



**June 2006**

## **Information on Pakistan**

### **Compliance with ILO Convention No.29 on Forced Labour (ratified in 1957)**

#### **Forced and bonded labour**

##### **The legal framework**

In 1989, the Supreme Court ruled that employers should not give large loans to labourers at the beginning of their employment which they have to pay back in full before being released by the employer, a system called *peshgi*:

*“Peshgi system in future is to be discontinued...the [owner] shall give to the labourer an advance loan which shall not be in any case more than seven days wages...if a loan is not settled no additional loan is to be given...”*

The Bonded Labour System (Abolition) Act, 1992 and the Bonded Labour System (Abolition) Rules, 1995 go further and completely outlaw bonded labour, cancel all existing bonded debts, and forbid lawsuits for the recovery of such debts.<sup>1</sup> The Act also makes child bonded labour punishable with up to five years in prison and up to Rs. 50,000 (\$840) in fines.

In September 2001, the Pakistani government formulated a five year National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers. A fund of Rs 100 million (US \$1.5 million) was allocated towards the implementation of the Plan.

Yet, 14 years after the passage of the Act and five years after the approval of a comprehensive National Action Plan, bonded and forced labour remains widespread in various industries in Pakistan, as highlighted by numerous reports in recent years.

##### **The scope of forced labour in Pakistan**

###### **Forced and bonded labour in agriculture**

In Attock (Punjab), an ILO Rapid Assessment team found a consistent pattern in which tenants are expected to work for free on the landlord's crops as well as on the crops they share with the landlord. The tenant is also obliged to report for work at any

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<sup>1</sup> The Act states: “Every obligation of a bonded labourer to repay any bonded debt, or such part of any bonded debt as remains unsatisfied...shall stand extinguished...No person shall make any advance under the bonder labour system...”

time should the landlord need him, and is expected to provide free labour (not necessarily to tend to the crops) to the landlord almost daily. The tenant receives virtually nothing for his labour except for one meal and a cup of tea after a full day's work. To compound the situation further the landlord usually does not contribute to the input costs of farming, therefore in some cases even when a tenant has had a good crop he has virtually nothing left for himself and his family, once he has given the landlord his share of the crop (usually 50 per cent) plus the amount required to pay back the loan.<sup>2</sup>

In Sindh, women suffer most from the bonded labour system. In addition to a full day's work in the field, they are expected to attend to their own household chores as well as their landlord's chores. Working in their landlord's house leaves them vulnerable to sexual abuse by the male members of the landlord's house. Threats and the use of violence against the workers were the principal reason given by bonded labourers for escaping and seeking refuge in camps in Hyderabad.<sup>3</sup>

In 2000, research by PILER estimated that the total number of sharecroppers in debt bondage across Pakistan to be over 1.8 million people.<sup>4</sup> A further 6.8 million people were estimated to be forced to provide compulsory labour for the landlord on their farm or house (*begar*<sup>5</sup>).

### **Bonded labour in brick kilns**

A 2004 survey of brick kilns in Punjab by the Federal Bureau of Statistics (supported by the ILO Social Finance Programme)<sup>6</sup> found that nearly 90 per cent of workers take advances/loans from the kiln-owner. When the employer is the creditor, the majority have outstanding debts of up to Rs.10,000 (\$167) but more than 10 per cent have debts of over Rs.25,000 (\$420). The vast majority had inherited their debt. They described their loan repayment period as indefinite with 75 per cent complaining of restrictions on seeking other jobs. Around 50 per cent also stated that permission was needed to move out of the kiln and that violence or the threat of violence was common.

Piece-rates (wages paid according to number of bricks produced) have not been brought into line with the national minimum wage, except in Punjab. Kiln registration has been slow, despite the fact that legislation was put in place by the Punjab government more than 20 years ago, declaring kilns to be factories and all labour to be workers. For the small number of kilns registered, the government has yet to ensure coverage under Social Security for those workers declared to be industrial workers or mobilise resources for kiln workers through the Workers Welfare Fund. According to information from the rapid assessment studies in 2004, workers in the brick kilns were not aware of the general legislation relating to bonded labour.

PILER's research indicated that there could be as many as one million brick kiln workers in bonded labour in Pakistan.

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<sup>2</sup> Bonded Labour in Agriculture: A Rapid Assessment in Punjab and North West Frontier, Pakistan. ILO, 2004

<sup>3</sup> Bonded Labour in Agriculture: A Rapid Assessment in Sindh and Balochistan, Pakistan. ILO, 2004

<sup>4</sup> PILER, *Bonded labour in Pakistan*, October 2000.

<sup>5</sup> *Begar* is the word used to refer to this traditional system of forced labour demanded by landlords.

<sup>6</sup> "Unfree Labour in Pakistan: Work, debt and bondage in brick kilns." ILO, 2004.

### **Bonded labour in mining**

Mines tend to be located in extremely remote areas where there is little other work available. Miners tend to be recruited by middlemen from the same area, making it very difficult for the miner to abscond. As one middleman told the ILO Rapid Assessment team, “Where will they hide from us? We know him and his family. He will have to move to a different province”.<sup>7</sup> Furthermore, it is common in the mining sector that these middlemen give advances (*peshgi*) to more than one family member so that if one were to flee the money can be recovered from other family members.

The ILO Rapid Assessment into the mining industry documents a range of exploitative measures contributing to debt bondage. Miners are typically paid on a piece-rate system, sometimes paid once the coal has been mined but often only once the coal has been sold. Also, miners are not paid if the coal is not of the right quality.

Miners are often not paid on time and the delayed payment results in them taking further loans to meet daily living expenses. Many miners feel that timely and regular payment of wages would greatly reduce the need to take advances to meet subsistence costs.

The original advance also rises due to workers having to pay for treatment for illnesses caused as a direct result of their work. Although compensation is usually paid for accidental death and for on-site accidents (although not the full amount of the loan taken), compensation is not paid for health problems caused by mining conditions. The former Minister of Labour, Omar Asghar Khan, took up this issue, but since his death no further progress has been made to categorise certain illnesses as occupational diseases linked to mining.

### **The social and economic context of forced labour in Pakistan.**

The number of people who pay *peshgi* back in full appears to be small. Part of the reason is the relatively large amount given as an advance. Furthermore, this advance tends to grow rather than decline as workers take on more loans to pay for one-off expenses, like medicine, or subsistence when wages are withheld or late. The *peshgi* ties the labourer to the employer and turns a seasonal worker to a year-round worker (as he must stay in order to pay back the loan). Migrant workers without family or local ties are much more likely to be given *peshgis* than local workers.

In brick kilns the average *peshgi* seems to be approximately Rs.5000-10,000 (\$84-168) per adult worker,<sup>8</sup> whilst in the mining industry it ranges from Rs.5000-50,000 (\$84-840), depending on the district.<sup>9</sup> While *peshgi* is present in some sectors, other forms of forced labour are also used in Pakistan which are not associated with the *peshgi* system, such as *begar* in agriculture.

Pivotal to the existence of both bonded and other types of forced labour in Pakistan is the social context of the problem. Landlessness has increased steadily in the Sindh in the last twenty years and in 1999 affected some 69 per cent of rural households. In

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<sup>7</sup> Rapid Assessment of Bonded Labour in Pakistan’s Mining Sector, ILO, 2004

<sup>8</sup> “Unfree Labour in Pakistan: Work, debt and bondage in brick kilns.” ILO, 2004

<sup>9</sup> Rapid Assessment of Bonded Labour in Pakistan’s Mining Sector. ILO, 2004

Punjab the number of landless households in 1999 was estimated at 55 per cent.<sup>10</sup> Given the lack of alternative employment options, more than 40 per cent of the rural population is employed in agriculture, this leaves most households with little alternative but to become bonded labourers for local landlords.

It is estimated that in rural Sindh 37 per cent of the population are living below the poverty line<sup>11</sup> and the infant mortality is 114 deaths per 1000 live births. Different research reports, including the 2000 survey carried out by the Asian Development Bank, have indicated that where the majority of the population lack basic amenities there is also a high incidence of bonded labour. This survey found that amongst respondents, the female literacy rate was below 10 per cent and less than 20 per cent of school age children attend school.<sup>12</sup>

Extreme poverty and lack of other employment options is particularly acute for “low” caste Hindus and Muslims, who are disproportionately affected by bonded and forced labour.

While released bonded labourers have been provided with temporary shelter in seven camps around Hyderabad City, many of these families are still waiting for rehabilitation. The living conditions in the camps are very difficult and families remain vulnerable to reprisals, including threats and kidnapping, from their former landlords. Providing proper training and rehabilitation is essential if freed bonded labourers are to be prevented from falling back into forced labour situations.

### **Failure to implement the law**

While some organisations estimate that about 30,000 bonded labourers have been released between 1990 and 2005, the non-governmental organisation PILER has only been able to document the release of some 8,530 people during this period.<sup>13</sup>

A total of 5,687 bonded labourers were released from the agricultural sector while 2,715 were released from brick kilns. The vast majority of these releases were achieved through judicial intervention often in combination with NGOs and local state authorities. Only 563 individuals were released solely through state intervention (for example, district magistrates, police and/or bailiffs acting on complaints).

However, almost all of these bonded labourers were released under *habeus corpus* petitions and not the Bonded Labour System (Abolition) Act. The failure of the judicial system to implement existing legislation and to sanction individual who use bonded labour is exemplified by the decision of 9 January 2002, by the High Court of Sindh (Circuit Bench at Hyderabad)

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<sup>10</sup> Social Policy and Development Centre, Growth, inequality and poverty, Oxford University Press , Karachi , 2001. Quoted in Zulfiqar Shah, *op.cit.*, page 27.

<sup>11</sup> ILO, Bonded Labour in Agriculture, Rapid assessment in Sindh and Balochistan, 2004. Quoted in Zulfiqar Shah, *op.cit.*, page 32.

<sup>12</sup> Quoted in Zulfiqar Shah, *op.cit.*, page 33.

<sup>13</sup> Zulfiqar Shah, *op.cit.*, page 7. Statistics are based primarily on information from the Human Rights Commission of Pakistan (HRCP) and newspaper reports.

The court dismissed all of 94 cases, the great majority of which were filed by bonded labourers for their release, on the basis that “living beyond ones means and being in a state of continuous debt has become the main reason for such disputes and the resultant emergence of petitions.” It declared that the cases were disputes between landlords and *haris* over debts and should be settled under the Sindh Tenancy Act 1950. The Human Rights Commission of Pakistan (HRCP) noted that most of the cases relate to complaints about the detention of bonded labourers rather than disputes over the terms and conditions of tenancy.

The court made no reference to the Bonded Labour System (Abolition) Act 1992 which should take precedence in this situation as it states that no person shall make any advance pursuant to the bonded labour system or compel someone to render bonded or any form of forced labour. The 1992 Act sets all bonded labourers free and nullifies all bonded debts.

The ruling therefore had the effect of negating the Bonded Labour System (Abolition) Act, 1992 and although a bench of the Supreme Court, Karachi Registry allowed an appeal on 26 March 2003, it did not suspend the January judgement of the Sindh High Court and the appeal has still not been heard.

One positive recent legal decision worth highlighting relates to the kidnapping of nine members of Mano Bheel’s family in 1998. In a statement recorded by a judicial magistrate in December 2005, Nathoo Bheel, who acted as farm manager for the accused landowner, Abdul Rehman Marri, stated that he accompanied Marri in 1998 and kept the nine kidnapped victims in his home for four days on the landlord’s orders. In the High Court on 25 April 2006, the Judge concluded that the police investigation had not been carried out properly and that Abdul Rehman Marri, who absconded to Saudi Arabia, was not co-operating with the prosecution. The Judge therefore withdrew his bail and warrants have been issued and sent to the Ambassador of Saudi Arabia.<sup>14</sup> At the time of writing Mano Bheel’s family still had not been found.

Statistics provided by the Government to the National Assembly show that only 23 cases have been detected under the Bonded Labour System (Abolition) Act and only Rs 6,100 were collected in fines.<sup>15</sup> This clearly shows that the law is not being properly implemented.

### **Failure to implement the National Plan of Action**

The Government’s National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers which was approved in 2001. It sets out the following tasks: a national survey to identify the extent of bonded labour; implementation of the law and release of bonded labourers; restructuring and monitoring of the Vigilance Committees (nominally established in the mid-1990s, but actually non-existent); awareness raising; the involvement of social partners; and the preparation of rehabilitation programmes for freed bonded labourers and relief packages for *haris* living in camps.

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<sup>14</sup> For more details see Nasir Iqbal, Mano Bheel case taken up by SC, *Dawn*, 25 April 2006 and Ahmed Raza, SHC cancels bail before arrest of landlord, *Daily Times*, 26 April 2006.

<sup>15</sup> Zulfiqar Shah, *op.cit.*, page viii.

Secure shelter remains the most urgent need, since those *haris* who take refuge in camps continuously face the threat of eviction by local administration and kidnapping by landlords. Other items listed in the Plan include elementary camp infrastructure for education, health, water and sanitation; national identity cards for migrants; and state assistance for judicial redress.

In its latest report to the ILO, the Government highlights initiatives that it is taking or contemplating within the framework of its National Plan, including:

- establishing of a Legal Aid Service Unit in the Labour Departments of Punjab and NWFP with a toll free help line and legal experts to provide advice and assistance to bonded labourers;
- launching a scheme to construct low-cost housing for freed bonded labour families in the agricultural sector of Sindh, which will provide shelter to these families and contribute to their rehabilitation;
- organising training workshops for key district government officials and other concerned stakeholders to enhance their capacity and enable them to draw up district-level plans to identify bonded labourers and activate the district vigilance committees;
- incorporating the issue of bonded labour into the syllabi of judicial, police and civil service academies, in order to help sensitise these officials to the problem, and holding capacity-building seminars.

Despite the positive and comprehensive proposals for tackling bonded labour set out in the National Plan and in the recent proposals highlighted above, it remains the case that the majority of these measures are still awaiting implementation. The Rs.100 million allocated to the Plan of Action remains unspent, with the Government reporting in 2005 that work had started on making the Fund functional via the development of a manual which would explain how to prepare project proposals.

Although the Government carried rapid assessments on bonded labour in ten sectors<sup>16</sup> in 2002, this was meant to be the first phase of a larger research programme and was intended to lay the groundwork for detailed sector studies and a national survey to determine the incidence of bonded labour across Pakistan. The national survey still has not taken place.

PILER found in their research that, despite the fact that the Bonded Labour (Abolition) Act requires Vigilance Committees to be set up in every district, committees had only been formed in a few districts. Following pressure from civil society and local organisations the provincial governments of Sindh and Punjab reported the establishment of 18 district Vigilance Committees between January and July 2004. However, the effective functioning of even the limited number of Vigilance Committees is questionable as only one committee (the district vigilance committee in Hyderabad) had convened an initial meeting by mid 2004.<sup>17</sup>

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<sup>16</sup> The ten sectors are: agriculture, construction, carpet weaving, brick making, marine fisheries, mining, glass bangles, tanneries, domestic work and begging.

<sup>17</sup> Zulfiqar Shah, *op.cit.*, page 52.

The failure of the Vigilance Committees to meet and function effectively is part of the reason why the Bonded Labour (Abolition) Act has not been implemented effectively (see above). Both the All Pakistan Federation of Trade Unions (APFTU) and the Pakistan Institute of Labour Education and Research (PILER) have identified the lack of adequate labour inspection machinery as another reason why bonded labourers are not being identified and released and the Act is not being enforced.

For example, many local governments have not performed even the simple act of registering kilns as factories or labour as workers thereby denying them the limited protection of labour legislation. Under new industrial policy, labour inspectors are not permitted to visit industrial units to check implementation of industrial laws, including health and safety checks.<sup>18</sup> The Punjab government banned inspections since 2002, replacing them with annual self-assessment forms, removing one of the key mechanisms for detecting bonded labour.

Labour organisation and collective bargaining are key to tackling bonded labour and other forms of exploitation in the long term. However, the new Industrial Relations Ordinance (IRO 2002) expands the categories of labour that are excluded from the right to form trade unions and engage in collective bargaining.

### **Conclusions and recommendations**

Five years after the National Policy and Plan of Action for the Abolition of Bonded Labour and Rehabilitation of Freed Bonded Labourers was approved the majority of the Plan still has not been implemented.

The Bonded Labour System (Abolition) Act has not been efficiently applied thereby leaving millions of people in bonded labour. It is important to note that in the relatively small number of cases where bonded labourers have been released the role has not been filled by Vigilance Committees even though this is the institution required by law to perform this role.

Anti-Slavery International is not aware that any landlord or employer has faced prosecution for the use forced labourer despite the obligation on Pakistan under Article 25 of ILO Convention No.29 to “ensure that the penalties imposed by law are really adequate and are strictly enforced”.

The failure of provincial government and the judiciary to take effective action against those using bonded labour has allowed them to continue to act with impunity and bolstered their determination to defy what they consider “unrealistic” legislation.

In view of the above, we would urge the Government of Pakistan to:

1. Provide the ILO with detailed information regarding the effective implementation of the National Plan of Action, progress made and practical results achieved, including all activities and mandates referred to in the Plan. This information should include the status of: the national survey on the extent

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<sup>18</sup> Zulfiqar Shah, Analysis of Interventions in Bonded Labour in Pakistan: Desk and Field Research (Draft Report), PILER, Karachi, 2005, page 52.

of bonded labour in Pakistan; the restructuring of the Vigilance Committees; the number of labour inspections carried each year by industry and region; the creation of legal aid cells; the registration of all brick kilns; and the preparation of the rehabilitation programme (all of which should have been completed in 2002).

2. To take active steps to ensure prosecution of employers under bonded labour legislation. Such action should include reviewing and amending where appropriate legislation to remove any ambiguities relating to how the 1992 Act should be interpreted and publishing data from each of the provinces regarding the enforcement of the Act, including the number of prosecutions, successful convictions and sentences passed against those using bonded labourers.
3. The Government also needs to consider long term solutions to tackle forced and bonded labour which would include addressing issues of poverty, social exclusion, land ownership, discrimination and the ability of workers to organise themselves to better protect their rights.