provided to officials. But nothing has been done and no enquiry has been carried out. During this time, Jeevika held meetings with bonded labourers who were freed with our assistance... Every year we identify more bonded labourers. We have given a list of 1125 bonded labourers to the authorities. Official enquiries resulted in the freeing of 484 of them. In other cases, proprietors have often frightened the bonded labourers into refusing to testify and claiming that they were simply daily workers.*"

(Page 53) The climate of fear and violence in which bonded labourers live also constitutes an important problem that the methodology to be implemented during enquiries in identifying them needs to fully integrate (See Chapter II-2.1. of Part III). The case of the Bagtepalli workers in the Kolar District is similar. In this village, 60 bonded labourers were identified by Jeevika in 2000. All were freed but only 20 of these were rehabilitated. The official enquiry only took place in 2002. During this time, 40 workers managed to free themselves with the assistance of Jeevika. The authorities refused to recognise their previous situation and therefore they were not rehabilitated. This problem of resistance on the part of the officials who are given the responsibility of carrying out enquiries recurs very often. Leslie, coordinator of the DBSU in Andhra Pradesh, explains that the association has identified 500 child workers in the District of Nalgunda (of whom 90% are Dalits): *"We have provided a list of these children to the authorities. Nothing was done. We plan to send a petition to the High Court to force the administration to do its job. Up to the present, no enquiry has been done."* (Page 60) According to Kiran Prasad, director of Jeevika, 1042 bonded labourers were identified in various districts of Karnataka from April to June 2005. But up to the present time, not one bonded labourer has been officially recognised by the authorities. NGO representatives are not the only ones to complain. Chamal Lal, of the National Commission on Human Rights, says: *"Recently we transmitted a complaint concerning a bonded labourer to the District Magistrate. After an enquiry by the local authorities, we received the usual response. "Everything is fine, it is a salary problem, it has been fixed". If we send someone from our team to carry out an enquiry it is sure that the result*

would be different. But we do not have the means to send someone every time...” (Page 82). The action limits of this fundamental institution for struggle against forced labour are clear... Satheyah is the President of the Panchayat of the District of Ranga Reddy: “*There were 8 child labourers in the Panchayat. We organised a meeting with officials and submitted a petition under the BLSA Act. Nothing was done. Under our pressure, the authorities finished by asking proprietors to release the children. They were not officially freed and they were not rehabilitated. It was too complicated and it caused too many problems. We preferred to negotiate with the proprietors by threatening to make a complaint so that they would free the children without needing to reimburse the loan. Officials never officially recognise bonded labourers, above all children.*” (Page 66) It therefore seems that the attitude of members of the administration is not just the result of inefficiency or lethargy leading to lengthening the time needed for carrying out the enquiries. Worse than this, the officials often refuse to apply the law. Jai Singh did not succeed in having the bonded labourers identified in the Punjab recognised as such by the officials: “*The problem is that the law is never applied. I have hundreds of cases of complaints made. According to the District Magistrates, 'it is a problem between an employer who agreed to make a loan to a worker who does not wish to reimburse the loan.' In their view, the complaints are unfounded.*” (Page 77) Whereas the law and jurisprudence clearly state that the authorities are required to presume that every debt contracted by a worker who suffers from bonded labour must be considered as a “debt of servitude” and the worker must be considered as a bonded labourer, VSJ systematically meets denial on the part of the Punjab authorities. It is understandable that a particular government official may not understand the law on bonded labour perfectly but it is hard to believe that an administration acting in good faith cannot easily access information required when an NGO provides all the necessary information “on a plate”, namely bonded labourers identified and expertise in legal matters. Revisiting the law thus seems to refer more to a deliberate will not to apply it rather than to a simple misunderstanding of the texts. Perhaps this is also the case with Tashildar of Gorribidanur. The latter was particularly cutting during our very short interview and he clearly did not consider Jeevika to be a desirable

partner. Further, he did not hesitate to declare that: *“We do everything in our power to identify bonded labourers. We carry out enquiries when there is a complaint. I think that there really have been no more bonded labourers for the last 10 years.”* And when he is asked why there is such a difference between the number of bonded labourers identified by the associations and those recognised in fact by his service, he points to the following: *“the problem is that we have to obtain the proof that the bonded labourer owed his employer money. We need written proof.”* (Page 49) This is a basic error and reveals a total lack of legal knowledge. Yet it is difficult to imagine that this official does not have access to all the necessary resources to know how to apply the text: he is part of the Vigilance Committee, and Jeevika presents to him a number of cases of bonded labourers, with legal text in hand. To justify why the administration does not recognise these workers as bonded labourers by resorting to a distortion of legal provisions in such a brazen manner reveals an extreme arrogance and lack of will to intervene for their sake – yet it is the obligation of someone in his position to do so.

The lack of will seems to be shared by the officials, till the level of the District Magistrates. The case of the bonded labourers finally liberated from the rice-husking factories reported by Jeeva, a journalist at Indian Express is eloquent: *“There were at the premise around a thousand bonded labourers. An investigation has been done. The police went to the site (in Thiruvallure), and came back saying that they had not found any document as proof... They did not know anything about the problem. [...] Here is what happened before their liberation. Some of the workers were beaten up. The policemen had refused to register the complaint. The administration had also tried to cover up the affair. [...] A panel member of National Commission on Women visited the spot. He interrogated the District Collector, who could not answer any of his questions. According to the Commission Report, 12,000 families are in bondage condition in the District of Thiruvallure. But the employers appear to be very smart in answering the questions, idem for the local politicians. [...] The bonded labourers had been helped by the local unions to lodge the complaint. They succeeded in organising themselves with the assistance of the unions and the*

NGOs.” When the miserable living conditions of the exploited and bashed up individuals were brought up before the relevant authorities, the first reflex was to refuse to come to their aid and to cover up the affair. According to Jeeva this reflex is revealing of the general behaviour of the administration, *“The officials want to hide what is happening in their Districts. Always! In the case that I am talking about, the District Collector has declared in front of everybody (including the workers) that: ‘in my District, there are no bonded labourers.’ All the bureaucrats are in denial. They block the information and do not pass it to their superiors. What they say is that people lodge complaint to receive the 20,000 Rupees. They hide behind the agreement signed with the leftist parties, and in reality, do nothing.”* (Page 26) Therefore everything occurs as if the whole administration has developed a common mind, obviously hiding behind voluntarist discourse, to not act and to camouflage the phenomenon rather than to fight it. This is what is expressed by Jai Singh, *“What happen among the authorities is that there is a sort of tacit agreement. When the reports are submitted to the Chief Minister by the District Magistrates, the conclusions are always something like ‘there are no bonded labourers in my District’. If someone intervenes to break this tradition, he has to face the music of the superior authorities above him...”* (Page 78) The lack of will to identify bonded labourers has led often to a way of going about which would resulted in negative results when the administration accepts to carry out investigations. A particular approach has been described several times. A District Coordinator of Jeevika attempts to explain the low number of bonded workers identified by the administration in his sector this way, *“The officials often conduct badly the investigations, by interrogating the bonded labourers in front of their master. Under these conditions, it is certain that they are afraid to bear witness.”* (Page 54) The officials could in this way easily disengage their responsibility while demonstrating their correct behaviour and their will to fight the system. From the interviews made with the District Collectors during the investigation of the Commission on Bonded Labour in Tamil Nadu (see above, chapter 2.1), the realities of these pivotal “pillars” of the system are simply dramatic: lack of knowledge of the problem and their role, denial of the prevalence of the phenomenon, contempt *vis à vis* the ministerial authority and

the structures established to fight against bonded labour (“the investigations are a loss of time and the Vigilance Committees are just nonsense”), ignorance of the legal provisions, outdated records (which prevents the granting of rehabilitation to numerous liberated workers). The insider view of the administration offered by the investigation of the Rapporteur of the National Commission helps to shed light in a crude way on the “outsider observations” we made during our fieldwork.

Theoretically the Vigilance Committee should play the role of regulators, and oblige all sides to take up their respective responsibility in a field whereby all need to do their part. Nonetheless, the results of field observation are as negative as the behaviour of the administration. Maria Setya, the person-in-charge of ILO bonded labour programs deplors, “*The Vigilance Committees are absent from the grassroots.*” (Page 26) This is equally what is felt by Cyril of MACT, “*the Vigilance Committees do not know what is going on at all.*” (Page 4) In fact, in many of the cases, these structures exist only on paper. Kiran Prasad has obtained information concerning these Committees in Karnataka. The 27 Districts and 52 Subdivisions of the State are covered by the Vigilance Committees. Representatives of NGOs are rarely representatives of Dalit or Tribal communities. According to the activists of Jeevika members of the Committees, they have very limited activities. Whereas regular meetings have been held in 2001, the Committees only gathered in erratic frequency in 2003 and 2004. To get the Committees to meet often requires big endeavour on the part of the Jeevika (while they should normally be convened automatically by the authorities). Even if the Committees have been officially created, Kiran Prasad stated that none of them pushes for any action towards the identification of bonded labourers. When there is an investigation, it was only done by a team constituted by the Tashildars. The way these Committees function is not effective at all. Except for the Jeevika members or associations really concerned about the Dalit issues, the representatives of NGOs themselves indicate very little sense of urgency in defence of the cause of bonded labour: “*most of the meetings consist of a simple ratification of hollow reports submitted by the officials at the*

Committee”, according to Kiran Prasad. One could be amazed, since NGO representatives are present. Yet, after him, there are really very few associations that are keen to tackle this problem. The nomination of NGO representatives is actually proposed by District Magistrate. Hence the latter takes his sweet time to choose a member who does not give him any problems... In addition, some of the officials themselves admitted it indirectly: without pressure from an NGO such as Jeevika, the Committees do not work. Munyaippa, Tashildar in Chytkaballakpur, is one of them: *“It is certain that the only Committees which function are the ones with the presence of Jeevika. Otherwise, nothing happens.”* (Page 40)

2.3.2. When the administration makes itself complicit in the system

The attitude of the officials sometimes goes beyond simple negligence. According to Kiran Prasad, *“often, the Revenue Inspector forewarns the owner before coming, and explains to him what to answer, or simply advises him to send the bonded workers home for a few days. When the officials arrive, it was easy to conclude that ‘there are no bonded workers.’”* (Page 30)

These remarks surfaced a few times during the survey, for instance during our discussion with a District Coordinator of Jeevika, when he raised the case of 1125 workers submitted to the authorities: *“Sometimes, the officials telephoned the owners before coming to investigate to advise them to send home their bonded labourers during the period of investigation and gave them tips on how to respond to the questions.”* (Page 54) One might suspect that NGO representatives could make baseless accusations, reflecting simply their systematic opposition posture with respect to the authorities. However, even representatives of the administration admit so. This was certainly the case with Tashildar of Kote. When I asked him whether he has heard of the political pressure exerted on the members of the administration, he did not avoid the subject: *“Yes, I have heard already that members of the administration have refused to identify bonded workers, that some of them forewarn the owners before the investigation.”* (Page 59) The problem of corruption of the authorities was also a recurrent theme during our fieldwork. The

leader of the association Green Mother Land expressed his sentiment on the behaviour of the officials: *“There is a lot of corruption at the level of the RDO, for instance. In the rural region, the officials do not really know the laws, and don’t know how to apply them. Above the District Collector, it seems that the officials do whatever they can. It is among those below him that corruption is generalised.”* (Page 19) Jeeva, a journalist at Indian Express, also gives his opinion: *“Employers could easily bribe the administration from local officials to the highest level. [...] The employer unions are very powerful. They bribe the officials. If a complaint was lodged, in most cases the officials would come to the site ... and collect money. If one of them tries to work honestly, there is every chance that they will be transferred very rapidly...”* (Page 20) Maria Setya of ILO also makes the same observation: *“There is a lot of corruption, and at all levels.”* (Page 26) Natarage, another journalist, explains that he himself has been witness to these practices: *“There is a huge amount of corruption. In this very café where a lot of children work, I saw the owners giving money to the officials.”* (Page 46) These practices are actually recognised openly by a police officer: *“It is true that I have heard of the problems of corruption, but not in my police station.”* (Page 46) Vetranikasalam, owner of a brickyard in Tamil Nadu, has dealt with local officials: *“The only contacts that we have are with those officials who have nothing to do with here, those we do not know, and who come to try to squeeze us for money. Corruption has evolved nowadays. Before, they came just to ask us for money. Now, they would use the law and try to blackmail us by threatening to report us for having made the children work. Those people who normally are implicated in these programs, we never see them... Without corruption, Tamil Nadu would not be Tamil Nadu!”* (Page 9) Baliarha thinks that the administration has got itself bought off by his master who wanted to extort money from him: *“When I finish reimbursing him, he told me that I still owe him 4000 Rupees. I refused to pay him. Then he locked our house by key and stopped us from going back to our home. First of all, I went all by myself to lodge complaint against him at the Labour Office. But the owner has gone there before me; he must have given money. Without any investigation, the officials told me that I have to return 4000 Rupees to him.”* (Page 65)

Workers of Nemale were also victims of these practices. The village headman explains, “*A man with whom the owner has had problems came to forewarn me that he has given 20,000 Rupees to the police for them to keep quiet about the falsification of accounts. And the political parties are related to the owners. In fact, the owner is from the family of a former minister of the central government.*” (Page 32) Corruption sometimes plays an important role in the way in which the problems of bonded labourers were (not) dealt with. But the village headman emphasises another problem which contributes to the resistance of the administration in the implementation of the laws, i.e. the collusion between the economic field and the political and administrative field. This will be developed in chapter IV.

2.3.3. The decentralisation issue

One particular point of regulation is worth pondering on. The decentralisation at work in Karnataka⁵¹ (and in some other States) now involves the Gram Panchayats in the process of identification and rehabilitation. This measure is too recent (about 6 months) to have the necessary distance to judge the change. It might seem a good way of fighting against the paralysis of the system, through the involvement of the elected local representatives who owe their positions to their electors and who are nearer to the victims than the local officials. Nevertheless, any reflection would lead rapidly to identification of certain problems. We posed the following question to officials encountered in the office of Kempegowda: “*Since many elected members come from high castes, and in any case, it should be difficult for any possible Dalit elected members to escape the community pressure, is it possible to imagine that the identification be seriously carried out since the great majority of the bonded labourers are Dalits?*” These officials have a rather optimistic vision since according to one of them “*thanks to the quota policy, it is not just members of the high castes who are elected. Then there are always the same sorts of question when we talk about decentralisation. I think that decentralisation is a*

⁵¹ Karnataka Panchayat Raj Act, 1993.

good thing, that it contributes towards a better functioning of the system, and that it would be nearer to the people. We need to have confidence on the local people.” (Page 52) This vision of decentralisation corresponds with discourse generally developed by the “world” of development. However, it seems to us necessary to not stop at this level of analysis. The quota policy effectively enables the Dalits in the villages where this community is in the majority to be elected. But there are two sides of the coin and these quotas also have their perverse effects, as described by several activists (during the discussion separate from the interviews). The pattern described by these activists is as follows. High caste Hindus from the village would support the candidacy of a Dalit who is not nominated by the untouchable community, which contributes to the division of this community. This process appears to have been observed quite frequently. There is even a case that we found in the newspaper cuttings in the archives of DBSU whereby a bonded worker had been elected the President of the Panchayat. By application of the quota policy, a Dalit should have been elected. His master therefore took advantage of this opportunity to govern the village through “his” Dalit..... Judge Bhagwati, in one of his famous judgements⁵², already raised this problem by evoking the difficulties of carrying out properly the tasks of identifications of bonded workers: *“the Panchayats are often dominated by ulterior interests, and, in view of their way of working, cannot be really effective in the process of identification”*.

IV – REASONS FOR THE PARALYSIS OF THE SYSTEM

Exploring this problematic is quite difficult and would require a separate study. Nevertheless, the few elements that we have documented seem rather enlightening all the same. So we wanted to set out at least the beginnings of a reflection on this important problem.

⁵² Neeraja Chaudhary vs State of Madya Pradesh, Writ Petition No. 1263 of 1982.

1. The collusion between proprietors and the political world

Gudibandar, police officer, confided in us when he was asked whether there was any political pressure on people who wanted to liberate the bonded workers: “*Yes, because there are links between the owners and the political authorities. I have heard that in other police stations the police could not resist such pressure. Some have been bribed.*” (Page 48) Gudibandar indicated a particular problem whose mechanism is described by the officials encountered in the office of Kempegowda: “*There is clearly pressure from the political world on the officials. Here is what is happening. The owners often know the MLAs⁵³. In the Indian system, ministers must be appointed from the assembly so the MLAs are close to the ministers. When there is a problem, it could happen that the owner asks the MLA for help, and the latter talks to the minister, who puts strong pressure on the District Magistrate and in this way on all the officials. A single official who wishes despite all to do his work honestly could be transferred to hostile regions... he might do it once or twice, but not more... put yourself in his place. He has a family, children to be educated...*” (Page 53)

The pattern described is as clear as it is dramatic. A landowner from Belagandahalli confirmed to us that the relationships between the owners and the officials are important: “*There is really a relationship between the owners and the officials or the authorities. If there were no Jeevika, the system would remain always in place like this*”. It is interesting to have this “internal” confirmation... Chamal Lal, of the National Commission on Human Rights is equally categorical. When I asked him, “Is there pressure on the officials who wish to apply the law, owing to the connivance between the owners and the MLAs who have the desired contacts at the ministry?”, he replied, “*Yes, indeed. You have to write this in your report. There are people in power who take advantage of the system.*” (Page 82) The political, administrative and economic powers are linked. Mahavea Jain of National Labour Institute, evoked the economic interests of

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Members of Legislative Assembly, the MPs.

members of the administration and the political world: “*Changes would not happen until there is a real collective awareness. And a real awareness among the officials... Nowadays, some of them take advantage of the system! They themselves or some members of their family could have bonded labourers ...*” (Page 75) Ammu Menon of ILO made the same analysis, “*The political powers are totally linked with the economic power. It is not rare that owners and the MLAs are friends... if an official try to do something (liberate bonded labourers), it is possible that he finds himself being transferred to a very unpleasant location...*” (Page 74) The officials could be part of those who benefit from the system, and would have no interests to destroy it. Besides, this is also what K. Santhakumari, the lawyer at the High Court thinks: “*The problem is that many politicians are also land owners. They would have nothing to gain by fighting against the system...*” (Page 20) This is also the view of Jai Singh, “*Most of the District Magistrates, owners, policemen, come from the same community. Even the Dalits who are in high position have lands. These people have bonded workers at their home, or know those who have. Nobody would attack a system from which they benefit. In addition, they perceive this problem as a threat, a shame for the administration. Hence they would not want to admit that this problem exists... They are even more interested to maintain the system as it is.*” (Page 77)

The owners who render themselves guilty of employing bonded labourers and the officials who are responsible for implementing the law belong to the same social class. Whether the interests of such and such a member of the administration are directly affected (in the case whereby this person, one of the members of his family or one of his friends have land and employ eventually bonded labourers) or whether it is the simple fact of sense of belonging to the same class as the owners, the natural tendency of officials would often be to protect their own interests.

2. The caste system, a cause of corruption among government officials

We have very few elements available on this issue. I would like however to open it up because it deserves a much deeper investigation insofar as I suspect that it is quite important.

The Indian high level official already quoted above responds in these terms to a question posed on the obviously bad will in implementing correctly the law: “*you know, the overwhelming majority of the officials are Brahmins...*”. The common sentiment of belonging to a particular social class developed among the officials would then be coupled with the sense of belonging to the same castes as owners. The sentiment of empathy that the officials should develop *vis à vis* the bonded labourers would be strongly attenuated due to the fact that the latter are often Dalits. This reflection emerged several times during our interviews. Natarage, journalist in Karnataka, shared with us his analysis, “*If the officials do their work, it is sure that a lot more bonded labourers would have been liberated. But they don’t care. Often they belong to the high castes, so they look down on the problems of Dalits.*” (Page 46) Swami Agnivesh shared his point of view: “*Most of the bonded labourers are from SC/ST. It is really a double exploitation: social and economic. The problem is that this social hierarchy is considered normal: It’s God who wanted it this way. And this pattern is very present in the mind of the people who are in power, the officials. This is one of the major reasons for the perpetuation of the system. If the bonded labourers were mostly Brahmins, there is no doubt that radical action would have been taken.*” (Page 70) The internalisation of the caste system, present in the mind of the owners as bonded labourers, would also be a hindrance towards the development of an authentic will to implement the law on the ground, due to its prevalence in the officials’ mind as well, who mostly come from the high castes.

This is also the tone of the discourse of Judge Punnaya, the President of the Commission for the SC/ST of Andhra Pradesh: “*There are good laws, on paper. The problem is that they are not implemented. One depends on the police. But they also, are mostly from the high castes. They help the owners. Sometimes, their own family practises “untouchability”. We can’t expect anything from them.*” (Page 63) Kiran Prasad also thinks that this factor plays a big role in the loopholes of the administration: “*The problem, here, is that the caste system is prevalent at all*

levels, and poses an obstacle against the implementation of the law and the functioning of the justice.” (Page 39)

It would have been interesting to obtain more precise information on the caste identity of the officials of certain Districts studied and bring out these factors for reflection. The expressed views come mostly from those who are fighting in defence of the rights of the Dalits, and the discourse of the officials would certainly have been different. Yet it seems to us that this factor should have an important role to play, not because of the direct intention of the officials to prejudice, but because this caste system is the social pattern in which they grew up, whether they come from big cities or, especially, from villages. To accuse them of wanting to purposely prejudice the Dalits is out of the question; but that the lack of will to confront the weight of the whole Indian administrative system and to “break the law of silence” by fighting for the rights of these outcasts derive some of their bases from the respective understanding of social problems through the prism of the caste system appear to us to be an entirely feasible hypothesis.

Finding its roots in an ancient India and in its powerfully structured caste determination, the phenomenon of bonded labour has lasted for centuries throughout the great transformations of the country. Colonisation seems to have “taken advantage” of it by the commoditisation of exchanges in the rural areas. The practice of massive recruitment of workers through agents to work at the big work camps organised by the British marked the beginning of a “tradition” which persists until today, and which has allowed the system of bonded labour to evolve and to adapt to new constraints.

It is as a *system* that the bonded labour needs to be understood. First of all by its magnitude: millions of persons seem to be concerned by this curse. Then by a certain form of

institutionalisation: when the workers speak about “their advance”, they describe the establishment of an owner/worker relationship which seems simply part of the ongoing norms. Finally, by the paralysis of the administrative apparatus as a whole, whereby the official defenders of bonded labourers resist their responsibility almost by all means, and even purely and simply defend the employers of bonded labourers. This apathy which borders on connivance concerns the administration at all levels from the Tashildar who carry out its investigations against common sense – even forewarning the owners before arriving at the site – to the central government which does not even blink in the face of deplorable results recorded every year on the liberation of bonded labourers, through the District Magistrate who avoid embarrassing the states by recognising only a very small proportion of the cases presented by the NGOs as bonded labourers. To fight against this system requires a lot of tenacity and courage. Some NGOs, too rarely, do their jobs on the ground.

The third part of the study puts together a number of reflections and recommendations for the attention of various actors who intervene in this field or who might possibly be open to be involved, such as CCFD and some of its partner organisations.

Part III: An action plan against bonded labour

I – SETTING OUT THE OBJECTIVES

The points set out in this research paper comprise the first round of a process that CCFD will later complete. The initial objective would be to prepare an overview of the bonded labour problematic that could “alert” CCFD and its partners to the issues involved in this phenomenon. Failing to go further, however, would amount to stopping half way. A meeting of several Indian associations enabled the highlighting of the degrees of mobilisation and competency around this problematic. The information gathered from Jeevika in particular should provide a basis for other organisations that would like to become involved in this field. Therefore we will provide a few elements of reflection and methodological suggestions for CCFD partners. Going further, we will endeavour to set out the outline of an action plan that could be implemented by grassroots NGOs and which could include a number of recommendations addressed to the main actors identified in the course of this study.

II - CCFD AND ITS PARTNERS

CCFD is an organisation of international solidarity based on an approach of building partnership with existing NGOs in countries in the South. Therefore, CCFD does not employ expatriate staff nor send out equipment. Rather it financially supports local NGOs while sharing its expertise in matters related to institutional development and networking. CCFD also contributes through international lobbying campaign on various subjects. For India, the strategy of CCFD has been to support NGOs who defend the human rights of the Dalits at the “local” level as well as those who do a lot of lobbying work at national and international levels. In this respect, one of the

significant achievements towards which CCFD and its partners (especially NCDHR⁵⁴) have contributed was the nomination of two special *rappoteurs* through the resolution passed by the UN Sub-Commission on Human Rights⁵⁵ at the beginning of 2005 to realise a study on “discrimination by work and descent”. The term caste is not used for political reasons but it is implied all the same...

Among the partner organisations of CCFD, most of them work directly at the grassroots with the Dalit population; hence they are in a good position to develop appropriate actions to identify, liberate and rehabilitate the bonded labourers. In view of the difficulties to get the authorities to recognise the existence of bonded labourers, grassroots work needs to be complemented with substantial lobbying action at all levels: Districts, State of the Union, Federal State. For this purpose, three partners could play an important role due to their specific structure and mission: NCDHR, HRFDL⁵⁶ and FEDINA⁵⁷. In addition to this, one of the aims of the fieldwork was to identify at least one organisation that could set the tone for this purpose and share its expertise with CCFD and its partners. Jeevika, by its experience, involvement and the recognition it is enjoying well beyond the state frontier of Karnataka (ILO, NCHR, etc.), appears to be capable of playing this role.

1. Recommendations to CCFD

A preliminary remark: The remarks and recommendations to be made here, if they were to be carried out, would have an impact on the Asia Department: in budgetary terms, if new partners are engaged; on the workload of the person-in-charge, if new actions are implemented At this stage, it is not our role here to determine what action could or could not be taken, these

⁵⁴ National Campaign on Dalit Human Rights, based in Delhi; <http://www.dalits.org/default.htm>

⁵⁵ Resolution 2004/17.

⁵⁶ Human Rights Forum for Dalit Liberation, based in Tamil Nadu.

⁵⁷ Foundation for Innovation in Asia.

being decisions related to the general policy of the Department. Hence our remarks here have been made without taking into account these pragmatic considerations.

Bonded labour being a problem that is related very much to the discrimination of the Dalit population and the tribal people, it seems to us that CCFD, which is very committed in this field, should include this specific problem as a theme in itself in its plan of action. This should be done by suggesting it as an issue for its partners to work on as well as within the various lobbying networks that it belongs to (cf. below). It appears to us that Jeevika which has been recognised for its work in this area should be assigned a pivotal role to launch a campaign at national level, of which some of details are outlined below. Besides, it is also part of the FEDINA network already financed by CCFD.

The recommendations to CCFD may be summarised as follows:

1. Suggest to its partners to explore or include the issue of bonded labour in their action.
2. Develop a partnership with Jeevika as a strategic step among the measures to be put in place due to its experience in this field and the national recognition it enjoys. The expertise of Jeevika could help in the formation of various partners for grassroots action and lobbying work in India, and encourage the formation of an Indian network specifically dedicated to the struggle against bonded labour.
3. To include in the agenda of the various bodies of international lobby to which CCFD belongs (Dalit Collective, IDSN⁵⁸) the issue of bonded labour, identified as a Dalit problem but developed as a separate theme in itself.

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International Dalit Network Solidarity.

2. Recommendations to CCFD partners

In this chapter, we hope to raise awareness on the part of CCFD partner organisations of the significance of the phenomenon of bonded labour, which has perhaps not been sufficiently taken into account to date. For instance, HRFDL which is the “network of networks” (with around a hundred NGOs) at Tamil Nadu level only noted some isolated cases of bonded labour in the whole state while Jeevika identified more than a thousand bonded workers in just a few Districts of Karnataka during 2005 summer. Yet the conditions of discrimination and poverty of the untouchables are quite similar in the two states. It is probable that a specific action of identification carried out by all the grassroots organisations of the network would reveal a large number of cases.... and it would be the same for the other partner organisations of CCFD. All these associations are present on the ground with people vulnerable to such problem. In the first place, surveys could be carried out in the zones where the various organisations are already present (which would minimise the need to mobilise extra resources), before eventually extending this survey work to new territories, especially those Districts identified by the National Commission on Human Rights as particularly sensitive zones (see appendix 6). In addition, we wish to provide at this level some elements of reflection or advice relating to the identification of bonded labourers or the follow up of their rehabilitation based on the methodological guidelines of the government or personal observations.

2.1. Aspects relating to the identification of bonded labourers

Bonded labourers are found in all sectors of activity. Every organisation, whatever its target population, could be concerned. Nevertheless, the agricultural sector constitutes the most important sector of intervention among the majority of them. It is perhaps also the easiest to investigate since it involves an “open” milieu, contrary for example to the brickyards whereby the victims are generally kept inside a fenced compound watched by the owner. A small methodological guide (see appendix 3) has been elaborated by S.R. Sankaran, a former District

Magistrate of Andhra Pradesh, in 1976. We will present below some elements extracted from this guide and supplemented by other reflections.

The majority of the bonded labourers, especially in the agricultural sector, are the Dalits⁵⁹. Hence the surveys should be carried out in the area of the villages where the Dalits live.

To identify bonded workers, it is useless to ask simply, “are you or are there bonded workers in the village?” The people concerned are generally illiterate and not really conscious of their situation. Some people simply do not understand what this notion really implies; others, on the contrary, would identify themselves as bonded workers based simply on the fact that they have been attached to the same owner for a long period of time. The survey should be carried out by posing a number of questions which could help to determine objectively the status of the person. For example the question, “*for whom do you work, and how long have you worked for this person?*” should help to reveal something. It could be presumed that a person who works for the same owner for a very long time is indebted to the owner and is bonded to him. “*How much are you paid? Are you paid by day, month or year?*” would help to clarify whether the person receives the same amount of wages as the population of the sector for the same work done. The bonded workers are generally paid on a monthly or yearly basis. Hence it is an important indicator to be taken into account. Then for those who are in this category, it is to determine whether their situation derived from incurring a debt *vis à vis* their employer, “*Did you receive an advance from your employer? Do you have to pay for interests for this advance?*” One of the characteristics of bonded labour is that very often the debt increases owing to interest, despite the labour provided which is supposed to allow for the repayment of the debt. Bonded labour, according to the law, means “the loss of freedom to move freely on the Indian territory” or “the loss of liberty to choose his work or other means of subsistence”. The following points should be

⁵⁹ See chapter III-1.1., Part I.

clarified: “if someone offers you a better-paid job than this one, would you accept it?”; “could you go home every evening after your work?” are some of the key questions that should help to identify these peculiar aspects of bonded labour. Questions posed should concern not only those who are present but also those who have left to find work. If some bonded workers are found to be “trapped” at their master’s house, information on the fate of these persons should be obtained from other members of the village, from their family, etc. who might know something about their situation. Similarly, many villagers move to work for instance in brickyards, which constitute a real site of bonded labour, even if it generally involves “seasonal” bondage. It is important to ask the villagers about the conditions under which these people left to work. If the information collected warrants the suspicion that these people are bonded labourers, it could perhaps be envisaged that an organisation known to intervene on the brickyard workers be alerted to go and make an investigation. Otherwise, it is important to talk to the migrant workers when they return, to at least help them realise the problem and avoid falling into the same trap the following year. Here we are getting to another aspect of the problem, namely prevention.

2.2. Aspects relating to the prevention of bonded labour

It is remarkable to observe in the interviews to what extent the acceptance of the system by its victims is linked to the lack of understanding of the phenomenon. The case of Shivanna is an illustration when he talks about the conditions of his liberation, “*Then Jeevika came. After a few meetings with them, I understood what this system is all about. I decided to leave.*” (Page 54) Discussions with the activists of Jeevika have revealed that it is very difficult for the bonded workers to accept the fact that what they are undergoing is not normal, and that they have the right to be liberated. Hence it is important to carry out awareness campaign at the source, in the villages. This work could be done quite easily, in the sense that the associations follow closely the general “day-to-day” problems of the villagers. At the meetings in the villages, the animators of the associations could easily bring up the issue, and explain what is at stake when a cash

advance is taken from an owner. Familiar approaches such as street theatre could be effectively used by the NGOs to dramatise bonded labour and its consequences. The awareness of the villagers on this problem should be such that they would spontaneously approach the NGO as soon as they sense that a person is subject to bonded labour. Of course, prevention should go well beyond just raising awareness, even if it is a fundamental measure. It is not our role here to elaborate prevention programs on behalf of and in the place of the NGOs. Their general programs which aim at obtaining social equality for the Dalits, procuring land to render them more independent constitute in a certain way to an indirect struggle against bonded labour. For those associations who wish to work more on the issue, specific programs could be developed, for instance to set up safety net for the communities against the risks of incurring an advance. Common funds could be established in the villages and managed as a community, so as to provide for the needs of specific person or family in times of need (marriage, funerals, etc.). Systems of individual savings could equally be encouraged whenever it is possible⁶⁰. As the first step, it appears to be quite feasible and inexpensive to set up awareness raising programs, in the sense that they could probably be integrated into ongoing programs.

2.3. Aspects relating to liberation of bonded labourers

The process of liberation of the bonded workers has been described in chapter II-3.2. of Part II. The first task for those associations who wish to work with bonded labourers is to identify local actors (at various administrative levels; members of watch groups, etc.) whom they in fact already knew. As a consequence of the ongoing decentralisation process in Karnataka, the Gram Panchayats was designated as the organ responsible for the identification and rehabilitation of bonded labourers. It does not seem to be the case yet in Tamil Nadu but it needs to be verified. Lobby actions to be taken up with relevant authorities will be elaborated at a later part of this study. At this stage, emphasis should be placed on the necessity to verify that investigation done

⁶⁰ See the interview of Maria Setya of ILO, page 26.

by the authorities to liberate the bonded workers is conducted in desired ways (see above), and that the District Collector issues rapidly the certificate of liberation, which is the preliminary condition for the granting of rehabilitation.

2.4. Aspects relating to rehabilitation

Here the NGOs should keep an updated record of the liberated workers, so as to ascertain that the process of rehabilitation is initiated for each of them. With the aim of rehabilitating bonded labourers, the central government has elaborated in 1978 the Centrally Sponsored Plan Scheme for Rehabilitation (CSS, see appendix 4). Through this program, 20,000 rupees should be granted to the liberated worker, either in cash or in kind. The sum required for the rehabilitation is shared equally between the central government and the State government. Out of the 20,000 rupees, 1,000 rupees should be granted immediately at the liberation of the worker, while the rest would be provided after he decides on the type of rehabilitation which suits him. Under CSS, the following types of rehabilitation are provided:

- Program based on access to land

Unused governmental land should be distributed to the liberated workers, and access to credit, fertilisers and other inputs necessary for the utilisation of the land should be provided.

- Programs other than based on access to land

Livestock (cows, goats, pigs, etc.) could be supplied to the workers. Veterinary services should be provided along with these gifts, as well as assistance to establish link with marketing outlets and to generate profits out of the possession of these animals.

- Apprentice of a skill

Programs of identification and development of competences are available and the provisions of primary materials and assistance to obtain credits and marketing outlets....

The psychological dimension is of vital importance, as Judge Bhagwati recalled in his judgement *Bandua Mukti Morcha vs Union of India and others*. The liberated workers should be

accompanied so as to enable them to regain confidence in themselves and to take charge of their own future by deconstructing the social pattern that they are generally bathed in (acceptance of high castes domination).

Rehabilitation should also go further than the mere allocation of 20,000 rupees provided by the CSS. A circular of the Ministry of Labour dated in 1982 entitled “A Blue Print on Rehabilitation of Freed Bonded Labourers” (see appendix 5) stipulates that the liberated workers should be the priority targets of development programs aiming at marginalised communities. An exhaustive list of the programs is provided in this document. It comprises, among others, of the following programs: provision of arable lands and construction site; allocation of low cost housing; credit assistance; vocational training; provision of remunerated employment and application of laws pertaining to minimum salaries; medical and sanitation programs; education of children of bonded workers...

The NGOs who accompany the rehabilitation of bonded labourers should emphasise as much as possible the family and community dimension of rehabilitation. This could be done by forming groups of liberated workers, organising them in unions or cooperatives whenever possible.

One particular point should be raised. The procurement of the certificate of freedom is difficult, and far from guaranteed. NGOs are often confronted with the problem of a worker who does not have the courage to liberate himself, especially if the advance received from his master is quite substantial. Pressure from the village community could also be very strong and accompanied by threats, even violence against him if he has the courage to be liberated. Hence substantial efforts should be invested in educating the whole community of Dalits of the village with the aim of strengthening it, and not just at the level of the liberated worker, in order to enable the person to confront the pressure from the village community. Even if according to the law, debt bondage is illegal and renders the debt null and void, there are cases whereby the liberation of the bonded

labourer was only done through the repayment of the debt due to the negligence of the administration. In a general way, Kiran Prasad thinks that liberating the bonded labourers by repaying their bond debt to their owner is not good because this means providing a guarantor for the system and disregarding the responsibility of the liberated worker. The case of Murthi who has to work to reimburse the interests of the debt incurred by his parents is eloquent. He owes 23,000 rupees to his master and earns nothing. He is aware that what his master does is illegal, that the law provides for his liberation and that Jeevika is on his side. Nonetheless, when he is asked whether he is ready to take the decision, he says: *“If I am liberated and I don’t reimburse him, I will have problems. People will take my land or my house. In the village, people would not allow me not to reimburse while not working for him.”* (Page 58) In such critical situations, some measures could be envisaged. NGOs could establish an emergency account, which allows for the debt repayment of a person in danger or who otherwise does not have any chance of living in his village after his liberation. It could be conceived that at least part of the sum could be reimbursed by the worker liberated in this way, based on the creation of new income-generating activities in the framework of his rehabilitation, whether it be obtained through the government or with the help of the NGO outside legal framework. Means to establish such structures remains of course to be defined.... perhaps common funds could be set up by the various associations working in network.

The recommendations addressed to CCFD partners may be summarised as follows:

1. Initiate investigations in their respective domain of involvement in order to determine possible existence of bonded labourers.
2. Bring these cases to the attention of the authorities and follow through the process of liberation.
3. Accompany the bonded workers in their rehabilitation, by assuring that the various components of the process and the different programs that they could benefit from are made available.

III – OUTLINE OF AN ACTION PLAN IN INDIA

The struggle against bonded labour can only be effective if interventions are carried out simultaneously at several levels:

- In the field by the regular detection of bonded labourers by means of the organisation of a surveillance network
- At intermediate level by constantly pressuring the District authorities to implement the law
- At state and federal government levels through vigorous lobbying by the internal lobby
- At international level by lobby action targeting the federal government as well as intermediary actions targeting international organisations such as the ILO, the UN, the World Bank, etc

Concerning the first three points, it seems to us that Jeevika should play a particular role in placing its expertise at the service of other organisations wishing to invest in this struggle.

1. Identification of a strategic actor: Jeevika

Over the past ten years or so, Jeevika⁶¹ has been involved in the fight against bonded labour. This organisation struggles to get the law implemented by endeavouring to lobby the authorities and organise the bonded labourers in a labour union which consists also of agricultural labourers. Jeevika is present and structured in 22 Taluks of 8 Districts of Karnataka, and is in the process of setting up 17 other Taluks. The team consists of its Director (Kiran Prasad) helped by a group of 9 persons in the directing committee (one of which is a lawyer), 22 coordinators of Districts, 22 coordinators of women's groups, 86 coordinators of Hobli, and 20 persons involved in the schooling programs for the reintegration of the children of bonded workers. The strategy of Jeevika is to “comb” the villages in the most exhaustive way possible so as to cover the entirety of the Districts. Once the bonded workers are identified, Jeevika follow up all the dossiers by putting pressure on the administration so that it accepts to call for the Vigilance

⁶¹ See <http://www.ashanet.org/projects/project-view.php?p=481>

Committees to meet and investigate on the bonded labourers. Cultural programs are also developed in each District, which allow for the elaboration of strategies to raise awareness and animation of demonstrations or regular meetings. The union plays an important role by accompanying the agricultural workers in the strengthening of their community and the protection of their rights. Besides, Jeevika develop schooling programs for children of bonded workers, health programs, program on access to land, on environmental protection ... Jeevika has also conducted numerous seminars or formation programs concerning the administrations. In sum, Jeevika has contributed towards the liberation of thousands of bonded labourers, and has identified 1,042 between April and June 2005. Its experience and involvement should enable Jeevika to become an extremely important partner in the elaboration of a global plan of action against bonded labour in India.

2. Get to know each other, train ourselves and unite

Those partners who desire to get involved in this domain can form an exchange group and transversal working group with the aim to define some common objectives, or at least as a first step, to have common intentions on matters concerning struggle against bonded labour. Jeevika could provide training for a certain number of animators and/or persons-in-charge of these NGOs, so as to exchange on the conceptual and legal aspects as well as the strategies to adopt. An organisation such as HRFDL (to cite just one among them) should be given a pivotal role in the mechanism due to the multiplying effect of its action on the ground (more than 100 organisations are members of the network) as well as its role in lobbying Dalit issues. After this initial stage of training and exchange, each organisation would have all the necessary conditions to initiate their investigation on the ground.

This way, all the organisations involved would form a network at Tamil Nadu level which could coordinate State level actions. Among other, HRFDL already have many contacts in the

administration of the State. All the actors could give mutual support in the lobby to be carried out with the intermediary administrations, such as at District level. In order to gain visibility, this network could adopt a specific name which includes the Tamil term for “bonded labour”.

3. Build a national network and formulate recommendations

In India, there are not many organisations known to concentrate specifically in the sector of bonded labour. Volunteers for Social Justice in Punjab, Bandua Mukti Morcha in Hyriana are some of them. Others certainly exist. It would be judicious to approach the National Commission on Human Rights in order to obtain names of organisations of various States who contacted them regularly on these problems. L. Mishra, former Joint Secretary at the Ministry of Labour in New Delhi, former special rapporteur for the High Court on the affair of Bandua Mukti Morcha and current Special Advisor of ILO could equally be solicited as resource persons based on his very vast knowledge of this problem and the studies that he conducted in the whole country. A network of organisations could hence be constituted, which also takes a separate name with the goal to develop lobbying initiatives specifically at the level of federal government. A Central Working Group could be formed with leaders of various organisations, Chamal Lal⁶² of the National Commission on Human Rights, L. Mishra, journalists, researchers (such as R. Srivastana of the JN University of Delhi), lawyers, etc so as to form a compact and responsive group. Note that Fedina and NCDHR, partners of CCFD, are networks of movements dedicated to lobby actions. It would be feasible, for instance, to carry out lobbying campaign through NCDHR, which already acts at the Federal level. For a better visibility, it could perhaps be better for NCDHR to integrate this new network by sharing its contacts with it.

The point of departure of a significant action could be the organisation of a National Conference on bonded labour so as to come out with a Declaration on the Abolition of Bonded Labour to be

⁶² Without prejudging their opinions on this issue!

signed by the NGOs and the government. In this declaration, the common will to eradicate this plague, the responsibilities of different parties as well as a certain number of objectives to be achieved would be reaffirmed.

One of the major problems which contribute to limiting greatly the effectiveness of the struggle against bonded labour is the lack of accountability⁶³ of the administration. The integration of the NGOs in the process of identification and rehabilitation of bonded labourers is of fundamental importance for its success. Concerning the constitution of Vigilance Committees, the *text* of the legislations is almost always respected, but almost never in its spirit. NGO representatives are named in these committees but very often these persons are carefully selected by the District Magistrate for their demonstrated lack of effectiveness on the ground. An alternative way of working should be found to fix the problem. For instance, it could be asked that the Central Working Group (or a smaller group) mentioned above to be recognised officially by the National Commission on Human Rights. This group could be responsible for validating the choice made by the District Magistrates for the Vigilance Committees. One single group cannot assume this task alone. A “Committee for the Abolition of Bonded Labour” should in the same way be constituted at the level of each State, to be presided⁶³ by the representative of one NGO sanctioned by the Group. In this way, the Vigilance Committees would have within them at least some representatives of associations who have the will to fight against bonded labour. In addition, training sessions could be exempted (by Jeevika in Karnataka, and elsewhere, by other associations formed by Jeevika, for instance) for these representatives of NGOs in the Committees. On the other hand, these National Committees for the Abolition of Bonded Labour could reserve all the power to verify the records kept by the administration, which should be up-to-date concerning the follow-up of the provision of various measures of rehabilitation.

⁶³ Accountability in the sense of “being accountable”

The official recognition of this Group and these Committees could serve as a warning system for the National Commission on Human Rights in cases where the authorities do not follow the legal provisions properly. They could also be given responsibilities by the Commission and carry out investigations whenever there is a complaint of the non-compliance of the law.

In this respect, the law of the Prevention of Atrocities against the SC/ST stipulates that a civil servant who does not comply with the law would be punished⁶⁴. The BLSA Act could be amended this way, so that the administrators who committed grave faults would be punished.

The problem of accountability could equally be dealt with in a different way. It seems interesting to try encouraging the government officials in a positive way. So a prize specially created for this purpose could be awarded by the Group or the representative of an association to the most committed government officials in the struggle against bonded labour. It could be given at the level of each State to a member of the government, and at the level of all the States to District Magistrate who would have approved the liberation of the highest number of bonded workers. Such prize awarded in great fan fare would provide a way to express appreciation for those officials involved, and, by having the representatives of the associations to hand out the prize is to affirm the message that the authorities concerned should see the NGOs as partners.

The Central Sponsored Plan Scheme sees to the availability of funds for the States, to ensure the rehabilitation of bonded workers, to realise field surveys and to conduct missions of evaluation. The items in the minimum budget⁶⁵ which should be allocated are as follows:

- *to conduct investigations*: 200,000 Rupees per District, each District should be investigated once every three years
- *to conduct awareness programs*: one million Rupees per State
- *to carry out evaluation studies* of the situation of marginalised population: 500,000 Rupees per year and for each State, to conduct five annual studies.

⁶⁴ See Chapter II-1.3 of Part Two.

⁶⁵ See CSS in Appendix 4.

The national network should approach the government and particularly the Planning Commission in order to verify annually both the funds to ensure that these missions could be conducted and also that they are being utilised. It should also be verified as to whether other existing development programs for the marginalised communities offer their services to those liberated workers. A report could to this effect be handed to the group every year by the authorities. However, carrying out studies or spending money allocated in the budget does not necessarily mean that they would contribute positively to the situation.... The “National Committee for the Abolition of Bonded Labour” should be given the power to verify and validate the effective utilisation of the funds as well as the smooth functioning of investigations and a power of recommendation based on the evaluation studies done. In case of negligence, the National Commission on Human Rights should hasten an inquiry and, when necessary, refer the case of the government’s non-application of laws to the High Court.

Another proposal could be made to improve the knowledge of bonded labour. The government could allocate two doctoral scholarships every two year to students, preferably of SC/ST origins. These studies could contribute to the deepening of conceptual aspects linked to these practices, but could also be studies nearer to the “research/action” approach on particular issues to be defined.

IV - THE INTERNATIONAL LOBBY

These actions are implemented in a concerted manner by French associations belonging on one hand to the Collectif Dalit-France and on the other hand to member organisations and national platforms of the International Dalit Solidarity Network (IDSN). IDSN comprises 7 national platforms in France, Great Britain, Denmark, Netherlands, Germany, Sweden, Norway and two platforms in the USA and Canada as well as a certain number of international organisations for defence of human rights (Amnesty International, Human Rights Watch, Pax Romana, Lutheran World Federation, World Council of Churches, Anti Slavery Association, Minority Right Group,

FIDH, Asian Human Rights Commission, Forum Asia, etc....) which represent the Dalit solidarity organisations, organisations grouping populations that are victim of discrimination based on descent or employment in the following countries: India, Sri Lanka, Nepal, Japan... Other countries are (still) not represented in the IDSN as representatives of a national collective but remain in contact with IDSN through the mediation of an organisation or a person, a researcher, activist, etc... in the following countries: Bangladesh, Pakistan, Somalia, Kenya, Nigeria, Senegal, Mauritania, etc..

It seems to us that the problematic of bonded labour could become the object of specific developments based particularly on the Anti Slavery International, an organisation recognised by the UN as having expertise in this field (the United Nations Human Rights Commission has already requested it to prepare reports⁶⁶). Actions also need to be undertaken targeting the UN, based on the current study by two Special Rapporteurs (see above). A list of recommendations for the Indian government could be drawn up based on the following points:

1. The Indian government should recognise the scale of the bonded labour phenomenon in its territory and take urgent necessary measures to eradicate it as it has undertaken to do in ratifying Convention 29 of the ILO.
2. The government should ensure that all cases of bonded labour that are reported to the competent authorities are appropriately investigated and followed up whenever the situation of bonded labour requires the immediate liberation of the bonded labourers identified.
3. Where bonded labourers are liberated, the government should ensure that the process of rehabilitation is immediately launched and that the bonded labourers receive a minimum sum of 20,000 rupees, and have access to psychological and appropriate institutional follow up as well as to other existing programmes targeting marginalised communities. Freed labourers should also have a choice of the programme that best suits them.

⁶⁶ Anti Slavery International: “Abolish contemporary forms of slavery” (“Abolir l’esclavage et ses formes contemporaines”), *ibid.*

4. The government should ensure that the sums foreshadowed in the Central Sponsored Plan Scheme for the States are in fact made available and correctly used for the purpose of rehabilitating the bonded labourers, carrying out enquiries to identify bonded labourers, implementing awareness programs and carrying out regular evaluation studies concerning the situation of marginalised peoples.

5. The government should amend the Bonded Labour System Abolition Act with the objective of making government officers responsible for their behaviour and punishable in the case of grave dereliction of their responsibilities.

6. The government should amend the Bonded Labour System Abolition Act so that it is clear that a bonded labourer who frees himself may benefit from rehabilitation.

7. The government should amend the Bonded Labour System Abolition Act so that a worker suffering the consequences of bonded labour but not having a debt to his employer may also benefit from the provisions of the law.

8. the government should do everything it can to make the work of the voluntary NGOs more effective in the process of identification, liberation and rehabilitation of bonded labourers by for example giving formal recognition to a Central Group bringing together recognised activists, National Committees for the eradication of bonded labour at the level of each state, which would be set up by agreement with the National Commission on Human Rights. This Central Group would have an overseeing role with respect to the Districts and States and would be mandated to make official reports to the National Commission on Human Rights and it could also be mandated by the latter to carry out enquiries on the methods of applying the law. They would also have power to verify that the records of the authorities are up to date concerning the progress of the attribution of the various aspects of the rehabilitation process. The government should also contribute to the financing of these Groups and Committees.

9. In order to increase knowledge of the subject of bonded labour and on the progress in the issue of the struggle against this evil, the government should finance two theses every two years

of which the subjects would be defined in partnership with the Central Group and which would be carried out giving priority to students from the SC/ST communities,

10. In order to encourage the involvement of government officials, the government should finance the attribution of prizes which would be presented by NGOs to the Chief Ministers and to the District Magistrates who are the most effective in the matter of freeing and rehabilitation bonded labourers.

Other possibilities could also be explored. Bonded labourers are mostly involved in the production of domestic goods (mostly in the various agricultural sectors, in brickworks, etc.) but not always. The Punjab farmers produce the world famous Basmati rice, child labourers produce carpets for export, precious stone cutters sometimes work on producing products for export. Other working groups of the ISDN could also reflect on the possibility of presenting “social clauses” to the WTO or other international organisations in order to block exports of products involving bonded labourers.

The World Bank also has a role to play and could be approached to fully integrate this problematic in its programs for India.

The ILO plays an important role in distributing information but it has played a very low key role in India. It considers that this is in a way the price to pay in order to be able to stay and carry out its programs. However, it is also responsible for implementing the Convention that has been ratified by India. Actions targeting the ILO need to be launched with the objective of eventually leading it to harden its position.

The suggestions presented here certainly will not result in simple and immediate changes on the ground. Perhaps there are some which are not appropriate. In any event, these suggestions will

hopefully at least enable CCFD, its partners and its lobby targets to begin a process of reflection in order to determine the best strategy to adopt in order to carry out the necessary actions.

Conclusion

Bonded labour is one of the most highly developed forms of labour in the world. Although it is regarded by the UN as a “practice comparable to slavery, bonded labour has found highly favourable conditions for its expansion in India. Thus, while India is making great strides forward in its economic growth and is endeavouring to gain recognition among the great powers of the world, it is still torn by social problems that the authorities prefer to hide rather than fight. The great transformations on the subcontinent (colonisation, democracy, economic reform) have failed to promote changes in this. Bonded labour in particular has resisted all these changes, largely because of the massive poverty in the country. The division of Indian society into hierarchical castes with the untouchables on the bottom has also been a historical factor favouring the servitude of this section of the population. This social scheme remains strongly interiorised, consciously or unconsciously, in the spirits of the people. The position of the Dalits relative to this caste hierarchy (in actual fact they are *outside* the system) makes them particularly vulnerable to bonded labour, especially since they often consider themselves in their right place when at the service of the upper castes. In spite of the existence of the *Bonded Labour System Abolition Act*, which forbids the practice of bonded labour by making *District Magistrates* responsible for the identification, liberation and rehabilitation of bonded labourers, the dramatic fact is that the progress achieved to date has been extremely poor. As a result of a kind of shame on the part of the administration to recognise the significance of the problem together with the connivance of government officials and economic interests, the law is not applied. NGOs present in the field which are unfortunately too rarely involved in this field regularly confront the ferocious resistance of members of the administration. Is the eradication of bonded labour therefore an impossible dream? In the short term, certainly. However, it ought to be possible to fight it more effectively by uniting the efforts of Indian organisations by

assisting them in their efforts at lobbying on an international level. The suggestions put forward at the end of this research paper should enable CCFD and a number of grassroots organisations to launch a process of reflection on these issues.

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[bin/Pwebrecon.cgi?SC=Subject&SA=bonded%20labour&PID=6994&BROWSE=1&HC=244&SID=4](http://labordoc.ilo.org/cgi-bin/Pwebrecon.cgi?SC=Subject&SA=bonded%20labour&PID=6994&BROWSE=1&HC=244&SID=4) pour sa gigantesque base de données

Commission Nationale des Droits de l'Homme :
nhrc.nic.in

Anti Slavery International :
<http://www.antislavery.org>

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