

# Child Labour in the Indian Cottonseed Sector

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# 1 Executive Summary

## 1.1 Background

This report, *Child Labour in the Indian Cottonseed Sector*, is one of two desk-based reviews commissioned by Norges Bank Investment Management (NBIM) on the topic of child labour in high-risk sectors and high-risk countries.<sup>1</sup>

Norges Bank Investment Management (NBIM) manages the Government Pension Fund Global on behalf of the Ministry of Finance, which owns the fund on behalf of the Norwegian people. NBIM has been entrusted with safeguarding and building financial wealth for future generations. The fund is large, global and with a long-term investment horizon. The fund is invested in most listed markets, sectors and companies in order to capture global value creation and diversify risk.

NBIM promotes international principles and standards, express expectations as an investor, and exercise active ownership through voting and engagement with companies. Environmental, social and governance issues are integrated into the investment process and into risk management. This can lead to adjustments to the portfolio and decisions to divest, or not to buy, specific securities.

NBIM has published expectations documents on climate change management, water management and children's rights. NBIM expect companies to protect children's rights in their operations and supply chains. Companies should demonstrate that they have adequate systems in place to manage the risk of violations of children's rights.

To further NBIM's efforts to assess risk and compliance with respect to child labour, the International Law and Policy Institute (ILPI) was commissioned by NBIM to write two desk-based reports on child labour, one focused on the cottonseed sector in India and the other on the cocoa sector in West Africa. The aims of both reports are three-fold: firstly, to understand the status quo of child labour in specific high-risk sectors or geographic areas (India, Côte d'Ivoire, and Ghana); secondly, to identify how child labour practices vary across sectors and between international and domestic companies; and, thirdly, to ascertain how other wider social issues either impact on, or are impacted by child labour.

## 1.2 Introduction

Child labour is a complex phenomenon and discussions on the topic often move into moral dilemmas or 'grey' areas. This is especially true in countries where there is widespread and abject poverty. The linkages between child labour and poverty is disputed; it is often assumed that poverty means that

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<sup>1</sup> The second report examines child labour in the cocoa sector in West Africa.

children must work by necessity. Others, however, hold that child labour is a root cause of poverty and contributes to upholding a cycle of poverty because children who work do not get an education.<sup>2</sup>

India is home to the largest number of child workers in the world but there is no consensus as to what that number is exactly. Recent official statistics put the number at approximately 4.3 million. UN sources and civil society have far higher estimates. An accurate count is hampered by definitional ‘grey areas’, under-reporting by officials and the hiring of children in the informal economy, which often renders them ‘invisible’. Notwithstanding these obstacles, the Census of India reports child labour as having decreased from 12.6 million in 2001 to 4.3 million in 2011.

The concept of child labour outlined in this report is consistent with definitions provided by the International Labour Organization (ILO) and the Convention on the Rights of the Child (CRC). This covers (i) work that is performed by children under the minimum working age; (ii) ‘hazardous’ work that is likely to jeopardize young persons’ health and safety and (iii) other worst forms of child labour, including practices so detrimental that they should be eliminated as a matter of urgency (slavery, trafficking, debt bondage, forced or compulsory labour and the use of children in illicit activities). India is one of few states that have not ratified the ILO Conventions on Minimum Age or Worst Forms of Child Labour. Moreover, India has formulated a reservation to the prohibition in the CRC against child labour. While it recognizes the need to protect children from economic exploitation, the sheer number of children in extreme poverty means that eradicating child labour is seen – for the time being – as an unrealistic objective. India has, however, prescribed minimum ages for employment in hazardous occupations and ratified the ILO Convention on Forced or Compulsory Labour, which is applicable to children.

### 1.3 Findings

In recent years child labour in India has dropped for the first time in 20 years. According to the official Census of India, there were 12.6 million child workers in 2001 compared to 4.3 million in 2011. UNICEF and many NGOs, however, operate with estimates that lie between 28 and 60 million child workers. This considerable difference in numbers may be accounted for the lack of a clear definition of what constitutes child labour and that many child labourers work in the informal economy or household-based units.

Child labourers in India can be found across a number of industries. Yet over half are concentrated in one sector: agriculture. Many of the children in agriculture can in turn be found in one sub-sector: India’s cottonseed sector. The hybrid cottonseed sector has been one of the fastest developing industries in India since it was introduced in 2002. So much so that it boosted India from the rank of fifth-largest cotton producer in the world to its second largest in less than a decade. As the sector has grown, cotton production has extended further into rural and remote tribal locations, and production has shifted from larger commercial farms to smaller, family-based farms. The result has been that families – including small children – are increasingly required to work on smaller subsistence farms. Children working in

<sup>2</sup> See for example Global March Against Child Labour, see website: <http://www.globalmarch.org/issues/Education>.

such circumstances account for approximately 30% of all working children under the age of 14 in the main cottonseed-producing states.

Notwithstanding the difficulty of establishing the *exact* number of child workers, several studies indicate a decreasing trend of child labour in the hybrid cottonseed sector in all Indian cottonseed-producing states. Child labour in the cottonseed farms, however, remains a serious problem with a quarter of the total workforce still consisting of children below 14 years of age and many of these are employed in conditions deemed as hazardous.

Thus, the scale of the problem remains huge. Furthermore, much of the work in the cottonseed sector is considered hazardous to the health and safety of young children. Children are often engaged in bonded labour in order to pay parents or guardians' debts (common in this sector), made to work 8 to 12 hours a day in extreme temperatures, required to carry heavy loads, exposed to poisonous pesticides, and made to work without protective clothes or masks. Additionally, many of the cottonseed workers are young migrant children who live far from their homes and families increasing their vulnerability to exploitation.

The 2012 Amendment Bill to the Indian Child Labour Act, which provides a blanket ban on the employment of children below 14 years of age in *all* occupations and processes, was a significant step in developing India's legal framework pertaining to child labour. The bill contains two exceptions: children working in family enterprises and children working in the audio-visual entertainment industry. These exceptions, however, have been criticized for creating legal loopholes on the prohibition of child labour. National and state law appear to offer weaker protection than what is afforded to children by international instruments.

Almost all of India's cottonseed sector (98%) is controlled by private Indian companies and multinational companies. This report has looked at company initiatives to address child labour through the supply chain on the part of both Indian and multinational companies. It found that the major multinational companies active in India's cottonseed sector had human rights policies that include the prevention of child labour and initiated a range of measures to address child labour as well as monitoring systems to document their progress. The leading Indian cottonseed companies tended not to have official policies, or measures designed to address child labour and as a result showed higher rates of child labour within their operations and supply chains.

This difference between multinational and Indian companies may be attributed largely to the public scrutiny and international pressure that multinational companies are under. For both multinational and Indian companies, it was easier to prevent child labour within the companies and farms they have *direct* contracts with. The multinational companies seek to implement the UN Guiding Principles (UNGP) and UN Global Compact in their business practices. By developing effective monitoring mechanisms, multinational companies appear to be able to implement their policies on child labour more successfully. The major Indian companies seemed to lack corporate child labour policies. The response from the seed industry as a whole to address the problem of child labour, however, appears to be inadequate.

When looking at broader social issues tied in with child labour in India's cottonseed sector, the report found that these both impacted, and were impacted by, child labour practices. Education appears to be significantly compromised by child labour: the number of school dropouts among children working in cottonseed farms was very high (62%), which feeds into on-going cycles of illiteracy and poverty. Girls are more readily held or taken out of schools by families and the vast majority of child workers on

cottonseed farms are girls. Most of the children were also from ‘lower castes’ such as Dalit and Adivasi. These children come from families who are amongst the poorest of the poor and the most socially and economically marginalized. The report found that many of the children working in the cottonseed industry were exposed to a number of health and safety risks. The same seems to be the case for other parts of the cotton production value chain.

The major causes of child labour in the cottonseed industry seem to be poverty and ensuing debts of parents leading to children’s bonded labour, the labour intensive work with hybrid cotton seeds, which drives the sector’s need for a low cost work force (motivating the hiring of children, especially girls), and an interplay of corruption and weak legislation, as well as lacking capacity for enforcement.

A general finding of the report concerns a lack of data and information available on child labour in the cottonseed sector. Even when there is documentation and data available it offers two distinct challenges. Firstly, there are often diverging findings and results with regard to child labour. Different actors come to different conclusions. The second challenge concerns source bias and reliability. Much of the material in the public realm concerning child labour is produced by actors who could be said to have a vested interest. This includes governments and companies who, generally, have an interest in seeing positive developments while civil society organisations and activists tend to focus on the more negative aspects.

## 2 Background

Norges Bank Investment Management (NBIM) manages the Government Pension Fund Global on behalf of the Ministry of Finance, which owns the fund on behalf of the Norwegian people. NBIM has been entrusted with safeguarding and building financial wealth for future generations. To do so, NBIM aims to exploit the fund’s unique characteristics. The fund is large, global and with a long-term investment horizon. The fund is invested in most listed markets, sectors and companies in order to capture global value creation and diversify risk.

The fund is invested in more than 9,000 companies across the world and invests in bonds issued by the governments of more than 50 countries. The fund has, therefore, as significant global ownership and holds on average more than 1.3% of all listed company shares globally. The fund has an upper limit of 10 percent ownership in any given listed company.

Responsible investment is an integral part of NBIM’s management mandate. NBIM’s work on responsible investment has evolved as the fund has grown. NBIM published an annual report on responsible Investment for the first time in 2014. The report describes the variety of tools NBIM uses in its work on responsible investment. NBIM promotes international principles and standards, express expectations as an investor, and exercise active ownership through voting and engagement with companies. Environmental, social and governance issues are integrated into the investment process and into risk management. This can lead to adjustments to the portfolio and decisions to divest, or not to buy, specific securities.



NBIM has published expectations documents on climate change management, water management and children's rights. The documents set NBIM's expectations for how companies should manage risk in these areas. NBIM expect companies to protect children's rights in their operations and supply chains. Companies should demonstrate that they have adequate systems in place to manage the risk of violations of children's rights.

To further NBIM's efforts to assess risk and compliance with respect to child labour, the International Law and Policy Institute (ILPI) was commissioned to write two desk-based reports on child labour, one focused on the cottonseed sector in India and the other on the cocoa sector in West Africa. The aims of both reports are three-fold: firstly, to understand the status quo of child labour in specific high-risk sectors or geographic areas (India, Côte d'Ivoire, and Ghana); secondly, to identify how child labour practices vary across sectors and between international and domestic companies; and, thirdly, to ascertain how other wider social issues either impact on, or are impacted by child labour.

### 3 Method

ILPI's assessment of child labour in the cottonseed sector has been conducted through stand-alone desk-based research. This entailed consulting existing resources (secondary data) such as academic literature, analytical reports and publicly available data, which met the criteria of being accessible online, and in English.

This report's focus on India's cotton sector is guided by the following research questions, as defined by NBIM in their terms of reference:

1. What is the status quo of child labour in India, where is child labour most prevalent, and in what form?
2. What are the differences between multinational companies and domestic companies, sectors, types of child labour, child labour in supply chains and the informal economy?
3. Can other—wider—social issues be identified with regard to child labour, e.g. does child labour affect children's ability to receive an education? What is the effect on health and families in a more general sense?

During September and October 2015, ILPI reviewed and collected material from the international, regional, national and sector levels (see Annex 1). The sources cover a wide range of types including legal documents, UN documents, government statistics, NGO reports, company statements and research studies. The mapping is intended to provide an adequate, not exhaustive, information basis on the issue of child labour in the concerned countries and sectors.

### 3.1 Methodological advantages of a desk review

A stand-alone desk review has the advantage of being an effective, relatively inexpensive and quick tool in comparison to more in-depth approaches such as field research. A desk review on child labour can also be help to:

- Clarify the context of the research, define the depths and breadth of the problem;
- Identify relevant socio-economic groupings, main actors and stakeholders that are part of and confronted by the issue;
- Identify long-term trends and short-term policy activities;
- Outline the key indicators that can be used for continued assessment of the issue.

Desk-reviews are also often used to further identify and investigate research issues for more in-depth analysis.<sup>3</sup>

### 3.2 Methodological challenges

Evaluating the problem of child labour and welfare, especially in the agricultural sector, are associated with multiple methodological challenges, *inter alia*:

- **Definition of child labour.** The interpretation of what constitutes child labour differs across cultural, legal and sector-specific factors. For example, international legal (e.g. ILO) definitions of child labour sometimes differ from national legal frameworks;
- **Implementation gap:** a study can readily identify frameworks and mechanisms intended to regulate child labour. To identify and assess the gap between, for example, an applicable legal framework and its actual enforcement is much more challenging. Likewise, verifying whether company mechanisms for detecting child labour actually work is challenging.
- **Externalities:** the cocoa and cottonseed sectors are influenced by many factors operating at different scales (from local to national to international) and the utilization and incidence of child labour depend on many other aspects that may have nothing to do with direct efforts to reduce child labour or the actions by the companies. Examples of externalities include, but are not limited to, violent conflict, changes in the prices of crops, conditions in the rural labour market affecting the availability of adult labour that can be hired locally, governmental programmes that increase school attendance, innovation in agricultural practices, reforms of the sector etc.
- **‘Needle in a haystack phenomenon’:** detecting and mapping child labour in vast agricultural value chains with thousands of small-scale farms is extremely challenging. To date, neither government authorities, companies, civil society nor researchers have been able to provide comprehensive documentation of child labour across the agricultural sector.

<sup>3</sup> United Nations Development Program (UNDP) Bratislava Regional Centre (2008) ‘Guideline for a Qualitative Research Methodology to Assess the Social Impacts of HIV and Identify Priorities for Advocacy Action’, D. Operario, p. 13.

- **Diverging information and source bias:** Even when there is documentation and data available it offers two distinct challenges. Firstly, there are often diverging findings and results with regard to child labour. Different actors (e.g. UN, governments, NGOs and companies) often come to different conclusions. The number of child labourers in India provides a case in point. The second challenge concerns source bias. Most of the material in the public realm concerning child labour is produced by actors who could be said to have an interest in how things are reported. This includes governments and companies who, generally, have an interest in seeing positive developments while civil society organisations and activists tend to focus on the more negative aspects.

### 3.3 Establishing a baseline

In order to evaluate the current status of child labour in the cottonseed sector in India, it was necessary to define baseline (i.e. pre-existing) conditions of child labour. This report defines the baseline as the status of child labour in India's cottonseed sector in 2006-2007. At that time, the sector was reviewed extensively in a number of studies<sup>4</sup> by, *inter alia* International Labour Rights Forum and the India Committee of the Netherlands,<sup>5</sup> as well as by the Council on Ethics for the Norwegian Pension Fund-Global (who put forth a recommendation to the Ministry of Finance to exclude the company Monsanto on the basis of child labour in the cottonseed industry).<sup>6</sup> The Council also reported on the issue of child labour within India's hybrid cottonseed sector in its 2008 Annual Report, specifically in the production chain of one of the largest multinationals involved in hybrid cottonseed production in India.<sup>7</sup>

The India Committee of the Netherlands (et al.) published follow-up reports on the same issue in 2009-10 and subsequently in 2014-15. These studies will be used as reference points to identify possible changes and developments in connection to child labour and related issues within the sector over a period of time.

### 3.4 Evaluating the data

After the mapped information had been reviewed and a baseline was established, we used the parameters given through the Terms of reference to cluster the issues to be covered (see Figure 1 below):

<sup>4</sup> D. Venkateswarlu (2007) 'Seeds of Change: Impact of Interventions by Bayer and Monsanto on the Elimination of Child Labour on Farms Producing Hybrid Cottonseed in India', Study jointly commissioned by OECD Watch, Deutsche Welthungerhilfe (DWHH), India Committee of the Netherlands (ICN), Eine Welt Netz NRW (EWN NRW) and International Labour Rights Fund (ILRF) (June 2007).

<sup>5</sup> D. Venkateswarlu (2015) 'Cotton's Forgotten Children: Child Labour and Below Minimum Wages in Hybrid Cottonseed Production in India' India Committee of the Netherlands and Stop Child Labour Coalition (July 2015).

<sup>6</sup> Council on Ethics Government Pension Fund Global (2006) 'Recommendation of 20 November 2006 to the Ministry of Finance' (20 November 2006). It should be noted that Monsanto was not excluded as engagement by the Fund with the company resulted in a decrease of child labour.

<sup>7</sup> Council on Ethics Government Pension Fund Global (2008) 'Annual Report 2008'.

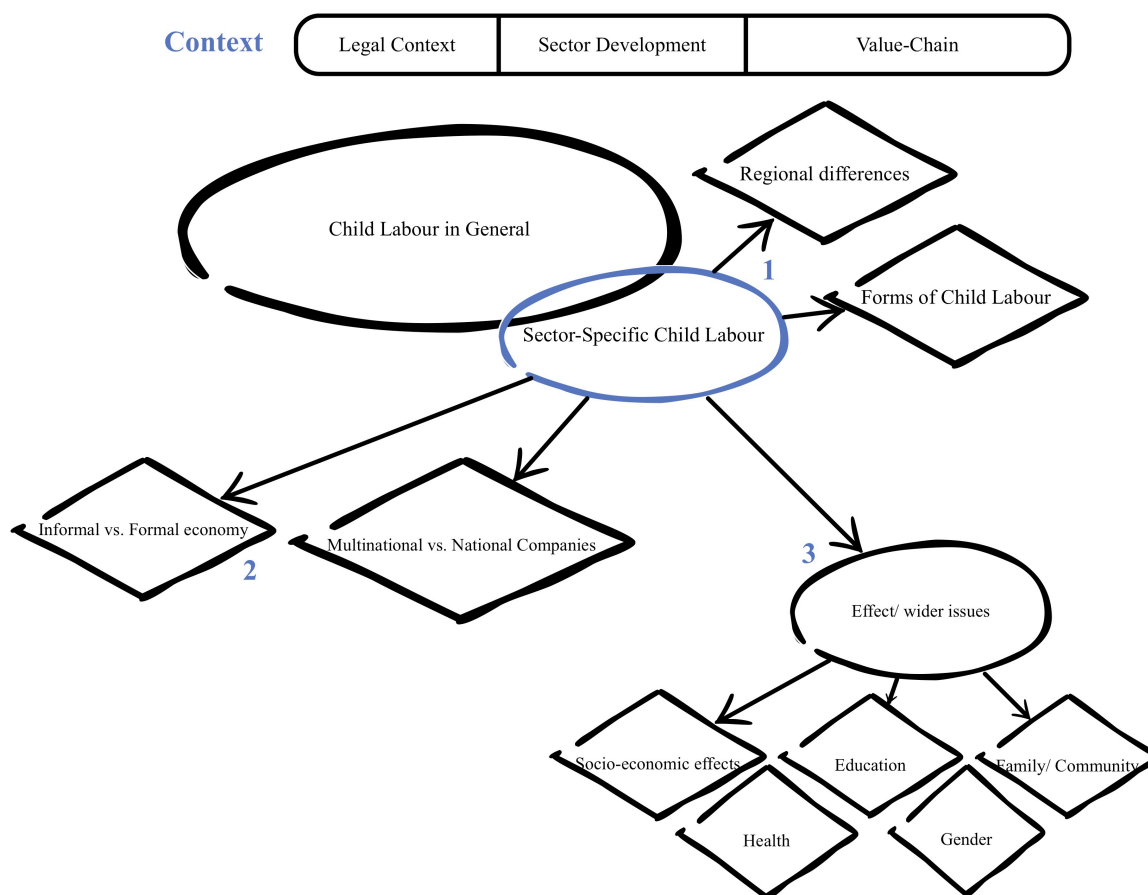


Figure 1. Conceptual overview of terms of reference.

## 4 Introduction

Child labour is a complex phenomenon characterized by challenges that are simultaneously ethical, economic, legal and political in nature. Child labour often deprives children of the opportunity to attend school or compels them to leave school prematurely, and is often associated with poor pay and working conditions that are detrimental to children's physical, mental or social wellbeing and development. On the other hand, the income generated by underage workers is often critical to families' livelihoods and formal bans or punitive measures may have unintended consequences such as driving children into underground sectors and their families deeper into hardship and poverty. It is no wonder then that the topic of child labour remains the subject of longstanding discussion.

Several instruments under international law offer overlapping but not mutually exclusive definitions. The UN Convention on the Rights of the Child (1989) recognizes in Article 32 the right of the child to be protected from economic exploitation and from performing work that is *“likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development”*.<sup>8</sup>

The International Labour Organisation (ILO) has, in two key conventions, defined child labour. Child labour is, as a point of departure, work carried out by children (persons under 18 years). The ILO Convention on Minimum Age (Convention No. 138, 1973) specifies that:

*“The minimum legal working age ‘should not be less than the age of completion of compulsory schooling, and under no circumstances less than 15 years of age’ (or 14 years of age for a specified time if a country's economy and educational status are insufficiently developed). Children may do “light work” when they are 13-15 years old,<sup>9</sup> which is defined as work that is non-hazardous to their health or development, no more than 14 hours per week, and which does not interfere with the child's schooling. The Convention further stipulates a minimum age of 18 years for work, “which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons”.*<sup>10</sup>

Child labour is said to exist then in cases where children are too young to work (under the minimum age of 14 or 15 and employed in more than ‘light work’), and where children aged 15-17 are engaged in hazardous work or work too many hours (43 hours or more). The schematic diagram in Figure 1 below further illustrates the nuances in determining whether working children are child labourers or not.

<sup>8</sup> The UN Convention on the Rights of the Child, adopted 20 November 1989.

<sup>9</sup> States may substitute the age 12 – 14 years of age, if their minimum age of work is 14 years.

<sup>10</sup> International Labour Organization (ILO) Minimum Age Convention (No. 138) (1973): Articles 1 – 3.

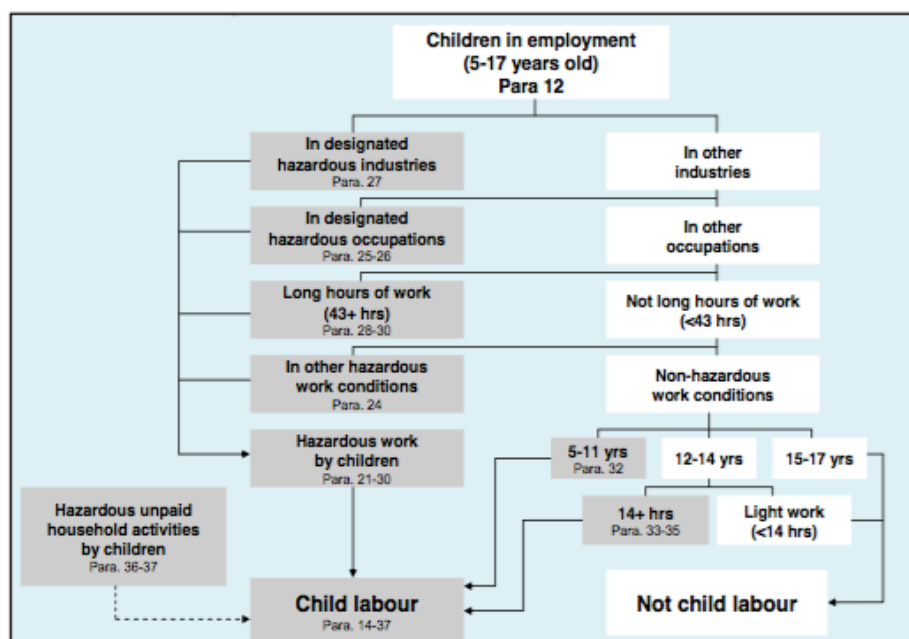


Figure 2. Conceptual framework of the ILO global estimation of child labour (ILO, 2014).<sup>11</sup>

The schematic diagram above illustrates the variables that help differentiate child labour from children in employment. Age, hours of work, and whether the work activities are considered hazardous or not form the main considerations. The grey-shaded columns (to the left) denote child labour, which is *not* permissible under the ILO conventions. The white-shaded columns (to the right) denote child labour, which *may be* permissible according to the ILO conventions.

While child labour may take different forms, there is broad agreement that certain types are so detrimental to children's wellbeing that they must be eliminated as a matter of urgency. The ILO's *Worst Forms of Child Labour Convention* (Convention No. 182, 1999) urges States to take 'immediate and effective measures' to secure the prohibition and elimination of the following 'worst forms' of child labour specified as:

*"All forms of slavery including the trafficking and sale of children and/or debt bondage; forced or compulsory labour including recruitment of children for use in armed conflict; and the use of children for prostitution, pornography or other illicit activities such as the production or trafficking of drugs, and work that is likely to harm the health, safety of morals of children."*<sup>12</sup>

<sup>11</sup> International Labour Organization (ILO) (2014) 'The Twin Challenges of Child Labour and Educational Marginalisation in the ECOWAS region – An Overview', joint ILO, World Bank and UNICEF project under Understanding Children's Work (UCW), p. 53.

<sup>12</sup> International Labour Organization (ILO) Worst Forms of Child Labour Convention (No. 182) (1999).

The objective of Convention No. 182 is to focus on priority action areas to be eliminated ‘as a matter of urgency’<sup>13</sup> without losing sight of the long-term goal of the effective elimination of all forms of child labour.

These aforementioned international instruments form the basis of the international legal framework on child labour. The instruments have been ratified by a large number of states.<sup>14</sup> India, however, is among the relatively few states that have not ratified the ILO Conventions on Minimum Age and Worst forms of Child Labour. India has ratified the Convention on the Rights of the Child,<sup>15</sup> but formulated a reservation with regard to Article 32 on child labour. In its reservation, India recognizes the need to protect children from economic exploitation and notes that it has prescribed minimum ages for employment in hazardous occupations and in certain other areas and made regulatory provisions regarding hours and conditions of employment. The reservation goes on, however, to say: “being aware that it is not practical immediately to prescribe minimum ages for admission to each and every area of employment in India - the Government of India undertakes to take measures to progressively implement the provisions of article 32, particularly paragraph 2 (a), in accordance with its national legislation and relevant international instruments to which it is a State Party.”<sup>16</sup> This point of departure from the government’s side combined with the economic and social context in which child labour is rooted, underscore the general view of many commentators that complete eradication is, for the time being, not a realistic objective.<sup>17</sup>

It should be noted, however, that India is party to ILO Convention No. 29 on Forced or Compulsory Labour which defines forced labour as: “all work or service which is exacted from a person under the menace of any penalty and for which the said person has not offered himself voluntarily.”<sup>18</sup> This rule extends to children.

Child labour in India is predominant in three sectors – agriculture, industry, and the service sector.<sup>19</sup> As of today, the agriculture sector accounts for over half of the country’s child workers.<sup>20</sup> The ILO’s research finds that that progress in eliminating child labour in agriculture globally has been slow due to the sector’s specificities.<sup>21</sup> These include “limited coverage of agriculture and family undertakings in national labour legislation, low capacity of labour inspectors to cover remote rural areas, majority of

<sup>13</sup> Worst Forms of Child Labour Convention (No. 182) Article 1.

<sup>14</sup> The CRC has 193 State Parties; ILO Worst Forms Convention No. 182 has 180 State Parties, and ILO Minimum Age Convention No. 138 has 168 State Parties.

<sup>15</sup> Ratified in 1999.

<sup>16</sup> UN Convention on the Rights of the Child, *Declaration placed on Article 32 by India* (status as of 8 November 2015).

<sup>17</sup> The UN Committee on the Rights of the Child has in its concluding observations on the combined third and fourth periodic reports of India on their implementation on the CRC reiterated “that it deems the State party’s declaration on article 32 of the Convention to be unnecessary”, and urged India to “consider withdrawing its declaration on article 32”, see UN Committee on the Rights of the Child (CRC) (2014) ‘Concluding Observations on the Consolidated Third and Fourth Periodic Reports of India’ CRC/CIND/CO/3-4 (13 June 2014): paras. 9 and 10.

<sup>18</sup> International Labour Organization (ILO) Forced Labour Convention (No. 29) (1930): Article 2 (1).

<sup>19</sup> Government of India Ministry of Home Affairs (2011) ‘Census of India’ Registrar General and Census Commissioner, India: Working children by sector (ages 5-14): Agriculture (56.4%), Industry (33.1%), and Services (10.4%).

<sup>20</sup> Ibid.

<sup>21</sup> International Programme on the Elimination of Child Labour (IPEC) and International Labour Organization ‘Child Labour in Agriculture’.

child labourers working as unpaid family labour without formal contracts, and traditions of children participating in agricultural activities from a young age.”<sup>22</sup>

Hybrid cottonseed production in India is concentrated in six states, Andhra Pradesh, Telangana, Tamil Nadu, Karnataka, Gujarat and Maharashtra.<sup>23</sup> Together, these states account for nearly 95% of the total cottonseed production in the country.<sup>24</sup> India’s hybrid cottonseed production is still growing and it has become one of the largest producers of hybrid cottonseed in the world.<sup>25</sup> Many of the workers in cottonseed production are children. While this has been a long-standing trend, the number of child workers recruited to the sector increased substantially after the introduction of the hybrid cottonseed in 2002,<sup>26</sup> the cultivation of which requires work intensive manual cross pollination.<sup>27</sup>

This report will look at how child labour manifests itself in the hybrid cottonseed production, and what kind of legal, policy and practical measures are undertaken to address this.

## 5 Report Analysis

### 5.1 Context

In order to answer the research questions on child labour in India’s hybrid cottonseed sector, the report looks at: (I) recent developments in India’s legal frameworks and obligations pertaining to the issue of child labour; (II) recent developments in the Indian hybrid cottonseed sector, and (III) the different levels of the ‘cottonseed value chain’.<sup>28</sup>

#### 5.1.1 Recent Developments in India’s Legal Framework Pertaining to Child Labour

India’s constitution sets out a number of guarantees and regulations concerning child labour. These include:

<sup>22</sup> Ibid.

<sup>23</sup> Venkateswarlu (2015) ‘Cotton’s Forgotten Children: Child Labour and Below Minimum Wages’, p. 7.

<sup>24</sup> Ibid.

<sup>25</sup> Global March Against Child Labour (2010) ‘The Beginners Guide to Child Labour in Cottonseed Farms in India’ (10 January 2010), p. 1.

<sup>26</sup> S. Mukherjee (2012) ‘Seed Companies Reap Rich Harvest on Bt Cotton Wave’ Business Standard (23 February 2012).

<sup>27</sup> D. Venkateswarlu (2007) ‘Child Bondage Continues in Indian Cotton Supply Chain’, Study jointly commissioned by OECD Watch, Deutsche Welthungerhilfe (DWHH), India Committee of the Netherlands (ICN), Eine Welt Netz NRW (EWN NRW) and International Labor Rights Forum (ILRF) (September 2007).

<sup>28</sup> The term ‘value chain’ may be interchangeable used with the term ‘supply chain’.



1. The right to be protected from any *hazardous* employment until the age of 14 years;<sup>29</sup>
2. The right to free and compulsory elementary education for all children from 6 to 14 years of age.<sup>30</sup>

The significance, for the purpose of this study, of making education a fundamental right under Indian law, is that education is perceived as a key deterrent to child labour.<sup>31</sup> In the words of the ILO: “Education is a crucial component of any effective effort to eliminate child labour.”<sup>32</sup>

In addition to the rights set out in the constitution, the government of India has over the years adopted several relevant legislative acts that seek to complement the above-mentioned legal safeguards. Two major national legislative developments warrant mention:<sup>33</sup>

1. The Child Labour (Prohibition and Regulation) Act of 1986; and
2. The Right to Free and Compulsory Education Act of 2009.

The *Right to Free and Compulsory Education Act of 2009* provided for the *mode of implementation* of the right to education as expressed in the constitution in 2002. Since the Act came into force in 2010, the Ministry of Human Resource Development of the Government of India has documented the progress made on a yearly basis. Figure 3 illustrates that after the adoption of the Act, India has seen a considerable spurt in school enrolment at the primary level after the Act was adopted. It also shows that there has been a slight downward trend in primary school enrolment recently; however, enrolment figures are still significantly higher according to this data, than before the Act’s introduction.

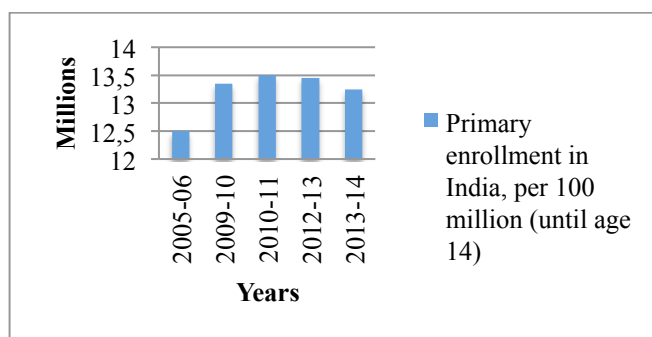


Figure 3. Total primary enrolments in India (up to age 14).<sup>34</sup>

<sup>29</sup> The Constitution of India, adopted by the Constituent Assembly 26 November 1949, see Article 24: Part III Fundamental Rights: Prohibition of employment of children in factories, etc.

<sup>30</sup> This was the result of a Constitutional Amendment in 2002 making education a *fundamental* right.

<sup>31</sup> The International Programme on the Elimination of Child Labour (IPEC) and International Labour Organization (ILO) (2015) ‘World Report on Child Labour 2015: Paving The Way To Decent Work For Young People’.

<sup>32</sup> International Programme on the Elimination of Child Labour (IPEC) and International Labour Organization (ILO) ‘Child Labour and Education’.

<sup>33</sup> There are other Indian Acts that deal with the issue of child labour, namely The Factories Act of 1948: The Act prohibits the employment of children below the age of 14 years in any factory. The law also placed rules on who, when and how long can pre-adults aged 15–18 years be employed in any factory, and The Mines Act of 1952: The Act prohibits the employment of children below 18 years of age in a mine. The authors believe, however, that the two mentioned in the main text are most relevant for this research project.

In 2012, the Government of India drafted an Amendment Bill, enacting major changes to the Child Labour (Prohibition and Regulation) Act of 1986. This Bill issued a blanket ban on the employment of children under 14 years of age in *all* occupations and processes. The previous Act from 1986 had been more ‘selective’ in its prohibition of child labour: it prohibited the employment of children under 14 years in 18 occupations and 65 processes deemed as ‘hazardous’. This development demonstrates a shift towards prohibiting child labour in a more general sense, rather than the most ‘hazardous’ forms only.

It is notable that the 2012 Bill included two *exceptions* to the ‘blanket ban’-rule, namely:

1. In the case of children working in family enterprises; and
2. In the case of children working in the audio-visual entertainment industry.

These exceptions were subject to substantial criticism and labelled as ‘regressive’ by child activists.<sup>35</sup> The first exception was especially contested as it opened a loophole in the law. Although the exception is limited to non-hazardous work and after-school hours and school holidays, the manner in which the law is framed leaves it open to potential misuse: “many industries are home-based; making it difficult for the law to ascertain how hazardous this may be to the child’s well being.”<sup>36</sup> Moreover, it may prove to be difficult to empirically define what is ‘hazardous’ and what is ‘non-hazardous’. In addition, the concept of ‘family enterprises’ is a relatively ambiguous concept and may therefore be open to wide interpretation.<sup>37</sup> The fact that the meaning of ‘family enterprises’ is inherently vague creates a ‘legal vacuum’, which “may lead to an increase in child labour in unregulated unorganized cottage industries.”<sup>38</sup> As observed by one commentator:

*“If a child is allowed to legally work in a non-hazardous industry, would he or she be able to meet all the demands of a school education? And what is the intervention if she does not? To what limit can a child (below 14 years) be stretched, physically and mentally, between education and employment? A condition set forth in this Amendment is that children should work only after school hours or during vacations. But meeting this condition is easier in theory than in practice.”*<sup>39</sup>

The government justified the exception in order to strike “a balance between the need for education for a child and reality of the socio-economic condition and social fabric in the country.”<sup>40</sup> Moreover, it argued that children’s wages are essential to the survival of poor families and that working children acquire useful job skills. According to critics, however, this argument actually invites much exploitation: Kailash

<sup>34</sup> Data 2009-2014: Government of India Ministry of Human Resource Development Department of School Education and Literacy; data 2005-2006: Government of India Ministry of Statistics and Programme Implementation (2012) ‘Children in India: A Statistical Appraisal’ Social Statistics Division Central Statistics Office.

<sup>35</sup> S. G. Thakur (2015) ‘Proposed Legal Changes in Laws Pertaining to Child Labour and Rehabilitation’ *Journal of Humanities and Social Science*, Vol. 20 (2) (2015): 33-36.

<sup>36</sup> Hindustan Times (2015) ‘New Child Labour Framework Leaves it Open to Misuse’ (last updated 14 May 2015).

<sup>37</sup> Ibid.

<sup>38</sup> Hindustan Times (2015) ‘New Child Labour Framework Leaves it Open to Misuse’.

<sup>39</sup> Sarah Farooqui, ‘The Government’s Child Labour Amendment is Actually An Improvement, But It’s Insufficient’ *Huffington Post* (May 14 2015).

<sup>40</sup> Ibid.

Satyarthi, who won the Nobel Peace Prize in 2014 for his efforts to end child labour, pointed out that “millions of Indian children who are said to be working in ‘family’ businesses are in fact trafficked into slave labour or sold into bonded labour.”<sup>41</sup> Despite the controversy that the Amendment Bill created, it was passed in 2015.

## Findings in Short

1. The 2012 Amendment Bill to the Child Labour Act, which provides a blanket ban on the employment of children under 14 years of age in *all* occupations and processes, was a significant step in developing India’s legal framework pertaining to child labour.
2. The bill contains two exceptions: children working in family enterprises and children working in the audio-visual entertainment industry. These exceptions, however, have been criticized for creating legal loopholes on the prohibition of child labour.

It is too soon to predict the actual consequences of the Amendment, but a key concern is the increased risk in the years to come of children dropping out of school in order to work. It has been said that India has “the largest number of child labour laws in the world and the largest number of child workers”.<sup>42</sup> The ‘revised’ (in 2012) Child Labour (Prohibition and Regulation) Act of 1986 in many ways epitomizes this contradiction.

### 5.1.2 Recent Developments in the Indian Hybrid Cottonseed Sector

Since the introduction of hybrid cottonseeds in 2002, the cotton sector has grown to become one of India’s fastest developing industries. Prior to 2002, cottonseed made up 10-15% of the Indian seed sector. This Figure jumped to 40% in 2012.<sup>43</sup> The productive output of hybrid cotton moved India from the fifth-largest cotton producer in the world to the second largest producer in less than a decade.<sup>44</sup>

The India Committee of the Netherlands (ICN) has provided the most up-to-date, multi-state studies on the status of child labour among multinational and national companies in India’s hybrid cottonseed sector.<sup>45</sup> Due to the rigour of the report and the fact that it was published recently (July 2015), much of the company-level review undertaken in this report is based on data from the ICN study.

<sup>41</sup> The New York Times (2015) ‘Ending Child Labor in India’ published under The Opinion Pages by The Editorial Board (26 June 2015).

<sup>42</sup> Hindustan Times (2015) ‘New Child Labour Framework Leaves it Open to Misuse’.

<sup>43</sup> Mukherjee (2012) ‘Seed Companies Reap Rich Harvest on Bt Cotton Wave’.

<sup>44</sup> Ibid.

<sup>45</sup> Venkateswarlu (2015) ‘Cotton’s Forgotten Children: Child Labour and Below Minimum Wages’.

The ICN notes that since the introduction of hybrid seeds, the sector has become increasingly privatized. Today, large Indian companies and multinational corporations privately own about 98% of the cottonseed sector.<sup>46</sup> Multinational companies are greatly increasing their share of the privately controlled cottonseed production area. Between 2006 and 2007 multinationals and their joint venture partners controlled approximately 12.7% of cottonseed production, and this number increased to approximately 31.6% in 2014-15,<sup>47</sup> as shown in Figure 4 and 5.<sup>48</sup>

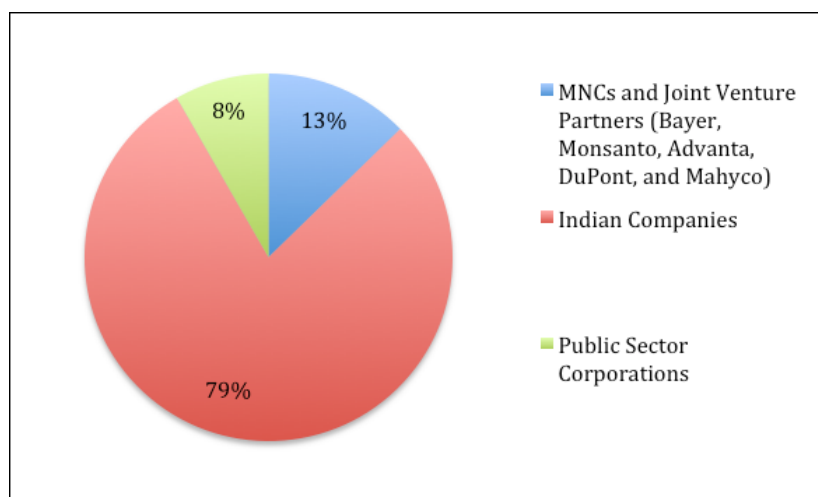


Figure 4. The production area controlled by MNCs and Indian Companies for 2006-07 (area in acres).<sup>49</sup>

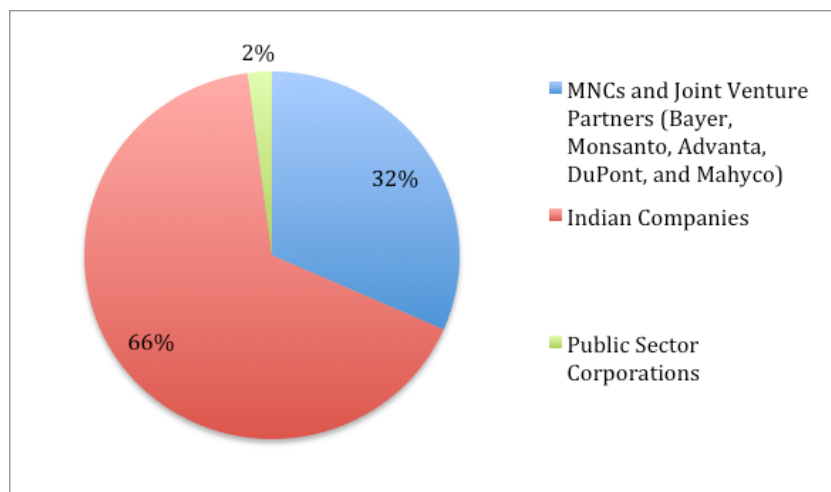


Figure 5. The production area controlled by MNCs and Indian Companies for 2014-15 (area in acres).<sup>50</sup>

<sup>46</sup> Ibid: p. 16.

<sup>47</sup> Ibid: p. 17

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Venkateswarlu (2015) 'Cotton's Forgotten Children: Child Labour and Below Minimum Wages', p. 17.

In addition to the upward trend of foreign control in cottonseed production, there has been an increasing movement of cottonseed production into more rural areas. As sector production increases, farms contracted to the major cottonseed companies extend further into more rural and remote tribal locations, and production seems to have shifted from large commercial farms to smaller, family-based farms. According to a recent report by Global March Against Child Labour:

*“Owing to pressure from civil society regarding use of child labour in cotton cultivation, BT cottonseed production has relocated to impoverished areas to make use of cheap tribal labour, migrant labour and trafficked children from adjacent areas.”<sup>51</sup>*

The figure below illustrates the increase in productivity and production area.

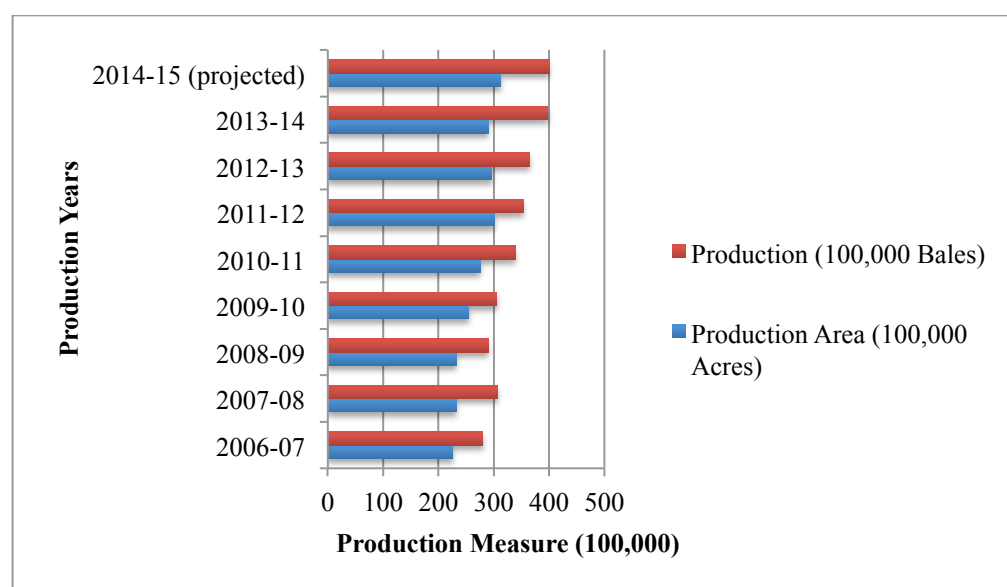


Figure 6. Trends in Area and Productivity of Cotton in India.<sup>52</sup>

Small-sized farms, especially those that are subsistence farms, often rely on the whole family to work, including children.<sup>53</sup> The children on these small family farms are permitted to work under the amended Child Labour (Prohibition and Regulation) Act, as long as their work is carried out outside of school hours. The ICN study found that the number of children in this situation is relatively small, accounting for less than 30% of the total number of working children under 14 years of age in the states of Andhra Pradesh, Tamil Nadu, and Karnataka.<sup>54</sup>

<sup>51</sup> Global March Against Child Labour (2012) 'Dirty Cotton – A Research on Child Labour, Slavery, Trafficking and Exploitation in Cotton and Cotton Seed Farming in India', p. 15.

<sup>52</sup> The Cotton Corporation of India Ltd. (2014) 'Statistics: Area, Production and Productivity of Cotton in India'.

<sup>53</sup> Venkateswarlu (2015) 'Cotton's Forgotten Children: Child Labour and Below Minimum Wages', p. 8

<sup>54</sup> Ibid: p. 6.

The ICN has pointed out that major multinational corporations active in India's cottonseed sector such as Monsanto, Bayer, Syngenta and DuPont have been criticized for cases of child labour occurring within their contracted fields. The Council on Ethics for the Government Pension Fund Global is one of the actors to have put forth such criticism.<sup>55</sup> As a result of such external scrutiny, these companies have created mechanisms to prevent child labour in their supply chains, which will be further discussed in section 5.3.1.<sup>56</sup>

## Findings in Short

1. The shift from large commercial farms to small family farms in rural and remote tribal areas has had an impact on the 'composition of the workforce', resulting in an increase of child labour;
2. A gradual shift is occurring whereby multinational corporations are taking a larger share of the hybrid cottonseed sector. This is likely to have a positive impact on child labour in the value chain controlled by the multinational companies but the overall impact on the sector is unclear.

### 5.1.3 The Cotton Value Chain

Cottonseed production in India depends (almost) entirely on *hybrid* cottonseeds, and in particular on genetically modified cotton, so-called 'BT cottonseeds'. BT cotton,<sup>57</sup> genetically engineered to resist pests, was introduced in India in 2002.<sup>58</sup>

Unlike 'regular' cotton, 'BT cotton' has been engineered to be pest-resistant and requires less use of pesticides than regular cotton. It has been modified to resist the bollworm: a major pest.<sup>59</sup> Field studies have shown that farmers who grew BT cotton produced up to 75% more cotton than those who grew 'regular' cotton.<sup>60</sup> The hybrid cotton-crop thrives in subtropical climates (between 21 to 32 degrees Celsius), with high levels of humidity and at least 50 centimetres of rainfall annually.<sup>61</sup> The introduction of BT cottonseed in India has allowed India to become one of the largest cotton producing states in the

<sup>55</sup> Council on Ethics Government Pension Fund Global (2006) 'Recommendation of 20 November 2006 to the Ministry of Finance' (20 November 2006).

<sup>56</sup> Ibid: p. 14.

<sup>57</sup> BT stands for *basiliculus thuringiensis* – a bacteria used to genetically modify the cottonseed in order to make it pest resistant.

<sup>58</sup> J. Kathage and M. Qaim (2012) 'Economic impacts and impact dynamics of Bt (*Bacillus thuringiensis*) cotton in India', PNAS Vol. 109 (29) (17 July 2012).

<sup>59</sup> So-called '*bacillus thuringiensis*'.

<sup>60</sup> Ibid.

<sup>61</sup> MRC Seeds Company 'Cotton Production'. Accessed under: <http://www.mrcseeds.com/cotton-production/>.

world because of the country's weather conditions.<sup>62</sup> Hybrid cottonseed cultivation is a very labour intensive process because each plant must be cross-pollinated manually.

India's prominent position as a cotton producing country has resulted in a multi-layered cotton value chain, with multiple stages from the production of cottonseed, sowing and harvesting cotton to the processing of cotton from fibres to final fabrics as well as manufacturing. This chain is characterized by (1) a large-number of small-scale producers, and (2) increasing 'foreign' (international) presence. The latter characteristic, however, does not apply to all levels of the chain.

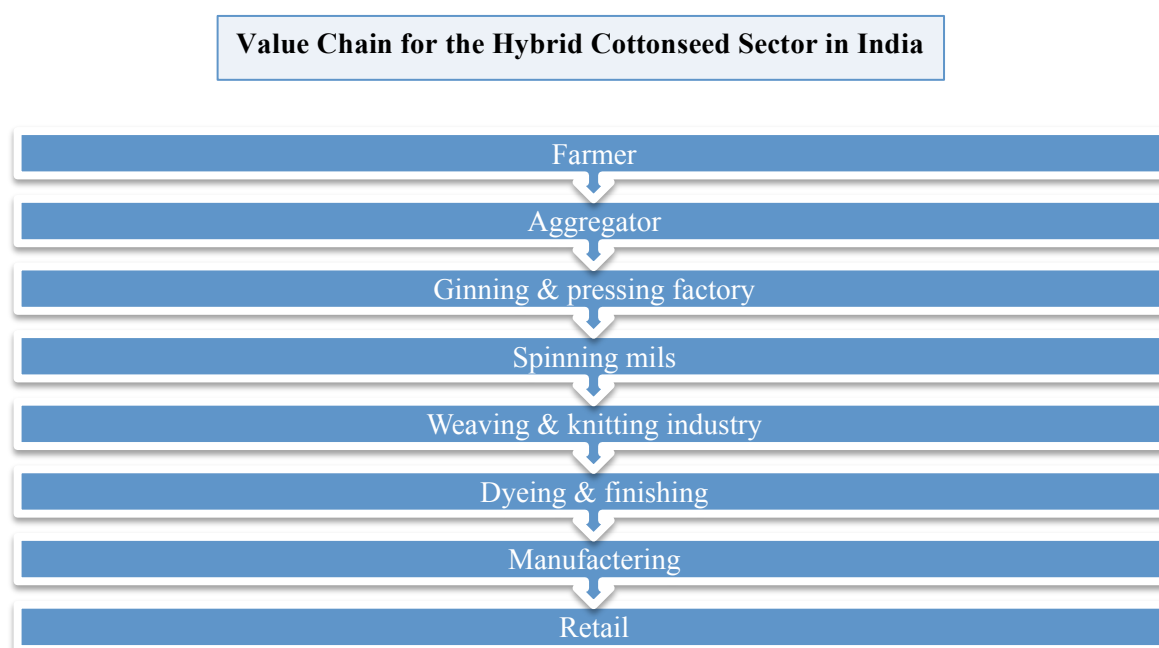


Figure 7. Value chain cottonseed.

At the farming stages, production is generated by demand from national and (increasingly) multinational companies. This report is concerned with the initial stages in the cotton value chain – the production of cottonseed for sowing and harvesting cotton. These are the most labour intensive parts of the chain (i.e. planting, farming, ginning, spinning, and in some cases manufacturing) where the majority of child labour is more likely to occur.

The roles and actions of (international and national) companies involved the Indian cottonseed sector will be discussed in further detail in the (comparative) analysis part of this report (section 5.3).

<sup>62</sup> Global March Against Child Labour (2010) 'The Beginners Guide to Child Labour in Cottonseed Farms in India' (10 January 2010), p. 1; it should be noted that there are other studies that refute that Bt has led to increased yields, or at least, that the evidence is not clear.

## 5.2 Status Quo of Child Labour in the Hybrid Cottonseed Sector

### 5.2.1 Child Labour in India

To be able to understand child labour in the hybrid cottonseed sector, it is important to look at child labour within India as a whole. According to India's 2011 UPR<sup>63</sup> report,<sup>64</sup> there had been a reduction of 45% in child labourers in the five years between 2005 and 2010.<sup>65</sup> Recent official figures from India indicate that there are over 4.3 million child workers in India.<sup>66</sup> But in a nation of 1.2 billion people—400 million of them below the poverty line—this number appears low. UNICEF has suggested that the figure is 28 million<sup>67</sup> and some NGOs suggest that the actual number might be as high as 60 million.<sup>68</sup> We believe that this vast discrepancy in numbers is the result of the following factors:

1. Lack of a clear definition of child labour means a substantial proportion of child labour remains uncouncted;
2. A significant amount of child workers in India are hard-to-reach and 'invisible' as they work largely in the informal and unorganized sector. This includes within family or household-based units in both rural and urban areas; and
3. Officials tend to underreport child labour.

It follows that it is highly challenging to find accurate and up-to-date figures on child labour in India. Nonetheless, India's Census data has been a leading source for statistics on, *inter alia*, child labour since 1871,<sup>69</sup> and its most recent figures indicate a substantial drop in child workers: from 12.6 million in 2001, to 4.3 million in 2011 (see Figure 8).<sup>70</sup> This represents a 65% drop.

Although there is reason to assume that the real figures are higher, as described above, these figures are noteworthy for two reasons:

1. It was the first drop of child labour rates in India since 1991; and
2. It was a very substantial drop (65% during the decade between 2001 and 2011).

<sup>63</sup> UN Human Rights Council (2012) 'Report of the Working Group on the Universal Periodic Review – India' A/HRC/WG.6/13/IND/1 (9 July 2012).

<sup>64</sup> Ibid.

<sup>65</sup> Ibid: para. 79.

<sup>66</sup> Data collected from 2011 Census of India.

<sup>67</sup> See UNICEF Press Release (2012) 'IKEA, UNICEF programmes reach 74 million children in India' UNICEF Press Centre (5 September 2012); see also G. Harris (2013) 'Children Toil in India's Mines, Despite Legal Ban' The New York Times (25 February 2013).

<sup>68</sup> See for example Humanium (2010) 'Children of India. Realizing Children's Rights India' (last updated 6 November 2011).

<sup>69</sup> The 1871 Census was the first comprehensive census of India.

<sup>70</sup> Data collected from 2001 and 2011 Census of India.



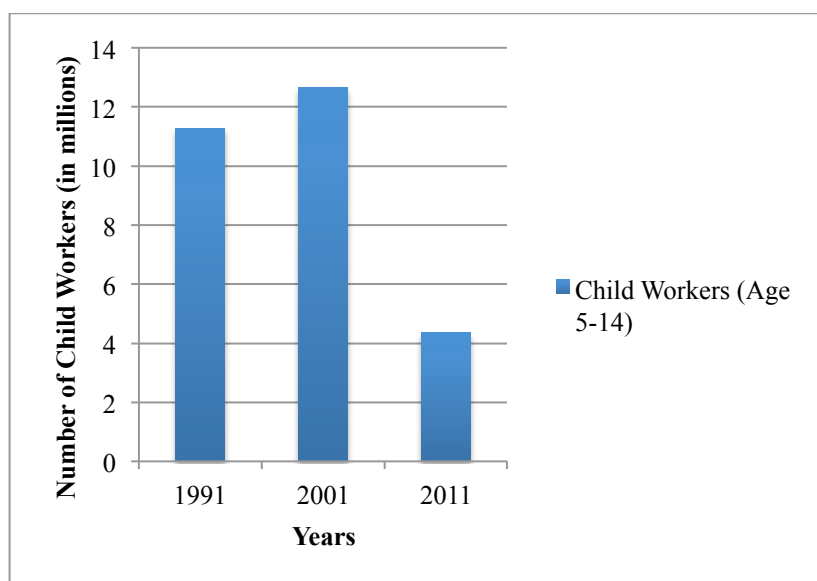


Figure 8. Number of Indian child workers in millions (age 5-14).<sup>71</sup>

Child labour is apparent in many sectors in India. Beyond hybrid cottonseed production, there are a number of activities within other sectors—both agricultural and non-agricultural—that have high incidences of child labour. They also exhibit the ‘worst forms’ of child labour or *hazardous* work. Table 5.6 below illustrates that the Indian sectors prone to child labour can roughly be divided into three sections: agriculture, services, and industry.

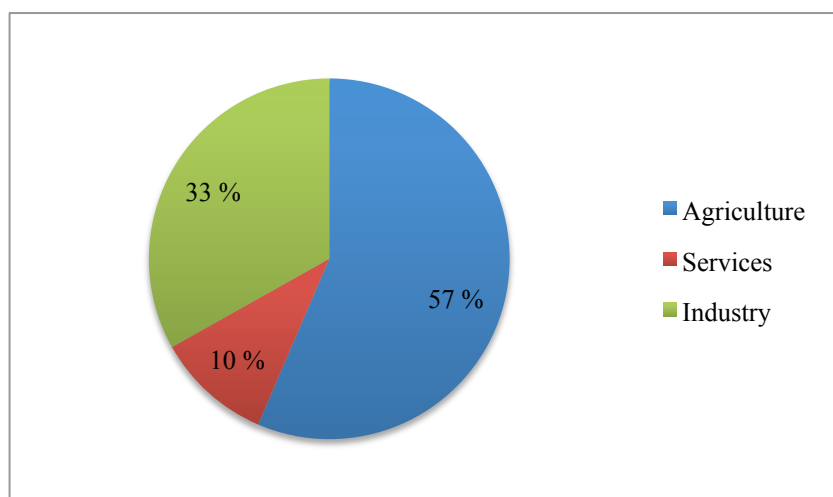


Figure 9. Working children by sector in India (age 5-14) as per 2014.<sup>72</sup>

<sup>71</sup> Venkateswarlu (2015) ‘Cotton’s Forgotten Children: Child Labour and Below Minimum Wages’.

<sup>72</sup> US Department of Labor’s Bureau of International Labor Affairs (2014) ‘India Findings on the Worst Forms of Child Labor’, p. 1.

In addition to hybrid cottonseed production, child labour is also used in vegetable seed production.<sup>73</sup> This work is more labour intensive than that of cottonseed, but hybrid vegetable seeds have shorter growing seasons. Besides the activities in the hybrid seed production, the harvesting of sugarcane is also labelled as a ‘hazardous’<sup>74</sup> activity for children.<sup>75</sup> In the second largest sector prone to child labour - the industry sector – there are multiple examples of children involved in hazardous activities. These include the manufacturing of glass bangles, locks, brassware, garments, incense sticks (so-called *agarbatti*), fireworks, matches, footwear as well as weaving silk fabric, embellishing textiles with silver and gold (so-called *zari*), weaving carpets, rolling cigarettes, stitching soccer balls, producing bricks, mining mica and coal.<sup>76</sup>

Hazardous child labour incidents within the services sector usually entails one or more of the following activities: working on the street selling food and other goods, repairing vehicles and tires, scavenging and sorting garbage, performing construction activities, and domestic work.<sup>77</sup> In addition to hazardous child labour, incidences of other ‘Worst Forms’ of child labour prevail in the services sector i.e. trafficking of children for commercial sexual exploitation<sup>78</sup> and forced labour in the domestic service.<sup>79</sup>

Child labour in India is often generated by the need to pay parents’ debt obligations. A survey conducted by the ILO in 2003 showed that up to 82% of children in the cottonseed industry were working because their parents had borrowed money from the local farmer or landowner.<sup>80</sup> Bonded labour of children as a result of parents’ debts, although prohibited under the ILO Convention on Forced Labour, is also a huge problem in many other fields of the informal economy.<sup>81</sup>

### 5.2.2 Child Labour in the Hybrid Cottonseed Sector

The drop in the overall figures for child labour in India is also reflected in the cottonseed sector. According to the ICN, at the time of our established baseline—2006-07—children below the age of 14 accounted for 54% of the total workforce in cottonseed farms in India (see Figure 11.). As of 2014-15, this number has been reduced to 25%, which in actual numbers is around 200.000 children. Gujarat—the state with the largest cottonseed area in all of India has also seen a decline in number of child labourers but still accounts for nearly 55% of the total children employed in this sector, which translates to a number of around 110.000 children.

<sup>73</sup> See letter from the Council on Ethics of the GPFG (2008) on the Monsanto 2006 Recommendation.

<sup>74</sup> Determined by national law or regulation as such.

<sup>75</sup> US Department of Labor’s Bureau of International Labor Affairs (2014) ‘India Findings’, p. 1.

<sup>76</sup> Ibid.

<sup>77</sup> Ibid.

<sup>78</sup> Ibid; United States Department of State ‘Trafficking Persons Report 2013’ (20 June 2014), p. 203 (‘India’).

<sup>79</sup> Ibid; Global March Against Child Labour (2014) ‘Economics Behind Forced Labour Trafficking: Comprehensive Case Studies of Child Domestic Labour and Commercial Sexual Exploitation’ (June 2014).

<sup>80</sup> R. S. Srivastava (2005) ‘Bonded Labour in India – Its Incidence And Pattern’ International Labour Organization; see also Council on Ethics ‘Recommendation on Monsanto’.

<sup>81</sup> Srivastava (2005) ‘Bonded Labour in India – Its Incidence And Pattern’, p. 28.

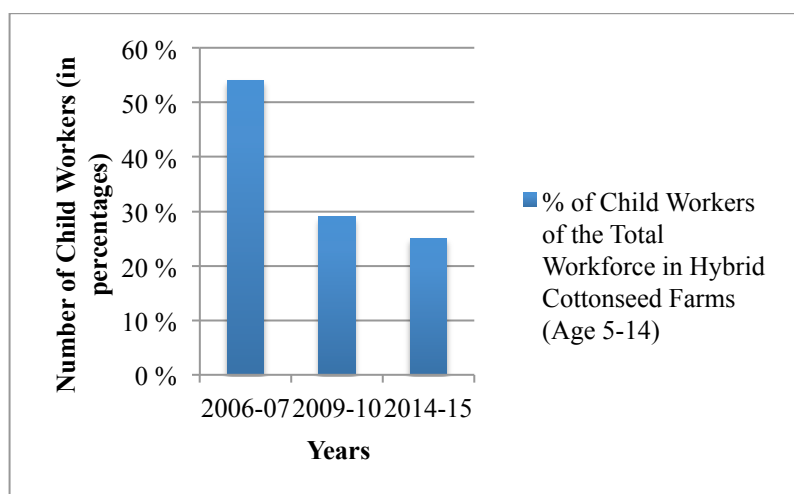


Figure 11. Number of child workers of the total workforce in hybrid cottonseed farm in percentages (age 5-14).<sup>82</sup>

According to the ICN study, the occurrence of child labour varies between different states. Andhra Pradesh, Karnataka and Rajasthan have the highest incidence of child labour (respectively 24.7%, 28.8% and 28.6%), whilst Tamil Nadu has the lowest incidence of child labour (19.2%), followed by Gujarat (21.5%).

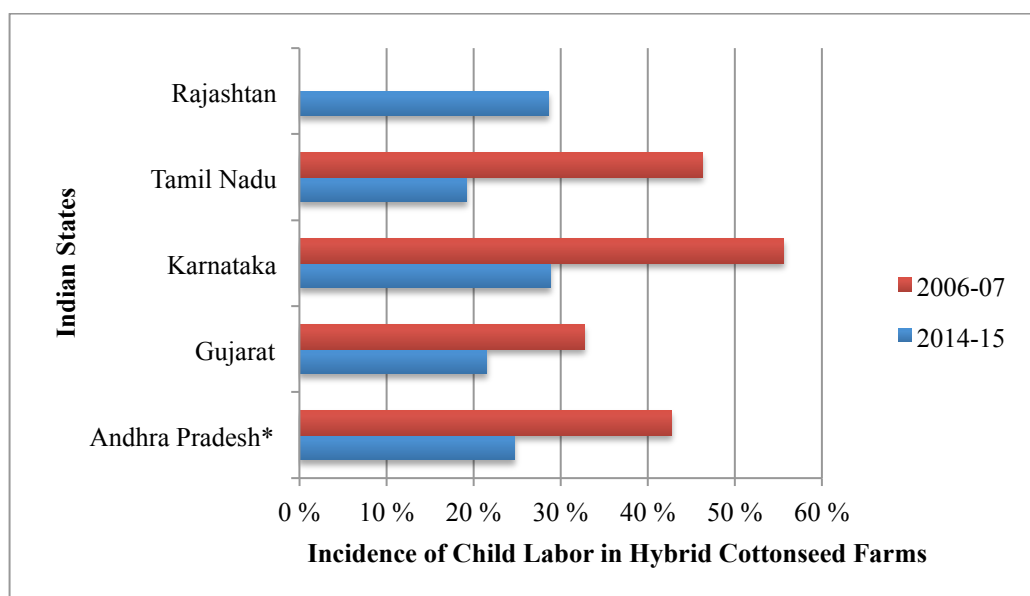


Figure 12. Incidence of child labour in cottonseed farms in different states in percentages (age 5-14).<sup>83</sup>

\*Including Telangana.

<sup>82</sup> Ibid.

<sup>83</sup> Venkateswarlu (2015) 'Cotton's Forgotten Children: Child Labour and Below Minimum Wages'.

The ICN has pointed out that “[T]he recent trends indicate that there is an overall decline in the proportion of children to the total workforce in different states since 2006-07. The proportion of children (below 14 years) to the total workforce declined with more than a third (from 42.7% to 27.4%) in Andhra Pradesh and almost 60% (from 46.2% to 19.2%) in Tamil Nadu during 2006-2014”<sup>84</sup> and that “A similar trend was observed with regard to the average number of children employed per acre. During 2006-14 the average number of children (below 14 years) employed per acre has been reduced by nearly 60.5% (from 4.3 to 1.7) in Tamil Nadu and 55.5% (from 5.9 to 2.6) in Karnataka. The decline in the average number of children per acre was 45.4% in Andhra Pradesh and 32.3% in Gujarat.”<sup>85</sup>

They go on to say that:

*“Despite the decline, the total number of children still employed in the cottonseed sector is huge. The existing employment practices in cottonseed farms result in the denial of rights of children and violate many national laws and international conventions.”*<sup>86</sup>

And moreover:

*“The response from the seed industry as a whole to address the problem of child labour is minimal. Despite acknowledging the problem and promising steps to address the problem of child labour, seed companies, except for a few multinationals and local companies, to date have not taken any serious efforts to tackle the issue on the farms that are producing seed for their companies. The initiatives undertaken by Bayer, Monsanto, Du Pont and few local companies have had some positive impact in reducing the number of working children. However, their efforts have only a limited impact on the overall magnitude of child labour in the industry. Unless all the major seed companies come forward and implement serious measures in collaboration with other stakeholders, it is difficult to combat the overall problem of child labour.”*<sup>87</sup>

The (different) attitudes towards combatting child labour of both national and international cotton companies will be discussed in more detail in section 5.3.

## Findings in Short

1. Recent figures show a decrease in child labour in all cottonseed producing states;
2. Child labour in the cottonseed sector remains a major problem, as a quarter of the total workforce in cottonseed farms in India still consists of children under 14 years of age;
3. In addition, a majority of companies in the seed sector seem to be in a ‘state of denial mode’. Except for the initiatives of a few multinationals and local companies, there remains a serious lack of effort to tackle the issue of child labour.

<sup>84</sup> Ibid: p. 26.

<sup>85</sup> Ibid.

<sup>86</sup> Venkateswarlu (2015) ‘Cotton’s Forgotten Children: Child Labour and Below Minimum Wages’.

<sup>87</sup> Ibid.

### 5.2.3 Why and How Child Labour Appears in the Hybrid Cottonseed Sector

Of India's total population of more than 1 billion, 350 to 400 million people live below the poverty line.<sup>88</sup> In many cases, Adult workers earn too little to meet their families' basic needs, and so children are required by necessity to work and contribute to household income. The ICN and Center for Research on Multinational Corporations both point to a clear link between child labour and low wages for adult workers in the agricultural sector, foremost in the production of hybrid cottonseed, and garment factories.<sup>89</sup> Moreover, the "absence of social safety nets increases the dependence on child labour."<sup>90</sup> The impact of poverty on child labour is described as follows:

*"Often children must work in the cotton fields in order to repay a debt, which may have been incurred by a parent or guardian. Parents from impoverished villages, driven by necessity, receive advances or loans from seed producers in exchange for their child's labour for the duration of the cotton-growing season; this debt is then used as a method of binding child workers and removing their freedom. Sometimes the debt is passed down through generations, inherited from grandparents and forcing entire families into servitude and poverty."*<sup>91</sup>

From the farmers' point of view, employing children, particularly girls, is often done to minimize costs. According to the ICN report:

*"In cottonseed production, the labour costs account for about 50% of total cultivation costs. Farmers endeavour to cut these labour costs by hiring children because the wages paid to children are far below both the market wages for adults in other agricultural field work and even further below official minimum wages. Farmers also hire children in preference to adults because farmers can squeeze out higher productivity from children per day. Children will work longer hours, much more intensively and they are generally easier to control than adult workers—whether through verbal or physical abuse or through inexpensive treats like chocolate or hair ribbons".*<sup>92</sup>

A seed farmer from Telangana explained the preference of child workers on his farm in the following words:

*"Cross-pollination work is very labour intensive and a large number of labourers are required to do this work. It is also delicate work and needs to be handled carefully. We prefer young girl children for this task because with their delicate fingers ('nimble fingers') they can handle this*

<sup>88</sup> Y. D. Patil (2013) 'Poverty and Child Labour in India: Socio-Legal Perspective' Symbiosis International University (17 February 2013).

<sup>89</sup> SOMO (2014) 'Fact Sheet: Child Labour in the Textile & Garment Industry' (March 2014), p. 3.

<sup>90</sup> Ibid.

<sup>91</sup> World Vision Action (2012) 'Forced and Child Labour in the Cotton Industry'; Venkateswarlu (2010) 'Seeds of Child Labour: Signs of Hope'.

<sup>92</sup> D. Venkateswarlu and L. Da Corta (2001) 'Transformations in Age and Gender of Unfree Workers on Hybrid Cottonseed Farms in Andhra Pradesh' Journal of Peasant Studies, Vol. 28 (3) (2001); Venkateswarlu (2015) 'Cotton's Forgotten Children: Child Labour and Below Minimum Wages', p. 16.

*work better than adults. They also work more intensively than adults. We can control them easily. They listen to us and do whatever we ask them to do. The most important thing is labour costs. Nearly half of our investment goes towards payment of labour charges. The wage rates for children are far lower than adult wages. We can reduce our labour costs considerably if we hire girl children. If we want to hire adult labour we have to pay higher wages. With the current procurement price we get from the seed companies we cannot afford to pay higher wages to the labourers”.*<sup>93</sup>

This section highlights both families’ motivations for putting children to work and the clear financial incentives on the part of farmers to employ children, specifically young girls in cottonseed production. These entrenched economic and social factors explain why child labour persists, and why policy implementation and law enforcement to prevent children’s participation in hazardous work remain weak.

The weak enforcement of labour and educational laws designed to deter child labour can also be explained by a lack of government resources as well as corruption, which is widely present at local and national levels of government as well as in the police force.<sup>94</sup> Corruption is widely cited as hindering India’s social and economic growth and increasing levels of poverty.<sup>95</sup>

More importantly, corruption diminishes children’s ability to escape poverty. In general, there seems to be a close connection between child labour and corruption, as a large number of child workers indicates a possible trend towards corruption.<sup>96</sup> One example is that employers bribe labour inspectors in order to be able to go on hiring underage children. Another example is that child labour is commonly used to generate unaccountable income, as described in the report “Capital Corruption: Child Labour in India”:<sup>97</sup>

*“Any income earned, surreptitiously or illegally, usually in cash, and not reported to the government so as to avoid paying taxes.”*<sup>98</sup>

This in turn, according to the report:

*“Fuels the demand for child labour, with children as cheapest form of labour. Child labour, corruption and flow of black money fuel and sustain each other in an illicit nexus that only profits the employers and the middlemen, at an enormous cost to the country and the economy, and robs children of a childhood and their fundamental rights.”*<sup>99</sup>

<sup>93</sup> This quote is reproduced from D. Venkateswarlu (2007) ‘Child Bondage Continues in Indian Cotton Supply Chain’, International Labour Rights Fund & India Committee of the Netherlands et al. (September 2007).

<sup>94</sup> The Economist (2014) ‘Fighting Corruption in India: A Bad Boom’ (15 March 2014).

<sup>95</sup> Ibid.

<sup>96</sup> International Council on Human Rights Policy (ICHRP) (2009) ‘Corruption and Human Rights: Making the Connection’, p. 8.

<sup>97</sup> Bachpan Bachao Andolan (BBA) ‘Capital Corruption: Child Labour in India’.

<sup>98</sup> Ibid.

<sup>99</sup> Ibid.

Moreover, India's judiciary is known to be vulnerable to corruption especially at local levels.<sup>100</sup> A lack of funding and personnel often leads to a backlog of child labour cases in the courts,<sup>101</sup> and bribery is a significant reason for why the judiciary is not able to effectively deal with child labour cases. Pressure from vested industry and trade interests (including in some cases foreign investments) are sometimes seen to exacerbate the problem by encouraging the easing of controls in order to maintain these interests and attract new investments.<sup>102</sup> As a result, the labour inspectorate is not able to cope with the demands of the expanding hybrid cottonseed sector, and seems to struggle in particular with protecting child workers in the informal economy.<sup>103</sup>

The net effect is that even though many forms of child labour, including bonded labour, is prohibited by law, basic legal protections for children remain fairly weak. For reasons of corruption, poverty and the financial incentives for employers, a substantial gap remains between legislation to protect children against the worst forms of child labour and its implementation.

## Findings in Short

Five major causes of child labour can be identified in the context of the Indian hybrid cottonseed sector:

1. Poverty: Due to poverty, illiteracy and unemployment, children are sent to work to support their families and to feed themselves, often in bad conditions and extremely low wages;
2. Debt: Poor families are often caught in a vicious cycle where they need to take on loans, which are in turn difficult to repay due to insufficient income. As a consequence, children are often required to work in order to help their families repay debts and interest. This bonded child labour is particularly common in the Indian cottonseed sector;
3. Costs: if farmers hire adult workers, they have to pay higher wages. This leads to the massive hiring of cheaper child workers, and in particular girls;
4. Implementation gap: laws and regulations that are meant to protect children from (hazardous) labour are not always effectively and correctly implemented. This gap is (I) the result of a lack of capacity and resources, and (II) fuelled by various interests and financial incentives of, *inter alia* employers, inspectors, the judiciary, etc. (i.e. corruption).

A key driver of child labour is simply that “children are easy to exploit and are cheap workers. As a result, they are often hired in preference to adults.”<sup>104</sup> In the long run, however, the recruitment of child

<sup>100</sup> The Indian Express (2015) ‘Gujarat: Two Judicial Magistrates Held for ‘Corruption’ (10 September 2015); C. Banerjee (2012) ‘Corruption Is Rampant In The Lower Courts’ Outlook India, written by S. Jha (9 July 2012).

<sup>101</sup> United Nations Development Programme (UNDP) (2014) ‘Human Development Report 2014: ‘Sustaining Human Progress: Reducing Vulnerabilities and Building Resilience’ (lead author K. Malik), p. 102.

<sup>102</sup> SOMO (2014) ‘Fact Sheet, Child Labour in the Textile & Garment Industry’, p. 5.

<sup>103</sup> Ibid.

<sup>104</sup> Ibid: p. 3.

labour is likely to increase poverty. According to one NGO, “child labour reduces the demand for adult labour and hence the latter’s possibility to negotiate better wages and improve labour conditions, and secondly, working children do not attend school, and tend to end up in low paid jobs later, as will their children—thus perpetuating the cycle of poverty.”<sup>105</sup>

### 5.2.3.1 Specifics of Child Labour and its Impact

As to the question, of *how* child labour takes place in the cottonseed sector, the activities children are involved in vary according to the different stages of the cottonseed production. Children plough, weed, sow, harvest seeds, remove pests, spray toxic pesticides and are present in the fields during the spraying of toxic pesticides.<sup>106</sup> But in particular, they cross-pollinate hybrid cotton plants by hand.<sup>107</sup> Many of the children in the cottonseed industry are migrant children, living far away from their home and family.<sup>108</sup>

In addition, children are involved in *other parts* of the overall cotton industry, including in:

- Harvesting cotton: children manually harvest cotton, fill and carry heavy sacks and load them onto trucks;<sup>109</sup>
- Ginning: children work without protective clothes or masks in ginning factories to separate lint and seed. The air they inhale is contaminated with white cotton dust, causing respiratory problems.<sup>110</sup> Children also spread cotton on platforms, throw cotton into machines, push bales out of the factory and remove cottonseed;<sup>111</sup>
- Manufacturing: children work in the manufacturing industry around the world, where cotton products may be manufactured into clothes and apparel that is sold around the world.

## 5.3 Comparison of Child Labour in Multinational and Indian Companies

A recent report on ‘Forced and Child Labour in the Cotton Industry’ by World Vision Action<sup>112</sup> documented cases where children below 14 years of age are engaged in bonded labour by seed employers (who are contracted to some large national and multinational seed companies). This form of contracted work often entails adverse conditions; the report by World Vision Action describes how children are made to work 8 to 12 hours a day in extreme temperatures while being exposed to poisonous pesticides. It should be noted that this source did not specify whether or not the major cottonseed

<sup>105</sup> Stop Child Labor (The Child Labor Coalition) ‘About Child Labor’.

<sup>106</sup> Environmental Justice Foundation (2007) ‘The Children Behind Our Cotton’ Emmerson Press, p. 13.

<sup>107</sup> Ibid: p. 9.

<sup>108</sup> See K. McKinney ‘Hybrid Cottonseed Production is Children’s Work: Making Sense of Migration and Wage Labor in Western India’ (where the author explores the seasonal labor migration of young people from a tribal community in southern Rajasthan, India, p. 5) in ACME, Vol. 13 (2) (2014); see also Council on Ethics ‘Recommendation on Monsanto’, p. 5.

<sup>109</sup> Ibid: p. 14.

<sup>110</sup> H. Hawksley (2012) ‘India’s Exploited Child Cotton Workers’ BBC News Asia (19 January 2012).

<sup>111</sup> Environmental Justice Foundation (2007) ‘The Children Behind Our Cotton’, p. 8.

<sup>112</sup> World Vision Action (2012) ‘Forced and Child Labour in the Cotton Industry’.



producers were aware of the nature of the contracts between local seed employers and their employees.<sup>113</sup> According to the policies of the multinational companies, contracts for farms where this occurs should be terminated.

### 5.3.1 Differences between Multinational and National Companies with regard to Child Labour Standards and Policies

When looking at the differences between multinational and national cottonseed companies in India, it is important to consider the potential impact of international standards concerning child labour for businesses. International treaties such as the ILO Conventions are legally binding for states only (and as the case is, most of the relevant legal obligations on child labour are not binding for India) and do not impose direct legal obligations on companies. However, states are obligated to translate these international standards into domestic law with which companies in the relevant states' jurisdiction must comply.

International standards for businesses with a view to protect human rights extend beyond national legislation. The United Nations *Guiding Principles for Business and Human Rights* (UNGP) has stated that companies should:

1. Comply with all applicable laws and respect internationally recognized human rights, wherever they operate;
2. Seek ways to honour the principles of internationally recognized human rights when faced with conflicting requirements; and,
3. Treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue wherever they operate.<sup>114</sup>

The implementation of the UNGP by companies can potentially enhance the protection of human rights, including the prevention of child labour. For instance, where national laws or their enforcement fall below internationally recognized human rights standards, companies are expected to respect the higher standard. Furthermore, where national laws conflict with international standards, companies are still expected to find ways to respect the UNGP. Thus, the Guiding Principles ask business enterprises to go beyond mere compliance with the law.

Another international standard on business and social responsibility is the UN Global Compact (the world's largest sustainability and corporate citizenship initiative). The Global Compact provide companies with guidance on adopting policies and reporting on their implementation in areas such as human rights, labour, environment, and anti-corruption. Of the ten principles that all companies must

<sup>113</sup> See also the report from Global March Against Child Labour (2012) 'Dirty Cotton – A Research on Child Labour, Slavery, Trafficking and Exploitation in Cotton and Cotton Seed Farming in India'.

<sup>114</sup> UN Special Representative on Business and Human Rights (2011) 'Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy Framework' HR/PUB/11/04 (16 June 2011).

<sup>114</sup> United Nations Global Compact 'The Ten Principles of the UN Global Compact'.

seek to comply with, five are potentially relevant for child labour: 1) respect for human rights, 2) avoid complicity in human rights abuses, 4) avoid forced labour, 5) effective abolition of child labour, and 10) avoid corruption.<sup>115</sup>

It may be noted that the major multinational companies in the hybrid cottonseed sector in India—Monsanto, Bayer, Syngenta, and DuPont—all have official human rights policies that include the prevention of child labour.<sup>116</sup> Each company is moreover a signatory to the UN Global Compact and is therefore accountable to its Ten Principles.<sup>117</sup> And finally, each organization has created a set of accountability measures relating to their human rights policies.

Several multinational companies—Monsanto, Bayer, Syngenta, and DuPont—have also created programs to address the issue of child labour in India's cottonseed sector. Bayer was under pressure emerging from NGOs like German Watch, the Global March against Child Labour and the “Coalition against Bayer Dangers” who filed an OECD complaint in 2004 for violating the OECD guidelines for corporations. Also the Council on Ethics considered recommending exclusion of the company.<sup>118</sup>

Monsanto took measures to decrease child labour following the pressure of several investors, following the Council on Ethics' 2006 Recommendation to exclude Monsanto from the Fund because of child labour occurrences in the cottonseed industry. In 2008, the Council on Ethics noted that the numbers of child labourers had gone down as a result.<sup>119</sup> Monsanto and Bayer have jointly created the Child Care Program, led by a program steering committee and with a number of integrated measures. The program ensures that farmer and third-party contracts contain ‘No child labour’ clauses; develops large-scale farmer awareness campaigns; performs field audits to monitor instances of child labour, introduces incentive/disincentive schemes for the farmers; financing for educational programs to rehabilitate child laborers; and measures for farmers on the safe use of pesticides and ways to improve crop productivity.<sup>120</sup> Both companies have also created programs that promote health and safety components as well as rural development.

Similarly, Syngenta has been working with the Fair Labour Association “to address labour standards on seed farms in India, including child labour, health and safety, awareness of workers' rights, wages and benefits, hours of work, harassment and abuse, and discrimination.”<sup>121</sup> This is accomplished by including ‘No child labour’ clauses in farmer contracts; providing intensive training on Syngenta standards; and through financial incentives. DuPont has also created a child labour prevention program that combines the use of ‘No Child Labour’ clauses and applies field audits, and has established Core Values Standards

<sup>115</sup> Ibid.

<sup>116</sup> Each company's human rights policy can be found on their individual websites.

<sup>117</sup> This data was collected through a company name search of the participants on the United Nations Global Compact website.

<sup>118</sup> See for example Sustainable Human Development (2014) ‘Corporate Challenges and Potentials: The Case of Bayer CropScience's Cottonseed Production in Rural Karnataka (India)’ Working paper UFZ Discussion papers No. 5/2014. Written by J. Volkert, H. Strotmann and R. Moczadlo, p. 5.

<sup>119</sup> Council on Ethics (2006) ‘Recommendation on Monsanto’.

<sup>120</sup> Ibid.

<sup>121</sup> Syngenta Website ‘Commitments: Look After Every Worker: Our Commitment: To Strive for Fair Labor Conditions Throughout Our Entire Supply Network’.

for Supply Chain Contractors. These standards include steps to prevent child labour, give direction on migrant labour, field sanitation, and other worker rights, while also establishing management that oversees audits and management reviews.<sup>122</sup>

The combination of corporate policies and in-country projects have had an impact on child labour within the contracted farms, as can be seen in the percentage of child workers on contracted farms for each company. To illustrate this downward trend in child labour in cottonseed production, we looked at the numbers of child labour occurrences of the two biggest multinational companies—Monsanto and Bayer.

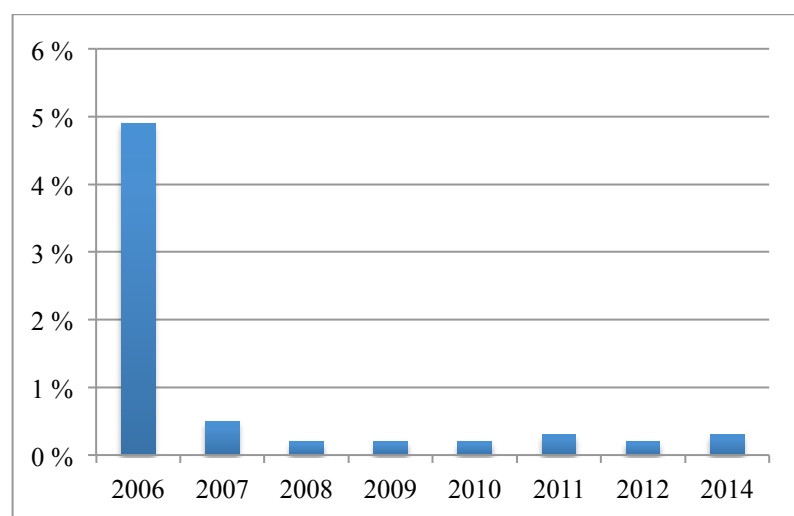


Figure 13. Total workers found to be children (Monsanto) in percentages.<sup>123</sup>

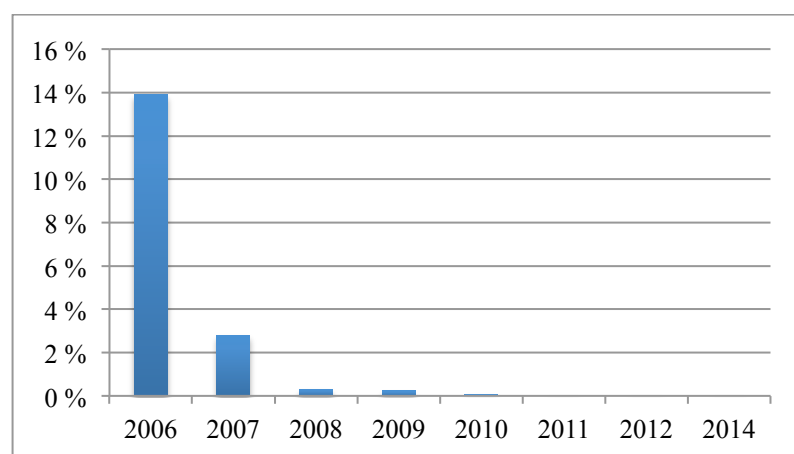


Figure 14. Total workers found to be children (Bayer) in percentages.<sup>124</sup>

<sup>122</sup> DuPont (2014) '2014 Global Reporting Initiative Report', p. 50-51.

<sup>123</sup> Data 2006-2012 collected from Monsanto (2012) '2012 Sustainability Report', p. 124.

It should be noted that these numbers have been produced by the companies themselves, but data from third party monitoring *also* indicates that these initiatives have resulted in decreased child labour on farms contracted these multinational organizations.<sup>125</sup>

According to 2014-15 data, less than 2% of child workers under the age of 14 were found on Bayer and Monsanto farms,<sup>126</sup> whereas DuPont<sup>127</sup> has a slightly higher occurrence: 5.8% in Karnataka and 5.1% in Gujarat (the two states where DuPont focuses most of its cottonseed production).<sup>128</sup> Monsanto's Indian partner, Mahyco, has according to the data, not 'implemented serious measures', like its partner Monsanto, to prevent child labour. This is reflected in its number of child workers in 2014-15, being around 20.4% and 28.6% in different states.<sup>129</sup> Even though the two companies are partners in production, the number of child workers is substantially higher than that of Monsanto.<sup>130</sup> The percentage of child workers found on their contracted farms, through internal and third party monitoring, is far less compared to their national counterparts.

The leading national (Indian) hybrid cottonseed companies—Kaveri, Nuziveedu, Ajit, and Bioseed—do not have specified human rights or child labour policies within the public domain, and are not party to the UN Global Compact.<sup>131</sup> Only one of the Indian companies—Nuziveedu—has a statement of Corporate Social Responsibility (CSR).<sup>132</sup> This statement does, however, not make any reference to child labour specifically; it refers to the importance of promoting education among children.<sup>133</sup>

Statements on CSR are required under the Indian Companies Act of 2013, where each company with “a net worth of rupees five hundred crore<sup>134</sup> or more, or turnover of rupees one thousand crore or more or a net profit of rupee five crore or more during any financial year”<sup>135</sup> must have a specified policy on corporate social responsibility. However, under the Act, CSR activities that may be included by companies are rather general:

- Eradicating extreme hunger and poverty;
- Promotion of education;
- Promoting gender equality and empowering women;

<sup>124</sup> Data 2006-2011 collected from Bayer (2011) 'Investing in the Future of Our Children: The Bayer CropScience Child Care Program', p. 27; data 2012-14 collected from Bayer (2014) 'Annual Report 2014', p. 105.

<sup>125</sup> It should be noted that there is a chance of bias or possibly inaccuracy within these numbers due to the fact that much of the statistics are the result of both internal and external monitoring.

<sup>126</sup> Internal monitoring data published by these companies on their websites indicate that the proportion of children workers to total workers for 2014-15 is .014% for Bayer and .18% for Monsanto farms.

<sup>127</sup> Internal monitoring data shared by DuPont shows the incidence of child labour based on the proportion of children to total workers monitored is .3% for 2014-15.

<sup>128</sup> Venkateswarlu (2015) 'Cotton's Forgotten Children: Child Labour and Below Minimum Wages', p. 27.

<sup>129</sup> Ibid.

<sup>130</sup> See also the Council on Ethics's letter to the Ministry of Finance of 10 June 2008, where a decline in child labourers per acre in the Monsanto farms were documented. Council on Ethics (2008) 'Regarding Recommendation to Exclude the Company Monsanto CO from the Investment Universe of the Government Pension Fund Global'.

<sup>131</sup> See e.g. the United Nations Global Compact's website.

<sup>132</sup> Nuziveedu Seeds, 'Corporate Social Responsibility (CSR) Policy'.

<sup>133</sup> Ibid: p. 6.

<sup>134</sup> One 'crore' equals the amount of 10,000 rupees, or about 1,279 Norwegian Krone.

<sup>135</sup> India Ministry of Law and Justice (2013) 'The Companies Act' (29 August 2013), para. 135 (1).

- Reducing child mortality and improving maternal health;
- Combating human immunodeficiency virus, acquired immune deficiency syndrome, malaria and other diseases;
- Ensuring environmental sustainability;
- Employment enhancing vocational skills;
- Social business projects;
- Contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government or the State Governments for socio-economic development and relief and funds for the welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women; and
- Such other matters as may be prescribed.<sup>136</sup>

Thus, although there is a possibility of child labour being included under the section “such other matters as may be prescribed”, there is no explicit reference to this in the provision. The company Nuziveedu does not go beyond these requirements of the Companies Act; its publicly listed social impact policy does not include a formal policy on child labour. There are references to health check-ups, vaccinations for infants and children, and increased enrolment in school of children in rural areas.<sup>137</sup> It is only through secondary sources (i.e. sources that are not provided by the companies themselves, but for example by NGOs) that one can learn that some of these companies may have policies dealing with child labour. These measures are fairly limited and include ‘no child labour clauses’ in contracts with farmers, the organization of a few awareness-raising meetings, and some collaboration with the National Seed Association of India to direct initiatives against child labour.<sup>138</sup> These policies are not as detailed as those of the major multinationals, and their effectiveness has been fairly limited due to a lack of systematic monitoring and reintegration for child workers into schools, resulting in the percentage of child workers on farms contracted to these companies being considerably higher than those of multinationals.

An explanation of the difference in child labour rates between multinational and national companies in the sector may well be the high level of international public scrutiny the former are under. Monitoring institutions such as the Council on Ethics have specifically pointed out poor performance on child labour prevention by multinational companies within the sector.<sup>139</sup> Moreover, the recommendation on exclusion of Monsanto from the Government Pension Fund Global could have been seen as a warning for other multinational companies.<sup>140</sup> Another multinational company in the sector, Bayer, was subject to an official complaint.<sup>141</sup> It has not been easy to find evidence that national (Indian) companies are under the

<sup>136</sup> India Ministry of Law and Justice (2013) ‘The Companies Act’ (29 August 2013): schedule VII (i-x).

<sup>137</sup> Nuziveedu Seeds ‘Sustainable Agriculture: The Pathway for a Hunger Free and Ever green Eco-friendly India’.

<sup>138</sup> D. Venkateswarlu and L. Da Corta (2005) ‘The Price of Childhood’ (October 2005); Venkateswarlu (2015) ‘Cotton’s Forgotten Children: Child Labour and Below Minimum Wages’, p. 28.

<sup>139</sup> Council on Ethics ‘Annual Report 2008’, p. 5.

<sup>140</sup> Ibid: p. 11.

<sup>141</sup> OECD NCP Germany – German Watch v. Bayer (2007): On 11 October 2004, three NGOs (German Watch, Global March, and Coordination v. Bayer) submitted a complaint to the German NCP against Bayer CropScience. The Complainants alleged that suppliers of Bayer CropScience were using child labour in cotton cultivation in Andhra Pradesh, India, and that Bayer CropScience had not taken adequate measures to counter the practice, see ‘Statement by the German National Contact Point for

same level of scrutiny. Hence, the degree of commitment to avoid child labour is expected to be higher for multinationals, in comparison to national cottonseed producing companies.

## Findings in Short

1. Both company internal and third party monitoring statistics show a declining trend in child labour incidences within the Indian hybrid cottonseed sector—although the numbers on child labour coming from third party monitoring are slightly higher than those coming from internal company monitoring.
2. Multinational companies generally seem to have better results from their child labour prevention initiatives compared to most Indian companies. It should be noted, however, that they are also subject to a higher degree of public scrutiny than the Indian companies. Their actions are, and have been, in the public eye, and have consequently been criticized and contested by monitoring institutions, media as well as NGOs. The result of such scrutiny has been a higher commitment from multinational companies to prevent child labour within their production chain.

### 5.3.2 Supply Chain and Informal Economy

The expansion of globalized business has made it necessary for multinational as well as national companies to address labour issues arising in their supply chain.<sup>142</sup> International standard setting bodies such as the ILO and the UN have stressed the importance of companies eliminating child labour from their supply chain. According to the ILO:

*“Those involved in global supply chains agree that compliance with labour principles is key to the way the world does business today, and that fair and decent treatment of workers is embedded in consumer choices and is both a social and a business imperative.”<sup>143</sup>*

As previously discussed, companies like Monsanto have been widely criticized by the public for child labour because of cottonseed production. Although they claim to have strict policies against selling products made by child workers, “there are many links in a supply chain making it difficult to oversee them all”.<sup>144</sup> This begs the question of how far a company’s responsibility to prevent child labour within the supply chain extends. Should Monsanto, as a seed producer, be concerned about how the cotton crop is used in textile production? A company can be expected at least to have control over its partnership

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the “OECD Guidelines for Multinational Enterprises” on the Complaint Filed against Bayer CropScience by German Watch, Global March, and Coordination gegen Bayer-Gefahren’ (Berlin, 30 August 2007).

<sup>142</sup> See also N. Doytch et.al. on a cross sectoral empirical analysis on 100 countries on the effect of foreign direct investment (FDI) in the years from 1990 to 2009: ‘The impact of FDI on Child Labor: Insights from an empirical analysis of sectoral FDI data and case studies’ Children and Youth Services Review, Vol. 47 (2) (December 2014): 157-167.

<sup>143</sup> International Labour Organization (ILO) ‘Implementing Labour Principles in Global Supply Chains’.

<sup>144</sup> M. Lal Singla (2015) ‘Child Labour in India: Present Position and Legislative Framework’ *International Journal of Research in Economics and Social Sciences*, Vol. 5 (5): 287-300.

with the contracted farmer, as this is the first level of the chain. This does not, however, say anything about a company's responsibility towards all the other levels.

The vast majority of national companies do not seem to have formal, public company-wide policies against child labour in their supply chain. (During the work on this report, ILPI reviewed 80<sup>145</sup> cotton manufacturers' websites in search of their child labour policies, and found that only two of them openly stated a formal policy.) A third company mentioned compliance with ILO and UN standards for ethical business, but did not specifically refer to child labour. Furthermore, only nine out of the 80 companies included certifications from organizations that require a childfree workforce as a prerequisite for a company to be certified.<sup>146</sup> It follows that these companies follow a less stringent child labour policy. The remaining companies mentioned their Corporate Social Responsibilities (CSR), with no reference, however, to child labour.

Thus, the majority of national companies that have cottonseed in their supply chain, e.g. cotton mills and manufacturers operating in India, do not have publicly available child labour policies. It is worth noting, however, that a large number of these companies claim that they follow all Indian business laws and regulations, which do include the prohibition of child labour as defined by Indian authorities. A 2012 study into child labour in ginning factories in Gujarat<sup>147</sup> shows, however, that child labour persists in some of the cotton factories, despite it being against the law.<sup>148</sup>

Cotton ginning depends on the production of cottonseed and is one of the most hazardous forms of child labour across the cotton production value chain, for a number of reasons:

- Dangerous machinery: the gin stand that separates fibre from seed has multiple exposed belts and discs with metal teeth, which have led to the loss of limbs and in more serious cases death;
- Air Quality: raw cotton fills the air in the ginning factories causing respiratory complications;
- Long working hours: the 12-hour shifts are detrimental to the health of children.

When members of the NGO Prayas Centre performed their study on child labour in ginning factories in Gujarat, many children were found working at the cotton feeder machines within plain sight. In one third of the factories found in Kadi, 8% of the workers for the cotton intake machine were below the age of 14.<sup>149</sup> These numbers are taken from the official records of ginning factories and as a result, the number

<sup>145</sup> There are 1,413 (registered) cotton manufacturers in India in total, as of 2014, see Government of India Ministry of Textiles Press Information Bureau (2014) 'Textile Mills' (7 August 2014).

<sup>146</sup> These certifications included: Sedex, the Better Cotton Initiative, Social Accountability International: SA 8000, WRAP, and Fair Trade.

<sup>147</sup> Prayas Centre for Labour Research and Action and International Labour Rights Forum (2012) 'Investigating Incidence of Child Labour in Cotton Ginning Factories of Gujarat' (March 2012).

<sup>148</sup> This specific study was chosen because Gujarat is the largest cotton producing and ginning state in India, and is therefore deemed to be representative for the cottonseed and ginning sector in India.

<sup>149</sup> Prayas Centre has been working with Kadi's labour contractors for four years prior to this study, which was not the case for the other factories scrutinized in this study. Prayas Centre was able to gather information from the labour contractors on worker information and age, due to the relationship they had built with the contractors in those years. However, even with Kadi, the labour contractors who dealt with cotton intake machines were reluctant to give the age of their child workers, as they feared child labour practices would be discovered. The centre overcame this issue by going onto the factory campus secretly and met

of young children working at cotton feeder machines could be higher. The employers are aware of the child labour laws, but hesitate to give up low labour expenses and therefore do not mention the child workers in their records. As a consequence, these children become informal, “invisible”, workers in the formal economy and fall outside of the legal protection provided by the state.<sup>150</sup> For example, the wages of the children in the factories included in this study are below half the legal standard for Indian minimum wage. Additionally, these child workers do not enjoy workers compensation if they get injured during work, in a line of work where injury is a fairly common occurrence.

Child labour is widespread in the informal economy. The Committee on the Rights of the Child has in its General Comment on State obligations regarding the impact of the business sector on children’s rights, noted that:

*“Also, a concentrated number of children are often found in hidden areas of informal work, such as small family enterprises, agricultural and hospitality sectors. Such work frequently involves precarious employment status, low, irregular or no remuneration, health risks, a lack of social security, limited freedom of association and inadequate protection from discrimination and violence or exploitation. It can prevent children from attending school, doing schoolwork and having adequate rest and play ...”.*<sup>151</sup>

Examples of such jobs in the cottonseed value chain<sup>152</sup> are: sweatshops, self-employed garment makers, and family businesses. Just as in the formal economy, informal child workers in the informal economy lack state protection. They are easily taken advantage of, and often receive low wages, minimal amounts of food, work long hours, and have poor living conditions.<sup>153</sup>

Actual numbers and statistics with regard to the status of informal child labour in the informal economy are hard to ascertain, as the very nature of this type of economy does not allow for transparency, and therefore remains a grey area.

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with workers to ask for specific details. The number of child workers could actually be higher than what was found because of this.

<sup>150</sup> Women in Informal Employment Globalizing and Organizing (WIEGO) ‘Informal Workers’.

<sup>151</sup> UN Committee on the Rights of the Child (CRC) (2013) ‘General Comment No. 16 (2013) on State Obligations Regarding the Impact of the Business Sector on Children’s Rights’ CRC/C/GC/16 (17 April 2013).

<sup>152</sup> Prayas Centre for Labour Research and Action and International Labour Rights Forum (2012) ‘Investigating Incidence of Child Labour’, p. 5.

<sup>153</sup> WIEGO ‘The Informal Economy’.



## Findings in Short

1. Cottonseed is a key ingredient in the overall cotton supply chain. It appears to be easier for multinational and Indian companies to prevent child labour within the companies and farms they have *direct* contracts with;
2. Only a small number of Indian cotton or cottonseed manufacturers have *specific* and publicly available child labour policies. In some instances, manufacturers have *indirect* policies for child labour, by virtue of certifications that require manufacturers not to have any child workers. This, however, is the exception rather than the rule;
3. It is difficult to determine the numbers of child workers in factories, since many of them are kept out of the official records, or have forged documents. Moreover, outsiders are prevented from coming in to the factories in order to count the actual numbers, making it highly challenging to ascertain the actual number of child workers in the supply chain;
4. Due to the lack of formal child labour policies and the illegal nature of child labour, many child workers are forced to become *informal* workers in both the formal and informal economy. This means that these children, in many cases, do not enjoy the protection of Indian laws and can consequently be treated below national working standards.

## 5.4 Broader Issues

### 5.4.1 Education

According to the ICN:

*“The employment of children in cottonseed work has an adverse impact on literacy of children. Most of the children working in cottonseed fields are either school dropouts or have never attended school”.*<sup>154</sup>

School dropouts, who work full time, account for almost 62% of the total number of working children in Andhra Pradesh and Karnataka. In other states the proportion of school dropout children varies between 55% and 58% (see Table 5.11). The category of children who go to school and temporarily drop out during the cross-pollination season, accounts for nearly 34% of the total of working children in Gujarat and Tamil Nadu. In other states, the number varies between 24% and 30%.<sup>155</sup>

<sup>154</sup> Venkateswarlu (2015) ‘Cotton’s Forgotten Children: Child Labour and Below Minimum Wages’.

<sup>155</sup> Ibid.

In Tamil Nadu and parts of Karnataka and Gujarat, the ICN observed that farmers are promoting new forms of child labour. They encourage school-going children to take up cottonseed work as a part-time activity. According to the ICN study:

*“The cross-pollination period is adjusted to school hours. This means that children work three hours in the morning (from 6.00 am to 9.00 am) before school starts, and two and a half hours in the evening (4.00 pm to 6.30 pm) after school. Though it looks like a part time activity, children actually work five to six hours and the time they spend working is the same amount of time they spend in school. This will have serious implications on school performance and slowly pressures them to drop out of schools and join the workforce. Over time many of the children become overwhelmed with both school and work and often drop out of school in order to continue working in the cottonseed fields”.*<sup>156</sup>

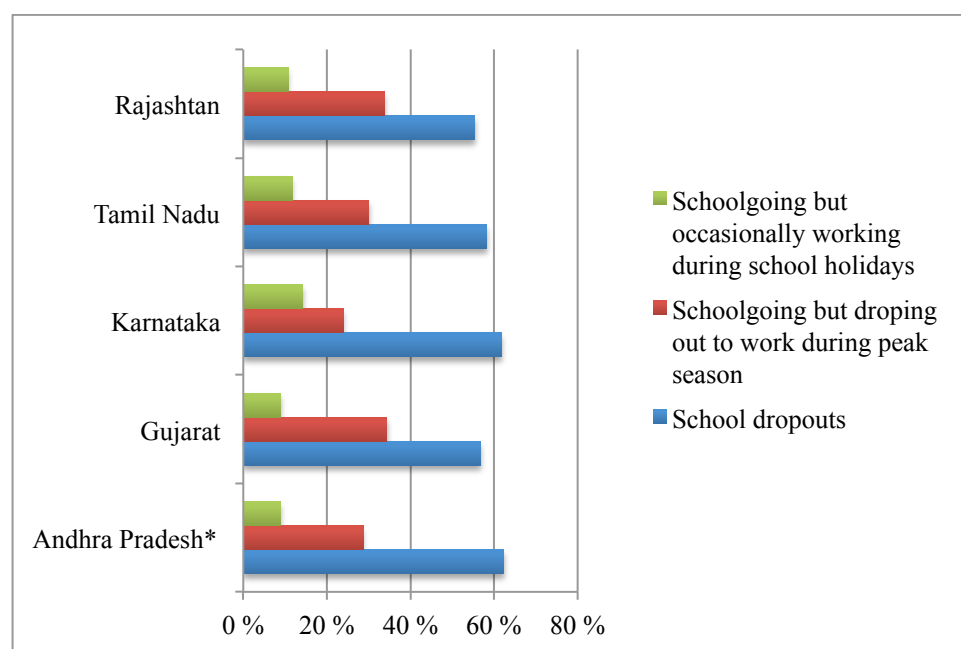


Figure 14. Number of school dropouts, temporary dropouts and holiday workers in percentages (age below 14), 2014-15.<sup>157</sup>

\*Including Telangana.

Education and child labour are often addressed as inter-related issues. Education is widely perceived as a crucial tool in preventing and eliminating child labour, while child labour acts as an obstacle to children attending school. While this is true in many cases, it is also true that “there are many interlinked explanations for child labour. No single factor can fully explain its persistence and, in some cases,

<sup>156</sup> Venkateswarlu (2015) ‘Cotton’s Forgotten Children: Child Labour and Below Minimum Wages’.

<sup>157</sup> Ibid.

growth. The way in which different causes, at different levels, interact with each other ultimately determines whether or not an individual child becomes a child labourer.”<sup>158</sup>

#### 5.4.2 Health

Working in cottonseed fields has important health implications for the children involved. The investigations by the Council of Ethics in 2006 and 2007 showed that children in cottonseed production often work in the fields both during and immediately after application of pesticides, and they also are engaged in spraying themselves, often without any protection equipment.<sup>159</sup> A report published by Physicians for Human Rights in 2003 also showed how children working in cottonseed farms are exposed to various health risks:

*“The use of pesticides in hybrid cottonseed cultivation is high and children working on farms are directly exposed to poisonous pesticides for prolonged periods. The spraying of cotton crops with toxic pesticides is incredibly common in most cotton producing countries. Child workers may spray toxic pesticides or work in cotton fields during and after spraying has occurred.”*

*“Young bodies are particularly susceptible to chemicals, given that their internal organs are still developing. Many of the health problems resulting from working in the cotton fields may not show up until the child is an adult. Many of the chemicals children are exposed to dangerous nerve agents, designed to impede the nervous system in pests. The general health problems reported by children working in cottonseed farms include severe headaches, nausea, weakness, convulsion and respiratory depression, and in serious cases paralysis and death.”<sup>160</sup> “Studies also show that children who spray pesticides in cotton fields experience blurred vision, extreme dizziness, headaches, difficulty in concentration, trouble remembering, difficulty in understanding, feeling depressed and numbness.”<sup>161</sup>*

Other sector-specific health and safety hazards for children include: high levels of sun exposure including heat exhaustion and skin cancer; poisoning from pesticides (e.g. skin irritation from handling cotton fibres and leaves).<sup>162</sup>

Moreover, children—in general—are susceptible to a range of illnesses and /or injuries from long hours of work as they become exhausted more quickly than adults. Exhaustion reduces their physical conditions and makes them more vulnerable to diseases (other than as the result of working with pesticides).<sup>163</sup>

<sup>158</sup> Venkateswarlu (2015) ‘Cotton’s Forgotten Children: Child Labour and Below Minimum Wages’.

<sup>159</sup> Council on Ethics (2006) ‘Recommendation on Monsanto’, p. 6-9.

<sup>160</sup> World Vision Action (2013) ‘Forced and Child Labour in the Cotton Industry’ (March 2013).

<sup>161</sup> Ibid.

<sup>162</sup> International Cotton Advisory Committee (2009) ‘Child Labour in the Cotton and Textile Sectors’, A. Plastina, p. 3.

<sup>163</sup> Lal Singla (2015) ‘Child Labour in India: Present Position and Legislative Framework’.

### 5.4.3 Gender

The gender composition of the working children on cottonseed farms shows that girls outnumber boys in all the states. They accounted for nearly 65% of the total of working children (below 14 years) during 2014-15. Compared to Gujarat and Rajasthan, the proportion of girls among working children is relatively high in Karnataka and Andhra Pradesh. According to Kristin Parris:

*“Even though daily wages for boys are close to those of girls, employers still prefer young girls for cottonseed work. Labouring families tend to send the boys to school to be educated and to move away from agricultural work, taking after their fathers. The young girls are brought up to follow in their mother's footsteps and become labourers, since they are not generally sent to school. The percentage of boys receiving schooling is higher than that of girls in all areas, therefore making girls more available to employers as cottonseed workers. Some employers even argue that girls are better workers than boys because they generally take more of an interest in their work.”<sup>164</sup>*

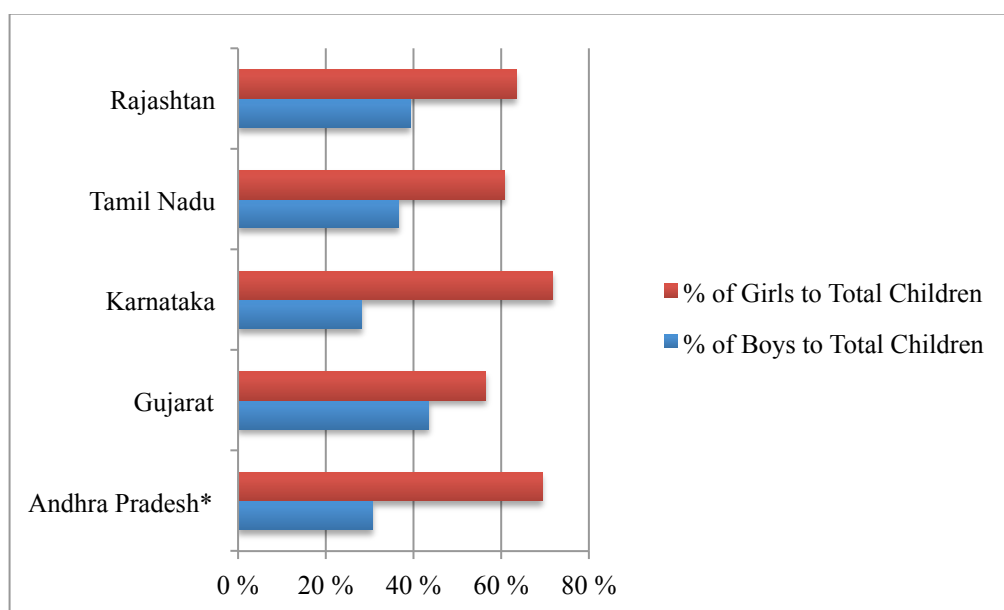


Figure 15. Number of Indian boys / girls to total working children in percentages (age below 14), 2014-15.<sup>165</sup>

\*Including Telangana.

Moreover, —in general—girls are twice as likely to be out of school and performing labour in India. According to UNICEF<sup>166</sup>, parents with limited resources have to choose whose school costs and fees they can afford (if at all).

<sup>164</sup> K. Parris (2005) ‘Girl Child Labour in the Cottonseed Industry’ published by HIS Child Slave Labour (November 2005); Venkateswarlu (2010) ‘Seeds of Child Labour: Signs of Hope’.

<sup>165</sup> Venkateswarlu (2015) ‘Cotton’s Forgotten Children: Child Labour and Below Minimum Wages’.

#### 5.4.4 Castes

Child labour in India predominantly affects the lowest castes, in particular Dalit, Adivasi and Muslim children.<sup>167</sup> They are often compelled to work because of their family's marginalized status and lack of alternatives. Extreme poverty compels parents of low caste children to take up loans, but they hold no other assets to pay back those loans other than their labour. Subsequently, these families—to a great extent—rely on their children to help pay back their loans.

Figure 16 illustrates that as per 2014-15, the majority of the children working in the Indian cottonseed sector were indeed part of the poor families from Scheduled Castes (SCs) or Dalits, Scheduled Tribes (STs) or Adivasi, and Other Backward Castes (OBCs). Figure 16 also illustrates that most of the working children on the Indian cottonseed farms are Dalits and Adivasi.

In addition to poverty, practices of social exclusion of low caste children push them towards working.

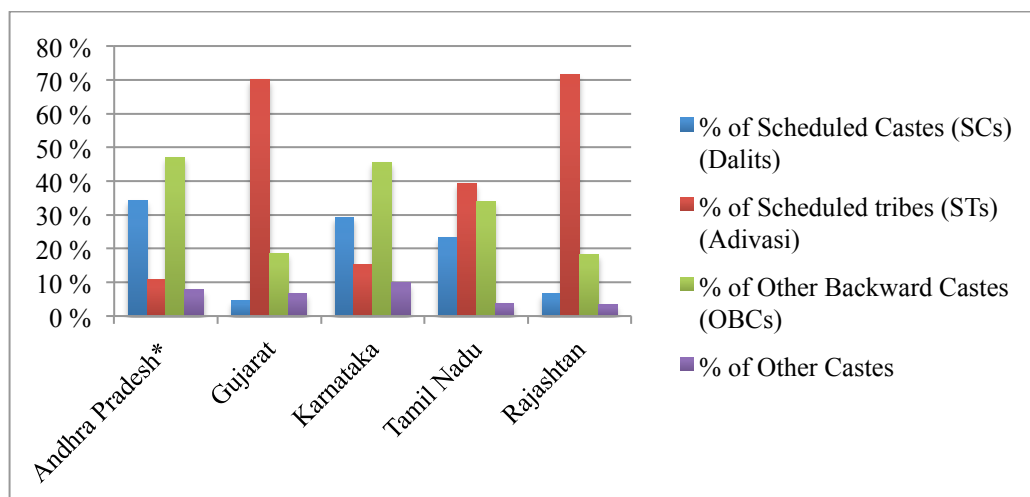


Figure 16. Caste composition of working children in cottonseed farms in percentages, (age below 14), in 2014-15.<sup>168</sup>

\*Including Telangana.

#### 5.4.5 Family Labour versus Hired Labour

According to the recent report published by India Committee of the Netherlands and Stop Child Labour Coalition, “there is a misconception, propagated by government and some seed companies, that most of the working children in seed production are family workers who help their parents during school holidays and before and after school hours.”<sup>169</sup> Still a majority of children in the cottonseed industry are working full time, often away from home.

<sup>166</sup> UNICEF (2001) ‘Beyond Child Labour: Affirming Rights’.

<sup>167</sup> Venkateswarlu (2015) ‘Cotton’s Forgotten Children: Child Labour and Below Minimum Wages’, p. 9.

<sup>168</sup> Ibid: p. 44.

<sup>169</sup> Venkateswarlu (2015) ‘Cotton’s Forgotten Children: Child Labour and Below Minimum Wages’, p. 6.

There has, however, been an increase in of family children in the total workforce in recent years—as small farmers tend to depend more on their own family labour, including their children—they still constitute a small portion of total working children. The average family (child) labour of all states combined is about 36% of the total workforce. To compare, in 2006-07, family labour constituted only 21.8% of the total labour force. Figure 17 shows the gradual increase of family child workers over the last years. As per 2014-15, only the state of Rajasthan has more family child workers than hired child workers (see Figure 18). Andhra Pradesh, Tamil Nadu and Karnataka show a substantial lower percentage of family labour (about 30% to the total workforce).<sup>170</sup>



Figure 17. Number of family child workers to the total workforce (of all six states) in percentages (age below 14).

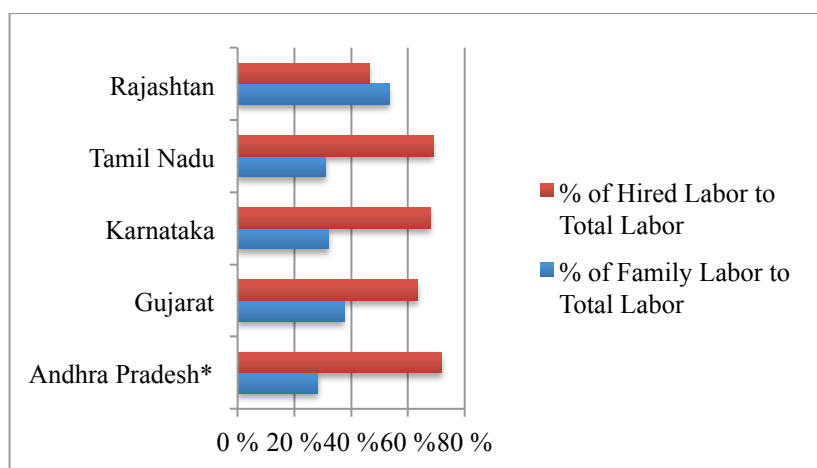


Figure 18. Family versus hired labour in percentages (age below 14), 2014-15.

\*Including Telangana.

<sup>170</sup> Ibid.

#### 5.4.6 Other

The large scale of child employment in the hybrid cottonseed production has an adverse impact on employment opportunities for adult labour and their subsequent working conditions. There tends to be widespread underemployment for adults in areas where cottonseed production is concentrated and this is especially true for women.<sup>171</sup> The obvious reason is that if farmers want to hire adult workers, they will have to pay them higher wages than the children. As a result, many agricultural (adult) workers are forced to migrate to urban areas in the search of wage work.

### Findings in Short

1. The number of school dropouts among children working in cottonseed farms is very high, in some states school dropouts comprise 62% of the total workforce;
2. Children who work instead of going to school often remain illiterate. This limits their ability to contribute to either their own individual or the community's wellbeing and promotes the inter-generational transfer of poverty;
3. Children working in the cottonseed sector are vulnerable to a number of profound health and safety hazards along various parts of the cotton production value chain;
4. Girls are more commonly kept out of school than boys. Therefore, the vast majority of child workers on the cottonseed farms are girls;
5. Most of the children working on cottonseed farms are from lower Castes such as Dalit and Adivasi, which are marginalized socially and economically. The weak economic positions of these families compel them to send their children to work;
6. Although denied by many cottonseed farmers, the gross of the child workers are 'hired workers' rather than 'family workers'. Children working for their families (after school hours, during holidays) are allowed to do so under national law, whilst children (under the age of 14) who have been *hired* to work on cottonseed farms are being exploited per definition. This is because national law prohibits *all* employment of children under 14 years of age, except for work in 'family enterprises' such as family farms.

<sup>171</sup> Venkateswarlu (2015) 'Cotton's Forgotten Children: Child Labour and Below Minimum Wages', p. 10.

## 6 Key Findings

- Child labour is pervasive throughout India, and especially so in the agricultural sector. Millions of children across the country can be found working in hazardous conditions or under the minimum acceptable age, despite national and state laws to the contrary. National and state law offers distinctly weaker protection than what is afforded to children by international instruments.
- India's agricultural sector has been subject to a number of major developments over the last ten years, many of which have impacted on the scale and nature of child labour. This includes the rapid growth of the hybrid cottonseed sector, which is known for its propensity to use child labour, specifically young girls. Hybrid cottonseed coincided with a gradual shift in production from large commercial farms to small family farms in rural and remote tribal areas, which negatively impacted on child labour by rendering it more informal and less detectable.
- The major causes of child labour in the cottonseed industry seem to be poverty and ensuing debts of parents leading to children's bonded labour, the labour intensive work with hybrid cotton seeds, which drives the sector's need for a low cost work force (motivating the hiring of children, especially girls), and an interplay of corruption and weak legislation, as well as lacking capacity for enforcement.
- In recent years (2011), the number of child workers in India has dropped for the first time in 20 years. According to the official Census of India, there were 12,6 million child workers in 2001 compared to 4,3 million in 2011. UNICEF and many NGOs, however, operate with estimates that lie between 28 and 60 million child workers. This considerable difference in numbers may be accounted for the lack of a clear definition of what constitutes child labour and that many child labourers work in the informal economy or household-based units.
- Notwithstanding the difficulty of establishing the *exact* number of child workers, several studies indicate a decreasing trend of child labour in the hybrid cottonseed sector in all Indian cottonseed-producing states. Child labour in the cottonseed farms, however, remains a serious problem with a quarter of the total workforce still consisting of children below 14 years of age and many of these are employed in conditions deemed as hazardous.
- The Indian hybrid cottonseed sector is controlled by multinational companies and large national companies, with the former gradually becoming more dominant. The multinational companies seem to have a better track record than national companies with respect to preventing or reducing the numbers of children employed within their organizations. This may well be the result of the high levels of scrutiny the multinational companies are subject to. Risk of reputational damage, resulting from criticism by civil society and other stakeholders in the past couple of decades, has led multinational companies to adopt stricter child labour policies.
- There also appear to be differences in *how* the multinational and national companies design and implement measures to address child labour. The multinational companies seek to implement the UN Guiding Principles (UNGP) and UN Global Compact in their business practices. By developing effective monitoring mechanisms, multinational companies appear to be able to



implement their policies on child labour more successfully. The major Indian companies seemed to lack corporate child labour policies.

- Although companies involved in the cottonseed-producing sector can be expected to bear responsibility for preventing child labour within their supply chain, it is difficult to say to what degree this responsibility extends. It would be easier for companies to prevent child labour within the farms that they have *direct* contracts with. *However*, the supply chain has numerous levels, and regulation on the part of the companies becomes much harder to manage.
- Child labour touches upon a range of social issues. Education and child labour are closely interlinked as illustrated by cottonseed farm practices. The number of school dropouts among children working on cottonseed farms is very high. In almost all cottonseed producing states, the majority of the total workforce comprises of school dropouts. This supports the presumption that children who dropout of school often lack knowledge and are highly vulnerable to exploitation. In addition, children working on the cottonseed farms are exposed to various health risks. These risks include: poisonous pesticides, heat, and exhaustion.
- Most children working on the cottonseed farms are girls. Farmers prefer girls as they are cheaper than ‘boy-labour’, easy to control, and due to their delicate fingers. Moreover, boys in general are sent to schools more often than girls. The working children are mostly from lower Castes, such as Dalit and Adivasi.
- A general finding of the report concerns a lack of data and information available on child labour in the cottonseed sector. Even when there is documentation and data available it offers two distinct challenges. Firstly, there are often diverging findings and results with regard to child labour. Different actors come to different conclusions. The second challenge concerns source bias and reliability. Much of the material in the public realm concerning child labour is produced by actors who could be said to have a vested interest. This includes governments and companies who, generally, have an interest in seeing positive developments while civil society organisations and activists tend to focus on the more negative aspects.

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