

# INDIA

## SMALL CHANGE Bonded Child Labor in India's Silk Industry

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*At 4:00 a.m. I got up and did silk winding. . . . I only went home once a week. I slept in the factory with two or three other children. We prepared the food there and slept in the space between the machines. The owner provided the rice and cut it from our wages. He would deduct the price. We cooked the rice ourselves. We worked twelve hours a day with one hour for rest. If I made a mistake—if I cut the thread—he would beat me. Sometimes [the owner] used vulgar language. Then he would give me more work.*

—Yeramma S., eleven years old, bonded at around age seven for Rs. 1,700 (U.S.\$35) Karnataka, March 27, 2002

*This is the thing that God blessed me with, so I have to work like this. I can't do something else. . . . It is written on my head and nobody can change this. I am born into this community so we don't know what else to do. We have to do this and nothing else. . . . I don't want to go to the looms, but there is no other way.*

—Vimali T., fifteen-year-old low-caste girl, bonded to a loom owner for Rs. 8,000 (U.S.\$167), Kanchipuram, Tamil Nadu, March 21, 2002

*Children are very compliant. They don't demand minimum wage, create a union. You can lock them up and keep them from going home. Adult laborers take breaks for lunch, to smoke, but children will work the whole day without breaks. They are seen as more efficient workers. On the one hand they are afraid of the employer, on the other of their parents, so they just do as they are told.*

—Director of a nongovernmental organization running schools for former child laborers, Varanasi, Uttar Pradesh, March 12, 2002

*[S]ericulture is a labour-intensive industry. . . . India, with its population explosion has no labour problem. Sericulture does not require great skill but only delicacy in the handling of the worms and it is ideally suitable for the unskilled family labour, particularly womenfolk, aged, handicapped and children.*

—1997 sericulture textbook (G. Ganga and J. Sulochana Chetty, Thiagarajar College, Madurai, Tamil Nadu, *An Introduction to Sericulture*, 2d ed. (New Delhi: Oxford and IBH Publishing Co. Pvt. Ltd., 1997), p. 23)

## I. SUMMARY

Millions of children in India toil as virtual slaves, unable to escape the work that will leave them impoverished, illiterate, and often crippled by the time they reach adulthood. These are India's bonded child laborers. A majority of them are Dalits, so-called untouchables. Bound to their employers in exchange for a loan, they are unable to leave while in debt and earn so little they may never be free of it. The Indian government knows about these children and has the mandate to free them. Instead, for reasons of apathy, caste bias, and corruption, many government officials deny that they exist at all.

Somewhere between sixty to 115 million children are working in India, most in agriculture, others picking rags, making bricks, polishing gemstones, rolling beedi cigarettes, packaging firecrackers, working as domestics, and weaving silk saris and carpets. Since Human Rights Watch's first investigation in 1996, the Indian government has taken some positive steps to address the plight of working children and bonded laborers of all ages. At the same time, there are serious problems with implementation on the ground. In the last decade, efforts in some regions have driven bonded child labor out of factories and into households, which are partially exempt from the law, changing bonded child labor's manifestation but not its prevalence or intensity. In many areas, bonded child labor still flourishes openly.

In 1996 Human Rights Watch published *The Small Hands of Slavery: Bonded Child Labor in India*, a 179-page report documenting the use of bonded child labor in seven industries: beedi, silver, synthetic gemstones, silk, leather, agriculture, and handwoven wool carpets.<sup>1</sup> The report concluded that the Indian government had failed to study, accurately report, or acknowledge the incidence of bonded labor, child labor, and bonded child labor; to enforce its own laws, which taken together outlaw the use of bonded child labor and require rehabilitation of bonded laborers; or to implement its own policies that purport to combat child labor. In the silk industry, which had largely been ignored up to that point, Human Rights Watch found that nearly all child workers who were not the children of employers were bonded, and that the World Bank and the Swiss Agency for Development and Cooperation were financing sericulture projects dependent on this labor.

*Small Hands of Slavery* was published during a surge of attention to child labor and, to a much lesser extent, bonded labor. In December 1996 the Supreme Court of India issued a groundbreaking decision outlining a detailed framework for punishing employers of children in hazardous labor and for rehabilitating the children. In 1997 the Court ordered India's National Human Rights Commission (NHRC) to supervise states' implementation of the bonded labor law; the NHRC then began appointing special rapporteurs who applied pressure in certain regions and industries. State governments were obliged to conduct surveys on bonded labor and child labor, although the numbers reported were widely regarded, including by the Supreme Court, as gross underestimates. There were some high-profile raids on employers. A few were prosecuted, but only a tiny handful produced convictions. Almost no employers actually went to prison.

The World Bank also began paying greater attention to child labor, appointing staff dedicated to the issue and promising to coordinate with the United Nations Children's Fund (UNICEF), the International Labour Organization (ILO), and other bodies. The Bank-funded sericulture projects that Human Rights Watch investigated in 1996 ended and were not extended. In 1998, the Bank published suggested measures to address child labor and has promised to require compliance with domestic child labor laws. However, Bank staff told Human Rights Watch in 2002 that child labor issues are on the "backburner" in India.

Through the efforts of both government bodies and nongovernmental organizations (NGOs), public awareness in India that bonded labor and child labor in hazardous occupations are illegal and harmful increased. While states continued to deny the presence of bonded labor in their territories and grossly underestimated the use of child labor and bonded labor, by the late 1990s, the steps taken were at least promising.

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<sup>1</sup> Human Rights Watch, *The Small Hands of Slavery: Bonded Child Labor in India* (New York: Human Rights Watch, 1996), <http://hrw.org/reports/1996/India3.htm>.

But by 2003, most government promises had not materialized. States were still rarely freeing and rehabilitating bonded laborers, and the central government, with the exception of the NHRC, was acquiescing to states' inaction. Many government efforts never reached beyond high-profile industries like carpets and beedi, and are now stalled. According to Joseph Gathia, director of the Centre of Concern for Child Labour, "We are now in a state of purgatory. We have to put in more effort or we will recede."<sup>2</sup>

At all levels of government, the political will to fully implement positive changes in law and policy is lacking. Almost all government officials whom Human Rights Watch interviewed for this report denied that children were bonded. Then-Labour Secretary Vinod Vaish declared:

The words "bonded labor" and the word "child labor" are O.K. But not "bonded child labor." . . . I don't think that we have many cases of bonded child labor. This is not a widespread problem. I admit that the use of child labor prevails. It is part of a family setting in an agricultural situation. Children are helping the family.<sup>3</sup>

And K. Chandramouli, the Ministry of Labour's joint secretary for child labor, told Human Rights Watch: "I haven't heard too much that this is a problem—I have heard of bonding older people but not any kids."<sup>4</sup>

Statistics on bonded and child labor held by the Ministry of Labour vary widely from those held by states, demonstrating the government's failure to collect accurate data and its gross underrepresentation of the problem.

Both the central and state governments are now backing away from their limited efforts to enforce the child labor law: with the notable exception of a few individuals, most government officials with whom we met took a dim view of the value of better law enforcement. Some argued that families need the children's income and that children would be pushed into more marginal and dangerous occupations. Others contended that law enforcement was irreparably ineffective and, therefore, not worth pursuing, even when they were themselves responsible for ensuring effective law enforcement. The Ministry of Labour does not even advocate prosecuting employers, relying instead on "awareness raising" and funding transitional schools that reach a tiny fraction of children outside the formal education system. Labour Secretary Vaish told Human Rights Watch, "Our approach in the last four years is a promotional and educational approach, not prosecutions and punishment. We have to convince parents that it is not right to send their child for labor and not for school. Our entire program is based on this approach."<sup>5</sup> And Joint Secretary K. Chandramouli said: "Now in the present situation, I don't think this particular kind of action [prosecution of employers] needs to be taken. Either [employers] have learned to circumvent the law or else they are not employing children."<sup>6</sup>

The NHRC's involvement is very positive, and some children have been freed and rehabilitated in the few areas that it has focused on. However, its resources and power are limited. The NHRC is not a law enforcement agency and cannot substitute for those who are legally responsible for enforcing the law.

Rehabilitation of bonded child laborers is critical—without it, children who are freed are likely to become bonded again. Legally mandated rehabilitation programs for both bonded and child labor remained promising but extremely limited. Money alone is not the problem: government money allocated for rehabilitating bonded

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<sup>2</sup> Human Rights Watch interview with Joseph Gathia, Director, Centre of Concern for Child Labour, New Delhi, April 1, 2002.

<sup>3</sup> Human Rights Watch interview with Vinod Vaish, Secretary, Ministry of Labour, Government of India, New Delhi, April 2, 2002. Secretary Vaish was replaced P.D. Shenoy in June 2002, when he was appointed Secretary of the Department of Telecommunications.

<sup>4</sup> Human Rights Watch interview with K. Chandramouli, Joint Secretary for Child Labour, Ministry of Labour, Government of India, New Delhi, April 2, 2002.

<sup>5</sup> Human Rights Watch interview with Vinod Vaish, Secretary, Ministry of Labour, Government of India, New Delhi, April 2, 2002.

<sup>6</sup> Human Rights Watch interview with K. Chandramouli, Joint Secretary for Child Labour, Ministry of Labour, Government of India, New Delhi, April 2, 2002.

laborers and for establishing transitional schools for child workers (National Child Labour Project schools) remains unspent each year. Instead, the problem is political will.

Schools run by international and domestic NGOs designed to get former child workers back into formal schooling have had positive effects in the limited areas where they operate. However, most children do not have access to these schools, and the programs are not getting the government support, especially from law enforcement, that they need. Without protection and support from the government, bonded children cannot leave their employers to attend school. Even where children are able to reach the schools, they may face harassment and pressure from employers to return to work. They are also still held accountable for their debts, which families may negotiate to pay by passing the debt on to another sibling who will labor in the child's place. Tellingly, eight years after former Prime Minister Narasimha Rao announced that two million children would be removed from hazardous labor by 2000, the secretary of the Ministry of Labour told Human Rights Watch that the goal had been pushed back to 2005.<sup>7</sup>

This report documents what has happened since Human Rights Watch's 1996 report, focusing on bonded child labor in India's silk industry. Human Rights Watch chose to focus on the silk industry because it has received relatively less attention by the NHRC and the international community than other industries such as handwoven carpets; because it has an export market; because it is present in various states; and because the Indian government, by heavily regulating and subsidizing the industry, is in an especially favorable position to intervene to stop the use of bonded child labor.

Boiling cocoons, hauling baskets of mulberry leaves, and embroidering saris, children are working at every stage of the silk industry. Conservatively, more than 350,000 children are producing silk thread and helping to weave saris. These stages are the focus of this report because they are the stages most reliant on bonded children. The children work twelve or more hours a day, six and a half or seven days a week, under conditions of physical and verbal abuse. Starting as young as age five, they earn from nothing at all to around Rs. 400 (U.S.\$8.33) a month, some or all of which is deducted against loans ranging from around Rs. 1,000 to 10,000 (U.S.\$21 to \$208).<sup>8</sup>

In the factories and workshops that make silk thread, children suffer injuries from the machines and from sharp threads. Sericin vapors from the boiling cocoons, smoke, diesel fumes from the machines, and poor ventilation cause respiratory ailments such as chronic bronchitis and asthma. From immersion in scalding water and handling dead worms, reelers' hands become raw, blistered, and sometimes infected. Twelve-year-old T. Basheer worked in a silk reeling unit until twenty-five days before we interviewed him at an NGO-run day school. "Boiling water falls on your hand," he told us. "You are always in water, standing in it. The skin on your hands and feet peels off. It gets loose."<sup>9</sup> Anesha K., eleven years old, started working when she was nine and had been at an NGO-run residential school for four months when we interviewed her. She showed us lumpy scars on her hands and explained: "I didn't like working because my hands would get infected. I got holes in my hands because I put them in the hot water and then they got infected. I couldn't eat. I had to eat with a spoon."<sup>10</sup> Anesha K.'s shins, ankles, and feet were covered with burn scars from boiling water.

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

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<sup>7</sup> Human Rights Watch interview with Vinod Vaish, Secretary, Ministry of Labour, New Delhi, April 2, 2002.

<sup>8</sup> The exchange rate is calculated at Rs. 48/U.S.\$1. Where U.S. dollar amounts are greater than \$10, amounts are rounded to the nearest dollar.

<sup>9</sup> Human Rights Watch interview with twelve-year-old boy, Ramanagaram, Karnataka, March 29, 2002. All children's names have been changed to protect their identities.

<sup>10</sup> Human Rights Watch interview with eleven-year-old girl, Ramanagaram, Karnataka, March 29, 2002. Many Indians eat with their right hand and do not use silverware.

Children frequently complained that employers beat them and abused them verbally. Nine-year-old P. Ningamadiah told Human Rights Watch: “At work the supervisor used to beat me with a belt. He tied me up and beat me with a belt on my back. He did this two or three times. . . . He tied a chain that was attached to the wall to my leg.”<sup>11</sup>

Both boys and girls are bonded in the silk industry. However, girls’ work tends to be less visible. Girls, especially in Muslim families, may have the work brought to them in their homes instead of going out to work; this places them outside the protection of the child labor law. Girls typically perform household labor in addition to income-generating work; household labor is typically not shared by boys and is often not considered to be work at all. Where girls do go out to work, as in Kanchipuram, they are more likely to remain lower-paid assistants, less likely to become weavers. Girls are also less likely to be sent to school and may be less likely to access remedial programs, such as night schools, that do not take into account additional barriers including limitations on their ability to travel at night or for long distances to reach a school. Abuses against girls, including sexual abuse by employers, are noted throughout the report.

Human Rights Watch’s investigation covered three states prominent in the silk industry. In the northern state of Uttar Pradesh, most attention has been paid to child labor in the carpet industry, but the limited attention to silk has pushed the child labor that was in factories into individual homes. In Tamil Nadu in the south, which has identified more bonded laborers than any other state, the state government has simply abandoned the Supreme Court’s rehabilitative framework for any children found working in hazardous occupations after 1997, in clear violation of the Court’s order. In Kanchipuram, a major silk sari weaving area in Tamil Nadu, child bondage is open, and the district collector, instead of prosecuting employers, has opened night schools for working children. In the southern state of Karnataka, silk thread production still depends almost entirely on bonded children. The state government has promulgated a plan to eliminate all child labor; this plan was not in operation at the time of Human Rights Watch’s investigation.

### **Poverty, Education and Caste**

Poverty contributes to bonded child labor, but it is not the only cause. A lack of access to credit and lack of a concerted social welfare scheme to safeguard against hunger and illness; inaccessible, low quality, and discriminatory schools; the lack of employment and living wages for adults; corruption and apathy among government officials; and historical economic relationships based on the hierarchy of caste are other key elements. Moreover, bonded children are likely destined for poverty as adults, and likely to bond their own children in order to survive. Fourteen-year-old Ashish M. told Human Rights Watch that he could not leave his loom owner because he was paying off an advance, which in two years he had reduced from Rs. 2,500 (U.S.\$52) to Rs. 475 (\$9.90). “The owner pays but deducts for the advance,” he said. “He deducts but won’t write off the whole advance. . . . We only make enough to eat.”<sup>12</sup> With wages too low to survive, workers are forced to keep borrowing from their employers, ensuring that they never pay off all of their debts, even though their labor has, in fact, paid them many times over. And as NHRC Special Rapporteur Chaman Lal explained, “poverty is one of the causes of child labor but also one of the consequences—because it is so cheap it causes adult unemployment and wage suppression.”<sup>13</sup>

The current attention to education is a critical step in addressing child labor, even though there is a long way to go before all children have access to quality, nondiscriminatory education. Along with the Indian government, many organizations, including domestic and international NGOs, the World Bank, the United States (U.S.) Department of Labor, and United Nations (U.N.) bodies are funding and running education programs. These efforts are commendable. But they will bypass children working under force, including bonded children, without legal compulsion of employers. The Indian government itself must enforce its own laws. These other organizations must strongly urge the government to do so, if their own programs are to succeed.

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<sup>11</sup> Human Rights Watch interview with nine-year-old boy, Magadi, Karnataka, March 27, 2002.

<sup>12</sup> Human Rights Watch interview with fourteen-year-old boy, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>13</sup> Human Rights Watch interview with Chaman Lal, Special Rapporteur on Bonded Labour and Child Labour, National Human Rights Commission (NHRC), New Delhi, March 11, 2002.

One of the foundations of bonded labor is the caste system, through which a traditional expectation of free labor, lack of land, and the threat of violence and social and economic boycotts from upper castes conspire to keep many so-called untouchables, or Dalits, in bondage and a perpetual state of poverty.<sup>14</sup> Nationwide, the vast majority of bonded laborers are Dalits; almost all bonded children interviewed for this report were Dalit or Muslim. Dalits are generally in a state of economic dependency that, when combined with the threat of, or actual, violence, prevents them from reporting abuses against them—including being held in bondage—or from getting justice if they do. Human Rights Watch has extensively documented police abuse of Dalits, religious minorities, women, and street children, among others.<sup>15</sup> The need for widespread police reform has also been documented by numerous Indian human rights groups and the NHRC, and is part of the larger problem of people's inability to access justice.

Thus, while education and poverty-reduction programs are extremely important, if the caste aspects of bonded labor are not addressed, these programs will not change the actual power dynamics and economic relationships that perpetuate bonded labor in India.

### India's Legal Obligations

Both Indian and international law prohibit the use of bonded child labor. As a party to international instruments such as the Convention on the Suppression of Slave Trade and Slavery; the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the Forced Labour Convention; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; and the Convention on the Rights of the Child, India is obliged to prohibit all forms of slavery, including debt bondage, child servitude, and forced labor, as well as affirmatively protect children from economic exploitation and hazardous work. Bonded child labor is also specifically identified as among the “worst forms of child labour” by ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which India has not ratified.

India must also take measures to realize its commitments under international law to provide free and compulsory primary education and available and accessible secondary education to every child.

Indian law has long prohibited bonded labor, and regulated and restricted child labor up to age fourteen. The practice of bonded child labor violates various provisions of Indian law, including the constitutional rights to life and liberty; the prohibition on trafficking, *begar* (explained below, section “Indian Law”), and other similar forms of forced labor; the prohibition on employment of children under age fourteen in factories, mines, or other hazardous occupations; and other constitutional protections for children.<sup>16</sup> Labor by children under age fourteen in industries deemed hazardous, including all aspects of the silk industry, is expressly forbidden.

Since the Indian Supreme Court's December 1996 decision in *M.C. Mehta v. State of Tamil Nadu & Ors.*, states have been obligated to identify children employed illegally, including those in work the Child Labour Act deems as “hazardous” and prohibits entirely; to remove the children, fine the employer Rs. 20,000 (U.S.\$417),

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<sup>14</sup> Human Rights Watch has extensively documented caste-based violence and discrimination, and the connection with bondage in India and elsewhere. See Human Rights Watch, *Broken People: Caste Violence Against India's “Untouchables”* (New York: Human Rights Watch, 1999), <http://www.hrw.org/reports/1999/india/>; Human Rights Watch, “Caste Discrimination: A Global Concern,” A Human Rights Short Watch Report, vol. 13, no. 3(g), August 2001, [http://www.hrw.org/reports/2001/globalcaste/caste0801-03.htm#P292\\_53595](http://www.hrw.org/reports/2001/globalcaste/caste0801-03.htm#P292_53595); Human Rights Watch, *Contemporary Forms of Slavery in Pakistan* (New York: Human Rights Watch, 1995), <http://www.hrw.org/reports/1995/Pakistan.htm>.

<sup>15</sup> See, e.g., Human Rights Watch, “Epidemic of Abuse: Police Harassment of HIV/AIDS Outreach Workers in India,” A Human Rights Watch Short Report, vol. 14, no. 5(c), July 2002, <http://hrw.org/reports/2002/india2/>; Human Rights Watch, “‘We Have No Orders to Save You’—State Participation and Complicity in Communal Violence in Gujarat,” A Human Rights Watch Short Report, vol. 14, no. 3, April 2002, <http://hrw.org/reports/2002/india/>; Human Rights Watch, *Broken People*; Human Rights Watch, *Police Abuse and Killings of Street Children in India* (New York: Human Rights Watch, 1996), <http://hrw.org/reports/1996/India4.htm>; Human Rights Watch, “India: Communal Violence and the Denial of Justice,” A Human Rights Watch Short Report, vol. 8, no. 2, April 1996, <http://hrw.org/reports/1996/India1.htm>.

<sup>16</sup> Constitution of India, arts. 21, 23, 24.



and deposit the fines in a rehabilitation-cum-welfare fund; to use the income from the fund to rehabilitate the child; to either employ an adult family member or contribute an additional Rs. 5,000 (U.S.\$104) to the fund; and to prosecute employers. The Court ordered the Ministry of Labour to monitor the *M.C. Mehta* decision's implementation.

The Court further elaborated on this framework in 1997 in *Bandhua Mukti Morcha, et al., v. Union of India and Ors.*, ordering states to “evolve steps” to provide:

(1) compulsory education to all children either by the industries itself or in co-ordination with it by the State Government to the children employed in the factories, mine or any other industry, organised or unorganised labour with such timings as is convenient to impart compulsory education, facilities for secondary, vocational profession and higher education; (2) apart from education, periodical health check-up; (3) nutrient food etc. . . .

### **Scope and Methodology**

This report is not meant to be an exhaustive survey of all bonded child labor or implementation of the law in all of India. Rather, it is based on field investigations of bonded child labor in the silk industry in three states: Uttar Pradesh, Tamil Nadu, and Karnataka. Human Rights Watch chose these three states because they are major silk thread and sari producing areas, they illustrate varied involvement of the National Human Rights Commission, and they are geographically diverse. While the report focuses on silk, it could have been written about any number of industries. Additional research could also be conducted on progress made by states with higher literacy rates and lower use of bonded child labor, such as Kerala, and NGO initiatives such as the M. Venkatarangaiya Foundation in Andhra Pradesh.

Human Rights Watch conducted research for this report in India in March and April 2002 and subsequently by telephone and electronic mail from New York. During the course of our investigation, we spoke with over 155 people, including fifty-four children, as well as teachers, parents, loom owners, traders, activists, academics, lawyers, and government officials at the district, state, and national levels. The youngest bonded child whom we interviewed was seven years old; however, children reported that they began work as young as age five. Almost all non-Muslim bonded children whom we interviewed belonged to Dalit and low-caste communities. In Karnataka, we interviewed children whom NGOs had withdrawn from work and placed in NGO-run residential schools, although many had been working until a few days or weeks before the date we interviewed them. We spoke with most children outside their workplaces. The names of all children have been changed to protect their privacy and preclude potential employer retaliation. In addition, some government officials and human rights activists requested anonymity, highlighting the sensitive nature of child bondage.

In this report, in accord with the Convention on the Rights of the Child, the word “child” refers to anyone under the age of eighteen.<sup>17</sup>

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<sup>17</sup> Article 1 of the Convention on the Rights of the Child defines as a child “every human being under the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.” Convention on the Rights of the Child, adopted November 20, 1989, G.A. Res. 44/25, U.N. Doc. A/RES/44/25 (entered into force September 2, 1990, acceded to by India December 11, 1991), art. 1.

## II. RECOMMENDATIONS

### Recommendations to the Government of India

The government of India should take all possible steps to enforce the child labor and bonded labor laws, and to ensure that bonded children are identified, freed, and rehabilitated, and their employers fined and prosecuted. All children should have access to quality, nondiscriminatory education. Specifically, the Indian government should:

- Immediately launch an investigation into the proper enforcement of the Bonded Labour System (Abolition) Act, 1976, and other relevant laws regarding bonded child labor. Such an investigation should address whether authorities have failed to enforce the act. If found to have ignored the act or behaved negligently, those authorities should be appropriately disciplined.
- Ensure that states and districts not only establish bonded labor vigilance committees, as required by the Bonded Labour System (Abolition) Act, 1976, but also that they oversee these committees to ensure that they function according to the law. The government should ensure that a sufficient number of qualified investigators be included in the committees to guarantee the act's implementation.
- Amend the Child Labour (Prohibition & Regulation) Act, 1986, to:
  - require all employers to have and show on demand proof of age of all children working on their premises. The employer should have the onus to show that any child employed is above the age of fourteen years, and failure to have adequate proof should constitute a separate violation of the act;
  - require all employers to keep a registry of all child employees with information on tasks performed, hours worked, and debts or advances owed;
  - remove the exemption for household enterprises, and government schools and training centers;
  - expand the act to include agriculture and informal sectors;
  - make violations cognizable, that is, that police can arrest without a warrant;
  - provide protections to all children under age eighteen.
- Define the age of majority consistently with international law. Set a minimum age for employment.
- Pressure states to rehabilitate children removed from hazardous occupations in accord with the Supreme Court's order in *M.C. Mehta v. State of Tamil Nadu & Ors.* Federal funds should be withheld from those states until they demonstrate adequate enforcement of the decision.
- Significantly strengthen and enforce punishment for violators of the Bonded Labour System (Abolition) Act, 1976, the Child Labour (Prohibition & Regulation) Act, 1986, and the Factories Act, 1948. This should include forfeiture of operating licenses, seizure of manufacturing equipment, and short and long-term closure of facilities, as well as increased fines and imprisonment.
- Vastly expand current efforts to train officials charged with enforcing the Bonded Labour System (Abolition) Act, 1976, and the Child Labour (Prohibition & Regulation) Act, 1986. Factory and labor inspectors should be trained on the bonded labor law, specifically its application to children, as well as the child labor law. Inspection reports and other documentation prepared by labor and factory inspectors should include, along with other information about children's work, questions about a debt or advance.
- Collect and immediately make public data on enforcement of the Bonded Labour System (Abolition) Act, 1976, and the Child Labour (Prohibition & Regulation) Act, 1986, for every state. This data should include information about each worker, including age, gender, and occupation, as well as rehabilitation measures taken, prosecutions, and convictions.

- Amend the Factories Act, 1948, to cover all factories or workshops employing child labor, not just those with twenty or more workers, or ten or more workers where power is used.
- Require all government offices that have contact with manufacturing, including the Central Silk Board and state sericulture departments (see related recommendation below), to take measures to eliminate bonded child labor in the sectors they cover.
  - The Central Silk Board should condition all entitlements, subsidies, and other concessions extended to the silk industry on compliance with the Bonded Labour System (Abolition) Act, 1976, the Child Labour (Prohibition & Regulation) Act, 1986, and other relevant laws.
  - When training farmers and any others who work in sericulture, the Central Silk Board and state sericulture departments should incorporate information about India's child and bonded labor law.
- Continue cooperation with international organizations working to abolish bonded child labor, in particular the International Labour Organization's International Programme to Eliminate Child Labour (IPEC); cooperate with IPEC to conduct a baseline survey of bonded child labor in conjunction with the SIMPOC program.
- Ratify ILO Convention No. 138 concerning the Minimum Age for Admission to Employment, ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, and the 1960 Convention Against Discrimination in Education.
- Strengthen the capacity of the National Human Rights Commission (NHRC), particularly to operate branch offices in all states with enough financial resources and powers to initiate prosecution of cases. Amend the Protection of Human Rights Act, 1993, to give the NHRC the powers of a criminal court so that its decisions will be binding.
- Request the NHRC to investigate bonded child labor in the silk industry, especially in Karnataka, Tamil Nadu, and Uttar Pradesh.
- Implement the recommendations made by the National Police Commission in 1980, particularly those that address police negligence in the registration of cases.
- Fully implement the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995.<sup>18</sup> In particular, ensure strict implementation of the bonded labor-related provisions of the Atrocities Act.
- Create the proposed National Commission for Children with a clearly defined mandate that includes bonded child labor and enforcement powers.
- Fully implement the right to free and compulsory education as required under article 45 of the Indian constitution. Improve the quality of schools, particularly in rural areas. Design and immediately implement measures to eliminate caste-based discrimination in schools and monitor for such discrimination.
- In close consultation with NGOs, include concrete and time-bound steps to eliminate bonded child labor as part of a national plan of action to implement the Convention on the Rights of the Child and the goals and targets agreed at the U.N. Special Session on Children in May 2002, and ensure that this plan is fully implemented.

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<sup>18</sup> The term "scheduled castes," by which Dalits are also called, refers to a list of socially deprived ("untouchable") castes prepared by the British Government in 1935. The schedule of castes was intended to increase representation of scheduled-caste members in the legislature, in government employment, and in university placement. The term is also used in the constitution and various laws. The term "scheduled tribes" refers to a list of indigenous tribal populations who are entitled to much of the same compensatory treatment as scheduled castes. The term "lower castes" includes those relatively higher in the caste system than Dalits.

## Recommendations to State Governments

In addition to recommendations outlined for the government of India, state governments should implement the following recommendations at the earliest possible date:

- Remove existing disincentives for districts magistrates and law enforcement to identify and free bonded laborers, to prosecute employers who violate the law, and to obtain convictions. Any official who fails to protect bonded child laborers or prosecute their employers, whether through negligence, willful ignorance, or complicity with employers, should also be prosecuted. Ensure that bonded labor vigilance committees in all districts are fully functioning.
- For states that lack them, adopt rules implementing the Child Labour (Prohibition & Regulation) Act, 1986.
- Rehabilitate all children in hazardous occupations in accord with the Supreme Court's order in *M.C. Mehta v. State of Tamil Nadu & Ors.*
- Ensure full implementation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, including the appointment of special courts, special prosecutors, and vigilance and monitoring committees. Provide training in proper procedures under the act for judges and prosecutors.
- Implement measures designed to ensure that states are in compliance with article 46 of the constitution, which directs states to promote with special care the educational and economic interests of the scheduled castes and scheduled tribes and to protect them from social injustice and all forms of economic exploitation.
- Take immediate steps to prevent further violence, social boycotts, and other forms of discrimination against Dalits and to investigate and punish those responsible for attacks, acts of discrimination, and bondage. Any official or member of the police who fails to respond to calls for protection from villagers, or fails to properly investigate and prosecute acts of violence, discrimination, or bondage should be disciplined or prosecuted as appropriate.
- State sericulture departments should condition all licensing and registration, as well as entitlements, subsidies, and other concessions, on compliance with the Bonded Labour System (Abolition) Act, 1976, the Child Labour (Prohibition & Regulation) Act, 1986, and other relevant laws. (See related recommendations above.)
- In states that lack them, including Karnataka and Andhra Pradesh, create state human rights commissions. All state human rights commissions should aggressively pursue bonded child labor in their jurisdictions.

## Recommendations to the International Community

- Organizations that fund development projects in India, including the World Bank and the Swiss Agency for Development and Cooperation, should routinely include in all contracts a clause, enforceable by canceling the project, requiring compliance with international labor standards or domestic labor laws, whichever are higher.
- The Swiss Agency for Development and Cooperation, and all other organizations that fund projects to develop the silk industry, should immediately investigate whether bonded child labor is being used on the projects they fund, and develop a policy and procedure for monitoring for its use in the future.
- The World Bank should implement its policy on child labor, which states that: "The Bank's work on child labor includes: . . . requiring compliance with applicable child labor laws and regulations in specific projects where exploitative child labor is otherwise likely to occur."<sup>19</sup> Specifically, the World Bank should conduct a

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<sup>19</sup> The World Bank, *Core Labor Standards and the World Bank*, July 2000.

comprehensive review of all of its projects in India to determine whether child labor is in any way involved, directly or indirectly, and make the results public. In its loan agreements, it should routinely require that any violations of bonded or child labor laws would be equivalent of a default on the loan. The Bank should vigorously monitor implementation of this provision. It should also actively seek the input of Indian NGOs and U.N. agencies (including ILO, United Nations Development Programme (UNDP), and UNICEF on how it can target its educational and rural poverty-reduction projects in India to areas and sectors of the economy where child labor is prevalent in order to support alternatives. The next Country Assistance Strategy (CAS) for India should include a specific component dealing with child labor containing these measures, and others, to fully implement the Bank's commitments on ending child labor.

- Bodies such as the International Programme on the Elimination of Child Labour (IPEC), U.S. Department of Labor, the U.S. Agency for International Development (USAID), U.N. agencies, and others that fund projects aimed at reducing child labor should insist that local governments in the areas where their projects operate enforce the child and bonded labor law, and should contribute resources, capacity building, and technical assistance to local governments to adequately enforce those laws.
  - Funding organizations should monitor their projects to ensure that they are reaching bonded children as well as children who are not working under compulsion.
  - Projects should be designed to take into account the fact that girls' work in private homes is often invisible and that girls encounter additional obstacles in accessing education; projects should collect data disaggregated by gender to ensure that they are reaching girls.
- The ILO should use its supervisory mechanisms, such as the Committee of Experts, to review the Indian government's compliance with its international obligations, should encourage the government to make efforts to uphold these obligations, and should request the government to provide information on progress achieved in this regard.
- IPEC, in conjunction with its SIMPOC program, should conduct a baseline survey of bonded child labor in India. Data should be disaggregated by sex and by labor sector.

#### **Recommendations to Retailers, Suppliers, and Indian and International Consumers**

- Retailers and wholesalers should pressure suppliers not to use bonded child labor in the manufacture of their goods and to support a good faith program to phase children out of bondage, offering them financial assistance and access to formal education. Consumers in India and abroad making purchases from industries known to employ large numbers of children in bonded labor, such as the silk, carpet, beedi, silver, leather, and agricultural sectors, should require retailers to exert such pressure and to guarantee that they and their suppliers offer independent monitors full access to all facilities, including supplier facilities, to check on the incidence of bonded child labor.
- Corporations should incorporate a monitoring process for bonded child labor into their quality control procedures and in setting standards for selecting suppliers and products.
- Indian consumers should appeal to their members of the legislative assembly (MLA), district magistrates, and district collectors to demand that vigilance committees be established and strengthened, and should demand that the government of India identify, release, and rehabilitate all bonded laborers (including children) as required under the Bonded Labour (Abolition) Act, 1976, and the accompanying rehabilitation scheme.
- International consumers should appeal to their own governments to press the Government of India to abide by its own law by administering in good faith the Bonded Labour (Abolition) Act, 1976, and accompanying procedures for the identification, release, and rehabilitation of bonded laborers.

### III. BACKGROUND

#### Overview of Bonded Child Labor

A bonded child is a child working in conditions of servitude to pay off a debt. Although the terms of their bondage vary, all bonded children have three things in common: they are working for nominal wages, in consideration of an advance (loan), and are not free to discontinue their work.<sup>20</sup> The value of the bonded child's services, as reasonably assessed, is not applied toward the debt's liquidation, and the length of the services—how long the child has to work—is not limited or defined.

The child is, in a sense, a commodity, exchanged between his or her parents and the employer. The parents or guardians, who receive the money, are often destitute and have no other way to obtain credit—children most frequently told Human Rights Watch that their parents used the loan to pay for a wedding or funeral, birth or treatment for illness; to pay off another loan; or just to put food on the table. The employers use the loan to secure indefinitely the cheapest form of labor possible. A weaver with a bonded child assistant explained to Human Rights Watch: “The loan is business security. This way the worker cannot go to another job. The loan is renewed each year and not paid off.”<sup>21</sup>

The loan keeps the child from seeking other employment and is enforced with the threat of calling the loan due and, sometimes, with violence. Brijraj N., who is fifteen years old and from a lower caste, said he earns Rs. 400 (U.S.\$8.33) a month in sari weaving. We asked Brijraj N. whether he could change employers and he answered: “I took the money from the employer. The employer will sell the debt to the next person. Even if there wasn't any debt, I still couldn't go. He'll say, ‘Why are you going?’ and then he'd beat me. That's what he'll do.”<sup>22</sup> We interviewed a weaver in Kanchipuram, himself in debt to the loom owner, who worked in the owner's home assisted by a child. He explained: “Even if there is no yarn, the children have to be here in the loom—they can't go play. My assistant can't go out from the loom. Weavers can't go to another loom, or we

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<sup>20</sup> India's 1976 Bonded Labour System (Abolition) Act, which abolishes all forms of bonded labor, defines the practice as follows:

“bonded labour system” means the system of forced, or partly forced labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that—

- (i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by any documents) and in consideration of the interest, if any, due on such advance, or
- (ii) in pursuance of any customary or social obligation, or
- (iii) in pursuance of an obligation devolving on him by succession, or
- (iv) for any economic consideration received by him or by any of his lineal ascendants or descendants
- (v) by reason of his birth in any particular caste or community, he would—
  - (1) render, by himself or through any member of his family, or any person dependant on him, labour or service, to the creditor, or for the benefit of the creditor, for a specified period or for an unspecified period, either without wages or for nominal wages, or
  - (2) forfeit the freedom of employment or other means of livelihood for a specified period or for an unspecified period, or
  - (3) forfeit the right to move freely throughout the territory of India, or
  - (4) forfeit the right to appropriate or sell at market value any of his property or product of this labour or the labour of a member of his family or any person dependent on him . . . .

Bonded Labour System (Abolition) Act (1976), sec. 2(g).

<sup>21</sup> Human Rights Watch interview with adult weaver, Kanchipuram, Tamil Nadu, March 20, 2002. A Varanasi trader, who said that his weavers do not use children, described the relationship somewhat differently: “We pay an advance, and if they want to give their work to us, they do. We don't force them. We pay for the design, provide the materials, and show them what we want.” Human Rights Watch interview with silk trader, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>22</sup> Human Rights Watch interview with fifteen-year-old boy, Varanasi, Uttar Pradesh, March 13, 2002.

will have to pay back the loan.”<sup>23</sup> Children’s inability to leave is also enforced by the widespread belief, held by parents and government officials, as well as employers, that the loan ought to be repaid.<sup>24</sup>

In order to change employers, children typically find another employer who is willing to assume their debt. When we asked eleven-year-old S. Kancha if he could stop working as a weaver’s assistant, he replied: “If I stopped working at this loom, I would have to pay the money, but if I went to another loom, my father would do the transaction. He would get money from one loom owner and give it to another.”<sup>25</sup> Subban P., who was fifteen, told us that his parents bonded him to a loom owner for Rs. 10,000 (U.S.\$208) when he was eight years old. He did not like the job, he said, because he did not get enough to eat and the owner was very strict. He was able to change employers when his current employer paid the debt to the first owner. Now the boy owes his current employer the debt.<sup>26</sup>

In exchange for working twelve or more hours a day, six or seven days a week, employers pay children small sums of money, sometimes just enough for transportation or snacks. The employer/creditor dictates the rate. In the silk industry, children reported starting off making from nothing to around 100 rupees (U.S.\$2.08) a month, which might eventually increase to as much as 400 or 500 rupees (U.S.\$8.33 to \$10.42). However, the children may not actually receive this amount as some or all may be deducted against the loan. These salaries are far below minimum wage.<sup>27</sup>

In many industries, such as the making of beedi cigarettes, the child’s labor does not pay off the original loan at all but only serves as interest on the loan and as a surety for its repayment. The original amount must still be paid in full. In contrast, most children bonded in the silk industry reported that their loans were decreased through regular deductions from their salaries. However, the children, typically illiterate, have no way to monitor whether the repayment is being accurately accounted for and are dependent on their employer/creditor to report how much they still owe. “When they write Rs. 5,000 [U.S.\$104] in the books and if we don’t know how to read and write, we won’t know it,” a twenty-year-old weaver who had been bonded since age seven or eight told Human Rights Watch.<sup>28</sup> “If they give us Rs. 100 [U.S.\$2.08] but write down Rs. 200 [\$4.17], how will we know if we don’t read and write? They’ll do it on purpose so that we’ll remain bonded, and if they do it, we’ll have to keep on borrowing from them.”<sup>29</sup> Salaries, which are minute to begin with, are further reduced for “mistakes” and expenses such as meals or medical care. The rate of pay off is so slow and salaries so small, families are often forced to borrow additional money in order to survive, especially if the work is seasonal. Thus, even where the loan is allegedly structured to be paid off by the child’s labor, families usually never escape the debt.

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<sup>23</sup> Human Rights Watch interview with adult weaver, Kanchipuram, Tamil Nadu, March 20, 2002.

<sup>24</sup> A social worker who had just come from a parents’ group meeting that had discussed the “advance problem” told Human Rights Watch that many parents say: “[The owners] helped us when we needed it by giving us the advance, so we can’t abandon them.” Human Rights Watch interview with social worker, Bangalore Rural District, Karnataka, March 29, 2002. We asked the project director for Kanchipuram’s night schools for working children whether, if a worker dies, his family must pay the debt, and he replied, “Yes, it’s a loan, not a grant.” Human Rights Watch interview with night schools project director, Kanchipuram District, Kanchipuram, Tamil Nadu, March 19, 2002.

<sup>25</sup> Human Rights Watch interview with eleven-year-old boy, Kanchipuram, Tamil Nadu, March 21, 2002.

<sup>26</sup> Human Rights Watch interview with fifteen-year-old boy, Kanchipuram, Tamil Nadu, March 20, 2002.

<sup>27</sup> Under Indian law, nominal wages are those that are less than minimum wages, or, where no minimum wage has been set, less than wages normally paid for the same or similar work in the same locality. Bonded Labour System (Abolition) Act (1976), sec. 2(1)(I)(a), (b). See also *People’s Union for Democratic Rights v. Union of India*, 3 SCC 235 (1982), paras. 259-260, in which the Supreme Court ruled that “where a person provides labour or service to another for remuneration which is less than minimum wage, the labour or service provided by him clearly falls within the scope and ambit of the word ‘forced labour’ . . . .” The Bonded Labour System (Abolition) Act forbids all forms of forced labor. As of 1998, the minimum wage in Karnataka was Rs. 60 for sericulture and Rs. 65 for “textile (silk)”; minimum wage in Tamil Nadu was Rs. 55.08 for sericulture and silk twisting, and “piece rated” for handloom silk weaving; and minimum wage in Uttar Pradesh was Rs. 51.60 for handloom silk sari or zari work. Labour Bureau, Government of India, *Report on the Working of Minimum Wages Act, 1948 For Year 1998*, <http://www.chd.nic.in/labour/MW98text.htm#tab6> (retrieved August 26, 2002).

<sup>28</sup> Human Rights Watch interview with twenty-year-old man, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>29</sup> Ibid.

Children may be bonded either as individuals or with their entire families. Even where the parent technically takes the loan, the child may be put to work to help pay it off and may inherit the debt when the parent dies. For example, Rakesh R., who was seventeen years old when his father died, told Human Rights Watch: “I owe Rs. 1,900 [U.S.\$40]. When my father died three years ago, they said this was the amount he owed. We didn’t read or write, but this is what they said. Rs. 1,000 [\$21] was an old debt, and when my father died, they declared that this was what was left. Then we borrowed Rs. 900 [\$19] more.”<sup>30</sup> Debts may also pass to a younger sibling when a child reaches adulthood or stops working. For example, Human Rights Watch interviewed children freed by NGOs and placed in residential schools whose debts were passed on to another brother or sister. In some occupations, particularly agriculture, bondage may be handed from generation to generation, with workers considered attached to the land and transferred as part of land sales or exchanges.

Without comprehensive birth registration or reliable nationwide surveys, it is impossible to make better than a rough estimate of how many children are being held in bondage in India. Human Rights Watch has found that there are credible estimates of sixty to 115 million working children in India, of whom at least fifteen million are bonded.<sup>31</sup> The wide range in estimates is further evidence of the government’s failure to conduct an adequate national survey of the problem.

The government’s claim, based on its 1991 census, that there are 11.29 million child workers ages five to fourteen and only two million in hazardous occupations is impossibly low.<sup>32</sup> First, its definition excludes many working children: as of 2000, over one hundred million children ages five to fourteen were out of school, an estimated seventy-four to ninety-eight million of whom were engaged in tasks not considered work during the 1991 census, such as rag picking; collecting fodder, fuel, and water; and domestic work.<sup>33</sup> Second, the government’s methodology in collecting data is highly problematic. In interviews with Human Rights Watch, government officials and members of the committees responsible for conducting ongoing surveys on child and bonded labor strongly criticized these surveys’ methodology and their ability to collect even remotely accurate information.<sup>34</sup> Of the few cases of bonded labor identified, the government makes no effort to keep track of how

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<sup>30</sup> Ibid.

<sup>31</sup> The estimate of fifteen million was conservative, based on Anti-Slavery International’s 1991 report that fifteen million children were bonded in agriculture alone. Since 1996 when Human Rights Watch first arrived at this estimate, there have been no new numbers that clearly are based on new or reliable data. Human Rights Watch, *The Small Hands of Slavery*, pp. 1, 2, note 3. See also, National Institute of Educational Planning and Administration, *India Education Report: A Profile of Basic Education*, R. Govinda, ed. (New Delhi: Oxford University Press, 2002), p. 55 (citing various estimates of child labor); South Asia Regional Initiative, USAID India, “Combating Child Labor in India,” <http://www.usaid.gov/in/aboutusaid/projects/childlabor.htm> (retrieved July 31, 2002) (estimating that 100-150 million children ages five to fourteen are out of school and more than forty-four million are employed in hazardous and non-hazardous industries that endanger their physical and psychological well-being, a “significant percentage” of whom are bonded laborers). Altogether an estimated forty million people are bonded laborers. See Human Rights Watch, *Broken People*, p. 139. The International Labour Organization (ILO) estimates that as of 2000 there were 5.5 million children in forced and bonded labor in all of Asia and the Pacific. ILO, *A Future Without Child Labour*, International Labour Conference, 90<sup>th</sup> sess., 2002, p. 18; International Programme on the Elimination of Child Labour (IPEC), *Every Child Counts: New Global Estimates on Child Labour*, April 2002. According to Human Rights Watch’s investigations in India alone, this figure far underestimates the problem.

<sup>32</sup> See, e.g., Ministry of Labour, Government of India, *Annual Report 2001-2002*, p. 107 (citing results of 1991 census); Human Rights Watch interview with Vinod Vaish, Secretary, Ministry of Labour, Government of India, New Delhi, April 2, 2002; Human Rights Watch interview with K. Chandramouli, Joint Secretary for Child Labour, Ministry of Labour, Government of India, New Delhi, April 2, 2002.

<sup>33</sup> Lakshmidhar Mishra, *Child Labour in India*, (New Delhi: Oxford University Press, 2000), pp. 6, 18, 25 (citing D.P. Choudhury, “Child Labour in India in the Asian Perspective, 1951-1996,” *Social Changes*, vol. 2, nos. 3 and 4, September and December 1997, pp. 9-33). In contrast, Mahaveer Jain, Senior Fellow of the V.V. Giri National Labour Institute, estimates that there are 151 million children out of school. Jain calculated this number by adding the 11.3 million working children identified by the 1991 census with 80 million children whose activities are unknown and the 60 million who drop out of school. Human Rights Watch interview with Mahaveer Jain, Senior Fellow, V.V. Giri National Labour Institute, Noida, Uttar Pradesh, April 1, 2002.

<sup>34</sup> Human Rights Watch interview with Rajeev Kumar Singh, district child labor committee member and director of Dr. Shambunath Singh Research Foundation, Varanasi, Uttar Pradesh, March 13, 2002; Human Rights Watch interview with Human Rights Watch



many are children, and officials at the highest levels of government deny that more than “the stray case here and there” even exists.<sup>35</sup> Most important, perhaps, is that those figures are now almost twelve years old and completely out of date, particularly since the number of children in India increases by about twenty million each year.

In the Indian silk industry, Human Rights Watch estimates that well over 350,000 children are currently working.<sup>36</sup> Almost all who are working for non-family members are bonded. The remainder are working for family members, most of whom are themselves bonded. Thus, even where children are not bonded alone but are working for family members, they are typically still working to pay off a debt, which, as in the example of Rakesh R., above, they may eventually inherit.

### The Indian Silk Industry

India is the world’s second largest producer of silk, accounting for about 20 percent of world production.<sup>37</sup> However, as it is also the world’s largest silk consumer, India accounts for only 8 percent of the global silk market.<sup>38</sup> The United States is the largest consumer of Indian silk outside of India, importing over U.S.\$163 million in silk commodities from India in 2001.<sup>39</sup> Germany, Italy, Japan, Spain, and Eastern Europe are also significant importers of Indian silk.<sup>40</sup>

Silk imports include silk yarn, silk waste, and silk fabrics, woven both by hand and on power looms. However, not all silk textiles from India are woven from domestically produced silk thread. Because India does not produce enough silk thread to meet the domestic demand, silk thread is imported from China (some smuggled illegally through Bangladesh and Nepal), which tends to be of higher quality than Indian silk.<sup>41</sup> In an apparent attempt to deflect international consumers’ concern about child labor in silk thread production, the Indian government has maintained that its silk exports are, in fact, produced entirely from Chinese silk.<sup>42</sup> However,

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Lenin Raghuvanshi, People’s Vigilance Committee for Human Rights, Varanasi, March 12, 2002; Human Rights Watch interview with Tamil Nadu government official, Tamil Nadu, March 18, 2002; Human Rights Watch interview with former Tamil Nadu labor inspector, Chennai, Tamil Nadu, March 24, 2002.

<sup>35</sup> Human Rights Watch interview with Manohar Lal, Director General, Labour Welfare (responsible for bonded labor), Ministry of Labour, New Delhi, April 2, 2002.

<sup>36</sup> This number is very conservative, based only on estimates of children under age fourteen working in the silk industry in Varanasi, Uttar Pradesh (based on a survey which counted only boys); Kanchipuram, Tamil Nadu; and the state of Karnataka. See section below, “Areas Covered by this Report.”

<sup>37</sup> Central Silk Board, *Silk*, <http://www.silkboard.com/silk.html> (retrieved November 8, 2001); Central Silk Board, *World Raw Silk Production—1999*, [http://www.silkboard.com/annual\\_production.html](http://www.silkboard.com/annual_production.html) (retrieved November 8, 2001) (citing the International Silk Association, France).

<sup>38</sup> “Stressing on Quality Silk,” *Dye Chem Pharma Business News*, January 2002, [http://www.chemb.com/dyechem/dyechemjan2002\\_spreport02.asp](http://www.chemb.com/dyechem/dyechemjan2002_spreport02.asp) (retrieved February 23, 2002) (quoting P. Joy Oomen, Member Secretary and Chief Executive Officer of the Indian government’s Central Silk Board). The Indian government reports that total silk exports, including natural silk yarn, fabrics, “made-ups,” readymade garments, silk carpets, and silk waste, were worth Rs. 24.21 billion in 2000-2001. Ministry of Textiles, Government of India, *Annual Report 2001-2002*, p. 67.

<sup>39</sup> See “Good Prospects for Silk Exports: EXIM Bank (industrialisation and reduced land for sericulture in Korea and China to boost Indian silk exports),” *Indian Business Insight*, March 29, 2002, p. 16; “India’s Silk Exports Dip 7 Pct in 2001-02, China Giving Competition,” *Asia Pulse*, June 26, 2002; U.S. Bureau of the Census: Foreign Trade Division, *Imports of Silk from India, 1998-2001* (on file with Human Rights Watch). The U.S. is also the largest single importer of zari (silver and gold threads) and zari handicrafts, including zari embroidered saris for which Varanasi is famous. *Countrywise Exports of Zari and Zari Handicrafts (1998-99)*, cited in Export Promotion Council for Handicrafts website, <http://indianzari.nic.in/vsindianzari/indzarif.html> (retrieved August 23, 2002).

<sup>40</sup> “Silk Export,” *Indian Agricultural Resources—Sericulture*, Indiaagronet.com website, <http://www.indiaagronet.com/indiaagronet/sericulture/sericulture.htm> (retrieved October 26, 2001).

<sup>41</sup> See, e.g., “Prevent Dumping of Chinese Silk, CM Urges Centre,” *The Hindu*, June 16, 2002.

<sup>42</sup> The head of India’s Central Silk Board told Human Rights Watch that most silk exports were made of Chinese silk. Human Rights Watch interview with P. Joy Oommen, Member Secretary and Chief Executive Officer, Central Silk Board, Ministry of Textiles, Government of India, Bangalore, March 28, 2002. The Indian government told reporters in 2002 that exported silk is “free of child labor.” Dateline NBC, *Slaves to Fashion* [transcript], aired June 23, 2002, [www.msnbc.com/news/770083.asp](http://www.msnbc.com/news/770083.asp) (retrieved June 28, 2002).

many looms that use Chinese silk thread for the warp thread (those held in tension on the loom), still use Indian silk yarn for the weft thread (those woven through the warp threads).<sup>43</sup> Most handwoven silk fabric is made from Indian silk, which Indian consumers tend to prefer.<sup>44</sup> But regardless of where the thread is produced, bonded child labor produces exported silk textiles, as bonded children help weave handloom fabrics, which are regularly imported into the United States, among other places.<sup>45</sup> Moreover, clothing manufactured outside of India from Indian silk is not necessarily labeled as being from India, but rather as from the place where the clothing was manufactured.<sup>46</sup>

### ***How Silk is Produced***

The labor intensive work of hatching and raising silk worms, as well as cultivating mulberry plants for their food (“moriculture”) and processing their cocoons into thread, is called “sericulture.” Sericulture involves the work of about six million people in 59,000 villages in India<sup>47</sup> and is concentrated in the southern states of Tamil Nadu, Andhra Pradesh, and, especially, Karnataka.<sup>48</sup>

Almost all commercial silk comes from the cocoons of mulberry eating silk worms (*bombyx mori*).<sup>49</sup> Rearers hatch the worms from eggs purchased from government or government-licensed private grainages. Rearers must maintain proper temperature, humidity, and hygiene; feed the worms mulberry leaves five to six times a day; and provide special treatment during the worms’ molting periods. When the larvae are mature, they are mounted on montages where they spin cocoons that must be harvested and marketed after the pupa forms but before the adult moth emerges. Cocoons are sold by auction in government-regulated cocoon markets.

In India, most silkworms are multivoltine, meaning that they hatch many times a year. Uni- and bivoltine silkworms, common to China, hibernate and have only one or two lifecycles a year. Multivoltine silkworms spin yellowish cocoons with shorter filaments; these are considered lower quality than the whiter, longer filaments of uni- and bivoltine cocoons.

Dried cocoons are turned into yarn through a process called “reeling.” There are 30,000 to 40,000 working reeling units in India, plus a large number of units that are closed or working occasionally.<sup>50</sup> After being reeled,

<sup>43</sup> “Prevent Dumping of Chinese Silk, CM Urges Centre,” *The Hindu*, June 16, 2002 (quoting Karnataka Chief Minister S.M. Krishna).

<sup>44</sup> Human Rights Watch interview with P. Joy Oommen, Member Secretary and Chief Executive Officer, Central Silk Board, Ministry of Textiles, Government of India, Bangalore, March 28, 2002.

<sup>45</sup> Customs records from 1997 to 2002 show the regular import of silk handloom fabric into the United States. From 1997 to the beginning of 2002, 23,918 pounds of silk fabric specifically designated as handwoven was imported into the U.S. Presumably this far underestimates the actual amount of “handwoven” silk fabric imported, as most silk imports are simply designated as “natural silk fabric” or “silk fabrics” without specifying how they were woven. Port Import Export Reporting Service (PIERS), records of Indian silk imports 1997-2002 (on file with Human Rights Watch).

<sup>46</sup> For example, a co-owner of the company Silk Route, which claims to sell fabric to designers such as Nicole Miller, told reporters in 2001-2002 that “we ship to Italy and from Italy it goes to Nicole Miller, so she doesn’t even know it’s made in India. Most of the stuff that goes from our office, they don’t know it’s made in India. They change the label, say, ‘Made in Italy,’ you know. So that way it sells at a much higher rate.” Dateline NBC, *Slaves to Fashion* [transcript], aired June 23, 2002, [www.msnbc.com/news/770083.asp](http://www.msnbc.com/news/770083.asp) (retrieved June 28, 2002).

<sup>47</sup> Antero Hyvärinen, “Silk: A Tradition with a Future,” *International Trade Forum*, March 1, 1999, p. 4. Compare Ministry of Textiles, Government of India, *Annual Report 2001-2002*, p. 67 (5.5 million people); Planning Commission, Government of India, *9th Five Year Plan*, vol. 1, ch. 4, para. 4.61 (6.2 million people).

<sup>48</sup> There is also limited silkworm rearing in the states of Assam and West Bengal. See Movement for Alternatives and Youth Awareness (MAYA), *Which Silk Route This? A situational analysis of child labor in the sericulture industry in Karnataka, India*, 2000, p. 7.

<sup>49</sup> Information in the section is drawn in part from G. Ganga and J. Sulochana Chetty, *An Introduction to Sericulture*, 2d ed. (New Delhi: Oxford and IBH Publishing Co., 1997); and Central Silk Board, Ministry of Textiles, Government of India, *Handbook of Sericulture Technologies*, 2d ed. (Bangalore: Central Silk Board, 2001).

<sup>50</sup> Human Rights Watch interview with P. Joy Oommen, Member Secretary and Chief Executive Officer, Central Silk Board, Ministry of Textiles, Government of India, Bangalore, March 28, 2002.

the individual threads are twisted into multi-ply silk thread. The multi-ply thread is then dyed and transported to sari weaving areas.

To produce a handwoven silk sari, the warp thread is dressed, sized, and joined to the loom.<sup>51</sup> Then the design, which is punched into a set of cards, is set up on the loom and the gold threads (zari) joined to the loom. The weaver and his or her assistant weave the sari, three at a time, with the weft thread. The finished saris are then cut from the loom and folded.

### ***Government and International Support for the Indian Silk Industry***

The Indian government and, in some instances, international institutions, significantly finance the Indian silk industry. Both government and foreign funders have promoted introducing bivoltine silkworms and multi-end reeling systems foremost to improve the quality of Indian silk but also as a strategy to reduce the use of children in silk reeling.<sup>52</sup> Multi-end reeling systems are power-run machines that accelerate and automate the reeling process, with one multi-end reeling machine able to replace about five small units.<sup>53</sup> The machines require bivoltine cocoons which, as explained above, have stronger and longer filaments than multivoltine cocoons common to India. According to government officials and the World Bank, if bivoltine worms and multi-end reeling systems replace the reeling methods currently used, employers will not need the children and the higher quality silk will stimulate exports.

However, neither has had large success in India. Bivoltine silk worms, while used in some areas, are still in the process of being bred to withstand India's climate. Multi-end reeling units require significantly more space and electric power than current reeling methods. There are 30,000 to 40,000 working reeling units in the country, but only 230 multi-end reeling units, which the Central Silk Board is financing—130 in Karnataka and the rest in Andhra Pradesh and Tamil Nadu.<sup>54</sup> Multi-end reeling systems are still far from supplanting child labor intensive reeling methods in the silk industry.

The Indian government heavily controls and subsidizes its silk industry through the Central Silk Board, a statutory body under the Ministry of Textiles.<sup>55</sup> The Board researches and regulates silk production and the cocoon trade; it also provides technical assistance for the industry and controls all silk imports and exports. State governments regulate sericulture through their sericulture departments, which licenses cocoon buyers and sellers and silk reeling operations; silk twisting operations must register but do not need a license. Both the Central Silk Board and state sericulture departments also train farmers.

Throughout the 1980s and 1990s, the World Bank heavily financed silk reeling and twisting in India, primarily in Karnataka. Human Rights Watch found in 1996 that the World Bank was loaning millions of dollars to support sericulture in Karnataka without monitoring or placing any restrictions on the use of bonded child labor. It was, in effect, financing an industry thoroughly dependent on bonded child labor.<sup>56</sup> The World Bank has subsequently paid greater attention to child labor, although Bank staff told Human Rights Watch in 2002 that child labor issues are on the "backburner" in India. In 1997 the Bank's South Asia Region appointed a regional

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<sup>51</sup> Information on how silk saris are produced is drawn from: Babu P. Remesh, *Organisational Structure, Labour Relations and Employment in Kancheepuram Silk Weaving*, NLI (National Labour Institute) Research Studies Series No. 021/2001, 2001, pp. 7-9.

<sup>52</sup> In addition to the international funders described below, the Japan International Co-operation Agency (JICA) has, since 1991, provided funding and assistance for promoting bivoltine silk and "other advanced technologies" to farmers. "Government Embarks on Scheme to Boost Silk Production," *The Hindu*, March 29, 2002.

<sup>53</sup> Human Rights Watch interview with P. Joy Oommen, Member Secretary and Chief Executive Officer, Central Silk Board, Ministry of Textiles, Government of India, Bangalore, March 28, 2002.

<sup>54</sup> Ibid.

<sup>55</sup> Information regarding state regulation is taken in part from G. Ganga and J. Sulochana Chetty, *An Introduction to Sericulture*; Human Rights Watch interview with P. Joy Oommen, Member Secretary and Chief Executive Officer, Central Silk Board, Ministry of Textiles, Government of India, Bangalore, March 28, 2002; and Ministry of Textiles, Government of India, *Annual Report 2001-2002*.

<sup>56</sup> Human Rights Watch, *The Small Hands of Slavery*, pp. 74-75.

coordinator for child labor and promised to coordinate with UNICEF, the ILO, and various NGOs. In 1998 the Bank's Social Protection, Human Development Network published the document *Child Labor: Issues and Directions for the World Bank*, which suggested measures to address child labor.<sup>57</sup> While this document is not formal World Bank policy, the Bank in 2000 stated: "The Bank's work on child labor includes: . . . requiring compliance with applicable child labor laws and regulations in specific projects where exploitative child labor is otherwise likely to occur."<sup>58</sup> The Bank's South Asia Regional Child Labor Team said in January 2000 that the Procurement, Disbursement, and Audit Team in India had included provisions of the Child Labour (Prohibition and Regulation) Act, 1986, "as part of contract conditions to be enforced."<sup>59</sup> However, the team explained, "the Bank does not have mechanism [sic] to ensure that the above provision is indeed followed in practice."<sup>60</sup>

The World Bank's sericulture project in Karnataka ended in 1998, and the Bank embarked on a small project (part of the U.S.\$160.5 million Uttar Pradesh Diversified Agricultural Support Project) to develop sericulture in Uttar Pradesh, including in what subsequently became the new state of Uttaranchal. The project intended to introduce and develop the raising of bivoltine silk worms and multi-end reeling systems.<sup>61</sup> The Bank also outlined guidelines to prevent child labor from being used in reeling and twisting there, based on a study of the Karnataka project. However, these guidelines were never implemented. At the beginning of 2002, the Bank dropped the sericulture component except in three districts in Uttaranchal because, according to project officials, the mulberry plants needed to feed the worms had not survived.<sup>62</sup>

The Swiss Agency for Development and Cooperation (SDC), in a 12.5 million Swiss Francs (U.S.\$8.3 million) project to run through 2004, is funding private and public sector projects to develop sericulture in Karnataka, Andhra Pradesh, Tamil Nadu, and West Bengal.<sup>63</sup> The SDC is organized and funded by the Swiss government through its Ministry of Foreign Affairs.

Based on the SDC's own studies reporting a "high prevalence" of child workers in various "post-cocoon" activities in Karnataka, Tamil Nadu, and Andhra Pradesh, the organization funded two-year pilot projects for NGOs in three towns to provide non-formal education, awareness raising, and adult self-help groups.<sup>64</sup> However, local activists working with children bonded in the silk industry say that there has been no further action.<sup>65</sup>

### Areas Covered by this Report

Although the states where investigations for this report were carried out—Karnataka, Tamil Nadu, and Uttar Pradesh—are major states in India's silk industry, they are not the only ones. For example, Andhra Pradesh also produces silk thread; silk saris are woven in Karnataka, Bihar, Andhra Pradesh, West Bengal, Orissa, Assam,

<sup>57</sup> Peter Fallon and Zafiriz Tzannatos, *Child Labour: Issues and Directions for the World Bank*, Social Protection, Human Development Network, The International Bank for Reconstruction and Development/The World Bank, 1998.

<sup>58</sup> The World Bank, *Core Labor Standards and the World Bank*, July 2000. The World Bank also stated that, "the Bank has repeatedly made it clear that it has not and would not support projects in which forced labor was or would be employed." Ibid.

<sup>59</sup> South Asia Regional Child Labor Team, World Bank, *Child Labor: Occasional Note No. 1*, January 2000.

<sup>60</sup> Ibid.

<sup>61</sup> Rural Development Sector Unit, South Asia Region, World Bank, *Project Appraisal Document: Uttar Pradesh Diversified Agricultural Support Project*, No. 17279-N, April 27, 1998; *Project Information Document: Uttar Pradesh Diversified Agricultural Support Project*, No. PIC1797, September 5, 1997.

<sup>62</sup> Human Rights Watch interview with Deepak Ahluwalia, Senior Economist, World Bank; S. Satish, Senior Social Development Specialist, World Bank; and R.K. Pant, Technical Coordinator, Uttaranchal Diversified Agricultural Support Project, New Delhi, March 9, 2002.

<sup>63</sup> Ministry of Textiles, Government of India, *Annual Report 2001-2002*, p. 72.

<sup>64</sup> See G.K. Karanth and V. Vijayalakshmi, Institute for Social and Economic Change, "Executive Summary and Action Plan," *Sericulture Studies, Child Labour in Silk Industry: Myth and Reality*, sponsored by Swiss Agency for Development and Cooperation, Bangalore, June 1998, p. 3.

<sup>65</sup> Human Rights Watch interview with activist, Bangalore, Karnataka, March 25, 2002; E-mail communication to Human Rights Watch from Karnataka activist, September 6, 2002.

Madhya Pradesh, Jammu and Kashmir, and Maharastra. Many of the violations identified in this report are serious problems in these other states as well.<sup>66</sup>

### **Karnataka**

Karnataka is India's primary producer of silk thread, producing about 60 percent of all silk thread made in the country;<sup>67</sup> the town of Ramanagaram in Bangalore Rural District houses the largest cocoon market in Asia. The state's main silk regions are found in the southernmost part of the state along the borders with Andhra Pradesh, Tamil Nadu, and Kerala.<sup>68</sup>

An estimated 60,000 to 100,000 children work in Karnataka's silk industry.<sup>69</sup> Virtually all children working for non-family members in Karnataka's silk reeling and twisting units are bonded;<sup>70</sup> the great majority are under age fourteen.<sup>71</sup> According to the Karnataka state government, statewide, most children working in sericulture processing are Dalits.<sup>72</sup> In two areas Human Rights Watch visited, Ramanagaram and Channapatna, most silk reelers were Muslim; in a third, Magadi, most were Dalits and lower castes.

### **Uttar Pradesh**

Weavers in Uttar Pradesh and Tamil Nadu produce some of the country's finest silk saris. Silk weaving in the northern state of Uttar Pradesh is concentrated in the east, especially in and around Varanasi and Mubarakpur (Azamgrh). There are about 120,000 looms in Varanasi and 35,000 looms in Mubarakpur (Azamgrh).<sup>73</sup> Most weaving is done in homes, although there are also workshops with multiple looms.<sup>74</sup> An estimated 200,000 children under age fourteen are working in the silk industry in the Varanasi area, about half of whom are bonded

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<sup>66</sup> For example, an estimated 5,000 children are involved in silk reeling in Tamil Nadu, mainly in Dharmapuri district. Human Rights Watch interview with Tamil Nadu government official, Chennai, Tamil Nadu, March 24, 2002. A 2000 study of Hindupur and Dharmavaram subdistricts, Anathapur District, Andhra Pradesh, found violations related to child labor in sericulture similar to those documented in this report. Narayan K.S. and P. Pushpa Rani, "Silk Industry and Child Workers," *Social Welfare*, November 2000, p. 12.

<sup>67</sup> See MAYA, *Which Silk Route This?*, p. 12; S.A. Hemanth Kumar, "Silk Marketing to Go Online," *The Times of India, Bangalore*, March 29, 2002, p. 10. The Chief Executive Officer of India's Central Silk Board, P. Joy Oommen, confirmed this figure. Human Rights Watch interview with P. Joy Oommen, Member Secretary and Chief Executive Officer, Central Silk Board, Ministry of Textiles, Government of India, Bangalore, March 28, 2002.

<sup>68</sup> According to the NGO Movement for Alternatives and Youth Awareness (MAYA), the main silk regions are the four taluks (sub-districts) of Channapatna, Ramanagaram, Kanakapura, and Magadi in Bangalore Rural District and Kollegal taluka in Mysore district. MAYA, *Which Silk Route This?*, p. 12. Compare Department of Labour, Government of Karnataka, *Study Material on "Successful prosecution of Child Labour Cases" For The Inspectors appointed under Section 17 of the Child Labour (P & R) Act, 1986*, November 21, 2001, p. 13 (reporting that the state's main areas for silk processing are: Ramanagaram, Channapattana, Magadi, Doddaballapur, Devanahalli, and Kanakapura taluks of Bangalore Rural District; Anekal taluk of Bangalore Urban District; Siddalaghatta taluk of Kolar District, and Kollegal taluk of Chamaraajanagar District).

<sup>69</sup> Because there has been no systematic study of child labor in Karnataka's silk industry, this figure is extrapolated from a detailed study of one *taluk* (subdivision of a district) near Bangalore that found 10,000 bonded child silk workers in that taluk alone. Human Rights Watch, *The Small Hands of Slavery*, p. 76. Mathews Philip, of South India Cell for Human Rights Education and Monitoring (SICHREM), estimated in 2002 that there were 60,000 children working the region. Dateline NBC, *Slaves to Fashion* [transcript], aired June 23, 2002, [www.msnbc.com/news/770083.asp](http://www.msnbc.com/news/770083.asp) (retrieved June 28, 2002). Compare Department of Labour, Government of Karnataka, *Study Material on "Successful prosecution of Child Labour Cases"*, p. 13 (estimating that 2,500 to 3,000 children are working in sericulture processing).

<sup>70</sup> B.N. Juyal and M.K. Jha, "Karnataka Case—Executive Summary," *Child Labour Involvement in Sericulture*, para. 4.2 (stating that child bondage is "almost universal in the industry"); and Human Rights Watch interview with NGO staff, Bangalore, March 25, 2002. See also Human Rights Watch, *The Small Hands of Slavery*, p. 76.

<sup>71</sup> Human Rights Watch interview with staff of the deputy commissioner, Bangalore Rural District, Karnataka, March 26, 2002 (stating that "70 to 80 percent" of those working in sericulture are under age fourteen).

<sup>72</sup> Department of Labour, Government of Karnataka, *Study Material on "Successful prosecution of Child Labour Cases"*, p. 13.

<sup>73</sup> B.N. Juyal and M.K. Jha, "Executive Summary," *Child Labour Involvement in Sericulture*, submitted to U.P. Diversified Agricultural Support Project, April 1999, para. 2.3.

<sup>74</sup> *Ibid.*

to a non-family member.<sup>75</sup> The rest of these children, while not individually bonded, are likely working with their families, most of whom are bonded to a trader.<sup>76</sup> Reportedly around 20,000 new children join the industry every year, one-third to one-half of whom are bonded.<sup>77</sup>

In Uttar Pradesh, considerable international attention and domestic efforts have been placed on the carpet industry. For example, since 1998, NHRC Special Rapporteur Chaman Lal has focused on the carpet belt in Uttar Pradesh.<sup>78</sup> It is widely agreed that while bonded child labor in carpets has not been eliminated, vigilance from the NHRC and pressure from domestic and international activists has provoked the government to better enforce the child and bonded labor laws and to provide schools and other social services. Much less attention has been paid to silk weaving. According to Dr. Alakh N. Sharma, who conducted a survey of labor in the Varanasi silk industry in November 2000, “I’m not suggesting that everything is perfect in carpets, but at least something has worked. Here [in silk] there has not been any interest.”<sup>79</sup>

Sensitivity to communal tensions and periodic communal violence between Hindus and Muslims has complicated law enforcement in the Varanasi area. About 80 percent of sari weaving households in the Varanasi area are Muslim, about 15 percent are “backward caste” Hindus, and about 6 percent are Dalits.<sup>80</sup> While Muslims have traditionally engaged in sari weaving, backward castes and Dalits have recently entered the profession, both as weavers and as traders.<sup>81</sup> According to Dr. Lenin Raghuvanshi, a member of Varanasi’s bonded labor vigilance committee and an NGO director, “Silk has a communal color in this city.”<sup>82</sup>

### **Tamil Nadu**

Like Varanasi, Kanchipuram in the southern state of Tamil Nadu is famous for its handwoven silk saris. There are about 50,000 silk handlooms in the Kanchipuram area, more than 50 percent of all silk handlooms in the state.<sup>83</sup> Approximately 40,000 to 50,000 children work in bondage on silk handlooms in the area.<sup>84</sup>

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<sup>75</sup> A November 2000 survey of 324 households in the Varanasi area that was sponsored by the National Labour Institute (the Ministry of Labour’s independent research arm) found that 23.5 percent of silk handloom workers were boys and, of those boys, 27.0 percent were non-family labor. Based on this data, the researchers estimated that roughly 106,000 boys (6.4 percent of the total workforce) were working for non-family employers in Varanasi district. It should be noted that although girls are working in silk weaving as well, the researchers were not able to document their work because the girls were often confined to and worked from their homes. Alakh N. Sharma, Institute for Human Development, and Nikhil Raj, V.V. Giri National Labour Institute, *Child Labour in Sari Units of Varanasi (Draft Report)*, undated draft, sec. III, table 3.6 (numbers are rounded to the nearest tenth). An activist working to free bonded laborers, whose organization conducted a survey in 1999, provided similar estimates. Human Rights Watch interview with Lenin Raghuvanshi, People’s Vigilance Committee for Human Rights, Varanasi, March 12, 2002. Others place the rate of non-family child labor somewhat lower. See B.N. Juyal and M.K. Jha, “Executive Summary,” *Child Labour Involvement in Sericulture*, para. 2.3.4.

<sup>76</sup> A November 2000 survey found that more than 90 percent of weavers reported being indebted to traders. Sharma, *Child Labour in Sari Units of Varanasi (Draft Report)*, sec. VI; Human Rights Watch interview with Dr. Alakh N. Sharma, report co-author and director of the Institute for Human Development, New Delhi, March 10, 2002.

<sup>77</sup> B.N. Juyal and M.K. Jha, “Executive Summary,” *Child Labour Involvement in Sericulture*, para. 2.3.7.

<sup>78</sup> Human Rights Watch interview with Chaman Lal, Special Rapporteur on Bonded Labour and Child Labour, NHRC, New Delhi, March 11, 2002.

<sup>79</sup> Human Rights Watch interview with Dr. Alakh N. Sharma, Director, Institute for Human Development, New Delhi, March 10, 2002.

<sup>80</sup> Sharma, *Child Labour in Sari Units of Varanasi (Draft Report)*, sec. III, table 3.1 (reporting results of survey of 324 households conducted in November 2000). “Backward castes” are those whose ritual rank and occupational status are above “untouchables” but who themselves remain socially and economically depressed. They are also referred to as Other Backward Classes (OBCs) or Shudras (who constitute the fourth major caste category in the caste system).

<sup>81</sup> Ibid. See also Steven Wilkinson, “The Town Level Causes Of Hindu-Muslim Riots,” in *Electoral Competition, Ethnic Fractionalization and Hindu-Muslim Violence*, presented March 24, 2001, Laboratory in Comparative Ethnic Processes, Harvard University, Cambridge, MA, <http://www.duke.edu/web/licep/3/wilkinson/wilkinson.pdf> (retrieved September 2, 2002).

<sup>82</sup> Human Rights Watch interview with Lenin Raghuvanshi, People’s Vigilance Committee for Human Rights, Varanasi, March 12, 2002.

<sup>83</sup> Remesh, *Organisational Structure, Labour Relations and Employment in Kancheepuram Silk Weaving*, pp. 1-4.

Most bonded children in Kanchipuram are low-caste or Dalits.<sup>85</sup> While the area's traditional weaving community is Sengunda Mudaliya, a backward caste, many non-weaving communities, Dalits in particular, have entered the work in the last decade.<sup>86</sup> One way non-community weavers enter the industry is by being bonded as a child assistant to a traditional weaver.<sup>87</sup>

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<sup>84</sup> According to a Tamil Nadu government official who wished to remain anonymous, a conservative estimate of child labor in silk handlooms in Tamil Nadu would be at least 50,000 children. Human Rights Watch interview with Tamil Nadu government official, Chennai, Tamil Nadu, March 24, 2002. See also Dateline NBC, *Slaves to Fashion* [transcript], aired June 23, 2002, [www.msnbc.com/news/770083.asp](http://www.msnbc.com/news/770083.asp) (retrieved June 28, 2002) (quoting S. Jeyaraj, Director, Rural Institute for Development Education (RIDE). See also, Human Rights Watch, *The Small Hands of Slavery*, p. 82. In contrast, the district collector of Kanchipuram told Human Rights Watch there were about 50,000 weavers in the area and as many as 700 child laborers. Human Rights Watch interview with K. Rajaraman, District Collector, Kanchipuram, Tamil Nadu, March 19, 2002.

<sup>85</sup> A survey of 166 adult silk handloom weavers in Kanchipuram found that of the 165 non-Muslims, "52 per cent belong to Most Backward and Scheduled Castes, 40.6 to Backward Castes and 7.4, Forward Castes." Babu P. Remesh, *Organisational Structure, Labour Relations and Employment in Kancheepuram Silk Weaving*, p. 26.

<sup>86</sup> Human Rights Watch interview with Helen R. Sekar, Fellow, V.V. Giri National Labour Institute, Noida, Uttar Pradesh, April 1, 2002. Sekar conducted field research on child labor in Kanchipuram from 1997 to June 2001. See also Remesh, *Organisational Structure, Labour Relations and Employment in Kancheepuram Silk Weaving*, pp. 26-27 (attributing the entry of non-weaving communities into silk weaving to drought and agricultural failure in the region, the work's profitability in the 1950s to 1970s, the ability of children from non-weaving castes to get work for traditional weavers, and the formation of weaving cooperatives based on political motives rather than community objectives).

<sup>87</sup> Ibid. Although in the past, caste Hindus were reluctant to allow Dalit children into their homes, their need for exploitable child assistants has eroded this reluctance. Human Rights Watch interview with Helen R. Sekar, Fellow, V.V. Giri National Labour Institute, Noida, Uttar Pradesh, April 1, 2002; Human Rights Watch interview with Gilbert Rodrigo, Director, Legal Resources for Social Action (LRSA) Chengalpattu, Tamil Nadu, March 20, 2002.

#### IV. BONDED CHILD LABOR IN THE INDIAN SILK INDUSTRY

Boiling cocoons, hauling baskets of mulberry leaves, and embroidering saris, children are working at every stage of the silk industry. This report focuses on silk thread production and sari weaving because these are the stages most reliant on bonded children. These children work twelve or more hours a day, six and a half or seven days a week, under conditions of physical and verbal abuse. They suffer injuries from fumes, machinery, sharp threads, boiling water, and dead worms. Girls face particular abuses, including sexual abuse by employers.<sup>88</sup>

##### **Making Silk Thread—Reeling and Twisting**

Mature cocoons are transformed into silk thread through a process of reeling and twisting. Children are cooking cocoons, picking out the dead worms, twisting the filaments into thread, and helping with odd jobs.

##### ***Reeling***

Reeling is the process in which dried cocoons are turned into hanks of multi-strand yarn. The first stage of the reeling process is called “cooking”—boiling the cocoons. The cocoon consists of a single long cluster of silk fibers held together by the water-soluble protein sericin. Boiling the cocoon dissolves the protein. Children stand over open basins of boiling water that are heated below by charcoal or fire, keeping the cocoons immersed in the water with a ladle and palpating the boiling cocoons with their hands to see if the sericin is dissolved and the fibers loosened enough to be unwound. The children are required to reach into the boiling water to feel the cocoons with their hands, rather than with a spoon, on the theory that their hands can more accurately tell when the cocoons are ready to reel.

Nazir Ahmed, eleven years old, explained how he did this work: “I clean the place with water, fill basins with water, put in the cocoons. At 11:00 a.m., I go home for lunch for a half hour, finish, and start working. By that time, we put in fresh water and cocoons.”<sup>89</sup> Small children generally start out “picking worms,” which, as twelve-year-old Mohammad A. explained, means “you thread [unreel] the cocoons out and the worms go down below. You let the water out the drain and the worms are left. It is deep. You take the worms out.”<sup>90</sup>

After the cocoons are cooked, the tangled mass of silk on the outside of the cocoon is peeled off by hand and set aside as silk waste that is to be processed separately. The reeler then unwinds the end of the filament and threads it on a draw pin linked to a wheel that winds the fibers drawn from the cocoon. The filaments are then reeled and re-reeled on a series of spindles, combining two strands into four strands in a process called “doubling.”

##### ***Twisting***

After reeling, individual threads are twisted into strong, multi-ply silk thread. Twisting usually takes place in small factories with between fifty and a few hundred spindles. These factories use bonded child labor. Children stand for long hours loading the spindles, guiding the thread, and performing other tasks.

##### ***Children’s Testimonies***

P. Kattaraman’s parents sent him to work when he was around six years old in exchange for a Rs. 3,000 (U.S.\$63) advance to pay for his sister’s marriage.<sup>91</sup> He worked for five or six years at a silk twisting unit. “The

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<sup>88</sup> For more information about girls and work in India, see Neera Burra, “Cultural Stereotypes and Household Behavior: Girl Child Labour in India,” *Economic and Political Weekly*, February 3-10, 2001, reprinted at <http://hdr.undp.org.in/childrenandpoverty/ref/cultural.htm> (retrieved July 12, 2002); and Neera Burra, *Born to Work: Child Labour in India* (New Delhi: Oxford University Press, 1995), pp. 204-22 (noting that girls’ work is often invisible, low wage, unskilled, and includes much domestic labor that is often not considered work; that some work is sex-typed; and that parents often undervalue girls and thus do not value educating them).

<sup>89</sup> Human Rights Watch interview with eleven-year-old boy, Ramanagaram, Karnataka, March 29, 2002.

<sup>90</sup> Human Rights Watch interview with twelve-year-old boy, Ramanagaram, Karnataka, March 29, 2002.

<sup>91</sup> P. Kattaraman did not know his exact age, but his teachers thought that he was fourteen or younger. He told Human Rights Watch that he had been at the residential school for two years and that he worked for five or six years before that. Human Rights Watch interview, Magadi, Karnataka, March 27, 2002.



conditions of working were very difficult,” he told us. “When we took too long or if the thread broke in the middle, we would get beaten. . . . There was no rest for eating. We ate while working. We paid Rs. 2.50 [U.S.5¢] for a meal from the hotel. This was cut from our wages.”<sup>92</sup>

Yeramma S., eleven years old, was living at an NGO-run school when Human Rights Watch interviewed her:

Before I came here I went to [a government] school, but after one year I withdrew from school because of a problem—my sister’s illness. After my sister got sick, we took her to the hospital, but the doctor said we had to pay more money, so my parents bonded me for Rs. 1,700 [U.S.\$35]. I was seven or eight years old.

I did winding [unwinding the cocoons]. I didn’t like to work, but I was forced to by my parents. They said I couldn’t go to school but had to work. . . .

At 4:00 a.m. I got up and did silk winding. . . . I only went home once a week. I slept in the factory with two or three other children. We prepared our food there and slept in the space between the machines. The owner provided the rice and cut it from our wages—he would deduct the price. We cooked the rice ourselves. We worked twelve hours a day with one hour for rest. If I made a mistake—if I cut the thread—he would beat me. Sometimes [the owner] used vulgar language. Then he would give me more work.<sup>93</sup>

Mayekalai J., who told us he was ten years old but looked much younger, had been living at an NGO school for two years:

Before I came to the school, I worked in the silk unit. I worked with thread and then sometimes cleaning and sweeping. When I first started working, older children were there, and they taught me how to do the work. I started work when I was about seven years old.

I got a Rs. 2,000 [U.S.\$42] advance—it was less because I had no experience. I didn’t get any wages because I was young. Later my wages went straight to my parents, and I don’t know how much it was. Once a week I got Rs. 10 [U.S.21¢] from my parents for pocket money. I spent it on small balls, snacks—chickpeas and chocolate, sweets. . . .

I wanted to play with children, and sometimes I was unhappy. I would see the neighbors’ children going to school, and I would think, “What am I doing here?” Sometimes I thought about running away. Once I escaped from the silk unit and went home. The owner came to my house, and my parents convinced me not to leave again without their permission, so I went back with the owner.<sup>94</sup>

Karuthakannan N., age fourteen and Dalit, had been living at an NGO residential school for two months when we interviewed him. Before that he worked in a silk reeling operation along with two other children. He attended formal school in addition to working, and because he was not working full-time, he could not get a loan from the owner. At the persuasion of an NGO volunteer, he came to the school to live because, he explained, “my parents wanted to take an advance [loan] and send me to work full time. The owner kept demanding this. Even now when I stay here, the owner comes and tries to take me to the silk unit. . . . I originally went because my parents forced me to go and do this thing. Otherwise I wouldn’t have done this work.”<sup>95</sup>

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<sup>92</sup> Ibid.

<sup>93</sup> Human Rights Watch interview with eleven-year-old girl, Magadi, Karnataka, March 27, 2002.

<sup>94</sup> Human Rights Watch interview with ten-year-old boy, Magadi, Karnataka, March 27, 2002.

<sup>95</sup> Human Rights Watch interview with fourteen-year-old boy, Magadi, Karnataka, March 27, 2002.

S. R. Kollur, twelve years old, told Human Rights Watch:

I had a Rs. 2,000 [U.S.\$42] advance, but my sister paid the debt [when I came to the residential school]. She is eighteen years old and working on the same unit. I earned Rs. 200 [\$4.17] a week. I stayed in the twisting unit all week. I worked from 6:00 a.m. until 10:00 a.m. Then I had breakfast and worked until 1:30 p.m. when I had lunch. Then I worked until 9:00 p.m. I would go to my house on Sunday and come back early Monday morning. I slept in a small room at the twisting unit. My sister had to cook for both of us. In the morning we had rice and in the afternoon, millet. If I got sick, my sister had to borrow ten or twenty rupees from the owner to go to the doctor, and then I would go back and sleep in the room. I was not allowed to go outside. At 9:00 p.m. we would just have dinner and go to sleep. There were two other children there about the same age.<sup>96</sup>

### ***Structure of the Bondage in Silk Reeling and Twisting***

Bonds range from around Rs. 1,000 to 5,000 (U.S.\$21 to \$104). There is usually no written document, although employers typically keep record books. As with silk weaving, children reported seeing the books, but many were illiterate and relied on the employer to tell them what was written, rendering them even more vulnerable to exploitation. Children reported being paid from Rs. 0 to around Rs. 400 (U.S.\$8.33) per month, part or all of which is deducted against the debt.

Human Rights Watch visited a silk twisting factory in Bangalore Rural District in March 2002. The factory was notified shortly before we arrived, and we saw only six workers there, all of whom said they were adults. However, the factory supervisor told us that twenty-six people worked in the factory, some only part time, and that they were paid according to the amount of work they did.<sup>97</sup> The total amount spent for their wages each month, he said, was about Rs. 5,000 (U.S.\$104).<sup>98</sup> Even if all of the workers were half time, each earned on average Rs. 192 (U.S.\$4.00) a month, the equivalent of Rs. 384 (U.S.\$8.00) a month for full time work, far below the minimum wage.

Children typically reported working ten to fourteen hours a day, with breaks to eat, six days a week. Children will work for even longer when the demand for thread increases; for example, before a festival when women purchase new saris, factories will sometimes operate twenty-four hours a day. The supervisor at a silk twisting factory told Human Rights Watch, “Outside employers are taking business away. We have to work very fast—day and night.”<sup>99</sup> Thirteen-year-old D.G. Sagar, who was Dalit, said that when he worked at night, “I didn’t like working in the morning, but the owner would insist. He demanded that I come in the morning because I was a good worker. Because the owner was so insistent, I would take the extra work and work day and night.”<sup>100</sup>

Most children working in reeling units are fired at about age fifteen or sixteen and replaced with their younger brothers or sisters; some will go to work in twisting units, but most must seek other work.<sup>101</sup> Thus whatever skills they may have acquired in the silk unit do not help them in adulthood. Indeed, the injuries and illness suffered as child workers limits what work many can do as adults.

### ***Working Conditions in Silk Reeling and Twisting***

From immersion in scalding water and handling dead worms, reelers’ hands become raw, blistered, and sometimes infected. Twelve-year-old T. Basheer worked in a silk reeling unit until twenty-five days before we interviewed him at an NGO-run day school. At first he picked worms, then he graduated to cooking. “Boiling water falls on your hand,” he told us. “You are always in water, standing in it. The skin on your hands and feet peels off. It gets loose.”<sup>102</sup>

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<sup>96</sup> Human Rights Watch interview with twelve-year-old boy, Magadi, Karnataka, March 27, 2002.

<sup>97</sup> Human Rights Watch interview with factory supervisor, Magadi, Karnataka, March 27, 2002.

<sup>98</sup> Ibid.

<sup>99</sup> Ibid.

<sup>100</sup> Human Rights Watch interview with thirteen-year-old boy, Magadi, Karnataka, March 27, 2002.

<sup>101</sup> Human Rights Watch interview with social worker, Ramanagaram, Karnataka, March 29, 2002.

<sup>102</sup> Human Rights Watch interview with twelve-year-old boy, Ramanagaram, Karnataka, March 29, 2002.

Anesha K., eleven years old, started picking worms when she was nine and had been at an NGO-run residential school for four months when we interviewed her. She showed us lumpy scars on her hands and explained: “I didn’t like working because my hands would get infected. I got holes in my hands because I put them in the hot water and then they got infected. I couldn’t eat. I had to eat with a spoon.”<sup>103</sup> Anesha K.’s shins, ankles, and feet were covered with burn scars from boiling water.

Sericin vapors from the boiling cocoons, smoke, diesel fumes from the machines, and poor ventilation cause respiratory ailments such as chronic bronchitis and asthma.<sup>104</sup> Children also suffer cuts to their hands from the threads and from the machines while winding and twisting the silk thread. P. Kattaraman told Human Rights Watch: “The machinery was bad—it can cut your fingers. If you cut your finger, even then, you wouldn’t get sent home. They would put coffee powder on it and you would keep working. There wasn’t any medicine.”<sup>105</sup> P. Kattaraman showed us the bends of his fingers where the threads would cut. Thirteen-year-old D.G. Sagar who worked at a silk twisting unit from age five to age eleven said: “When I was working at night, the skin would come off of my fingers. I would get very sleepy and miss, and the machine would take off the skin.”<sup>106</sup>

Standing at the twisting machines all day without rest or carrying ladles of hot cocoons, basins of dead worms, and other heavy materials causes children back and leg pain, and some suffer leg deformities, including bowleggedness.<sup>107</sup>

Medical examinations in early 2000 of two hundred children ages six to fourteen working in reeling and twisting in Ramanagaram and Channapatna taluks (subdivisions) of Bangalore Rural District found high rates of respiratory diseases (in 86 percent of children studied) and skin infections (in 70 percent of children studied).<sup>108</sup> Children also complained of cuts and other injuries from threads and machines; headaches; pain in the back, legs, neck, and abdomen; colds and bronchitis; hearing loss; and vision problems.<sup>109</sup> The noise from the twisting factories Human Rights Watch visited was deafening, and employers often play loud music in the mistaken belief that it will prevent hearing loss from the machines. Dim lighting inside the factories and the close eye children must keep on the threads and machines also causes vision loss.<sup>110</sup>

When children are injured or ill, they often must continue to work or lose the income, which forces them deeper into debt. Yenappa M. told us: “I got typhoid when I was working and I didn’t want to work, but the owner forced me to. He told me to do what I was able, but he didn’t pay me because I was sick. I took a loan at that time of Rs. 300 [U.S.\$6.25].”<sup>111</sup>

### ***Employer Abuse in Silk Reeling and Twisting***

In addition to injuries related to the work itself, children reported being beaten and verbally abused by their employers and older workers. Nine-year-old P. Ningamadiah, who left his owner for an NGO-run residential

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<sup>103</sup> Human Rights Watch interview with eleven-year-old girl, Ramanagaram, Karnataka, March 29, 2002. Many Indians eat with their right hand and do not use silverware.

<sup>104</sup> MAYA, *Which Silk Route This?*, p. 30 (citing results of medical exams performed in early 2000 on two hundred children ages six to fourteen working in the silk industry in Bangalore Rural District); Human Rights Watch interview with activist, Ramanagaram, Karnataka, March 29, 2002; E-mail communication to Human Rights Watch from MAYA, September 6, 2002.

<sup>105</sup> Human Rights Watch interview with thirteen- or fourteen-year-old boy, Magadi, Karnataka, March 27, 2002.

<sup>106</sup> Human Rights Watch interview with thirteen-year-old boy, Magadi, Karnataka, March 27, 2002.

<sup>107</sup> The NGO MAYA calculated that over the course of a ten to twelve hour day, a cocoon cook, in the process of transferring cooked cocoons to the reeling basin, walks about four kilometers carrying a ladle of hot cocoons weighing about 700 grams (1.54 pounds). MAYA, *Which Silk Route This?*, p. 32.

<sup>108</sup> MAYA, *Which Silk Route This?*, pp. 29-33; E-mail communication to Human Rights Watch from MAYA, September 6, 2002.

<sup>109</sup> MAYA, *Which Silk Route This?*, pp. 29-33. Girls reportedly suffer reproductive disorders, including painful and irregular menstrual periods. Ibid.; Human Rights Watch, *The Small Hands of Slavery*, p. 81, fn. 165.

<sup>110</sup> MAYA, *Which Silk Route This?*, pp. 32-33.

<sup>111</sup> Human Rights Watch interview with thirteen-year-old boy, Magadi, Karnataka, March 27, 2002.

school three months before we interviewed him, said: “At work the supervisor used to beat me with a belt. He tied me up and beat me with a belt on my back. He did this two or three times. . . . He tied a chain that was attached to the wall to my leg.” His owner beat him, he said, “If I didn’t do my work properly.”<sup>112</sup>

T. Basheer, age twelve, told us: “If we make some mistake, the owner beats us on the neck with a stick. If we get sick, the owner comes to our house, uses bad language, and takes us to work. He comes and scolds us and takes us back because he doesn’t have a replacement.”<sup>113</sup>

S. R. Kollur, a twelve-year-old boy who worked from age ten to eleven in a silk twisting unit, said: “Once, my legs were hurting, and I wanted to sit down. I cannot stand for a long time because it makes my legs hurt. I went to rest, and the owner kicked me in the legs.”<sup>114</sup>

Several children told us that they ran away when they were beaten and that they were beaten again when caught. For example, Yenappa M. said that the factory owner beat him regularly: “I ran away sometimes because of the horrors at the factory. But I had no support. The owner went by scooter and caught me and brought me back. The owner was going around because I owed him the loan, and he searched for me and brought me back because of the loan.”<sup>115</sup>

Yenappa M. fled from his owner to an NGO-run residential school four months before we interviewed him. He told us that he was thirteen, but he looked much younger than the other boys that age at the school. He showed us a scar on his forehead running from his left eyebrow to his hairline that he said was from a wooden bobbin thrown at him by the owner:

About a year ago, I went for a ride on a scooter during the work day. When I came back in, the owner was there. I was walking down the narrow aisles between the machines, and the owner picked up a wooden bobbin and threw it at me. It hit my head and I fell down. The owner was afraid and put a cotton cloth on my head. His sister told me to lay down. But two or three hours later they forced me to work again. I said I was not able to work. When this problem happened, I went home. Then my mother died. My father had died long ago. I was very upset. My mother was gone and the owner was creating problems. . . . I was afraid because of the loom and the owner. [The NGO volunteers running the school] told me they would help so I came to the center.<sup>116</sup>

Girl factory workers also suffer sexual abuse from their employers.<sup>117</sup> Activists and investigators in Bangalore Rural District have told Human Rights Watch that sexual abuse by factory owners is so prevalent that factory girls are shunned as potential brides because everyone assumes that these girls have been “touched”—molested or raped—by their employers.<sup>118</sup>

### **Moriculture and Cocoon Raising**

Bonded child labor is not “so rampant” in moriculture, or worm rearing, according to activists in Bangalore Rural District, a major silk worm producing area.<sup>119</sup> Although agriculture was not the focus of our research, we did interview several children bonded in this work. For example, thirteen-year-old R. Muniyappa said that he works from 5:00 a.m. to 6:00 p.m. tending another family’s sheep and picking mulberry leaves to feed the

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<sup>112</sup> Human Rights Watch interview with nine-year-old boy, Magadi, Karnataka, March 27, 2002.

<sup>113</sup> Human Rights Watch interview with twelve-year-old boy, Ramanagaram, Karnataka, March 29, 2002.

<sup>114</sup> Human Rights Watch interview with twelve-year-old boy, Magadi, Karnataka, March 27, 2002.

<sup>115</sup> Human Rights Watch interview with thirteen-year-old boy, Magadi, Karnataka, March 27, 2002.

<sup>116</sup> Ibid.

<sup>117</sup> Human Rights Watch interview with local activist, Bangalore, Karnataka, March 25, 2002. See also MAYA, *Which Silk Route This?*, p. 33.

<sup>118</sup> Human Rights Watch, *The Small Hands of Slavery*, p. 81. See also Narayan K.S. and P. Pushpa Rani, “Silk Industry and Child Workers,” *Social Welfare*, p. 11.

<sup>119</sup> Human Rights Watch interview with NGO director, Bangalore, Karnataka, March 25, 2002; Human Rights Watch interview with activist, Ramanagaram, Karnataka, March 29, 2002.

silkworms.<sup>120</sup> His family bonded him in exchange for Rs. 7,000 (U.S.\$146) in order to repay another loan. Although he believed he earns Rs. 20 (U.S.\$42¢) a day, he explained, “I was given for a two years agreement, so I don’t actually receive the Rs. 20.”<sup>121</sup> If his loan were actually being repaid at a rate of Rs. 20 a day (which is itself far less than the minimum wage), the loan would be repaid in 350 working days, a much shorter time than the two years for which he is bonded. R. Muniyappa attends an NGO-run non-formal school at night for a few hours when he can. “When I have a lot of work, I am not allowed to come to the school,” he told us. “The owners complain that I am not working enough because my parents have taken the loan. They say, ‘You have to repay it.’”<sup>122</sup>

While the vast majority of bonded children in India—an estimated 85 percent—are working in agriculture, they are also often the least visible.<sup>123</sup> Moreover, entire families, particularly low-caste Hindus and Dalits, are extensively bonded in agriculture, which includes mulberry cultivation and leaf picking and hauling. In addition to the bondage itself, the hazards of children’s work in agriculture are well-documented and include pesticide poisoning, injury from dangerous tools, and dropping out of school.<sup>124</sup>

### Weaving Saris

*We don’t play at all.*

—Nallanayaki P., thirteen years old, working in a silk weaving factory in Kanchipuram<sup>125</sup>

Varanasi and Kanchipuram are famous for their handwoven silk saris, which are often intricately embroidered with gold thread and can take up to a month to weave. An estimated 200,000 children under age fourteen are working in the silk industry in the Varanasi area, about half of whom are bonded to a non-family member.<sup>126</sup> As already noted, approximately 40,000 to 50,000 children work in bondage on silk handlooms in Kanchipuram.<sup>127</sup>

Until around age fourteen or fifteen, children are usually too small to operate the looms themselves. Instead, they assist weavers by sitting next to them at the loom, legs dangling in the pit, catching the shuttle and embroidering the border. Girls and women also wind the weft thread onto bobbins that are loaded onto the shuttle and woven through the warp threads. In Varanasi town, in nearby Dalit villages, and in Kanchipuram, we saw girls and boys working at the looms, assisting weavers and winding thread on bobbins. We interviewed children bonded to non-family employers and children working for their own families, who themselves were bonded to traders.

In both Varanasi and Kanchipuram, even if they attended a night school, children reported working twelve to thirteen hours a day with breaks for breakfast and lunch. In Kanchipuram, children reported working seven days a week with two half-days off a month.

<sup>120</sup> Human Rights Watch interview with thirteen-year-old boy, Channapatna, Karnataka, March 28, 2002.

<sup>121</sup> Ibid.

<sup>122</sup> Ibid.

<sup>123</sup> See National Labour Commission, Ministry of Labour, Government of India, *Report of the Second National Commission on Labour*, 2002, pp. 1013, 1018. For more information about child labor in agriculture generally, see Human Rights Watch, *The Small Hands of Slavery*, pp. 95-101; and Human Rights Watch, *Backgrounder: Child Labor in Agriculture*, June 2002, <http://hrw.org/backgrounder/crp/back0610.htm>.

<sup>124</sup> See, e.g., Human Rights Watch, *Backgrounder: Child Labor in Agriculture*; Human Rights Watch, *Tainted Harvest: Child Labor and Obstacles to Organizing on Ecuador’s Banana Plantations* (New York: Human Rights Watch, 2002), <http://hrw.org/press/2002/04/ecuador0425.htm>; Human Rights Watch, “Underage and Unprotected: Child Labor in Egypt’s Cotton Fields,” A Human Rights Watch Short Report, vol. 13, no. 1(e), January 2001, <http://www.hrw.org/reports/2001/egypt/>; Human Rights Watch, *Fingers to the Bone: United States Failure to Protect Child Farmworkers* (New York: Human Rights Watch, 2000), <http://www.hrw.org/reports/2000/frmwkr/>.

<sup>125</sup> Human Rights Watch interview with thirteen-year-old girl, Kanchipuram, Tamil Nadu, March 21, 2002.

<sup>126</sup> For an explanation of how this number was calculated, see section above, “Areas Covered by this Report.”

<sup>127</sup> See section above, “Areas Covered by this Report.”

Girls rarely become weavers, which limits how much they can earn. Researchers in eastern Uttar Pradesh, where most silk weavers are Muslim, have found that girls' labor is nearly invisible.<sup>128</sup> In this area, girls work inside homes filling bobbins and embroidering saris; when they work for someone outside the family, the work is still brought home.<sup>129</sup> In contrast, in Kanchipuram, Human Rights Watch interviewed girls who worked both in others' homes and in factories. However, girls there are still much less likely than boys to become weavers or loom owners.<sup>130</sup> When Human Rights Watch asked a group of weavers, assistants, and loom owners in Kanchipuram about women's work, one man responded: "Women wire the silk—they put it on bobbins and roll it. They don't weave as weavers. They do assistant work."<sup>131</sup> According to another man, "10 percent of women are weaving. The rest do assistant work. Women can get Rs. 300 [U.S.\$6.25] like the boys. Most are working at home. If they are weaving, they get the same as a man."<sup>132</sup>

Although adults can, and sometimes do, work as assistants, weavers prefer children. National Labour Institute researcher Babu P. Remesh, in a survey of labor in the Kanchipuram silk industry in 2000, found that weavers prefer children for the following reasons:

(a) the recurring labour costs in the case of adult helpers are high (for an adult helper, the monthly wages are about Rs. 600 [U.S.\$13], where as for the child labour it is about Rs. 300 [\$6.25] or even less than that); (b) the perception of the weavers that the child helper remains for longer periods with them compared to the adult ones; (c) the belief that children are better than adults (nimble fingers argument)—which in reality implies that they could be better monitored and exploited.<sup>133</sup>

Unlike children bonded in silk thread production and certain other industries such as carpets, most weavers' child assistants continue to work in the industry as adults. Therefore, parents may also bond their children to a weaver in part for training, believing that children must learn weaving early under a "hard task master."<sup>134</sup> According to Professor B.N. Juyal, an expert on child labor in the silk industry, while poverty is one reason children enter the weaving industry, other major causes are the great demand for children's labor, the belief that children are learning valuable skills, and socialization in the "traditional craft culture."<sup>135</sup>

### ***Children's Testimonies***

In a Dalit and low-caste neighborhood less than two kilometers from the deputy labor commissioner's office in Varanasi, Uttar Pradesh, we spoke with two boys while they were assisting weavers. Rustamlal M., who was twelve, said he attends school for four hours in the morning, then works six and a half or more hours at the loom.<sup>136</sup> Fourteen-year-old Ashish M. told us that he could not leave his loom owner because he was paying off an advance, which in two years he had reduced from Rs. 2,500 (U.S.\$52) to Rs. 475 (\$9.90). "The owner pays

<sup>128</sup> B.N. Juyal and M.K. Jha, "Executive Summary," *Child Labour Involvement in Sericulture*, para. 2.3.11. See also Sharma, *Child Labour in Sari Units of Varanasi (Draft Report)*.

<sup>129</sup> B.N. Juyal and M.K. Jha, "Executive Summary," *Child Labour Involvement in Sericulture*, para. 2.3.11.

<sup>130</sup> Remesh, *Organisational Structure, Labour Relations and Employment in Kancheepuram Silk Weaving*, p. 24. This has also been found to be the case in Arni region, a silk weaving area about sixty kilometers from Kanchipuram. K. Nagaraj, S. Janakarajan, D. Jayaraj, Barbara Harris White, "Socio-Economic Factors Underlying the Growth of Silk Weaving in the Arni Region: A Preliminary Study," Madras Institute of Development Studies and Queen Elizabeth House, Oxford, March 1996 (finding that while both girls and boys enter the industry as assistants, girls are less likely to graduate from being an assistant to a waged weaver and then to a self-employed weaver).

<sup>131</sup> Human Rights Watch group interview with weavers, assistants, and loom owners, Kanchipuram, Tamil Nadu, March 20, 2002.

<sup>132</sup> Ibid.

<sup>133</sup> Remesh, *Organisational Structure, Labour Relations and Employment in Kancheepuram Silk Weaving*, p. 33.

<sup>134</sup> B.N. Juyal and M.K. Jha, "Executive Summary," *Child Labour Involvement in Sericulture*, para. 2.3.4.

<sup>135</sup> Ibid., paras. 2.3.4-2.3.9.

<sup>136</sup> Human Rights Watch interview with twelve-year-old boy, Varanasi, Uttar Pradesh, March 13, 2002. The loom owner told us the boy was his nephew, a family relationship that does not fall under the family exemption to the 1986 Child Labour (Prohibition & Regulation) Act. Human Rights Watch interview with loom owner, Varanasi, Uttar Pradesh, March 13, 2002.

but deducts for the advance,” he said. “He deducts but won’t write off the whole advance. . . . We only make enough to eat.”<sup>137</sup>

Ten-year-old Puttu Lal works in Varanasi’s market area, and we interviewed him at night after he had returned from work. He told us that he lives with his mother and one brother; his father is dead.<sup>138</sup> Four years ago, he said, his mother bonded him for Rs. 1,000 (U.S.\$21). Since then, every morning, seven days a week, he has woken up at 7:00 or 7:30 and gone to work making borders for saris. He told us that he works for twelve hours, with an hour break to go home for lunch. He makes Rs. 300 (U.S.\$6.25) a month, but, he explained, some of that is taken out to pay the loan. He said he still owes Rs. 400 (U.S.\$8.33) but that the family has borrowed more since the original loan. His boss’s children go to school, he said, but he does not.<sup>139</sup>

Nesan S., also ten years old, said he had been working in Kanchipuram, Tamil Nadu, assisting a weaver for the last two years.<sup>140</sup> He told us that he earns Rs. 200 (U.S.\$4.17) a month and is paying off a Rs. 6,000 (\$125) advance that his family used to buy a loom on which his parents now work. “My father asked me to stop studying. I went to third standard [third grade], then I stopped,” he explained.<sup>141</sup> Nesan S. said he goes to work at 7:00 or 7:30 in the morning and has two half days off a month. We interviewed him on his first night back at a government-run night school. “I stopped coming two months ago because the owner had to increase production, so he stopped me from coming to school. This is my first day back,” he told us.<sup>142</sup> “I don’t want to go to my job. I want to study in school. . . . My parents let me go to this school because there are no fees.”<sup>143</sup> Nesan S. also has a younger sister: “After one year my sister will also go to work. She is eight years old. She is not going regularly to the government school now. . . . My sister is not wanting to go to school. She will not come here [to the night school] when she goes to work.”<sup>144</sup> His parents did not want his sister to come to the night school, Nesan S. explained.

Arul G. told Human Rights Watch that two months before we interviewed him, his mother withdrew him from the government school in Kanchipuram and sent him to work in exchange for a Rs. 3,000 (U.S.\$62.50) advance and a monthly salary of Rs. 200 (\$4.17).<sup>145</sup> The family used the money to buy a loom on which his father now weaves, he said. Arul G. is ten years old.<sup>146</sup>

N. Iraivan is fourteen years old and told Human Rights Watch that he had been working for the last three years as a loom assistant.<sup>147</sup> He said that he owes Rs. 8,000 (U.S.\$167), which his father took to pay off old debts for festivals, and earns Rs. 310 (\$6.46) a month. He attends a government-run night school after work. “If I get sick,” he told us, “the owner will scold me and shout and take one day’s salary—Rs.10 [U.S.21¢] per day. If there is a mistake, he shouts. Otherwise, he is nice. Then he has to correct me.”<sup>148</sup> When we asked what he liked to do when he wasn’t working or in school, he answered, “If there was no school, I would be at the loom itself. I can’t escape from it.”<sup>149</sup>

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<sup>137</sup> Human Rights Watch interview with fourteen-year-old boy, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>138</sup> Human Rights Watch interview with ten-year-old boy, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>139</sup> Ibid.

<sup>140</sup> Human Rights Watch interview with ten-year-old boy, Kanchipuram, Tamil Nadu, March 19, 2002.

<sup>141</sup> Ibid.

<sup>142</sup> Ibid.

<sup>143</sup> Ibid. For more information about night schools in Kanchipuram, see section below “Other State-Level and Non-Governmental Initiatives to Address Child Labor.”

<sup>144</sup> Ibid.

<sup>145</sup> Human Rights Watch interview with ten-year-old boy, Kanchipuram, Tamil Nadu, March 19, 2002.

<sup>146</sup> Ibid.

<sup>147</sup> Human Rights Watch interview with fourteen-year-old boy, Kanchipuram, Tamil Nadu, March 21, 2002.

<sup>148</sup> Ibid.

<sup>149</sup> Ibid.

S. Kancha is eleven years old and told Human Rights Watch that he had been working for the last three years.<sup>150</sup> He said that he earns Rs. 300 (U.S.\$6.25) a week and is paying off a Rs. 6,000 (\$125) advance, which his family took to construct a floor in their home. “If I get ill,” he told us, “I will take leave from the job. I can’t get a long leave—only a half day—but the owner won’t withhold the money from my salary.”<sup>151</sup>

Vimali T. explained that she started working at age nine or ten. At age fifteen, she was earning Rs. 350 (U.S.\$7.29) a week and still owed Rs. 8,000 (\$167).<sup>152</sup>

My first loan was Rs. 6,000 [U.S.\$125] from the first owner. Then we got another Rs. 1,000 [\$21] from the second owner, and he paid the first owner. If I paid the loan back, then I wouldn’t have to go to work. If there were no loan, I could stop working and go to the regular school. . . . Now we are unable to pay back the loan. My father is ill so we can’t stop working. . . . I don’t like the looms, but my parents ask me to go so I go, but I hadn’t thought there would be this much pain in the work.<sup>153</sup>

Vimali T. was attending night school for about two hours in the evening. When asked what she did for fun when she was not working or studying, she answered, “There is no play time for me. If I have time, I will work in the house. . . . When I am not working in the loom I will do heavy housework. I will take the manure and work in the cattle farm.”<sup>154</sup>

Although thirteen years old, Nallanayaki P. looked about six. She told us she had a disease that keeps her from growing. She said she was working in a twenty-loom factory to pay off a Rs. 7,000 (U.S.\$146) loan and making Rs. 230 (\$4.79) a month, less than U.S.17¢ a day.<sup>155</sup> “I don’t like the work,” she told us. “I can’t go to school.”<sup>156</sup>

In addition to these children, in Kanchipuram Human Rights Watch also interviewed:

- Chokkan K., age twelve, who said he had been working for the last five years to pay off a Rs. 7,000 (U.S.\$146) loan;<sup>157</sup>
- C. Mukkannan, age twelve, who told us he had been working two years for an employer with four looms for Rs. 200 (U.S.\$4.16) a month. When we asked him what he did for fun, for recreation, he seemed confused and replied, “I don’t have this situation”;<sup>158</sup>
- V. Shakti, age eleven, who said she was earning Rs. 200 (U.S.\$4.16) a month to repay a Rs. 3,500 (\$73) loan that was used to pay for the birth of her elder sister’s child;<sup>159</sup>
- V. Shakti’s brother, V. Penkuran, age twelve, who told us that he had been working for the last six years to pay off a Rs. 6,500 (U.S.\$135) loan taken for his sister’s marriage;<sup>160</sup> and
- Nerrikkannan M., age fifteen, who said he had been working for seven years at a loom but was still an assistant, earning only Rs. 325 (U.S.\$6.77) a month to pay a Rs. 3,000 (\$63) advance taken to pay for his father’s funeral.<sup>161</sup>

Eighteen-year-old Karpakavalli S. was a weaver, but, she said, her mother still worked as an assistant.<sup>162</sup> She told us that she started working on the looms at age five and was earning Rs. 350 (U.S.\$7.29) a month by age ten.

<sup>150</sup> Human Rights Watch interview with eleven-year-old boy, Kanchipuram, Tamil Nadu, March 21, 2002.

<sup>151</sup> Ibid.

<sup>152</sup> Human Rights Watch interview with fifteen-year-old girl, Kanchipuram, Tamil Nadu, March 21, 2002.

<sup>153</sup> Ibid.

<sup>154</sup> Ibid.

<sup>155</sup> Human Rights Watch interview with thirteen-year-old girl, Kanchipuram, Tamil Nadu, March 21, 2002.

<sup>156</sup> Ibid.

<sup>157</sup> Human Rights Watch interview with twelve-year-old boy, Kanchipuram, Tamil Nadu, March 21, 2002.

<sup>158</sup> Human Rights Watch interview with twelve-year-old boy, Kanchipuram, Tamil Nadu, March 21, 2002.

<sup>159</sup> Human Rights Watch interview with eleven-year-old girl, Kanchipuram, Tamil Nadu, March 21, 2002.

<sup>160</sup> Human Rights Watch interview with twelve-year-old boy, Kanchipuram, Tamil Nadu, March 21, 2002.

<sup>161</sup> Human Rights Watch interview with fifteen-year-old boy, Kanchipuram, Tamil Nadu, March 21, 2002.



Now, she said, she was earning Rs. 1,300 a month and from that was paying the loom owner Rs. 300 (U.S.\$6.25) a month. However, she did not know how much she still owed. “Only my father will know,” she told us.<sup>163</sup> When we interviewed her, she had been attending a night school for about twenty days—before that, she had never attended school.

In contrast, the children of a loom owner, who himself held other children in debt bondage, lived in markedly different circumstances. All three of the loom owner’s children were enrolled in school. We interviewed the two sons, who wore better clothes than the local bonded children, and, in an area where bonded children were particularly small physically, the owner’s sons were taller and appeared to be in better health. The elder son was enrolled in eleventh standard (eleventh grade), had passed his ten standard exams with a high score, and aspired to join the Indian Air Force. Although at sixteen years old many boys would be weavers, he told us that he could only work as an assistant, suggesting that he simply had not spent much time working.<sup>164</sup> The owner’s younger son, studying in fifth standard (fifth grade), told us that he did not work at all:

I don’t weave. I don’t know anything about this job. I watch T.V. I like cartoons like the Popeye show. I play tennis at school. I go to private school. We have to pay Rs. 100 [U.S.\$2.08] a month for fifth standard. I study English, math, Hindi, science, Tamil, general knowledge, and social science. Drawing is my favorite subject. I like to draw lions. I haven’t yet decided what kind of job I want. My father wants me to go into the India police service.<sup>165</sup>

The loom owner also told us that his daughter, whom we did not interview, was attending ninth standard.<sup>166</sup>

### ***Structure of the Bondage in Silk Weaving***

Like many industries, the silk handloom business is structured vertically. Children are at the bottom, initially bonded for around Rs. 2,000 to 10,000 (U.S.\$42 to \$208). Children work for weavers who are themselves typically in debt to a middleman (sometimes called a “master weaver”) or directly to a trader (sometimes called a “gaddidar”) and who are not free to work for any other.<sup>167</sup> The trader, who actually sells the sari, takes most of the profit; in Kanchipuram a sari sells for almost double the total production cost.<sup>168</sup> A Varanasi silk trader who said that he usually works directly with weavers said, “We sometimes go to middlemen if there is high demand. The middleman takes half the profit from the weaver. Our costs are the same but he takes it out of the people beneath him. The middleman gives the advance.”<sup>169</sup> In addition to holding a debt, traders and middlemen can control the weaver by owning all or key parts of the loom; supplying the thread, zari (gold thread), and design; and marketing the sari.<sup>170</sup> Human Rights Watch’s findings of pervasive bondage in silk weaving are supported by extensive survey research conducted by the National Institute of Labour.<sup>171</sup>

<sup>162</sup> Human Rights Watch interview with eighteen-year-old woman, Kanchipuram, Tamil Nadu, March 21, 2002.

<sup>163</sup> Ibid.

<sup>164</sup> Human Rights Watch interview with sixteen-year-old boy, Kanchipuram, Tamil Nadu, March 20, 2002.

<sup>165</sup> Human Rights Watch interview with fifth standard (grade) boy, Kanchipuram, Tamil Nadu, March 20, 2002.

<sup>166</sup> Human Rights Watch interview with loom owner, Kanchipuram, Tamil Nadu, March 20, 2002.

<sup>167</sup> According to Remesh, “[t]he attached weaver is bound to work only for the *Maligai* [trader] and breach of this leads to break of contract and punitive actions such as demand for repayment of old debts if any with cumulative interest. . . . [S]ince *Malligais* and cooperatives have close nexus the defaulter finds it difficult to get any fresh contract and hence has to leave the industry.” Of the 166 weavers Remesh surveyed in 2000, 150 were in debt. Most used the advances for: “(a) setting up of looms and consolidation of pre-requisites for production; (b) meeting contingency expenses; and (c) meeting consumption expenses, especially during lean seasons.” However, Remesh also notes that the practice of advances for weavers had eroded considerably. Remesh, *Organisational Structure, Labour Relations and Employment in Kancheepuram Silk Weaving*, pp. 12-13, 35-36, 38.

<sup>168</sup> Ibid., p. 37.

<sup>169</sup> Human Rights Watch interview with silk trader, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>170</sup> According to Remesh’s study, 48.2 percent of weavers surveyed had this kind of relationship, known as “attached weaving” or the “*thaniyar* system,” with a trader. Most attached weavers were weaving out of their own homes and owned their own looms. However, the survey found about ten workshops in and around Kanchipuram, each with about ten to one hundred looms, in which attached weavers work together on looms rented from the trading firms. “The tenant weavers normally engage their family labour (including women and children) as helpers. The use of hired assistants is also resorted in

Child assistants are usually paid by the month beginning from nothing to around Rs. 100 (U.S.\$2.08) a month and eventually reaching about Rs. 400 (\$8.33) a month. Weavers attached to traders are typically paid by piece, depending on the intricacy of the design, with deductions for the advance, any defects, and—if the loom is rented—rent.<sup>172</sup> According to National Labour Institute researcher Babu P. Remesh, who in 2000 conducted a survey of labor in Kanchipuram, the traders' control of every stage of the process—materials, design, production rate, and sales—allows them to minimize the piece rate.<sup>173</sup> He found that weavers attached to traders (usually through a bond) made from Rs. 1,000 to Rs. 2,000 (U.S.\$21 to \$42), while non-bonded weavers in cooperatives (who nonetheless often bond a child assistant) made from Rs. 2,500 to Rs. 4,000 (\$52 to \$83) per piece, which would take from thirty to fifty days of weaving.<sup>174</sup>

In Varanasi, Human Rights Watch interviewed a man who, with his entire family, worked on a loom in their home. The family earns Rs. 300 (U.S.\$6.25) for every sari woven, he said, and weaves about three saris a month, which they sell to a trader. “We can’t survive on this,” he told us. “We have to take loans.”<sup>175</sup> They take loans from the trader, who then deducts money from the payment for the saris. The last loan they took was for Rs. 2,000 (U.S.\$42), about a year or eighteen months before. “We take a loan when we need it,” he explained. “Who knows when it will get paid off?”<sup>176</sup> This question was not rhetorical. The man later explained that he did not know when he would pay off his debt because the trader had not told him.<sup>177</sup>

### ***Work-Related Injuries in Silk Weaving***

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

A medical examination at a health camp for some eighty-five children released from bondage in Kanchipuram's silk looms in November 1997 found that all were malnourished, two had pulmonary tuberculosis, twenty-six had various skin infections, and many had vision, dental and hearing problems.<sup>178</sup> Researchers in Uttar Pradesh have found similar problems among children working on silk looms in that state.<sup>179</sup> For example, a worker with a community health organization in Varanasi told Human Rights Watch that silk workers report breathing problems and pain in their shoulders and upper backs.<sup>180</sup>

### ***Employer Abuse in Silk Weaving***

Many children reported that loom owners and weavers abused them verbally and physically. According to a fourteen-year-old bonded boy who worked as a weaver's assistant in Varanasi: “If we don't do the work, they

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cases of non-availability of own-labour.” Remesh, *Organisational Structure, Labour Relations and Employment in Kancheepuram Silk Weaving*, pp. 10-12, 14-15, 22-23.

<sup>171</sup> See, e.g., *ibid.*

<sup>172</sup> *Ibid.*, pp. 29-30.

<sup>173</sup> *Ibid.*, pp. 13-14.

<sup>174</sup> *Ibid.*, p. 30.

<sup>175</sup> Human Rights Watch interview with Dalit man, Varanasi District, Uttar Pradesh, March 14, 2002.

<sup>176</sup> *Ibid.*

<sup>177</sup> *Ibid.*

<sup>178</sup> Human Rights Watch interview with Tamil Nadu government official, Chennai, Tamil Nadu, March 24, 2002.

<sup>179</sup> Researchers in Uttar Pradesh found that: “Due to long hours of working on pit-looms more frequently, inside damp and ill-ventilated rooms, aching-joints rheumatic diseases, digestive/respiratory disorders, and impairment of eyesight have assumed the proportion of occupational diseases among weavers, depending on the length of exposure. There is also a high incidence of TB reported.” B.N. Juyal and M.K. Jha, “Executive Summary,” *Child Labour Involvement in Sericulture*, para. 2.3.15. See also, Human Rights Watch, *The Small Hands of Slavery*, p. 87.

<sup>180</sup> Human Rights Watch interview with staff member, community health organization, Varanasi, Uttar Pradesh, March 12, 2002.

will beat us. They curse us and beat us.”<sup>181</sup> Twelve-year-old Kanshi Ram, who works as a weaver’s assistant, told us that if he gets sick, “the owner will scold me and will not allow me to leave. If I take leave he will beat me. He will ask me if I am cheating him.”<sup>182</sup> Nallanayaki P., who was thirteen years old and from a low caste told us: “Always [the weavers and owners] are beating me—I don’t like to work. They always scold and shout. They beat me on the back and head. They are always knocking their fists on my head or hitting me with a comb [wood piece in the loom].”<sup>183</sup>

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<sup>181</sup> Human Rights Watch interview with fourteen-year-old boy, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>182</sup> Human Rights Watch interview with twelve-year-old boy, Kanchipuram, Tamil Nadu, March 19, 2002.

<sup>183</sup> Human Rights Watch interview with thirteen-year-old girl, Kanchipuram, Tamil Nadu, March 21, 2002.

## V. CASTE-BASED DISCRIMINATION AND BONDED LABOR

*Bonded labor in India is not just an economic issue but a social issue linked with caste. Unless we associate bonded labor with caste, we won't understand bonded labor, and we won't find a solution.*

—Kiran Kamal Prasad, director of JEEVIKA, NGO working to free and rehabilitate bonded laborers and to train government officials

*This is the thing that God blessed me with so I have to work like this. I can't do something else. . . . It is written on my head and nobody can change this. I am born into this community so we don't know what else to do. We have to do this and nothing else. . . . I don't want to go to the looms but there is no other way.*

—Vimali T., fifteen-year-old low-caste girl, bonded to a loom owner for Rs. 8,000 (U.S.\$167), Kanchipuram, Karnataka, March 21, 2002

Allocation of labor on the basis of caste is one of the caste system's fundamental tenets. Within the caste system, Dalits, or so-called untouchables, have been assigned tasks and occupations deemed ritually polluting for other caste communities. Most bonded laborers are low-caste, illiterate, and extremely poor, while the creditors/employers are usually higher-caste, literate, comparatively wealthy, and relatively more powerful members of the community.<sup>184</sup> According to government figures, 86.6 percent of bonded laborers are Scheduled Castes and Scheduled Tribes.<sup>185</sup>

In sericulture, most bonded children are Dalit or Muslim, depending on the area.<sup>186</sup> The great majority of non-Muslim children whom we interviewed from reeling and twisting units were Dalit, and NGOs credibly report that most children reeling and twisting silk thread in Karnataka, the primary silk thread producing area in India, are Dalit.

The traditional silk weaving caste is a lower caste, called a "backward caste," but in both Varanasi and Kanchipuram districts, Dalits have entered the weaving profession in significant numbers, often by being bonded as children.<sup>187</sup> Muslims also dominate sari weaving in some areas, including in urban Varanasi. However, in Varanasi district, Dalits and lower castes have begun weaving in increasing numbers, in part because communal violence and attacks on Muslims have pushed them out of the profession.<sup>188</sup>

<sup>184</sup> For more information about the connection between caste and bondage, see Human Rights Watch, *Broken People*, pp. 139-52, [http://www.hrw.org/reports/1999/india/India994-09.htm#P1695\\_354939](http://www.hrw.org/reports/1999/india/India994-09.htm#P1695_354939); and Human Rights Watch, *Caste Discrimination: A Global Concern*, pp. 14-16, [http://www.hrw.org/reports/2001/globalcaste/caste0801-03.htm#P292\\_53595](http://www.hrw.org/reports/2001/globalcaste/caste0801-03.htm#P292_53595).

<sup>185</sup> Ministry of Labour, Government of India, *Annual Report 2000-2001*, p. 181. This figures appear to be based on both a 1991 Report of the National Commission on Rural Labour and reports from thirteen states through March 31, 2000, of bonded laborers identified, freed, and rehabilitated.

<sup>186</sup> This is the case not only in the areas where Human Rights Watch investigated but also in other states, for example, Andhra Pradesh. See, e.g. Narayan K.S. and P. Pushpa Rani, "Silk Industry and Child Workers," *Social Welfare*, p. 10.

<sup>187</sup> Human Rights Watch interview with Dr. Alakh N. Sharma, Director, Institute for Human Development and author of November 2000 survey of labor in the Varanasi silk industry, New Delhi, March 10, 2002; Remesh, *Organisational Structure, Labour Relations and Employment in Kancheepuram Silk Weaving*, pp. 26-27. Local NGOs confirmed that Dalit children were being bonded in Kanchipuram's silk looms. For example, according to Girija Kumarababu, consultant for the Indian Council for Child Welfare, "loom owners are sending their own kids to school and taking on S.C. [scheduled caste or Dalit] children as bonded." Human Rights Watch interview with Girija Kumarababu, consultant to the Indian Council for Child Welfare, Chennai, Tamil Nadu, March 21, 2002. And an inspector of night schools in Kanchipuram told us, "silk was only a backward caste, but now everyone can do it so there is no caste bias." Human Rights Watch interview with night school inspector, March 20, 2002. In Varanasi, Human Rights Watch interviewed both Dalit and low-caste children bonded to Muslim silk weavers.

<sup>188</sup> Human Rights Watch interview with Lenin Raghuvanshi, People's Vigilance Committee for Human Rights, Varanasi District, March 14, 2002; Steven Wilkinson, "The Town Level Causes Of Hindu-Muslim Riots," in *Electoral Competition*, Human Rights Watch

Dalits and low-caste Hindus are the most vulnerable to bondage for the following reasons:

- upper castes traditionally expect that Dalits will perform free services, which helps to sanction the bonded labor system and results in poor Dalits being bonded when poor caste Hindus are not;
- Dalits are typically landless and therefore economically dependent on their employers. Economic dependency also keeps them from reporting atrocities against them;
- upper castes levy social and economic boycotts as well as perpetrate violence against Dalit communities who challenge traditional practices and try to assert their rights;
- upper castes dominate local political bodies, the police and the judiciary, bonded labor vigilance committees, and child labor committees that are supposed to enforce the law on bonded and child labor; and
- discrimination against Dalit children in school encourages them to drop out and be sent to work.

Dalits and lower castes are typically restricted to tasks and occupations that are deemed too “filthy” or “polluting” for higher-caste communities, and the poor remuneration of manual scavenging, agricultural labor, and other forms of low-caste employment often forces families of lower castes into bondage. For example, Human Rights Watch interviewed Dalit villagers who weave saris in their homes on looms owned by traders, but whom local landlords also force to work their land. “We have very little land, less than five acres,” a Dalit woman in the village told us. “Yes, of course we work on the landlords’ land.”<sup>189</sup> In exchange for a day’s labor, a worker receives five kilograms of wheat, worth about Rs. 40 (U.S.\$83¢).<sup>190</sup> “They don’t even measure the five kilograms,” one man complained. “They just fill up a sack and bring it out to us.”<sup>191</sup> Another man explained that they couldn’t survive on the money earned from this and from sari weaving, so they had to take loans from the traders.<sup>192</sup>

Because upper castes have expected and extracted free services from Dalits, Dalits are more likely to become bonded compared with equally poor higher caste Hindus. According to respected economist and Dalit activist Professor Shukhadeo Thorat:

For high-caste poor, there is no exploitative relationship. They may be underpaid but not humiliated. The poor of [the employer’s] own caste are treated differently—there is no compulsion against them. . . . There is a traditional economic relationship based on caste between the landowner and the S.C. [scheduled caste]. These relationships are determined by custom and norms, and these affect the decision of the S.C. to send their children for work. This is on the supply side. High castes will also compel lower castes to send their children for work. They will say, “This is custom. The law is something different.” In rural settings, customary services are still performed.<sup>193</sup>

Most Dalit victims of abuse in India are landless agricultural laborers who form the backbone of the nation’s agrarian economy. Despite decades of land reform legislation, over 86 percent of Dalit households today are

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*Ethnic Fractionalization and Hindu-Muslim Violence*, presented March 24, 2001, Laboratory in Comparative Ethnic Processes, Harvard University, Cambridge, MA, <http://www.duke.edu/web/licep/3/wilkinson/wilkinson.pdf> (retrieved September 2, 2002).

<sup>189</sup> Human Rights Watch group interview with Dalit villagers, Varanasi District, Uttar Pradesh, March 14, 2002.

<sup>190</sup> Ibid. According to a local activist, workers in the community were receiving five kilograms of wheat solely because they had organized themselves; elsewhere workers received only two kilograms. Human Rights Watch interview with Lenin Raghuvanshi, People’s Vigilance Committee for Human Rights, Varanasi District, March 14, 2002.

<sup>191</sup> Human Rights Watch group interview with Dalit villagers, Varanasi District, Uttar Pradesh, March 14, 2002.

<sup>192</sup> Ibid.

<sup>193</sup> Human Rights Watch interview with Professor Sukhadeo Thorat, Jawaharlal Nehru University, New Delhi, March 9, 2002. Professor Thorat also noted that the practice of untouchability leaves Dalits much less free to contract than poor caste Hindus.

landless or near landless.<sup>194</sup> Those who do own land often own very little. Land is the prime asset in rural areas that determines an individual's standard of living and social status. Lack of access to land makes Dalits economically vulnerable; their dependency is exploited by upper- and middle-caste landlords and allows for many abuses to go unpunished. Landless agricultural laborers throughout the country work for a few kilograms of rice or Rs. 15 to Rs. 35 (U.S.32¢ to 75¢) a day, well below the minimum wage. Many laborers owe debts to their employers or other moneylenders.<sup>195</sup> Thus, although poverty plays a significant role, connection between caste and bondage goes far beyond poverty to what Professor Thorat has described as the "extra economic compulsion of caste."<sup>196</sup>

Extreme economic and political measures are meted out for transgression of caste norms. Bonded labor flourishes in this environment because people cannot complain. According to Professor Thorat, "The upper castes can exert economic compulsion—if you say 'no,' you won't get a loan or employment. . . . They can apply a social and economic boycott—they don't give employment, stop selling goods, exert a complete ban on what [Dalits] need, and they [Dalits] have to seek employment far away."<sup>197</sup>

These extreme measures include violence, both against Dalits' property and their persons. For example, Human Rights Watch visited a Dalit village in Uttar Pradesh that had stopped weaving after upper castes in the area raided the community and destroyed their possessions, including their looms, in retaliation for their political activity.<sup>198</sup> The connection between Dalits asserting their rights and violent retaliation has been well documented by Human Rights Watch.<sup>199</sup>

Caste-based violence is directly linked to child bondage. Researchers with the Tamil Nadu-based NGO Legal Resources for Social Action (LRSA) report an increase in child labor, especially in domestic and hotel work, following upper-caste raids on Dalit villages.<sup>200</sup> When the families' economic assets are destroyed, the parents are more likely to need the children to work. In addition,

[i]nvariably, their school or any common asset—e.g., village administrative office, post office, T.V.—they are all put in the main [upper-caste] area of the village so when there is a clash, . . . kids can't travel safely to the main village. . . . There are many occurrences where Dalit children stay out of school for one to three months because, for example, of a riot in the village or reprisals against Dalits, and police take men away . . . . Children are stranded . . . There is a decreased interest in going to school, and they need the income.<sup>201</sup>

Researchers at the National Labour Institute have confirmed these findings.<sup>202</sup>

<sup>194</sup> See Human Rights Watch, *Caste Discrimination: A Global Concern*, [http://www.hrw.org/reports/2001/globalcaste/caste0801-03.htm#P358\\_71817](http://www.hrw.org/reports/2001/globalcaste/caste0801-03.htm#P358_71817).

<sup>195</sup> See Human Rights Watch, *Broken People*, p. 28, [http://www.hrw.org/reports/1999/india/India994-04.htm#P550\\_72244](http://www.hrw.org/reports/1999/india/India994-04.htm#P550_72244); Human Rights Watch, *Caste Discrimination: A Global Concern*, p. 14, [http://www.hrw.org/reports/2001/globalcaste/caste0801-03.htm#P339\\_66099](http://www.hrw.org/reports/2001/globalcaste/caste0801-03.htm#P339_66099).

<sup>196</sup> Human Rights Watch interview with Professor Sukhadeo Thorat, Jawaharlal Nehru University, New Delhi, March 9, 2002. See also Narayan K.S. and P. Pushpa Rani, "Silk Industry and Child Workers," *Social Welfare*, pp. 9-10 (documenting the connection between landlessness, subsistence farming, and child bondage); Human Rights Watch, *Broken People*; Human Rights Watch, *Caste Discrimination: A Global Concern*.

<sup>197</sup> Human Rights Watch interview with Professor Sukhadeo Thorat, Jawaharlal Nehru University, New Delhi, March 9, 2002.

<sup>198</sup> Human Rights Watch group interview with Dalit villagers, Varanasi District, Uttar Pradesh, March 14, 2002.

<sup>199</sup> See Human Rights Watch, *Broken People*.

<sup>200</sup> Human Rights Watch interview with Gilbert Rodrigo, Director, Legal Resources for Social Action (LRSA) Chengalpattu, Tamil Nadu, March 20, 2002.

<sup>201</sup> Human Rights Watch interview with staff, Legal Resources for Social Action (LRSA), Chengalpattu, Tamil Nadu, March 20, 2002.

<sup>202</sup> According to Helen R. Sekar, a National Labor Institute fellow who conducted field research on child labor in Kanchipuram from 1997 to June 2001, Dalit children in the area often lacked access to schools: "In Kanchipuram, most schools are in upper-caste villages so the S.C. [scheduled caste] child had to travel. If there was a clash between the

Discrimination against Dalit children in school also encourages them to drop out and go to work.<sup>203</sup> Most of the government schools in which Dalit students are enrolled, where they exist at all, are deficient in basic infrastructure, classrooms, teachers, and teaching aids.<sup>204</sup> Dalit students sit at the back of the class and are often treated badly by upper-caste teachers and staff.<sup>205</sup> A majority of Dalit students are also enrolled in vernacular schools whose students suffer serious disadvantages in the job market as compared to those who learn in English-speaking schools.<sup>206</sup> Gilbert Rodrigo, LRSA's director, explained:

Wherever there is discrimination against Dalit children in school, the children don't want to go. There was a case last week [March 2002] of Dalit kids going with *chappals* [sandals] to school. They were beaten up. So kids don't want to go to school. This systematically maintains the gap between Dalit and non-Dalit kids. For example, the main noon meal in schools, Dalits depend on. Usually a non-Dalit person is providing the food because non-Dalit parents won't want their children to take food from Dalits. This person calls them by their caste name and makes them stand in separate queues.<sup>207</sup>

In Uttar Pradesh, documented discriminatory practices against Dalit children in schools include:

- discrimination against Dalit settlements in the location of schools;
- teachers avoiding physical contact with Dalit children;
- children from particular castes being special targets of verbal abuse and physical punishment by the teachers;
- low-caste children frequently being beaten by higher-caste classmates.<sup>208</sup>

In Karnataka, Joy Maliekal, director of the Rural Literacy and Health Programme and national convenor of the Campaign against Child Labour, told Human Rights Watch: "It is important to make the link between child labor and discrimination in school. In our experience, Dalit children are made to sit in the back and are asked to do work [i.e. chores rather than schoolwork]."<sup>209</sup> According to a social worker in Karnataka, "a child will say to his or her parents, 'The teacher told me not to come tomorrow, that I am no good for studying.' Instead of asking why the teacher has said this, the parents will send the child to work."<sup>210</sup>

Discrimination combined with low returns on education, including discrimination in employment, encourages Dalit children to drop out of school; Dalit children drop out of school at a much higher rate than non-Dalits, and there is a higher rate of illiteracy among Dalits than among non-Dalits.<sup>211</sup> According to Gilbert

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communities, they would chase the children out of school." Human Rights Watch interview with Helen R. Sekar, Fellow, V.V. Giri National Labour Institute, Noida, Uttar Pradesh, April 1, 2002.

<sup>203</sup> For more information, see Geetha B. Nambissan and Mona Sedwal, "Education for All: The Situation of Dalit Children in India," *India Education Report: A Profile of Basic Education*, pp. 72-86.

<sup>204</sup> See National Campaign for Dalit Human Rights, *Black Papers: Broken Promises and Dalits Betrayed* (India: National Campaign on Dalit Human Rights, 1999).

<sup>205</sup> Human Rights Watch interview with Professor Sukhadeo Thorat, Jawaharlal Nehru University, New Delhi, March 9, 2002.

<sup>206</sup> National Campaign for Dalit Human Rights, *Black Papers: Broken Promises and Dalits Betrayed*.

<sup>207</sup> Human Rights Watch interview with Gilbert Rodrigo, Director, Legal Resources for Social Action (LRSA) Chengalpattu, Tamil Nadu, March 20, 2002. In some areas Dalits are still prohibited from wearing footwear. Those who wear sandals are seen to be acting outside the dictates of their caste status and are consequently punished.

<sup>208</sup> Jean Dréze and Haris Gazdar, "Uttar Pradesh: The Burden of Inertia," *Indian Development*, Jean Dréze and Amartya Sen, eds. (New Delhi: Oxford University Press, 1996) quoted in Nambissan, "Education for All: The Situation of Dalit Children in India," *India Education Report*, p. 81.

<sup>209</sup> Human Rights Watch interview with Joy Maliekal, Mysore, Karnataka, March 30, 2002.

<sup>210</sup> Human Rights Watch interview with social worker, Ramanagaram, Karnataka, March 29, 2002.

<sup>211</sup> See National Commission for Scheduled Castes and Scheduled Tribes, *Highlights of the Report for the Years 1996-97 and 1997-98* (New Delhi: Government of India, 1999); Department of Labour, Government of Karnataka, *Study Material on*

Rodrigo, “Dalit kids get left behind, and when they don’t see graduates getting jobs, they loose interest.”<sup>212</sup> A group of low-caste and Dalit silk weavers told Human Rights Watch that if people went to school, “10 percent go for jobs after they study. The rest go back to the first job. Even that education doesn’t help.”<sup>213</sup> And a low-caste teacher in one of Kanchipuram’s night schools described his own school experience: “My class had thirty students. I was the only one who went to another job. The twenty-nine others are weaving.”<sup>214</sup> Although some allege that Dalit and low-caste parents do not value education, this is not surprising if the quality of education offered is very poor and if they see no returns on it.

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*“Successful Prosecution of Child Labour Cases,”* p. 4 (reporting results of January-February 2001 survey showing that a higher percentage of Dalit children are out of school than non-Dalits).

<sup>212</sup> Human Rights Watch interview with Gilbert Rodrigo, Director, Legal Resources for Social Action (LRSA) Chengalpattu, Tamil Nadu, March 20, 2002.

<sup>213</sup> Human Rights Watch group interview with silk weavers, Kanchipuram, Tamil Nadu, March 20, 2002.

<sup>214</sup> Human Rights Watch interview with night school teacher, Kanchipuram, Tamil Nadu, March 20, 2002.



## VI. THE INDIAN GOVERNMENT'S ROLE

India's national and state governments share responsibility for protecting bonded child laborers. Their most basic obligations are to prevent children from becoming bonded in the first place, to remove those who are from bondage, and to prevent them from becoming bonded again. On paper, the government has developed a wide array of laws and policies on bonded labor and child labor, which in theory should protect bonded children. In practice, these are never implemented for most bonded children. Without effective enforcement of either bonded labor or child labor laws, children in bondage—the most vulnerable of all working children—are without recourse.

In the mid- and late 1990s the Indian government, under scrutiny from local NGOs and international organizations, paid increased attention to child labor and, to a lesser extent, bonded labor. In August 1994, then-Prime Minister P.V. Narasimha Rao announced an initiative to bring two million children out of hazardous labor by 2000. In December 1996, the Supreme Court outlined a detailed framework for punishing employers of children in occupations deemed hazardous by law and for rehabilitating the children. In 1997 the Court ordered the National Human Rights Commission (NHRC) to supervise states' implementation of the bonded labor law, and the NHRC then began appointing special rapporteurs who applied pressure in certain regions and industries. There were some high-profile raids on employers, and a few were prosecuted. Through the efforts of both government bodies and NGOs, public awareness that some forms of child labor and bonded labor are illegal increased. While states continued to deny the presence of bonded labor in their territories and grossly underestimated the use of child labor and bonded labor, the steps taken were promising.

However, by 2003 most government promises have not materialized. States are still rarely freeing and rehabilitating bonded laborers, and the central government, with the exception of the NHRC, is acquiescing. Almost all government officials whom Human Rights Watch interviewed for this report denied that children were bonded. Both the central and state governments are backing away from their limited efforts to enforce the child labor law, and, with the notable exception of a few individuals, most government officials with whom we met took a dim view of it. Some argued that families need the children's income and that children would be pushed into more marginal and dangerous occupations. Others contended that law enforcement was irreparably ineffective and, therefore, not worth pursuing, even when they were themselves responsible for ensuring effective law enforcement. Rehabilitation programs for both bonded and child labor remain promising but extremely limited. Tellingly, eight years after former Prime Minister Narasimha Rao's announcement, the secretary of the Ministry of Labour told Human Rights Watch that the goal of removing two million children from hazardous labor by 2000 had been pushed back to 2005.<sup>215</sup>

### Overview of the Two Systems: Bonded Labor and Child Labor

Child labor and bonded labor are treated entirely separately in law and in government policy, although both regimes are based on punishing the employer and rehabilitating the worker. The child labor regime revolves around the distinction, enshrined in the Child Labour (Prohibition & Regulation) Act, 1986, that some work is hazardous to children and some is not.<sup>216</sup> For children under fourteen, the law prohibits work deemed hazardous and regulates everything else; children employed illegally are to be withdrawn from work and, following a 1996 Supreme Court order, rehabilitated. Employers who violate the law are to face fines and imprisonment. All aspects of the silk industry are considered hazardous to children under age fourteen.<sup>217</sup> Children age fourteen and older are not protected by the child labor law.

The bonded labor regime is based on the same tenets as those of hazardous child labor: finding, freeing, and rehabilitating the bonded worker, and punishing the employer. The Bonded Labour System (Abolition) Act,

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<sup>215</sup> Human Rights Watch interview with Vinod Vaish, Secretary, Ministry of Labour, New Delhi, April 2, 2002.

<sup>216</sup> Many Indian activists object to the distinction between hazardous and non-hazardous labor, some on the grounds that all work is hazardous to children, others on the grounds that the distinction is too broad, that work hazardous to children in one set of conditions may not be in another.

<sup>217</sup> See Child Labour (Prohibition & Regulation) Act (1986), part B.

1976, which prohibits all forms of bonded labor for people of any age, establishes this framework. However, compared with the child labor law, the bonded labor law allows for a longer maximum prison sentence, protects children over as well as under fourteen years old, extinguishes the debt, and actually codifies the rehabilitation requirement. In addition, offenses under the bonded labor law, unlike the child labor law, are cognizable, meaning that a police officer may arrest without a warrant and initiate prosecution.<sup>218</sup>

Despite these two sets of laws, there are no specific programs for bonded children, who fall at their intersection.

### **Bonded Labor**

In contrast with extensive rhetoric on child labor, the government continues to pay little attention to bonded labor. Although there are an estimated twenty to sixty-five million bonded laborers, adults and children, in India, the government identified only 1,795 bonded laborers from 2000 to 2002, according to its own records, and fined or jailed almost no employers. High-level government officials adamantly deny that children are bonded at all, but fail to collect basic information, including age, on bonded laborers. An exception is the National Human Rights Commission (NHRC), which the Supreme Court ordered in 1997 to supervise the 1976 Bonded Labour System (Abolition) Act's implementation. The NHRC has been able to pressure some local officials into freeing and rehabilitating bonded children in some areas, primarily in Uttar Pradesh's carpet belt. But its resources and power are limited.

### ***District, State, and National Responsibility for Bonded Labor***

States are responsible for enforcing the Bonded Labour System (Abolition) Act, 1976, and do so through their district magistrates, in some states called district collectors or deputy commissioners, who are directed to form bonded labor "vigilance committees." The central government is responsible for ensuring that states enforce the act and that the vigilance committees are formed.<sup>219</sup> The central government funds state surveys of bonded labor, evaluations of the bonded labor law's implementation, and public awareness campaigns.<sup>220</sup> It also provides half of the funds for rehabilitation assistance, which is currently set at a total of Rs. 20,000 (U.S.\$417) per bonded laborer, slightly less than the annual per capita income.<sup>221</sup>

District magistrates are appointed civil servants and are the top authorities at the district level. They oversee government administration, including the administration of justice, and some fifty to sixty distinct departments.<sup>222</sup> Their wide array of duties includes identifying cases of bonded labor in their districts, freeing the laborers, initiating prosecutions, making sure available credit sources are in place so that freed laborers will not be forced into bondage again, and constituting and participating in the vigilance committees.<sup>223</sup> The vigilance committees are charged with advising the district magistrate to ensure that the bonded labor law is properly implemented; providing for the economic and social rehabilitation of freed bonded laborers; coordinating the functions of rural banks and cooperative societies to help ensure freed bonded laborers have access to credit; monitoring "the number of offenses of which cognizance ought to be taken under the act"; and defending freed bonded laborers against attempts to recover the bonded debt.<sup>224</sup> In 1996 Human Rights Watch found that very few vigilance committees had even been formed and was unable to find any district in which such a committee was operative.<sup>225</sup>

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<sup>218</sup> Bonded Labour System (Abolition) Act (1976), art. 23; Code of Criminal Procedure (1973), ch. 1, art. 2(c) (defining "cognizable offence").

<sup>219</sup> See Judgment in Writ Petition No. 1187 (1982), cited in Vivek Pandit, *Prevention of Atrocities (Scheduled Castes/Scheduled Tribes): Bonded Labour, Their Rights and Implementation*, 1995, p. 7.

<sup>220</sup> Ministry of Labour, Government of India, *Annual Report 2001-2002*, p. 83.

<sup>221</sup> In the northeastern states, the central government funds all rehabilitation assistance. Ibid. The government reports that it spent Rs 50.48 million (U.S.\$1.22 million) for surveys and rehabilitation in 2001-2002 and that it had budgeted Rs. 40 million (\$83 million) for this in 2002-2003. Ministry of Labour, Government of India, *Bonded Labour System Abolition Act (1976)*, [http://labour.nic.in/dglw/Bonded\\_labr.html](http://labour.nic.in/dglw/Bonded_labr.html) (retrieved July 9, 2002).

<sup>222</sup> Human Rights Watch, *The Small Hands of Slavery*, p. 32.

<sup>223</sup> Bonded Labour System (Abolition) Act (1976), secs. 2, 11-12.

<sup>224</sup> Ibid., sec. 14.

<sup>225</sup> Human Rights Watch, *The Small Hands of Slavery*, p. 33.

In April 2002, officials in the Ministry of Labour told Human Rights Watch that vigilance committees had been created for every district. But regardless of whether they exist in name, almost none are actually functioning.<sup>226</sup> According to NHRC Special Rapporteur Chaman Lal, the commission investigated and found that the vigilance committees “were non-existent or defunct and, where they had been revived, they were not doing work.”<sup>227</sup> The commission has been trying to revive them, he said.<sup>228</sup> According to a high-ranking government official in Tamil Nadu:

On paper, the vigilance committees look good. But they are packed with people who belong to the ruling party. It is a status symbol to be a member. Every district collector has learned that to form a committee, he has to consult with the [party] Secretariat. Even S.C./S.T.s [Scheduled Caste and Scheduled Tribe members] will still belong to the ruling party so they toe the line. . . . Until now, the committee hasn’t been involved in rehabilitation. The stereotype is that there will be a ten minute long meeting just to say that there is no bonded labor.<sup>229</sup>

Local activists confirmed that most vigilance committees were not functioning.<sup>230</sup> Dr. Lenin Raghuvanshi, an NGO member of Varanasi’s vigilance committee, told Human Rights Watch: “I am a member, and in my official opinion, the vigilance committee in Varanasi district is defunct. The vigilance committees are totally pro-employer.”<sup>231</sup> According to Dr. Lenin, Varanasi district’s vigilance committee was formed only after the NHRC sent a letter to the district magistrate, who then organized meetings in 1997 and 1998. In 1999 the committee met once, and from 2000 through September 2002, the committee met twice: once on December 18, 2000, and once the last week of July 2002.<sup>232</sup> “The district vigilance committee was made because of pressure from the NHRC, but it’s an eyewash,” he said.<sup>233</sup> It should be noted that Dr. Lenin also reported that his organization, the People’s Vigilance Committee for Human Rights, has been able to enlist police cooperation to conduct raids on employers to free bonded children, provided they did not reveal the location in advance (see below).<sup>234</sup>

### ***Government Failure to Protect Children with the Bonded Labour System (Abolition) Act, 1976***

High-level officials responsible for enforcing the bonded labor law categorically denied to Human Rights Watch that children were bonded, especially in the silk industry. Many government officials interviewed by Human Rights Watch considered the bonds, which are legally extinguished by the Bonded Labour System (Abolition) Act, 1976, as enforceable debts. Worse, police in some cases are reported to have forcibly returned bonded children to their masters. Denial at all levels of government that children are bonded and the consequent

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<sup>226</sup> See, e.g. Manoj Kumar, “Panel fights for bonded labourers,” *The Tribune: On-line Edition*, June 21, 2002, <http://www.tribuneindia.com/2001/20010621/punjab1.htm> (retrieved August 9, 2002) (reporting that “all district bonded labour vigilance committees in Punjab have become defunct”).

<sup>227</sup> Human Rights Watch interview with Chaman Lal, NHRC Special Rapporteur, New Delhi, March 11, 2002. According to the NHRC’s annual report: “The Commission has noticed with regret that, in almost all the States, the Vigilance Committees that were established earlier are non-functional and that no serious effort has been taken to identify bonded labor even though the existence of such labor in as many as 100 districts and in specified industries has been well documented by various states.” NHRC, *Annual Report 1998-99*, <http://nhrc.nic.in/> (retrieved July 30, 2002), para. 9.6.

<sup>228</sup> Human Rights Watch interview with Chaman Lal, NHRC Special Rapporteur, New Delhi, March 11, 2002.

<sup>229</sup> Human Rights Watch interview with Tamil Nadu government official, Tamil Nadu, March 18, 2002.

<sup>230</sup> Human Rights Watch interview with Souparna Lahiri, Centre for Education and Communication, New Delhi, March 11, 2002; Human Rights Watch interview with NGO staff, Bangalore, Karnataka, March 25, 2002.

<sup>231</sup> Human Rights Watch interview with Lenin Raghuvanshi, People’s Vigilance Committee for Human Rights, Varanasi, March 12, 2002.

<sup>232</sup> Ibid.; E-mail communication to Human Rights Watch from Lenin Raghuvanshi, People’s Vigilance Committee for Human Rights, Varanasi, September 16, 2002.

<sup>233</sup> Human Rights Watch interview with Lenin Raghuvanshi, People’s Vigilance Committee for Human Rights, Varanasi, March 14, 2002.

<sup>234</sup> Ibid.; E-mail communication to Human Rights Watch from Lenin Raghuvanshi, People’s Vigilance Committee for Human Rights, Varanasi, September 16, 2002.

failure to apply the bonded labor law for children creates a fundamental barrier to freeing and rehabilitating children in bondage. According to Secretary of the Ministry of Labour Vinod Vaish:

The words “bonded labor” and the word “child labor” are O.K. But not “bonded child labor.” . . . I don’t think that we have many cases of bonded child labor. This is not a widespread problem. I admit that the use of child labor prevails. It is part of a family setting in an agricultural situation. Children are helping the family. It is unthinkable that in the village a child would not help the family in collecting firewood, etc. . . . At age fourteen they can work in a factory. It [employing children in a factory] is like any breach of law.<sup>235</sup>

To clarify, Human Rights Watch then asked the secretary if he meant that the ministry did not know of “situations where parents receive an advance for the child to work for someone else, the child is not free to change employers, and gets paid much less than the minimum wage?” He responded:

I don’t see it. Such cases would be rare. A few cases come to our notice because of extreme poverty—parents sell their kids. These things comes into the papers once in a while. Because of extreme poverty. These are isolated incidences. Otherwise, we have not found that a person in return for money would make a child a slave. If it happens at all, it is rare, and the state would not support it, and we would prosecute.<sup>236</sup>

K. Chandramouli, the Ministry of Labour’s joint secretary for child labor, told Human Rights Watch:

I haven’t heard too much that this is a problem—I have heard of bonding older people but not any kids. It is hard to separate the child from the parent in a bonded situation. I take money from you, and I am bonded, and my child is with me. They don’t market the child. Or, after I die, my liabilities pass on to my child—this is different. It is a particular case of a bonded labor situation but, normally, it is not treated as if I am bonded. . . . In every village there are a lot of transactions that you and I can’t get into. . . . But I don’t think that you will see parents sending out or selling their children.<sup>237</sup>

Manohar Lal, the Ministry of Labour’s Director General for Labour Welfare, the position directly responsible for bonded labor, told Human Rights Watch that he did not know how many, if any, freed bonded laborers were children, and that there were no bonded laborers at present, although “in the years to come,” he said “stray cases may be reported.”<sup>238</sup>

Varanasi Deputy Labour Commissioner Rakesh Kumar, who is responsible for four districts in eastern Uttar Pradesh, told Human Rights Watch: “There is no bonded labor in the silk industry. I have been here since 2000, and I haven’t gotten any information on bonded labor in the silk industry. Last year bonded labor was identified in the brick and carpet industries, but I have no information on bonded labor in the silk industry.”<sup>239</sup> According to the deputy labor commissioner, his office did a survey “with a lot of detailed questions, for example, parents, education, status of family” to determine where to send children to school, and it did not find bonded child labor in this survey, “just child labor.”<sup>240</sup> On the same day, Human Rights Watch interviewed six bonded children working within two kilometers of the deputy labor commissioner’s office.

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<sup>235</sup> Human Rights Watch interview with Vinod Vaish, Secretary, Ministry of Labour, Government of India, New Delhi, April 2, 2002.

<sup>236</sup> Ibid.

<sup>237</sup> Human Rights Watch interview with K. Chandramouli, Joint Secretary for Child Labour, Ministry of Labour, New Delhi, April 2, 2002.

<sup>238</sup> Human Rights Watch interview with Manohar Lal, Director General, Labour Welfare, Ministry of Labour, New Delhi, April 2, 2002.

<sup>239</sup> Human Rights Watch interview with Rakesh Kumar, Deputy Labour Commissioner, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>240</sup> Ibid.

Some officials in interviews with Human Rights Watch did not seem to understand what constitutes bonded labor. The Varanasi deputy labor commissioner told Human Rights Watch: “In the silk industry, it’s all neighborhood children so they can’t make them bonded.”<sup>241</sup> The district collector of Kanchipuram, Tamil Nadu, said of children working on silk handlooms:

Usually a parent takes several thousand rupees in loans and lets the child work to repay them—it’s a kind of bonded labor. Just to repay the debt is technically bonded labor. . . . If they borrow money, it has to be repaid. There is a *quid pro quo*. So unless there is a physical instrument, it can’t be classified as bonded labor. Technically, underpayment is bonded labor, but they don’t complain and unless they complain, it can’t be identified. Usually, because they are migrants and S.C. [scheduled caste], they don’t communicate with us.<sup>242</sup>

The then-labor commissioner of Karnataka, E. Venkataiah, when confronted with around eighty bonded children in Magadi’s silk twisting factories, said to the press in January 2002 that “we can’t do anything about the loans they have availed of.”<sup>243</sup> These are clear misstatements of the Bonded Labour System (Abolition) Act, 1976, which does not require any physical instrument for bonded labor to exist and which extinguishes bonded laborers’ debts.

A Tamil Nadu government official, who wished to remain anonymous, confirmed that many district magistrates (district collectors) do not understand, or disagree with, the definition of bonded labor and, therefore, do not enforce the law:

Bureaucrats are used to seeing in black and white. If it’s gray, unless you are motivated, you won’t take corrective action. You will take the easy way out. For example, the definition of bonded labor. They are bureaucrats. They see it as parents asking for money, so why penalize the employer? They are not able to understand. They see it as the employers give money when people need it. They only see bonded labor as being tied to a tree.<sup>244</sup>

Accordingly, as the Varanasi district labor commissioner’s statements illustrate, officials tend to conceive of all children, bonded or not, as eligible only for protection from the child labor law. A February 2002 document obtained by Human Rights Watch on the identification, release, and rehabilitation of bonded labor in Tamil Nadu confirms that in some districts, bonded children are, as a matter of policy, treated under the child labor regime, not the bonded labor regime. An explanatory note reads: “Out of 1,692 [bonded laborers identified by NGOs in 1996-97 survey], 1532 were identified as child Bonded Labourers and were suitably rehabilitated then. Hence, the total no. of Bonded Labourers originally identified is 160 only.”<sup>245</sup>

Police not only fail to enforce the bonded labor law (for children or adults), they have also forced children to return to their employers. Deepak M., thirteen years old, said:

I was working in the silk unit. One day I stayed home. The next day, the owner beat me with a belt and I ran to my sister’s house. The owner called my parents and made a complaint at the police station and took my parents to the police station. So my sister sent me back.<sup>246</sup>

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<sup>241</sup> Ibid.

<sup>242</sup> Human Rights Watch interview with K. Rajaraman, District Collector, Kanchipuram, Tamil Nadu, March 19, 2002. In investigations of caste violence in India, Human Rights Watch has found that Dalits are reluctant to file complaints for fear of economic and physical reprisals against them.

<sup>243</sup> “They Want to Go to School but Can’t Do So,” *The Hindu*, January 28, 2002.

<sup>244</sup> Human Rights Watch interview with Tamil Nadu government official, Tamil Nadu, March 18, 2002.

<sup>245</sup> Government of Tamil Nadu, *Districtwise Integrated Statement of Bonded Labour Identification, Release, Prosecution, Rehabilitation and Expenditure Incurred Report for the Month of February 2002*, p. 6 (explanatory note for Virudhunagar district).

<sup>246</sup> Human Rights Watch interview with thirteen-year-old boy, Magadi, Karnataka, March 27, 2002.

Staff of NGOs in Karnataka told Human Rights Watch that even when they intercede directly with police on children's behalf, police will not act without a direct order from higher authorities, even though it is their job to do so.<sup>247</sup>

Human Rights Watch has extensively documented police abuse of Dalits, religious minorities, women, and street children, among others.<sup>248</sup> The need for widespread police reform has also been documented by numerous Indian human rights groups and the NHRC and is part of a larger problem of people's inability to access justice.

Without the protections of the bonded labor regime, children's debts are not extinguished, they are not entitled to rehabilitation as bonded laborers, and their employers enslave them with impunity.

### ***Data Collection about Bonded Labor***

The Indian government has failed to collect even remotely accurate information on bonded labor. There is no reliable official data for India as a whole on how many bonded laborers there are or what states have done, or failed to do, about it. The statistics that are maintained indicate how little bonded laborers are being protected. The central government relies on data supplied by the state officials—some of the same individuals who told Human Rights Watch that no children were bonded in their territories.

An estimated twenty to sixty-five million people are bonded laborers in India. Nevertheless, Director General of Labour Welfare Manohar Lal, the person most responsible for bonded labor in the Ministry of Labour, told Human Rights Watch that although stray cases might arise, there were no bonded laborers in India at that moment to be rehabilitated:

As of today, we can say as the central government as from our information from the states, there are no bonded laborers to be rehabilitated. . . . This is a happy situation when states say there is no bonded labor and vigilance committees are meeting regularly—and they are very responsible people.<sup>249</sup>

According to the Ministry of Labour's figures, in all of India, only seventy-one bonded laborers were identified and released from 2000 to 2001, all from Uttar Pradesh, and 13,450 rehabilitated, most from Tamil Nadu.<sup>250</sup> From 2001 to 2002, 1,724 bonded laborers were identified and released, and 3,889 rehabilitated, almost all from Tamil Nadu.<sup>251</sup> No data is being collected on how many of these were children, nor does the Ministry of Labour make any mention of bonded laborers yet to be released.<sup>252</sup> Moreover, the central government's data conflicts with that state officials gave Human Rights Watch. According to the central government, Karnataka released thirty-six bonded laborers in 2001-2002. However, a caseworker for bonded labor under the deputy commissioner for Bangalore Rural District, one of twenty-seven districts in Karnataka, told Human Rights Watch that his office alone had identified 154 bonded laborers in 2001;<sup>253</sup> in ten districts in Karnataka, following training on bonded labor in 2000 and 2001, government officials identified about 10,000 bonded laborers (but then failed

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<sup>247</sup> Human Rights Watch group interview with staff of two NGOs, Bangalore Rural District, Karnataka, March 27, 2002.

<sup>248</sup> See, e.g., Human Rights Watch, "Epidemic of Abuse: Police Harassment of HIV/AIDS Outreach Workers in India"; Human Rights Watch, "'We Have No Orders to Save You'—State Participation and Complicity in Communal Violence in Gujarat"; Human Rights Watch, *Broken People*; Human Rights Watch, *Police Abuse and Killings of Street Children in India*; Human Rights Watch, "India: Communal Violence and the Denial of Justice."

<sup>249</sup> Human Rights Watch interview with Manohar Lal, Director General, Labour Welfare, Ministry of Labour, Government of India, New Delhi, April 2, 2002.

<sup>250</sup> Ministry of Labour, Government of India, *Annual Report 1999-2000*, p. 117; Ministry of Labour, Government of India, *Annual Report 2000-2001*, p. 93; Ministry of Labour, Government of India, *Annual Report 2001-2002*, p. 83.

<sup>251</sup> Ibid.

<sup>252</sup> Human Rights Watch interview with Manohar Lal, Director General, Labour Welfare, Ministry of Labour, Government of India, New Delhi, April 2, 2002.

<sup>253</sup> Human Rights Watch interview with caseworker for bonded labor, office of the deputy commissioner, Bangalore Rural District, Bangalore, Karnataka, March 28, 2002. The official did not know how many, if any, of these were rehabilitated.

to rehabilitate them).<sup>254</sup> The central government reports that every one of the 65,573 bonded laborers whom Tamil Nadu has identified and released since 1976 has been rehabilitated.<sup>255</sup> But according to state-level statistics, of 37,082 bonded laborers identified since 1996, only 11,733 were even released.<sup>256</sup> Of the remaining cases, 20,836 were investigated and dropped, apparently leaving 4,513 laborers who were not released and their cases not investigated.<sup>257</sup> Rehabilitation was “initiated” for 11,387.<sup>258</sup>

The Indian government does not collect nationwide data on the age, gender, and occupation of the bonded laborers who are released or rehabilitated; thus the Ministry of Labour’s Director General for Labor Welfare was unable to tell Human Rights Watch how many, if any, of the bonded laborers ever released and rehabilitated were children.<sup>259</sup> Officials’ statements that they treat child workers, bonded or not, under the child labor law suggest that they are very few.

### ***Rehabilitation of Bonded Laborers***

Simply freeing a bonded laborer is not enough. For the same reasons that he or she became bonded in the first place—a lack of land, access to credit, or other forms of employment, or compulsion in the form of caste-based violence and social and economic boycotts from upper castes—without assistance a freed bonded laborer is likely to become bonded again. According to Kannegi Packianathan, director of the Tamil Nadu State office of the National Commission for Scheduled Castes and Scheduled Tribes, “If they can’t get a loan, they abandon it and return to bonded labor.”<sup>260</sup> The Indian Supreme Court has recognized that without rapid and effective rehabilitation efforts, freed bonded laborers will quickly relapse into bondage:

[I]t would be nothing short of cruelty and heartlessness to identify and release bonded labourers merely to throw them at the mercy of the existing social and economic system which denies them even the basic necessities of life. . . . What use are “identification” and “release” to bonded labourers if after attaining their so-called freedom from bondage to a master they are consigned to a life of another bondage, namely, bondage to hunger and starvation where they have nothing to hope for, not even anything to die for. . . . What would they prize more: freedom and liberty with hunger and destitution staring them in the face or some food to satisfy their hunger and the hunger of their near and dear ones, even at the cost of freedom and liberty? The answer is obvious. It is therefore imperative that neither the Government nor the Court should be content with merely securing identification and release of bonded labourers but every effort must be made by them to see that the freed bonded labourers are properly and suitably rehabilitated after identification and release.<sup>261</sup>

Under the Bonded Labour System (Abolition) Act, 1976, bonded laborers have a right to immediate rehabilitation.<sup>262</sup> The Supreme Court has explained that the state’s duty to “suitable rehabilitate” its bonded laborers is also required by article 21 of the Indian Constitution, guaranteeing the right to life and liberty, and article 23, prohibiting the practice of debt bondage and other forms of forced labor or slavery.<sup>263</sup>

<sup>254</sup> Human Rights Watch interview with Kiran Kamal Prasad, JEEVIKA, Bangalore, Karnataka, March 25, 2002; E-mail communication to Human Rights Watch from Kiran Kamal Prasad, JEEVIKA, December 5, 2002.

<sup>255</sup> Ministry of Labour, Government of India, *Annual Report 2001-2002*, p. 83.

<sup>256</sup> Government of Tamil Nadu, *Districtwise Integrated Statement of Bonded Labour Identification, Release, Prosecution, Rehabilitation and Expenditure Incurred Report for the Month of February 2002*, p. 6.

<sup>257</sup> Ibid.

<sup>258</sup> Ibid.

<sup>259</sup> Human Rights Watch interview with Manohar Lal, Director General, Labour Welfare, Ministry of Labour, Government of India, New Delhi, April 2, 2002.

<sup>260</sup> Human Rights Watch interview with Ms. Kannegi Packianathan, Director, Tamil Nadu State office, National Commission for Scheduled Castes and Scheduled Tribes, Chennai, Tamil Nadu, March 18, 2002.

<sup>261</sup> *Neeraja Chaudhary v. State of Madhya Pradesh*, 3 SCC 243 (1984), paras. 245-246.

<sup>262</sup> Bonded Labor System (Abolition) Act (1976), art. 14(b).

<sup>263</sup> *Neeraja Chaudhary v. State of Madhya Pradesh*, 3 SCC 243 (1984), paras. 243, 245-46, 255.

As of 2003, a bonded laborer identified and released by the state is supposed to receive a rehabilitation package of Rs. 20,000 (U.S.\$417), paid in equal parts by the Ministry of Labour and the state, that includes:

(i) Allotment of house-site and agricultural land; (ii) Land development; (iii) Provision of low cost dwelling units; (iv) Animal husbandry, dairy, poultry, piggery etc.; (v) Training for acquiring new skills; developing existing skills; (vi) Wage employment, enforcement of minimum wages etc.; (vii) Collection and processing of minor forest projects; (viii) Supply of essential commodities under targeted public distribution system; (ix) education for children; and (x) Protection of civil rights.<sup>264</sup>

Nevertheless, even those districts that manage to free bonded laborers often fail to rehabilitate them. According to staff at an NGO that works to release and educate bonded children: “if [bonded child laborers] get rehabilitated according to the law, they get Rs. 20,000, but the government takes some and by the time it gets to the child, he is an adult.”<sup>265</sup> Part of the problem is district magistrates’ failure to issue release certificates to bonded laborers when they are freed, without which they are not eligible for rehabilitation.<sup>266</sup> NGO staff in Varanasi explained: “A lot of time is spent getting release certificates. NGOs spend so much time arguing that it is bonded labor.”<sup>267</sup> In Karnataka, of the some 10,000 bonded laborers identified in ten districts following training of government officials on bonded labor in 2000 and 2001, none had been rehabilitated at the time of writing, only some had received release certificates, and of these, none had received the initial Rs. 1,000 due from the government to each bonded laborer upon release.<sup>268</sup> According to Kiran Kamal Prasad, the director of JEEVIKA, the NGO that trained the officials, the released bonded laborers “are in a bad shape. Some have had to migrate to find work.”<sup>269</sup>

### ***Prosecutions and Convictions***

Extracting bonded labor is punishable by up to three years in prison and a Rs. 2,000 (U.S.\$42) fine under the Bonded Labour System (Abolition) Act, 1976. However, few employers are prosecuted and even fewer, if any, are convicted. Indeed, Human Rights Watch was not able to learn of a single conviction under the act since 1988. The Ministry of Labour’s director general for labor welfare, Manohar Lal, who is responsible for bonded labor, told Human Rights Watch that the central government had no data on prosecutions or convictions under the Bonded Labour System (Abolition) Act, 1976.<sup>270</sup> The Director General said his office has tried, without success, to get this information from the states.<sup>271</sup>

In Tamil Nadu, according to state government officials and documents obtained by Human Rights Watch, only one hundred prosecutions were initiated from 1997 to February 2002, although 37,082 bonded labors were identified during this period.<sup>272</sup> Although Human Rights Watch was not able to obtain data on how many prosecutions, if any, resulted in convictions, a Tamil Nadu government official who wished to remain anonymous told Human Rights Watch that “most of the cases where charges were started ended up in acquittal . . . .”<sup>273</sup> In

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<sup>264</sup> Ministry of Labour, Government of India, *Annual Report 2001-2002*, p. 83.

<sup>265</sup> Human Rights Watch interview with NGO staff, Varanasi, Uttar Pradesh, March 12, 2002.

<sup>266</sup> Kailash Satyarthi, of the South Asian Coalition on Child Servitude (SACCS), an NGO that works to free bonded children, told Human Rights Watch that the children they free often cannot get release certificates and so do not receive rehabilitation. Human Rights Watch interview with Kailash Satyarthi, South Asian Coalition Against Child Servitude (SACCS), New Delhi, April 1, 2002.

<sup>267</sup> Human Rights Watch interview with NGO staff, Varanasi, Uttar Pradesh, March 12, 2002.

<sup>268</sup> Human Rights Watch interview with Kiran Kamal Prasad, JEEVIKA, Bangalore, Karnataka, March 25, 2002; E-mail communication to Human Rights Watch from Kiran Kamal Prasad, JEEVIKA, December 5, 2002.

<sup>269</sup> Ibid.

<sup>270</sup> Human Rights Watch interview with Manohar Lal, Director General, Labour Welfare, Ministry of Labour, Government of India, New Delhi, April 2, 2002.

<sup>271</sup> Ibid.

<sup>272</sup> Government of Tamil Nadu, *Districtwise Integrated Statement of Bonded Labour Identification, Release, Prosecution, Rehabilitation and Expenditure Incurred Report for the Month of February 2002*, p. 6.

<sup>273</sup> Human Rights Watch interview with Tamil Nadu government official, Chennai, Tamil Nadu, March 24, 2002.



Kanchipuram, Tamil Nadu, where there are an estimated 40,000 to 50,000 bonded child laborers in the silk industry,<sup>274</sup> only one bonded labor prosecution had been initiated as of February 2002.<sup>275</sup>

In Varanasi, the deputy labor commissioner told Human Rights Watch that prosecutions had been filed with the court judicial magistrate against the employers in twenty-one bonded labor cases identified in 2001, but none had resulted in conviction as of March 2002.<sup>276</sup>

In Bangalore Rural District, Karnataka, no employers have been convicted under the Bonded Labour System (Abolition) Act, 1976, according to a bonded labor caseworker in the office of the district's deputy commissioner;<sup>277</sup> at the time of writing, no one had been convicted in the some 10,000 cases of bonded laborer that the Karnataka state government identified in 2000 and 2001.<sup>278</sup>

Human Rights Watch saw evidence that in some areas, the government now is taking steps to train its officials in how to enforce the bonded labor and child labor laws. This needs to be vastly expanded. Training is a critical first step and should be encouraged and conducted nationwide. However, it must also be accompanied by consequences for officials who fail to enforce the laws.

In Tamil Nadu, the government in August 2001 published a manual on enforcing the Bonded Labour System (Abolition) Act, 1976, and rehabilitating bonded laborers.<sup>279</sup> The manual explains what bonded labor is, what the law requires, and how government officials should enforce it. It also clearly states that children are bonded and directs labor inspectors to initiate actions against employers who bond them.<sup>280</sup> Human Rights Watch was told the manual was distributed to every sub-district (taluk). The Kanchipuram district collector independently confirmed that it had been distributed throughout his district, although he is still not implementing the bonded labor law for children in his district, suggesting that further training, monitoring, and accountability is needed.<sup>281</sup>

In Karnataka, following training of officials in ten districts by the NGO JEEVIKA in 2000 and 2001, the state reportedly saw a sharp increase in the numbers of bonded laborers identified in those districts, although Human Rights Watch was not able to learn how many, if any, of these were children.<sup>282</sup> Moreover, at the time of writing, none of these bonded laborers had been rehabilitated.<sup>283</sup> Karnataka's 2001 plan on child labor directs the deputy commissioners (called district magistrates in other states) to use the Bonded Labour System (Abolition)

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<sup>274</sup> See section above, "Areas Covered by this Report."

<sup>275</sup> Government of Tamil Nadu, *Districtwise Integrated Statement of Bonded Labour Identification, Release, Prosecution, Rehabilitation and Expenditure Incurred Report for the Month of February 2002*, p. 1 (data on prosecutions).

<sup>276</sup> Human Rights Watch interview with Rakesh Kumar, Deputy Labour Commissioner, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>277</sup> Human Rights Watch interview with caseworker for bonded labor, office of the deputy commissioner, Bangalore Rural District, Bangalore, Karnataka, March 28, 2002.

<sup>278</sup> E-mail communication to Human Rights Watch from Kiran Kamal Prasad, JEEVIKA, December 5, 2002.

<sup>279</sup> Government of Tamil Nadu, *Abolition of the Bonded Labour System: Handbook for Release and Rehabilitation of Bonded Labourers*, August 2001.

<sup>280</sup> The manual defines "child bonded labor" as:

when children are pledged with an employer for work in return for money (and to some extent low wages), is [sic] an offence under this law. Often the parents of the child would be in debt to the employer and this needs to be broken. Employing children below 14 in jobs considered to be dangerous for health (unhygienic) is an offense under Child Labour (Prevention and Regulation) Act, 1986. The Inspectors of Labour appointed for this purpose, should initiate action against those who employ children . . . [R]eceiving compensation under Child Labourers Act does not prevent one from receiving compensation under the Bonded Labour (Abolition) Act.

Government of Tamil Nadu, *Abolition of the Bonded Labour System: Hand Book for Release and Rehabilitation of Bonded Labourers*, August 2001, p. 38-39.

<sup>281</sup> Human Rights Watch interview with K. Rajaraman, District Collector, Kanchipuram, Tamil Nadu, March 19, 2002.

<sup>282</sup> Human Rights Watch interview with Kiran Kamal Prasad, JEEVIKA (NGO that conducted the training), Bangalore, Karnataka, March 25, 2002.

<sup>283</sup> *Ibid.*; E-mail communication to Human Rights Watch from Kiran Kamal Prasad, JEEVIKA, December 5, 2002.

Act, 1976, for children who are bonded.<sup>284</sup> And the state's manual for labor inspectors on prosecuting child labor cases also instructs inspectors to include in their reports "advances/loans taken from employer."<sup>285</sup> However, there is no direction that these cases also be pursued under the bonded labor law; where the child is found to be underpaid, the manual suggests prosecuting under the Minimum Wages Act, 1948, as well as the Child Labour (Prohibition & Regulation) Act, 1986, but does not instruct the inspector that nominal wages can constitute bonded labor.<sup>286</sup>

### **Child Labor**

Under the child labor regime, the government is still failing millions of Indian children. Most government officials whom Human Rights Watch interviewed were refusing to fulfill their legal obligation to identify, release, and rehabilitate children in illegal occupations and to fine and imprison their employers. Instead, most favored persuasive tactics, including public awareness campaigns and voluntary enrollment in transitional schools. While these tactics are not unimportant, for the children who are not free to leave work because they are bound to a master by debt, they are too little too late.

States bear primary responsibility for withdrawing children from illegal work, for rehabilitating them, and for punishing employers.<sup>287</sup> The Ministry of Labour is ultimately responsible for the states' compliance with the law and determines which industries are hazardous.<sup>288</sup> The ministry also runs child labor elimination programs, consisting primarily of transitional schools for some 181,000 former child workers.

Because sericulture and silk weaving are classified as hazardous, employing any children in these sectors up to age fourteen—bonded or not—is illegal under Indian law.

### ***Acknowledgment of the Child Labor Problem***

Both activists and government officials told Human Rights Watch that the most significant development since 1996 is increased public awareness that child labor in hazardous occupations is illegal and harmful. Many attributed this to the Supreme Court *M.C. Mehta* decision, as well as work by the government and NGOs. According to one Tamil Nadu government official: "There was a lot of press and awareness of the [*M.C. Mehta*] decision—even among the owners it was discussed. It created massive awareness on child labor among all sections of society. This was the main impact of the decision. If I look at it now, there are a lot of loopholes and failures in implementing the judgment, but the increased awareness in society was big."<sup>289</sup> However, public awareness varies vastly from area to area. Attention to bonded and child labor in Uttar Pradesh's carpet industry, as well as some law enforcement and advocacy campaigning by NGOs and the government in the Varanasi area, has reportedly made workers and employers more aware of the law.<sup>290</sup> For example, when Human Rights Watch,

<sup>284</sup> Department of Labour, Government of Karnataka, *An Action Plan to Eliminate Child Labour in Karnataka*, 2001, p. 30.

<sup>285</sup> Department of Labour, Government of Karnataka, *Study Material on "Successful Prosecution of Child Labour Cases,"* p. 24.

<sup>286</sup> *Ibid.*, p. 33.

<sup>287</sup> The Child Labour (Prohibition & Regulation) Act mandates in section 17 that the "appropriate Government" appoint inspectors to enforce the law. Appropriate government is defined to mean the state government unless the place of employment is under the control of the central government, a railway administration, or a major port, mine, or oil field. Child Labour (Prohibition & Regulation) Act (1986), sec. 2(i).

<sup>288</sup> The Supreme Court specified in 1996 in *M.C. Mehta v. State of Tamil Nadu & Ors.* that states are responsible for rehabilitating children and the Ministry of Labour is responsible for monitoring the decision's implementation. *M.C. Mehta v. State of Tamil Nadu & Ors.*, 6 SCC 657, Writ. Pet. (C) No. 465/1986 (December 10, 1996); Child Labour (Prohibition & Regulation) Act (1986), sec. 4. See also Constitution of India, art. 24.

<sup>289</sup> Human Rights Watch interview with Tamil Nadu government official, Chennai, Tamil Nadu, March 24, 2002.

<sup>288</sup> Human Rights Watch interview with Mahaveer Jain, Senior Fellow, V.V. Giri National Labour Institute, Noida, Uttar Pradesh, April 1, 2002.

<sup>289</sup> Human Rights Watch interview with Tamil Nadu government official, Chennai, Tamil Nadu, March 24, 2002.

<sup>290</sup> For example, the author of a November 2001 study on child labor in Varanasi's silk industry told Human Rights Watch: "Now people are aware that employing children is bad and illegal and if they are caught they will be fined and sent to jail. This is the only thing that law enforcement has done." Human Rights Watch interview with Dr. Alakh N. Sharma, Director, Institute for Human Development, New Delhi, March 10, 2002.

without advance notice, visited villages in Varanasi district where state labor department inspectors had previously conducted raids, we saw children immediately stop working. Adults working on the looms initially insisted that the children we saw were not working and expressed concerns about prosecution; later in the conversation, some admitted that the children were, in fact, working.

One effect has been to push the work from factories into private homes, where children working for their parents are not covered by the Child Labor Act and where compliance is harder to monitor.<sup>291</sup> A silk trader who employs roughly 250 weavers around Varanasi told Human Rights Watch, “We don’t have any factories—the work is done in houses.”<sup>292</sup> Staff of a local community health organization told us that he had seen a decrease in children working in factories “because of enforcement, because of vigilance committees. There’s pressure on factories not to have children, but poverty still compels people to work. The factory lends money to whoever needs it, and the factory puts a loom in the person’s home, and then they bring it [the sari] to the factory.”<sup>293</sup> Similarly, a study sponsored by the National Labour Institute, the Ministry of Labour’s autonomous research body, found that silk weaving had moved to rural areas around Varanasi

largely on account of fear that prevails in the wake of the raids that were conducted by the officials of the Labour department in the light of the [*M.C. Mehta*] SC [Supreme Court] Judgement of Dec. 10, 1996. As sari industry has been notified as hazardous in the section 3 of the CL P&R [Child Labour (Prohibition & Regulation)] Act of 1986, the loom owners and the *Gaddidars* [traders] have been trying to shift the production from the urban areas to rural areas, where the reach of the labour department inspecting officials is relatively less.<sup>294</sup>

In contrast, in Kanchipuram, Tamil Nadu, child labor in silk weaving was very open, perhaps because child and bonded labor law was not being enforced there. Employers spoke to Human Rights Watch openly about bonding children and showed us children working on the looms, apparently unaware of the law or unafraid of its implementation.<sup>295</sup> For example, a man whose family owns six looms and uses bonded child labor told us explicitly that with the workers he had “no blood relationship. Anyone can come to work.”<sup>296</sup>

How much increased public awareness has actually decreased the use of illegal child labor is difficult to measure. And to the extent that a decrease was premised on the fear of being caught, the government’s current backpedaling on prosecuting offenders may undo any gains. According to Mahaveer Jain, a child labor expert for the National Labour Institute who trains government officials and others on enforcing the child labor laws, “people know about child labor. Earlier the issue was awareness.”<sup>297</sup> Now, he says the challenge is to get action.<sup>298</sup>

Various state level officials in Tamil Nadu and Karnataka readily admitted that children are working in hazardous industries, including the silk industry. For example, the deputy labor commissioner (region one) of Karnataka told Human Rights Watch that most child labor in Karnataka was in “hotels, restaurants, workshops,

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<sup>291</sup> For example, according to Professor B.N. Juyal, an expert on child labor, industries have “spread out, deconcentrated from factory premises.” Human Rights Watch interview with Professor B.N. Juyal, Varanasi, Uttar Pradesh, March 12, 2002.

<sup>292</sup> Human Rights Watch interview with silk trader, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>293</sup> Human Rights Watch interview with staff member, community health organization, Varanasi, Uttar Pradesh, March 12, 2002.

<sup>294</sup> Sharma, *Child Labour in Sari Units of Varanasi (Draft Report)*, sec. II (reporting results of field survey conducted in November 2000).

<sup>295</sup> At the loom owners’ invitations, Human Rights Watch visited two homes in Kanchipuram where bonded children were assisting weavers.

<sup>296</sup> Human Rights Watch interview with loom owner, Kanchipuram, Tamil Nadu, March 20, 2002.

<sup>297</sup> Human Rights Watch interview with Mahaveer Jain, Senior Fellow, V.V. Giri National Labour Institute, Noida, Uttar Pradesh, April 1, 2002.

<sup>298</sup> Ibid.

and sericulture”;<sup>299</sup> staff for the deputy commissioner of Bangalore Rural District, Karnataka, told Human Rights Watch that “70 to 80 percent” of those working in sericulture are under age fourteen.<sup>300</sup> Similarly, the district collector of Kanchipuram had established night schools so that children could continue to work days on silk handlooms.<sup>301</sup>

In contrast, high-level officials with the most power over the silk industry and over employers denied that the problem existed or denied responsibility for it. The secretary of the Ministry of Labour stated categorically to Human Rights Watch that no children were working in factories and mines, and blamed the Ministry of Education for not providing quality schools.<sup>302</sup> The ministry’s joint secretary for child labor told Human Rights Watch that factory owners were only employing children with their parents’ permission, which was not something the government could penalize the factory owners for.<sup>303</sup> (This is a clear misstatement of the law, as discussed below.) The head of the Central Silk Board, P. Joy Oommen, readily admitted to Human Rights Watch that children are working in silk reeling and twisting. “We know there are children working in the sector,” he told us, “and from our point of view, we consider it hazardous because of the steam, boiling water, the dust.”<sup>304</sup> However, the Central Silk Board, which regulates and subsidizes all aspects of the silk industry, takes the position that it can only intervene at a technological level, that is, to promote multi-end reeling systems that do not rely on child labor. As explained above, these systems are very costly and, according to the Board’s own data, hardly used in India.<sup>305</sup>

### ***Enforcing the Child Labor Law***

Following a few high-profile raids and prosecutions in the late 1990s, few children in hazardous work have been identified, and almost no employers prosecuted and convicted. When the law has been enforced, it has been concentrated on a few industries, particularly carpet weaving. According to activists in both northern and southern India, the silk industry has received less attention by comparison.<sup>306</sup> Reportedly, selective enforcement of the child labor law in eastern Uttar Pradesh in certain industries has had the effect of pushing some children, including migrant or trafficked children, who used to work on carpets into the silk industry.<sup>307</sup> Human Rights Watch also received reports, which we were unable to verify, that in Varanasi raids conducted under the Child Labor (Prohibition & Regulation) Act, 1986, have usually targeted small scale weavers (who are often in debt themselves) instead of the traders, who are more powerful and who hold the weavers in bondage.<sup>308</sup>

### **Finding and Freeing Child Workers**

State factory and labor inspectors, National Child Labour Project committees, and in some states, other departments such as the education department, are all responsible for identifying children working in hazardous

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<sup>299</sup> Human Rights Watch interview with Guruda M. Bhat, Deputy Labour Commissioner, Region 1, Department of Labour, Government of Karnataka, Bangalore, March 28, 2002.

<sup>300</sup> Human Rights Watch interview with staff of the deputy commissioner, Bangalore Rural District, Karnataka, Bangalore, March 26, 2002.

<sup>301</sup> Human Rights Watch interview with K. Rajaraman, District Collector, Kanchipuram, March 19, 2002.

<sup>302</sup> Human Rights Watch interview with Vinod Vaish, Secretary, Ministry of Labour, New Delhi, April 2, 2002.

<sup>303</sup> Human Rights Watch interview with K. Chandramouli, Joint Secretary for Child Labour, Ministry of Labour, New Delhi, April 2, 2002.

<sup>304</sup> Human Rights Watch interview with P. Joy Oommen, Member Secretary and Chief Executive Officer, Central Silk Board, Ministry of Textiles, Government of India, Bangalore, March 28, 2002.

<sup>305</sup> Ibid.

<sup>306</sup> Human Rights Watch interview with Lenin Raghuvanshi, People’s Vigilance Committee for Human Rights, Varanasi, March 14, 2002; Human Rights Watch interview with Girija Kumarababu, Indian Council for Child Welfare, Chennai, Tamil Nadu, March 21, 2002.

<sup>307</sup> Human Rights Watch interview with Lenin Raghuvanshi, People’s Vigilance Committee for Human Rights, Varanasi, March 12, 2002; B.N. Juyal and M.K. Jha, “Executive Summary,” *Child Labour Involvement in Sericulture*, para. 2.3.10.

<sup>308</sup> Human Rights Watch interview with Tanvir Siddiqui, lawyer, Varanasi, Uttar Pradesh, March 13, 2002; Human Rights Watch interview with Lenin Raghuvanshi, People’s Vigilance Committee for Human Rights, Varanasi, March 14, 2002; Human Rights Watch group interview with weaving families, village near Varanasi, Uttar Pradesh, March 14, 2002.

industries.<sup>309</sup> Although it is not difficult to find children working openly in hazardous occupations, including in the silk industry, in Karnataka, Tamil Nadu, and Uttar Pradesh, as well as other states, these bodies are either not inspecting for illegal child labor at all or are failing to do so effectively.<sup>310</sup>

The Supreme Court in 1996 ordered the states to conduct surveys of child labor in their territories, which they did in 1997 and 1998.<sup>311</sup> The reported findings wildly underestimated the incidence of child labor.<sup>312</sup> For example, Tamil Nadu reported 10,118 children working in hazardous occupations, Uttar Pradesh 32,000 (hazardous and non-hazardous), and Karnataka 44,070 (hazardous and non-hazardous).<sup>313</sup> Government officials continue to rely on these numbers, as well as the 1991 census.

Subsequent government efforts to find children working in hazardous occupations do not appear to be more accurate. We asked a local leader in a Varanasi neighborhood where we saw many people, including children, weaving in homes, if he had ever seen a labor inspector. “No one has ever come here to conduct a survey, ever,” he answered.<sup>314</sup> We also asked a group of eleven boys from the area, all of whom worked weaving silk for non-family members outside the neighborhood, if they had ever seen a labor inspector. None had ever seen one. When we asked a Varanasi silk trader who employs about 250 weavers whether officials from the Labour Department visited him, he replied: “No one has come from the government. The government sees how the saris are made, but they don’t ask questions about the labor situation.”<sup>315</sup> A member of the National Child Labour Policy (NCLP) committee in Varanasi district, which is responsible for identifying children in hazardous labor, told Human Rights Watch: “We told the district magistrate that the way surveys are conducted they were not going to find child labor because the loom owners wouldn’t admit it. The format was such that they would go and ask for child labor, but the loom owners wouldn’t admit it.”<sup>316</sup>

In Bangalore Rural District, Karnataka, where thousands of children are bonded in silk thread production, the deputy commissioner’s office in a July 2001 survey was able to find only 160 children, and of these, only thirty-

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<sup>309</sup> After the Supreme Court’s 1996 decision in *M.C. Mehta*, several states, including Tamil Nadu and Karnataka, gave a variety of government inspectors the power to enforce the child labor law.

<sup>310</sup> For additional information about problems enforcing the child labor law in Karnataka, see Lukose Vallatharai, Commissioner of Labour, Karnataka, “Extracts from a Report of the Labour Commissioner, Karnataka,” reprinted in Campaign Against Child Labour-Karnataka (CACL-K), *To Liberate Child Labourers: The Mysore Pledge*, A Report of the State-level Convention on Liberation of Child Labourers, November 30, 1993, pp. 36-39.

<sup>311</sup> *M.C. Mehta v. State of Tamil Nadu & Ors.*, 6 SCC 756, Writ Pet. (C) No. 465/1986 (December 10, 1996), para 33.

<sup>312</sup> A former labor inspector who wished to remain anonymous described to Human Rights Watch how the survey in Tamil Nadu produced such low findings:

There was so much publicity and press about the survey—for example, about training on it, and they published the dates of survey—everyone knew that all officers were involved in the survey in April and May. It was an official order of the district collector. All departments were notified about the inspection, and 161 officers in various departments had responsibility for it. . . . We made a team—we had a jeep and a timetable. When the employers became aware that we were coming, they withdrew the children for a short time period. The Chamber of Commerce sent a circular to all of their members not to engage children. So when we went as inspectors under the Supreme Court’s order, we could not find the children. They had been sent home. So we could only spot about 9,000 children in hazardous industries and about 8,000 in non-hazardous industries. In my area, the collectors realized [the survey] was not accurate so they instructed us to do a supplemental, surprise survey, and we identified about 1,000 more kids.

Human Rights Watch interview with former labor inspector, Chennai, Tamil Nadu, March 24, 2002.

<sup>313</sup> Mukul Sharma, “Children-India: Rethinking Ways to Free Child Labor,” Inter Press Service, November 11, 1998; “Lok Sabha—ILO starts area intensive project in Sivakasi for rehabilitation of child labourers”, M2 Presswire, December 13, 2000 (quoting Labour Minister Satyanarayan Jatiya); Department of Labour, Government of Karnataka, *Study Material on “Successful prosecution of Child Labour Cases,”* p. 4.

<sup>314</sup> Human Rights Watch interview with community leader, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>315</sup> Human Rights Watch interview with silk trader, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>316</sup> Human Rights Watch interview with Rajeev Kumar Singh, district child labor committee member and director of Dr. Shambunath Singh Research Foundation, Varanasi, Uttar Pradesh, March 13, 2002. The National Child Labour Policy (NCLP) is discussed in detail below.

three girls, working in hazardous occupations.<sup>317</sup> This was an increase from the seven found the previous year.<sup>318</sup> The Karnataka Department of Labor reports that there are only 2,140 children working in hazardous labor despite the fact that an estimated 60,000 to 100,000 children work in sericulture, which is only one of thirteen industries and fifty-seven processes classified as hazardous labor.<sup>319</sup>

### Prosecuting Violators

Prosecutions under the Child Labour (Prohibition & Regulation) Act, 1986, for employing children in occupations deemed hazardous have been rare and convictions rarer still. Both appear to have declined since the mid- to late 1990s. The secretary of the Ministry of Labour, Vinod Vaish, and his joint secretary for child labor, K. Chandramouli, refused to give Human Rights Watch nationwide data on prosecutions and convictions under the Child Labour (Prohibition & Regulation) Act, 1986. When we asked the joint secretary for this information, he told us that prosecuting employers is no longer necessary because after prosecutions in the mid-1990s, employers have stopped using children.<sup>320</sup> “Now in the present situation, I don’t think this particular kind of action needs to be taken now,” he told us. “Either they have learned to circumvent the law, or else they are not employing children. . . . If I give you figures, they are not going to indicate anything because child labor is decreasing.”<sup>321</sup> Documents obtained by Human Rights Watch, citing data from the Ministry of Labour in New Delhi, stated that in 1996-1997, 13,090 inspections found 509 violations. Of these, 374 were prosecuted and fourteen convictions obtained—a conviction rate of less than 4 percent.<sup>322</sup> Human Rights Watch was unable to verify these data’s accuracy. In addition, according to former Secretary of the Ministry of Labour Lakshmidhar Mishra, even where employers are convicted, trial courts impose only negligible fines.<sup>323</sup>

Nevertheless, Human Rights Watch was able to obtain statistics at the state level that further reveal how few employers face sanction for using children. In Karnataka, the government initiated 1,018 prosecutions against employers under the Child Labour (Prohibition & Regulation) Act from 1997 to 2001 and obtained 101 convictions, a conviction rate of less than 10 percent.<sup>324</sup> However, only 986 “child labourers” were “detected” during this same period, suggesting that either the data are flawed or that some prosecutions were for violating other parts of the act (such as conditions of employment where children are working legally).<sup>325</sup> For the 986 child laborers, Rs. 206,975 (U.S.\$4,312) in fines was collected from employers—1 percent of the Rs. 20,000 (\$417) per child that should have been imposed.<sup>326</sup> Under the Karnataka Shops and Commercial Establishments Act, 1961, which supplements the Child Labour (Prohibition & Regulation) Act, the government identified 1,271 child laborers from 1997-2000, imposed Rs. 58,175 (U.S.\$1,212) in fines, initiated 306 prosecutions, and obtained nineteen convictions, a conviction rate of about 6 percent.<sup>327</sup>

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<sup>317</sup> Office of the Deputy Commissioner, Bangalore Rural District, Karnataka, *Feedback from National Child Labour Project: Part I General Information*, undated but reporting data through 2001, para. 2.6.

<sup>318</sup> Ibid.

<sup>319</sup> Department of Labour, Government of Karnataka, “General Statistics,” <http://labour.kar.nic.in/labour/gen-statistics.htm> (retrieved June 13, 2002). Elsewhere the Karnataka government has reported that 2,500 to 3,000 children are working in sericulture manufacturing—it is not clear whether the government considered these children to be working in hazardous labor, although the work is defined as so by law. Department of Labour, Government of Karnataka, *An Action Plan to Eliminate Child Labour*, 2001; Government of Karnataka, *Administrative Guidelines for Implementation of the “Action Plan for Elimination of Child Labour” in Karnataka*, undated, p. 38. For an account of the number of children working in sericulture in Karnataka, see section above, “Areas Covered by this Report.”

<sup>320</sup> Human Rights Watch interview with K. Chandramouli, Joint Secretary for Child Labour, Ministry of Labour, Government of India, New Delhi, April 2, 2002.

<sup>321</sup> Ibid.

<sup>322</sup> Human Rights Watch interview with Tamil Nadu government official, Chennai, March 24, 2002.

<sup>323</sup> Mishra, *Child Labour in India*, pp. 179-80.

<sup>324</sup> *Performance Statistics (Particulars of Inspections) The Child Labour (Prohibition & Regulation) Act, 1986, 1997-2001* (chart provided to Human Rights Watch by the Office of the Labour Commissioner of Karnataka).

<sup>325</sup> Ibid.

<sup>326</sup> Ibid.

<sup>327</sup> Ibid.

In Varanasi, according to the deputy labor commissioner in March 2002:

After the Supreme Court's decision, there was good work on child labor. There were about 575 prosecutions under the Child Labour Act from December 1996 until now. About 300 have been decided. One hundred sixty employers have been convicted and given three-month sentences. These were in carpet, the sari industry, brick, automobiles, but not hotel.<sup>328</sup>

However, a study commissioned by the National Labour Institute, the Ministry of Labour's autonomous research wing, found that most of these prosecutions—546 of the 575—were launched between August 1997 and March 1999, suggesting that the Varanasi government is no longer seriously pursuing offenders.<sup>329</sup>

In Tamil Nadu, the state identified 10,118 children working in hazardous industries in 1997 and, as of March 2002, had released 157 children and lodged 8,799 criminal cases, most of which ended in acquittal.<sup>330</sup>

The decline in prosecutions appears to be in accord with official government policy. In April 2002, high-level officials at the Ministry of Labour told Human Rights Watch that the ministry no longer favored prosecution under the Child Labour (Prohibition & Regulation) Act, 1986. The secretary of the Ministry of Labour said:

Our approach in the last four years is a promotional and educational approach, not prosecutions and punishment. We have to convince parents that it is not right to send their child for labor and not for school. Our entire program is based on this approach. We may not have many figures of prosecutions, but we can be sure that in factories and mines there are no children under fourteen working. It would be a much too blatant violation—other employers, NGOs, and other factories would see. It is unthinkable, at least in our country. You can go see for yourself. If you want, you are free to go in anywhere. I don't think you will get that information because it does not exist.<sup>331</sup>

As detailed throughout this report, Human Rights Watch did, in fact, find numerous children working in hazardous occupations, both in factories and in homes.

Similarly, when asked how working children are identified and withdrawn from work, Joint Secretary of the Ministry of Labour K. Chandramouli told Human Rights Watch that the districts do this “through awareness raising, movies, and going around the village and announcing the ills of making children work. . . . But we use the NGOs and others to identify kids. Then we go and persuade the parents.”<sup>332</sup> The joint secretary did not favor prosecuting employers:

We don't think that coercive process will succeed beyond a point because most child laborers are sent to work by their parents. Raids would have meaning if factories were kidnapping children and holding them, but this situation is not there. It used to be there. Raids were to discourage that. This has been taken care of. Now most cases are where parents are in the know. . . . We have to move on to devise new strategies, and this is what we are doing. We are working on the developmental process rather than the coercive one. The law was needed in the first three to four years.<sup>333</sup>

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<sup>328</sup> Human Rights Watch interview with Rakesh Kumar, Deputy Labour Commissioner, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>329</sup> Sharma, *Child Labour in Sari Units of Varanasi*, table 1.1 (citing data from the Labour Department, Varanasi). The deputy labour commissioner told the authors of the study that about 50 percent of the children identified under the Child Labour (Prohibition & Regulation) Act from 1997 to 2000 were working in the sari industry. Ibid.

<sup>330</sup> Human Rights Watch interview with Tamil Nadu government official, Chennai, Tamil Nadu, March 24, 2002.

<sup>331</sup> Human Rights Watch interview with Vinod Vaish, Secretary, Ministry of Labour, Government of India, New Delhi, April 2, 2002,

<sup>332</sup> Human Rights Watch interview with K. Chandramouli, Joint Secretary for Child Labour, Ministry of Labour, Government of India, New Delhi, April 2, 2002.

<sup>333</sup> Ibid.

Without a major change in policy at the highest levels, enforcement of the child labor law cannot be expected to improve.

### **Loopholes and Weaknesses in the Child Labour (Prohibition & Regulation) Act, 1986**

Even in the uncommon case in which an official tries to enforce the Child Labour (Prohibition & Regulation) Act, 1986, deficiencies and loopholes in the act itself make enforcement very difficult. Compared with the bonded labor law, the child labor law has broad loopholes for family-based labor and determining age, and carries lighter penalties. It is also more difficult for officials to initiate cases.

First, the act excludes any work done in the family or in government-run or recognized schools, even if the act prohibits children from doing that work in any other context.<sup>334</sup> This exception creates an incentive for factory owners to contract with or bond adults for work to be done in their homes. The adults then use their own children or bond other children to help with the work, claiming, if inspected, that the bonded children are their own. This has happened in the silk industry in Varanasi;<sup>335</sup> the match and beedi industries in Tamil Nadu are other well-known examples. Labor inspectors told researchers at the National Labour Institute: “Most of the employers claim the child workers as their family members, while the child workers’ physical appearance such as tattered clothes, undernourished and underdeveloped physical physique, etc., belie the employers’ claim[s].”<sup>336</sup> Gilbert Rodrigo, director of the Tamil Nadu-based NGO Legal Resources for Social Action (LRSA), also explained: “Statistically, there has been a decrease in child labor [prohibited by law]. Employers make a contract with adults, then they take the work home and their children do it full time.”<sup>337</sup> The project director for Kanchipuram’s night schools for working children told Human Rights Watch: “The Child Labour Act is not sufficient—it doesn’t provide protection. The Child Labour Act will not help [children] to come out of the labor problem because they are working in homes.”<sup>338</sup> The Child Labour (Prohibition & Regulation) Act, 1986, should be amended so that household enterprises and government schools and training centers are no longer exempted from prohibitions on employing children.

Second, unlike the Bonded Labour System (Abolition) Act, 1976, and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the Child Labour (Prohibition & Regulation) Act, 1986, is not cognizable, meaning that a police officer may not arrest without a warrant. Instead, it is incumbent on labor inspectors to bring cases against employers. Because the act is not cognizable, it is more difficult for inspectors to collect evidence. The former labor commissioner of Karnataka, who reportedly took steps to enforce the law, described surprise inspections conducted on October 13, 1998: “In every factory that we visited, it took us nearly 10 to 30 minutes to persuade the employers to allow the inspecting team inside. It is my assumption that this resistance was only a ruse to gain time to let the children escape through back doors.”<sup>339</sup>

Third, the act, which only covers children up to age fourteen, places the burden on the inspector, not the employer, to prove with a doctor’s certificate that a child is under age.<sup>340</sup> A former Tamil Nadu labor inspector for more than ten years who recently left the post explained how this thwarts enforcing the law:

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<sup>334</sup> The Child Labour Act explicitly exempts: “any workshop wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from, Government.” Child Labour (Prohibition and Regulation) Act (1986), part II, sec. 3.

<sup>335</sup> Sharma, *Child Labour in Sari Units of Varanasi* (based on field work conducted November 2000).

<sup>336</sup> Helen R. Sekar, “The Child Labour (Prohibition and Regulation) Act, 1986, and its Implementation,” *Child Labour: An Overview*, (Noida: V.V. Giri National Labour Institute, 2001), p. 55.

<sup>337</sup> Human Rights Watch interview with Gilbert Rodrigo, Director, Legal Resources for Social Action (LRSA) Chengalpattu, Tamil Nadu, March 20, 2002.

<sup>338</sup> Human Rights Watch interview with night schools project director, Kanchipuram District, Kanchipuram, Tamil Nadu, March 19, 2002.

<sup>339</sup> Vallatharai, “Extracts from a Report of the Labour Commissioner, Karnataka,” reprinted in CACL-K, *To Liberate Child Labourers*, p. 36.

<sup>340</sup> Child Labour (Prohibition & Regulation) Act (1986), art. 10. See also Child Labour (Prohibition and Regulation) Rules (1988), art. 17 (regarding age certificates to be issued by certified medical authorities).



If an inspector believes a child is under fourteen but the age is disputed, the child must be referred to a registered doctor who must certify that the child is under fourteen. The court has two year's leeway each way, so if there is a doubt, the court can take "notice of medical jurisprudence" and the case will not proceed. Most cases lack proof of the child's age. It is hard to get a doctor to go with you. During the survey, a doctor was assigned to go with us, but another doctor can issue a certificate and there will be a conflict. Employers can get other [false] certificates. So when we went, the employers would show us the other age certificates.<sup>341</sup>

The deputy commissioner for Bangalore Rural District, Karnataka, told us that problems with establishing the age of the child has been a major reason why none of the few prosecutions in his district had resulted in conviction.<sup>342</sup> Similarly, former Secretary of the Ministry of Labour Lakshmidhar Mishra has written:

In India there is no satisfactory system of recording the registration of births, and in the absence of this, notably in rural areas, it is extremely difficult to correctly determine the age of a child. Callous and unscrupulous establishments employing children below 14 years of age often tend to take advantage of this lacuna. They, in collusion with the prescribed medical authority, obtain a falsified certificate. This creates enormous problems for the Courts, for they are obliged to treat the medical certificate as conclusive evidence under Sub-Sec. 2 of Sec 16 of the Act.<sup>343</sup>

The Child Labour (Prohibition & Regulation) Act, 1986, should be amended so that employers are made responsible for proving that their employees are of legal age to work. All employers should be required to have and show on demand proof of age of all children working on their premises. Failure to have adequate proof should constitute a separate violation of the act. In the event of a dispute about a child's age, the onus should be on the employer to prove that the child is above the age of fourteen years.

### **Other Barriers to Enforcing the Child Labor Law**

A lack of well-trained staff in sufficient numbers also impedes law enforcement. At both the district and state levels, the staff devoted to enforcing the child labor laws is insufficient.<sup>344</sup> Although some states, including Tamil Nadu and Karnataka, in order to conduct the survey for the Supreme Court, charged inspectors from various government departments, not just the labor department, with finding child labor, these officials have not continued to enforce the law. According to Lakshmidhar Mishra, former secretary of the Ministry of Labour, one reason for the "failure to enforce the plethora of legislative enactments" covering child labor is that a very small number of inspectors are responsible for enforcing a large number of laws in a large number of establishments, which makes it "virtually impossible" for them to do their jobs thoroughly.<sup>345</sup>

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<sup>341</sup> Human Rights Watch interview with former labor inspector, Chennai, Tamil Nadu, March 24, 2002.

<sup>342</sup> Human Rights Watch interview with G.S. Narayana Swamy, Deputy Commissioner for Bangalore Rural District, Bangalore, Karnataka, March 26, 2002. A report prepared by the deputy commissioner's office and given to Human Rights Watch reports the lack of proof of children's ages usually causes courts to acquit employers. Office of the Deputy Commissioner, Bangalore Rural District, Karnataka, *Feedback from National Child Labour Project Schools*, undated but reporting data through 2001.

<sup>343</sup> Mishra, *Child Labour in India*, p. 176.

<sup>344</sup> The National Labour Institute in an investigation of enforcement of the child labor law found that: "[a] majority of the Inspectors admitted that, because of the duties of inspecting various establishments under a number of labour laws which are in the priority list, they do not get sufficient time to carry out inspections under the Child Labour Act. Desk work demands much time while the lack of transport discourages them from visiting factories in interior areas where the units are numerous and scattered." Sekar, "The Child Labour (Prohibition and Regulation) Act, 1986, and its Implementation," *Child Labour: An Overview*, p. 56.

<sup>345</sup> Mishra, *Child Labour in India*, pp. 179-80.

Many inspectors are not adequately trained to enforce the law. The National Labour Institute has found:

Most of the inspections conducted on child labour law do not result in prosecutions because, during the inspection, some of the provisions of the Act or the rules are lost sight of by the labour enforcement officers. This may be because of the labour enforcement officers not being careful, thorough and tactful while carrying out inspections. . . . For Inspections under the Act to be purposeful and effective, these should always be surprise inspections. Otherwise, employers of child labour send the children away or hide them and destroy the evidence about their employment the moment they get a hint of the impending visit of the Inspector. . . .

Prosecutions do not result in convictions very often because of the failure on the part of Inspectors to gather sufficient and reliable evidence during the course of the inspections for bringing home the violations of the Act by the accused persons.<sup>346</sup>

The National Labour Institute has produced enforcement manuals and training materials for child labor inspectors and is training government officials and others, including district magistrates, inspectors, unions, and NCLP directors.<sup>347</sup> Training is critical and should be encouraged and offered nationwide. However, training officials on how to enforce the law will not get results if government officials at the highest levels discourage law enforcement; if problems of corruption, apathy, and caste and class bias (discussed below) are not addressed; and if the failure to enforce is not sanctioned—or even monitored.

Long delays and low conviction rates also discourage officials from pursuing prosecutions. It should be noted, however, that some of the same officials who complain about the process bear responsibility for improving, not abandoning, it. The district collector of Kanchipuram, who is responsible for the administration of justice, told Human Rights Watch that his office does not support prosecuting employers. Instead, it is trying to address the lack of education by providing night schools (discussed below) and to address poverty by organizing women's self-help groups. "Blindly implementing the law doesn't work," he told us.

There is publicity and then it's business as usual. Poverty has to be attacked. . . . It's a slow process. If we use the stick, it doesn't work, for the Child Labour Act at least. . . . Prosecution is not effective. The owners are charged, they turn hostile, they get a small fine, and the case falls through. We should look at eliminating the problem, not just legal solutions.<sup>348</sup>

Researchers at the National Labour Institute have found that "[w]hen many prosecutions are unsuccessful, Inspectors become discouraged while employers are encouraged to continue to engage children."<sup>349</sup>

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<sup>346</sup> Sekar, "The Child Labour (Prohibition and Regulation) Act, 1986, and its Implementation," *Child Labour: An Overview*, pp. 59-60.

<sup>347</sup> Human Rights Watch interview with Mahaveer Jain, Senior Fellow, V.V. Giri National Labour Institute, Noida, Uttar Pradesh, April 1, 2002. M. Jain conducts training through the National Labour Institute. See National Resource Centre on Child Labour, V.V. Giri National Labour Institute, *Manual for Factor/Labour Inspectors for the Enforcement of Child Labour Legislation*, 2000; National Resource Centre on Child Labour, V.V. Giri National Labour Institute, *Manual for Trainers of Enforcement Officials in Child Labour Legislation*, 2d. ed, 2000.

<sup>348</sup> Human Rights Watch interview with K. Rajaraman, District Collector, Kanchipuram, Tamil Nadu, March 19, 2002. Similarly, the project director for the district's night schools for working children told us: "Nothing will happen if we prosecute [employers of children], so we need rehabilitation through education." Human Rights Watch interview with night schools project director, Kanchipuram District, Kanchipuram, Tamil Nadu, March 19, 2002.

<sup>349</sup> Sekar, "The Child Labour (Prohibition and Regulation) Act, 1986, and its Implementation," *Child Labour: An Overview*, p. 57.

## *Rehabilitation of Child Workers*

### **The National Child Labour Policy (NCLP) and the National Authority for the Elimination of Child Labour**

The government's primary strategy for child labor has been to run schools designed to lure children out of hazardous labor and prepare them for formal schools or for a vocation.<sup>350</sup> These schools are created through the National Child Labour Policy (NCLP), which was announced in 1987 and expanded in 1994 by the National Authority for the Elimination of Child Labour. The program operated in one hundred districts in thirteen states in 2002. In 2001-2002, Rs. 670 million (U.S.\$14 million) was allocated for the NCLP program, almost double that from the previous year.<sup>351</sup>

The policy is administered by committees (entirely distinct from the bonded labor vigilance committees). The NCLP committees are charged with generating awareness about child labor, conducting surveys to identify child labor, running special schools that provide vocational and non-formal education and mainstream children into formal schools, enforcing child labor laws, and conducting adult education and activities related to income and employment generation. In practice, most committees just run the special schools. According to the government's own evaluation in 2001, the committees do almost none of the other tasks, and many hardly meet at all.<sup>352</sup> The evaluation concluded that "[t]he enforcement of child labour laws has seen virtually no improvement ever since the projects were launched, with one or two notable exceptions."<sup>353</sup> A separate evaluation in 2000 of NCLP projects in Andhra Pradesh, Tamil Nadu, and Karnataka found similar results in those states.<sup>354</sup> Human Rights Watch's investigation in Varanasi suggests that the Varanasi NCLP committee has done slightly better. In addition to supervising thirty-six schools (thirty of which started up in September and October of 2001), the committee is conducting surveys of child labor. However, according to committee member Rajeev Kumar Singh, the survey methodology precludes accurate results. He also noted that not all committee members actually attended meetings and that meetings were only held two or three times in 2001-2002.<sup>355</sup> However, he concluded:

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<sup>350</sup> Information in the section, unless otherwise indicated, is drawn from Ministry of Labour, Government of India, *Policy and Programme for the Rehabilitation of Working Children & Manual for the Implementation of National Child Labour Projects*, (Noida: V.V. Giri National Labour Institute, 1998); National Resource Centre on Child Labour, V.V. Giri National Labour Institute, *National Child Labour Projects: An Evaluation*, October 26, 2001; Ministry of Labour, Government of India, *Annual Report 2001-2002*; "National Policy on Child Labour—1987," reprinted in National Resource Centre on Child Labour, V.V. Giri National Labour Institute, *Child Labour in India—An Overview*, 2d ed. (New Delhi: V.V. Giri National Labour Institute, 2001), pp. 101-109. Curricula are not standardized. Some schools use the formal school curricula; others use non-formal education methods.

<sup>351</sup> Ministry of Labour, Government of India, "Child Labour," <http://labour.nic.in/cwl/welcome.html> (accessed July 9, 2002), sec. XI.

<sup>352</sup> National Resource Centre on Child Labour, V.V. Giri National Labour Institute, *National Child Labour Projects: An Evaluation*, pp. 5, 19, 22-24 (finding that most committees met infrequently "and even if there are meetings, the agenda is very often not adhered to," were not conducting regular surveys, had not provided available government services to children and their families that would prevent them from returning to work and encourage mainstreaming, and were not promoting enforcement of labor law). Of the one hundred projects, the National Labour Institute examined fifty projects (524 schools out of 1,976).

<sup>353</sup> *Ibid.*, p. 5.

<sup>354</sup> The study found that the NCLP executive committees in Karnataka and Andhra Pradesh were "mostly non-functional and that most societies had failed to conduct surveys of child labour although they had sufficient funds to do so, that there was almost no state level monitoring and that monitoring at the district level depended on the personal interest of district project officers." Kishore Attavar and Ravindra Prakash Y.J., Social Science Research Center, *The Status of NCLP in Three States of South India (Andhra, Tamilnadu & Karnataka)*, sponsored by Campaign Against Child Labour (CACL-K), March 2002, pp. 14-16.

<sup>355</sup> Human Rights Watch interview with Rajeev Kumar Singh, district child labor committee member and director of Dr. Shambunath Singh Research Foundation, Varanasi, Uttar Pradesh, March 13, 2002. When Human Rights Watch met with the deputy labor commissioner, he told Human Rights Watch that the committee was meeting the following day; however, Mr. Singh had not been notified of the meeting before that point. Human Rights Watch interview with Rakesh Kumar, Deputy Labour Commissioner, Varanasi, Uttar Pradesh, March 13, 2002.

“Before, there was nothing—now there has been some start. Now there is some accountability. Someone is responsible and someone has to answer. This didn’t exist before.”<sup>356</sup>

In contrast, in Karnataka, local NGOs said that most committees were defunct. According to a local activist: “We called a meeting of the committee [in Ramanagaram], and the members didn’t know each other. . . . The only reason they meet in Ramanagaram is because we created it. The other committees haven’t met.”<sup>357</sup> Another frequent criticism is that the NCLP committees, like the bonded labor vigilance committees, are staffed by those apathetic to or actively employing child labor. “There is a conflict of interest—members of the committees often work in industries that employ child labor,” the activist said.<sup>358</sup> “Many members of the committee don’t even believe in the eradication of child labor.”<sup>359</sup>

Operating special schools for former working children who lag far behind children their age in regular schools and may not be acclimatized to a school environment is, in theory, a good idea. However, the NCLP schools serve very few children compared with the number still working, and channel even fewer into a vocation or into formal schools. Most of the 3,369 schools operating in 2001-2002 opened in the preceding two years and covered 181,004 children in one hundred of India’s 593 districts.<sup>360</sup> This was an increase of only 792 children from the previous year, and only 1.61 percent of the 11.29 million working children recorded by the 1991 census (and a much smaller percentage of the tens of millions of children actually working).<sup>361</sup> The Ministry of Labour has admitted that the “number of working children who have been covered by the special schools is a miniscule of the total number of working children awaiting to be released and rehabilitated.”<sup>362</sup>

Moreover, not all of the 181,004 children in NCLP schools are former child laborers. NCLP schools promise students a hot meal and a Rs. 100 (U.S.\$2.08) stipend not offered in regular schools, and some operate in areas without a formal school nearby. Understandably, they attract non-working children, some of whom come from formal schools.<sup>363</sup> The head of an NGO running several NCLP schools for the government told Human Rights Watch: “The [NCLP] schools are good for children who are working within the family and in the community, but the Supreme Court intended for them to be for children released from hazardous industries, and these are not the children who attend the schools.”<sup>364</sup> The government estimates that “more than 60% of the children in NCLP schools are actually children withdrawn from work . . . .”<sup>365</sup> it does not provide a more precise estimate. A 2000 study of NCLP schools in Andhra Pradesh, Tamil Nadu, and Karnataka confirmed that the schools attract non-working children, adding specifically that the schools had not reached working children “who are in the strong clutches of money lenders, hazardous industries, [and] labour contract” because they were more difficult to get released.<sup>366</sup> Instead, the schools targeted “only those in the un-organized sector and school dropouts” because they were more easily found.<sup>367</sup> This finding is consistent with Human Rights Watch’s interviews at an NCLP

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<sup>356</sup> Human Rights Watch interview with Rajeev Kumar Singh, district child labor committee member and director of Dr. Shambunath Singh Research Foundation, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>357</sup> Human Rights Watch interview with activist, Ramanagaram, Karnataka, March 29, 2002.

<sup>358</sup> Ibid.

<sup>359</sup> Ibid.

<sup>360</sup> Ministry of Labour, Government of India, *Annual Report 2001-2002*, p. 109-10.

<sup>361</sup> Ibid.; Ministry of Labour, Government of India, *Annual Report 2000-2001*, p. 127. In Karnataka, the schools covered 5,700 children, in Tamil Nadu 20,986, and in Uttar Pradesh 16,987. Ministry of Labour, *Annual Report 2001-2002*, p. 109.

<sup>362</sup> Ministry of Labour, Government of India, *Annual Report 2001-2002*, p. 115.

<sup>363</sup> Human Rights Watch interview with Chaman Lal, NHRC Special Rapporteur, New Delhi, March 11, 2002; Human Rights Watch interview with Kailash Satyarthi, South Asian Coalition Against Child Servitude (SACCS), New Delhi, April 1, 2002; Human Rights Watch interview with Tamil Nadu government official, Chennai, Tamil Nadu, March 24, 2002. Compare National Resource Centre on Child Labour, V.V. Giri National Labour Institute, *National Child Labour Projects: An Evaluation*, October 26, 2001, p. 29 (finding that while some NCLP schools enrolled non-working children, most were enrolling “children actually withdrawn from working hazardous occupations and processes”).

<sup>364</sup> Human Rights Watch interview with NGO director, Varanasi, Uttar Pradesh, March 12, 2002.

<sup>365</sup> Ministry of Labour, Government of India, *Annual Report 2001-2002*, p. 110.

<sup>366</sup> Kishore Attavar, Social Science Research Center, *The Status of NCLP in Three States of South India*, pp. 17-20, 91.

<sup>367</sup> Ibid.

school in Varanasi, where almost none of the children whom we interviewed had been bonded, although an estimated 100,000 children in the area are bonded in the silk industry.<sup>368</sup>

The schools also face problems in their basic operations, including achieving their primary goal of either mainstreaming students into formal schools or providing them with a vocation. The government's 2001 evaluation of the NCLP found that where schools regularly delivered the monthly stipend and hot meal, they were able to hold students.<sup>369</sup> However, only 38 percent of surveyed schools paid stipends on a monthly basis; for the rest, there were delays of many months, which caused children to drop out of school.<sup>370</sup> In Bangalore Rural District, Karnataka, which was not part of the evaluation because the first NCLP schools began functioning in July and August 2001, 1,620 children had been admitted as of February 5, 2002. However, attendance rates were low (averaging 62.5 percent), infrastructure poor, vocational education inadequate or nonexistent, and mainstreaming into formal school unsuccessful.<sup>371</sup> According to Ministry of Labour Joint Secretary for Child Labour K. Chandramouli, from 1997 to 2002, NCLP schools mainstreamed 133,000 children into formal schools, an average of 26,600 children a year.<sup>372</sup> However, no one monitors whether NCLP students continue to attend formal schools once they are enrolled. A study of NCLP schools in Andhra Pradesh, Tamil Nadu, and Karnataka found that children often returned to work after leaving the NCLP schools,<sup>373</sup> a fact partially confirmed by the project director for NCLP schools in Bangalore Rural District.<sup>374</sup> Thus, the NCLP schools have presumably successfully mainstreamed even fewer than the 133,000 children that the government claims—not even keeping pace with the rate of new children entering hazardous work, much less decreasing the number who are already there.<sup>375</sup>

### **Other State-Level and Nongovernmental Initiatives to Address Child Labor**

In addition to the centrally-funded NCLP schools, some states have their own policies on child labor. For example, the Karnataka state government released an ambitious plan in 2001 to eliminate all child labor, not just that considered hazardous, incorporating the Supreme Court's framework for children in hazardous labor and identifying child labor in sericulture processing as a priority area.<sup>376</sup> However, this plan did not appear to be functioning at the time of Human Rights Watch's investigation one year later. In interviews with Human Rights Watch, Karnataka government officials identified the four UNICEF-funded residential schools in Magadi sub-district, which are run by local NGOs to educate and care for freed child workers, as the government's primary

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<sup>368</sup> See section above, "Areas Covered by this Report."

<sup>369</sup> National Resource Centre on Child Labour, V.V. Giri National Labour Institute, *National Child Labour Projects: An Evaluation*, October 26, 2001, p. 4.

<sup>370</sup> Ibid., pp. 7, 31, 44.

<sup>371</sup> Project Director, Child Labour Project Society, Bangalore Rural District, *Details of NCLP Special Schools Functioning in Bangalore Rural District as on February 5, 2002*, February 12, 2002; National Resource Centre on Child Labour, V.V. Giri National Labour Institute, *National Child Labour Projects: An Evaluation*, pp. 5, 27-28, 61-62. A 2000 evaluation of NCLP schools in Andhra Pradesh, Tamil Nadu, and Karnataka found that teaching materials for the schools were not being adequately developed, staff lacked training, girls did not have equal access to schools, and there was no proper evaluation and monitoring. Kishore Attavar, Social Science Research Center, *The Status of NCLP in Three States of South India*, pp. 4-5.

<sup>372</sup> Human Rights Watch interview with K. Chandramouli, Joint Secretary for Child Labour, Ministry of Labour, New Delhi, April 2, 2002; see also Government of India, Ministry of Labour, *Child Labour*, <http://labour.nic.in/cwl/welcome.html> (retrieved July 9, 2002) (stating that about 140,000 children from NCLP schools have been mainstreamed into formal education).

<sup>373</sup> Kishore Attavar, *The Status of NCLP in Three States of South India*.

<sup>374</sup> Human Rights Watch interview with Mr. Manjuth, Project Director, National Child Labour Project, Bangalore Rural District, Bangalore, Karnataka, March 26, 2002. Mr. Manjuth acknowledged that "some children go back to their employers."

<sup>375</sup> A 2001 study, based on a November 2000 survey, estimated that about 20,000 children in Varanasi alone enter the silk industry each year. Sharma, *Child Labour in Sari Units of Varanasi*.

<sup>376</sup> Department of Labour, Government of Karnataka, *An Action Plan to Eliminate Child Labour*, 2001; Government of Karnataka, *Administrative Guidelines for Implementation of the "Action Plan for Elimination of Child Labour" in Karnataka*, undated, pp. 37-38.

strategy to address child labor in silk.<sup>377</sup> As of December 2001, these schools together were educating 127 children and since September 1999 had enrolled 260 children in formal schools.<sup>378</sup>

Tamil Nadu has created various state-level agencies to monitor child labor projects, including a monitoring committee for NCLP projects, a steering committee for ILO-IPEC and U.S. Department of Labor funded projects, and a child labor cell created to monitor implementation of the Supreme Court's decision in *M.C. Mehta* for the children identified in the 1997 survey. Most Tamil Nadu initiatives have focused on children working in match and fireworks manufacture.

### *Night Schools in Tamil Nadu*

In Kanchipuram, which at the time of writing had no NCLP school, the local government has established night schools explicitly designed to allow children to receive some education while continuing to work. While the fact that the local government is making an effort to address child labor in some fashion should be recognized, these schools also enable employers to use child labor, and they fail to reach girls or younger children. They also provide very few hours of instruction—ninety to 120 minutes—to children already tired from working shifts of twelve hours or more. Most important, they signal that the local government has abdicated its responsibility to enforce the bonded labor and child labor laws, which, if enforced, would provide rehabilitation, including education, to these children.

Kanchipuram's night schools are purposefully designed to allow children to work. According to the schools' director:

We have night hours because if we disturb their job, nobody will come to us and parents will protest. We said to them, "We will not disturb your occupation." . . . The only difference between the moonlight schools and the government schools is the duration of the teaching. We can't take the time because the students are working and they will lose interest. . . . The child works twelve hours and so to make him sit in school for two hours afterwards is a great achievement.<sup>379</sup>

Similarly, a night school inspector told us that the students are weaving silk saris during the day: "Kids work twelve hour days and then come here. . . . There is no time for homework."<sup>380</sup> Although the classes meet for only an hour and a half to two hours a day, the project claims to have very high pass rates on national examinations.<sup>381</sup>

The schools target adolescents and adults, not younger children. In 2001-2002, 1,302 adults and children were enrolled in the night schools, with 20 percent absent on any given day.<sup>382</sup> Most students are older than fourteen, and some are in their early twenties. When asked why younger children did not come, a teacher at one of the schools explained, "At ages six to eight, they play in the road. They want entertainment. We cannot ask them at that age to come and sit here." Four boys standing nearby agreed. "At age fourteen or fifteen, [children] study here. Before that, they don't come," one explained.<sup>383</sup> A fifteen-year-old boy told us that he worked with ten friends in a house with six looms. Two of his friends attend Kanchipuram's night schools, "the rest live too far away. There is a school in their village, but they do not go because they are tired from the journey."<sup>384</sup> Even

<sup>377</sup> Human Rights Watch interview with G.S. Narayana Swamy, Deputy Commissioner for Bangalore Rural District, Bangalore, Karnataka, March 26, 2002; see also Department of Labour, Government of Karnataka, *An Action Plan to Eliminate Child Labour*, 2001, p. 38.

<sup>378</sup> *Magadi Child Labour Elimination Project: Information of Children Who Have Been Rehabilitated Through the Residential Bridge Centres. Enrolment to School and Also the No. at Present in the Centers*, September 1999-January 2002.

<sup>379</sup> Human Rights Watch interview with night schools project director, Kanchipuram District, Kanchipuram, Tamil Nadu, March 19, 2002.

<sup>380</sup> Human Rights Watch interview with night school inspector, Kanchipuram, Tamil Nadu, March 20, 2002.

<sup>381</sup> *Ibid.*, and Human Rights Watch interview with night school teacher, Kanchipuram, Tamil Nadu, March 20, 2002.

<sup>382</sup> *Ibid.*; District of Kanchipuram, *Nilavoli Palligal Project Proposals for Addressing Issues of Child Labour and Use Alternative Methodology in Education Working Children in Kanchipuram District*, undated but reporting data from 2002.

<sup>383</sup> Human Rights Watch group interview with night school students, Kanchipuram, Tamil Nadu, March 19, 2002.

<sup>384</sup> Human Rights Watch interview with fifteen-year-old boy, Kanchipuram, Tamil Nadu, March 20, 2002.

an eighteen-year-old whom we interviewed while he was weaving told us that he dropped out of the night school because he was “too tired.”<sup>385</sup>

The night schools reach very few girls. Families may forbid girls from attending because of social mores about girls being out at night; girls and their families may fear violence, from which Dalits, who are the majority of bonded laborers, often receive no protection or redress. In the two schools that Human Rights Watch visited, the first had no girls, the second only a few. Karpakavalli S., who was eighteen years old, explained how she was able to attend:

I come with my brother. I can't come without him. It's better to come with him. My father and mother tell me not to come to school. They say, “Mostly the boys are studying in the school so you need not go there.” My elder sister is more afraid. She tells me not to go for my safety. But I must study because I want to learn to read and write and help the other children to learn.<sup>386</sup>

According to the director of the night school program: “Girls are very limited. Families generally won't send the girls out at night. Only if they live very near. After they are fifteen to sixteen years old, they won't be allowed out. Even if they are the next street over, they won't be allowed. There is no transport, so we can't assure their safety.”<sup>387</sup> Girls don't like classes with boys, he added: “She will be shy about not knowing things in mixed classes. . . . They feel bad in front of the boys to have to learn the alphabet. There is no positive encouragement to girls from the family.”<sup>388</sup>

International law, which prohibits discrimination against girls in education, requires that India ensure that girls have equal access to schools and allocate whatever resources it devotes to education in a nondiscriminatory fashion.<sup>389</sup>

### ***Nongovernmental Programs***

In addition to and, in some cases, in cooperation with the Indian government, a great variety of domestic and international organizations, including UNICEF, CARE, the U.S. Department of Labor, and the International Labour Organization through its International Programme on the Elimination of Child Labour (IPEC), have programs related to reducing child labor. These programs tend to focus on running schools for former working children, raising public awareness that child labor is wrong, and lobbying government officials to enforce and strengthen the child labor and education laws. Both activists and government officials singled out the M.V. Foundation's work in Andhra Pradesh as particularly successful.

These projects contribute to the rehabilitation of child laborers, and, in many places, are the only forms of rehabilitation operating. However, as explained below, unless the Indian government enforces its child and bonded labor laws and removes and protects bonded children, the projects often miss bonded children, who are not free to leave their employers voluntarily.

### **Rehabilitation-Cum-Welfare Funds**

Rehabilitating child workers is critical to preventing them from immediately returning to work. It is generally conceived of as providing education to the child and employment or sources of credit to parents.

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<sup>385</sup> Human Rights Watch interview with eighteen-year-old man, Kanchipuram, Tamil Nadu, March 20, 2002.

<sup>386</sup> Human Rights Watch interview with eighteen-year-old woman, Kanchipuram, Tamil Nadu, March 21, 2002.

<sup>387</sup> Human Rights Watch interview with night schools project director, Kanchipuram District, Kanchipuram, Tamil Nadu, March 19, 2002.

<sup>388</sup> Ibid.

<sup>389</sup> Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), art. 10, adopted December 18, 1979, G.A. Res. 34/180, U.N. Doc. A/34/46 (entered into force September 3, 1981, and ratified by India July 9, 1993); International Covenant on Economic, Social and Cultural Rights (ICESCR) adopted December 16, 1966, G.A. Res. 2200A (XXXI), 993 U.N.T.S. 3 (entered into force January 2, 1976, and ratified by India April 10, 1979), arts. 2, 13; Convention on the Rights of the Child, arts. 2, 28.

Rehabilitation of child laborers became legally required in 1996, when the Supreme Court, finding continued use of child labor prohibited by the Child Labour (Prohibition & Regulation) Act, 1986, ordered state labor inspectors to identify children employed illegally, to fine employers Rs. 20,000 (U.S.\$417) per child, and to deposit this money in a “Child Labour Rehabilitation-cum-Welfare Fund,” the income on which must be used only for the child concerned.<sup>390</sup> Where the child is employed in a factory, mine, or other hazardous work, the Court requires the state to employ an adult family member in lieu of the child or, where this is not possible, to deposit an additional Rs. 5,000 (U.S.\$104) into the fund on the condition that the child be withdrawn from work and sent to school.<sup>391</sup> Parents should then receive the income on the Rs. 25,000 (U.S.\$521) for as long as they continue to send the child to school.<sup>392</sup> The Court ordered the Ministry of Labour to monitor the implementation of its decision.

Despite the Court’s 1996 order, by 2003, states had collected little money from employers. Even where they had, the money was not used to rehabilitate children. The Ministry of Labour’s joint secretary for child labor refused to give Human Rights Watch nationwide data on monies in the rehabilitation-cum-welfare funds.<sup>393</sup> However, he did say that the money collected in the past was “meager” and that very little money was currently being collected because there was little use of child labor in hazardous occupations.<sup>394</sup> When asked specifically about fines levied on employers, he replied, “We don’t need money from employers to proceed because the government is spending money.”<sup>395</sup> In the three locations Human Rights Watch investigated, we were able to learn of only three children, all in Tamil Nadu, who had received any direct assistance from a rehabilitation-cum-welfare fund.<sup>396</sup>

In Karnataka, according to the state’s deputy labor commissioner for region one, each district collector has a rehabilitation-cum-welfare fund, for which was collected a total of Rs. 5 million (U.S.\$104,167) in 2000-2001 and Rs. 9.8 million (U.S.\$204,167) in 2001-2002.<sup>397</sup> However, this money was spent on “awareness programs and training of inspectors,” rather than on rehabilitating child laborers as the Supreme Court ordered.<sup>398</sup> The deputy labor commissioner also told Human Rights Watch that his office had directed district collectors to give families of child laborers an identification card, to send these children to residential transitional schools, and to employ their parents. But his office is not monitoring this, he said, and “so far it has not happened.”<sup>399</sup>

The district labor commissioner of Varanasi (who is responsible for Varanasi district as well as four other districts in Uttar Pradesh) told us that in his five districts, recovery certificates had been issued for about Rs. 10 million (U.S.\$208,333), but that only Rs. 600,000 (\$12,500)—6 percent—had actually been collected.<sup>400</sup> He explained in detail how the interest on the rehabilitation-cum-welfare fund ought to be calculated and distributed, but when we asked about distribution he replied, “right now we are just getting the details. The rehabilitation fund is done, kids are being put in school, we gave jobs and land, but payments have not started yet.” When we asked for data on the jobs and land that had been provided, he was unable to give us this information, but said that “some people get shops or bank loans to buy cattle, raise pigs.”<sup>401</sup> When we asked a member of Varanasi’s NCLP committee about the rehabilitation-cum-welfare fund, which the committee is supposed to administer, he

<sup>390</sup> *M.C. Mehta v. State of Tamil Nadu & Ors.*, 6 SCC 756, Writ. Pet. (C) No. 465/1986 (December 10, 1996), para. 29.

<sup>391</sup> *Ibid.*, para. 31.

<sup>392</sup> *Ibid.*, para. 32.

<sup>393</sup> Human Rights Watch interview with K. Chandramouli, Joint Secretary for Child Labour, Ministry of Labour, New Delhi, April 2, 2002.

<sup>394</sup> *Ibid.*

<sup>395</sup> *Ibid.*

<sup>396</sup> Human Rights Watch interview with Tamil Nadu government official, Chennai, Tamil Nadu, March 24, 2002.

<sup>397</sup> Human Rights Watch interview with Guruda M. Bhat, Deputy Labour Commissioner, Region 1, Department of Labour, Government of Karnataka, Bangalore, March 28, 2002.

<sup>398</sup> *Ibid.*

<sup>399</sup> *Ibid.*

<sup>400</sup> Human Rights Watch interview with Rakesh Kumar, Deputy Labour Commissioner, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>401</sup> *Ibid.*



said, “it hasn’t come up for discussion yet. Even the money that has been collected from the employers, the Rs. 20,000—no discussion has been taken about how the money should be used.”<sup>402</sup>

Regarding other forms of rehabilitation, the Varanasi district labor commissioner told Human Rights Watch that the government “gives them employment in a government scheme like road construction or gives them group loans from the banks. First we ask them what they want us to do, and if they want to open a bakery shop, we loan them the money.”<sup>403</sup> Of the 1,337 children from 1,213 families who had been identified in all hazardous industries from December 10, 1996, to March 13, 2002, he said, 148 families were rehabilitated, 432 families “were already in employment so were not rehabilitated,” 240 families refused employment, and 355 were migrants and returned to their home states.<sup>404</sup> Of the 1,863 children identified in both hazardous and non-hazardous labor, 1,488 were admitted into government schools; the rest were migrants who returned to their home states.<sup>405</sup> Thirty-eight families had not been rehabilitated and were sent to the chief development office.<sup>406</sup>

In Tamil Nadu, as of March 2002, there was Rs. 47,625,000 (U.S.\$992,188) in the state level rehabilitation-cum-welfare fund, almost all of which came from the state, not from employers.<sup>407</sup> Although state inspectors identified 10,118 children working in hazardous industries in its 1997 survey for the Supreme Court, only eight employers paid their fines, which totaled Rs. 160,000 (U.S.\$3,333) as of March 2002.<sup>408</sup> As of that date, claims for the state government’s contribution of Rs. 5,000 (U.S.\$104) had been received for 157 children, and only three children had received assistance.<sup>409</sup> According to a Tamil Nadu government official, “[e]mployers seek a stay of payment of the Rs. 20,000 so unless they are convicted, the state cannot collect the fines.”<sup>410</sup>

Moreover, Tamil Nadu interprets the Supreme Court’s decision as limited to those children found by its first survey—children found in hazardous industries after the 1997 survey are not eligible for rehabilitation through the rehabilitation-cum-welfare funds, and their employers are not fined the Rs. 20,000 (U.S.\$417). A former labor inspector who had recently left the post explained: “When new children are identified, employers are prosecuted, but the Rs. 20,000 is not collected—it is not an ongoing process as far as Tamil Nadu is concerned. It restricted the Supreme Court’s directions to the particular survey.”<sup>411</sup> This interpretation clearly contravenes the Court’s order in *M.C. Mehta*. The district collector of Kanchipuram, Tamil Nadu, confirmed that Tamil Nadu is not implementing the Court’s order when he told us that he believed that the provision about rehabilitation-cum-welfare funds had been “withdrawn.”<sup>412</sup>

### **The National Human Rights Commission’s Work on Bonded Labor and Child Labor**

By focusing on bonded and child labor, the National Human Rights Commission (NHRC) has changed the environment in the areas where it has investigated. However, while it can encourage law enforcement, with

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<sup>402</sup> Human Rights Watch interview with Rajeev Kumar Singh, district child labor committee member and director of Dr. Shambunath Singh Research Foundation, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>403</sup> Human Rights Watch interview with Rakesh Kumar, Deputy Labour Commissioner, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>404</sup> Ibid.

<sup>405</sup> According to the head of an NGO running several NCLP schools in Varanasi, while some working children are migrants, NCLP schools are not placed in areas where children migrate from but rather where the children are working. Human Rights Watch interview with Rajeev Kumar Singh, district child labor committee member and director of Dr. Shambunath Singh Research Foundation, Varanasi, Uttar Pradesh, March 13, 2002. When migrant children are released, many return to their homes and do not receive any rehabilitation, although the Supreme Court held that migrants’ home states are responsible for rehabilitating them.

<sup>406</sup> Human Rights Watch interview with Rakesh Kumar, Deputy Labour Commissioner, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>407</sup> Human Rights Watch interview with Tamil Nadu government official, Chennai, Tamil Nadu, March 24, 2002.

<sup>408</sup> Ibid.

<sup>409</sup> Ibid.

<sup>410</sup> Ibid.

<sup>411</sup> Human Rights Watch interview with former labor inspector, Chennai, Tamil Nadu, March 24, 2002.

<sup>412</sup> Human Rights Watch interview with K. Rajaraman, District Collector, Kanchipuram, Tamil Nadu, March 19, 2002.

limited powers and resources it cannot replace it. The following section is based on discussions with NHRC Special Rapporteur Chaman Lal and investigations in Uttar Pradesh, Tamil Nadu, and Karnataka with respect to the silk industry.

The NHRC is the government of India's autonomous human rights body. Created pursuant to the Protection of Human Rights Act, 1993, its statutory functions include conducting independent investigations into human rights abuses, both on its own initiative and in response to petitioned complaints. In conducting these investigations, the commission enjoys the same powers as a civil court and can, accordingly, summon witnesses and examine them under oath; compel discovery and production of documents; and requisition public records from a court or office. However, unlike a civil court's ruling, the NHRC's recommendations are not binding, although the commission has been able to pressure the government into complying with its recommendations on many occasions.

The commission has made general interventions on child labor, especially in Uttar Pradesh but also in the south, and intervened in some individual cases. Following the Supreme Court's request in 1997 that it monitor states' implementation of the bonded labor law, it appointed various special rapporteurs to address the issue.

Special Rapporteur Chaman Lal's primary focus has been Uttar Pradesh's carpet belt and six districts in particular.<sup>413</sup> He explained to Human Rights Watch:

In more and more cases we are sending an investigation team, and if we find a *prima facie* case, then we issue a release certificate and take up the case for rehabilitation. For example, in [one instance], we were given a list of released laborers and the district magistrate had done nothing. We gave certificates to the district magistrate and gave him three months to locate and initiate rehabilitation. Even if we can rehabilitate 50 percent of that number, that would be very good. We do this kind of monitoring of rehabilitation—the law is O.K., but it is not being implemented properly and effectively.<sup>414</sup>

NGOs in the Varanasi area agreed that Special Rapporteur Chaman Lal's presence and pressure has made a difference. According to one:

It's because [Special Rapporteur Chaman Lal] comes that the Labour Department is on their toes about this—it creates tensions. The NHRC makes a huge difference, especially in the quality of the NCLP programs. They conduct field visits to monitor—they look at education, health and nutrition, the stipends, and the resources for rehabilitation. At least this conversation is happening so people sleeping on the job wake up. The NHRC recognizes the job of good people and goes against people who are not working. If the district magistrate or the committee members take their work too lightly, it will call them to Delhi and scold them.<sup>415</sup>

However, a local activist with an organization that frees bonded laborers told Human Rights Watch that because of this pressure, government officials “falsify detailed information about who has been identified and released, but when it comes to releasing actual children, then they get stuck in bureaucracy.”<sup>416</sup>

For the southern states, including Tamil Nadu and Karnataka, Special Rapporteur K.R. Venugopal has primary responsibility. Government officials and NGOs in Karnataka and Tamil Nadu do not report the same level of involvement as Special Rapporteur Chaman Lal: Special Rapporteur Venugopal does not visit these states as regularly; for example, the district collector of Kanchipuram, which has open and prolific bonded child

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<sup>413</sup> Ibid. See also NHRC, *Annual Report 1998-99*.

<sup>414</sup> Human Rights Watch interview with Chaman Lal, NHRC Special Rapporteur, New Delhi, March 11, 2002.

<sup>415</sup> Human Rights Watch interview with Rajeev Kumar Singh, district child labor committee member and director of Dr. Shambunath Singh Research Foundation, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>416</sup> Human Rights Watch interview with activist, Varanasi, Uttar Pradesh, March 12, 2002.

labor, told Human Rights Watch that his district has had no contact with the NHRC.<sup>417</sup> However, most report that the NHRC's pressure on top officials to comply with the law has had some positive effects, such as Karnataka conducting a supplementary survey of child labor when the first produced few results. According to a case worker for bonded labor in the Bangalore Rural District deputy commissioner's office, the Special Rapporteur in 2001 gave useful suggestions for collecting evidence of bonded labor, such as taking a video camera on investigations.<sup>418</sup>

While the NHRC's work has been positive, it is also hampered by serious limitations in resources and power. The staff is relatively small. Special Rapporteur Chaman Lal works as a volunteer and has other, unrelated responsibilities.<sup>419</sup> For bonded labor, he has use of the commission's investigation team and inspectors; he also formed a group, with NGO representation, which studied the issue and made recommendations, but which is no longer meeting.<sup>420</sup> To be effective, each intervention takes considerable time and requires regular follow up. In its current state, the NHRC cannot cover even the major industries using bonded child labor. In addition, the NHRC has the powers of a civil, not criminal, court and its recommendations are not binding.<sup>421</sup> For example, it can recommend prosecution but cannot itself prosecute or force unwilling districts to do so. It is precluded from taking cases under investigation by a state human rights commission or cases regarding events that happened more than one year before the complaint was made. Thus, the NHRC's role is important, but it is no substitute for law enforcement. Some activists in Karnataka suggest that because the NHRC has no real enforcement power, the state government has become "thick skinned" to pressure.<sup>422</sup>

Child labor activists also told Human Rights Watch that while they are filing individual cases regarding bonded labor with the NHRC, these cases take a long time to be resolved.<sup>423</sup> According to Kailash Satyarthi, director of the South Asian Coalition Against Child Servitude (SACCS), the organization has over fifty cases for 700 to 800 bonded laborers pending before the NHRC.<sup>424</sup>

### **A Lack of Political Will**

Eradicating bonded child labor requires not just strong law but also the political will to implement it. The caste and class bias, apathy, and corruption, and a lack of accountability for these that Human Rights Watch documented in 1996 and beyond are still standing in the way of eliminating bonded child labor. The NHRC, by putting pressure on district governments, has been able to counteract these elements in some cases. But, as explained above, the commission's scope and resources are limited.

The district magistrate (district collector or deputy commissioner) is the top authority at the district level and oversees government administration. A few district magistrates have taken on bonded child labor in their districts, but many simply do not see it as part of their jobs. One problem is that government officials are frequently transferred. According to a high-level Tamil Nadu government official, "A lot depends on the drive of the [district] collector. Where there is a good collector, there has been a good response."<sup>425</sup> However, as civil servants, district magistrates are transferred frequently. "Good people don't stay in their positions very long," a

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<sup>417</sup> Human Rights Watch interview with P. Sivakami, Secretary to the Government, Adi Dravidar and Tribal Welfare Department, Chennai, Tamil Nadu, March 18, 2002.

<sup>418</sup> Human Rights Watch interview with bonded labor case worker, office of the deputy commissioner, Bangalore Rural District, Bangalore, Karnataka, March 28, 2002.

<sup>419</sup> Special Rapporteur Chaman Lal also supervises the functioning of three mental hospitals. Human Rights Watch interview with Chaman Lal, NHRC Special Rapporteur, New Delhi, March 11, 2002.

<sup>420</sup> Human Rights Watch telephone interview with Swami Agnevesh, group member and chair, Bonded Labour Liberation Front (Bandhua Mukti Morcha), March 29, 2002.

<sup>421</sup> NHRC, *FAQ About the NHRC*, <http://nhrc.nic.in/> (retrieved July 30, 2002).

<sup>422</sup> Human Rights Watch interview with Solomon J.P., Director, Movement for Alternatives and Youth Awareness (MAYA), Bangalore, Karnataka, March 25, 2002.

<sup>423</sup> Human Rights Watch interview with activist, Bangalore, Karnataka, March 25, 2002.

<sup>424</sup> Human Rights Watch interview with Kailash Satyarthi, South Asian Coalition Against Child Servitude (SACCS), New Delhi, April 1, 2002.

<sup>425</sup> Human Rights Watch interview with Tamil Nadu government official, Tamil Nadu, March 18, 2002.

member of the Varanasi NCLP committee told Human Rights Watch. “The government should bring in good people and leave them there for three or four years.”<sup>426</sup> Similarly, staff of an NGO running residential schools for formerly bonded children told us: “The IAS [Indian civil service] officer keeps changing so by the time they understand the problems, they leave.”<sup>427</sup> Activists and government officials singled out a former district collector in Kanchipuram and a labor commissioner in Karnataka as other effective individuals who had been transferred.

Moreover, district magistrates have a perverse incentive not to report bonded labor in their districts—admitting that bonded labor exists in their district may be taken as evidence of their own failure to address it. According to Souparna Lahiri of the Centre for Education and Communication, if district magistrates “certify that there is bonded labor in their districts, they will be held responsible for it and their careers will be hurt.”<sup>428</sup> Because there is little monitoring or oversight from higher levels of government and because the vigilance committees are pressured by or include employers, the easiest path for district magistrates is to deny that any bonded labor exists. To counteract this, the government should provide incentives for law enforcement to prosecute, rather than encouraging magistrates to keep their reported numbers low to show that they are doing a good job.

This passive attitude and shifting of blame is evident at every level. The Ministry of Labour says that state level officials do not report cases to them; state-level officials say that bonded and child laborers do not approach them to complain. For example, when we asked the deputy commissioner for Bangalore Rural District, Karnataka, G.S. Narayana Swamy, about vigilance committees in his district, he told us, “I have asked them to inform me if they find bonded labor and child labor, and no one has reported back.”<sup>429</sup>

A lack of political will also is evidenced by the fact that each year more money is allocated than is actually spent for both the NCLP schools and for bonded labor rehabilitation. The Ministry of Labour reported to the International Labour Organization in 2001: “There is no dearth of funds for rehabilitation of bonded labourers. At no point in time, proposals for rehabilitation of bonded labourers sent by State Governments to the Government of India, could not be entertained due to lack of funds.”<sup>430</sup> For example, 8.6 percent of the monies allocated in 2001-2002 for NCLP schools were left unspent.<sup>431</sup>

On January 27, 2002, four NGOs brought around eighty bonded children from Magadi to Bangalore, Karnataka, for what was billed as a social event, and invited the state’s labour commissioner, E. Venkataiah. The children told the commissioner that they were bonded in silk twisting factories in Magadi.<sup>432</sup> The commissioner responded by promising to raid factories but also said at the same time that raids were ineffective.<sup>433</sup> He said he could not do anything about the loans and that while the children appeared underage, he needed doctor’s

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<sup>426</sup> Human Rights Watch interview with Rajeev Kumar Singh, district child labor committee member and director of Dr. Shambunath Singh Research Foundation, Varanasi, Uttar Pradesh, March 13, 2002.

<sup>427</sup> Human Rights Watch interview with two staff of NGO running schools in Bangalore Rural District, Bangalore, Karnataka, March 25, 2002.

<sup>428</sup> Human Rights Watch interview with Souparna Lahiri, Centre for Education and Communication, New Delhi, March 11, 2002.

<sup>429</sup> Human Rights Watch interview with G.S. Narayana Swamy, Deputy Commissioner for Bangalore Rural District, Bangalore, Karnataka, March 26, 2002.

<sup>430</sup> Ministry of Labour, Government of India, *Report on Ratified ILO Convention No. 29 concerning Forced Labour, under Article 22 of the ILO Constitution*, No. W-1 301512/2000-ILAS(IV), May 20, 2001 (covering the period from June 1, 1999 to May 31, 2000).

<sup>431</sup> Ministry of Labour, Government of India, *Child Labour*, <http://labour.nic.in/cwl/welcome.html> (retrieved July 9, 2002), sec. XI.

<sup>432</sup> “Bonded Child Labourers Vent Their Ire,” *The Times of India*, January 28, 2002; “They Want to Go to School but Can’t Do So,” *The Hindu*, January 28, 2002; Human Rights Watch interviews with organizers of the event, Karnataka, March 25 and 27, 2002.

<sup>433</sup> Ibid.

certificates as proof.<sup>434</sup> The next day, the children returned to work, where they have been ever since. At the time of writing, the government had not freed any of the children or taken action against any of their employers.<sup>435</sup>

### ***Sympathy for and Pressure from Employers***

Many district magistrates and law enforcement officials are openly sympathetic to employers, who in turn pressure them to turn a blind eye. According to NHRC Special Rapporteur Chaman Lal, “They don’t see it as a crime, and they help the factory owner.”<sup>436</sup> Similarly, P. Sivakami, secretary of Tamil Nadu’s Adi-Dravidar and Tribal Welfare Department, told Human Rights Watch that “local people are not able to get over the idea that it is not criminal. The lobby is quite strong against bonded laborers. There is a reluctance by the administration to bring cases.”<sup>437</sup> Karnataka’s Department of Labour summarized the problem:

The indifferent attitude of some law enforcers are [sic] responsible for poor enforcement of child labour laws. The indifference in turn is attributable to misplaced sympathy, false notions, uncalled for compassion and lack of thorough understanding and consequences of child labour. Certain myths and false notions have virtually ruled the minds of the Inspectors. Some of the enforcement officers may come under the influence of employers and avoid taking any action saying that removing of children from work will result in the child being thrown out of work and the parents of the child are deprived of the child’s earning. Such attitude of enforcement officers will hinder the enforcement. . . . The traditional explanations like insufficient staff, lack of conveyance facilities, pressure of other work, etc., are turned out to be irrelevant to a great extent. When child labour is found employed virtually in every place around us, does enforcement really require more staff and vehicles to function?<sup>438</sup>

### ***Corruption***

*The inspector often comes, but they know that he is coming and they send us home. Also [the inspectors] get saris from the loom and they go.*

—Fifteen-year-old N. Thaiyal, working since 2000 in a factory with about fifty other workers in Kanchipuram, Tamil Nadu<sup>439</sup>

Corruption also prevents effective law enforcement. Inspectors may be bribed, and raids typically fail because employers know about them in advance and hide or send away the children. Dr. Lenin, a member of Varanasi’s bonded labor vigilance committee and director of the People’s Vigilance Committee for Human Rights, told us that while police will cooperate with his organization on raids on employers who use bonded labor, the group has learned not to tell the police until the day of the raid where they will conduct it because police will warn the employers in advance.<sup>440</sup> Staff of another NGO in Varanasi, Uttar Pradesh, also explained:

The government often leaks information to the trader that NGOs know about [their use of bonded child labor]. So we have to become smart and not let officials know until the day we are ready to take them [to the worksite]. Sometimes by the time we get there, there won’t be any children there and we get blamed.<sup>441</sup>

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<sup>434</sup> Ibid.

<sup>435</sup> E-mail communication to Human Rights Watch from Prasanna N., Director, Vikasa, September 9, 2002.

<sup>436</sup> Human Rights Watch interview with Chaman Lal, NHRC Special Rapporteur, New Delhi, March 11, 2002.

<sup>437</sup> Human Rights Watch interview with P. Sivakami, Secretary to the Government, Adi Dravidar and Tribal Welfare Department, Chennai, Tamil Nadu, March 18, 2002.

<sup>438</sup> Department of Labour, Government of Karnataka, *Study Material on “Successful Prosecution of Child Labour Cases,”* pp. 30-31. Researchers at the National Labour Institute have also concluded that “pressures from the industrialists lobby on the Labour Department also results in ineffective implementation.” Sekar, “The Child Labour (Prohibition and Regulation) Act, 1986, and its Implementation,” *Child Labour: An Overview*, p. 57.

<sup>439</sup> Human Rights Watch interview with fifteen-year-old girl, Kanchipuram, Tamil Nadu, March 21, 2002.

<sup>440</sup> Human Rights Watch interview with Lenin Raghuvanshi, vigilance committee member and director of the People’s Vigilance Committee for Human Rights (PVCHR), Varanasi, Uttar Pradesh, March 12, 2002.

<sup>441</sup> Human Rights Watch interview with activist, Varanasi, Uttar Pradesh, March 12, 2002.

Activists report similar problems in Karnataka. “Unless the local government official is good, the factory owner will get advance information and the children will disappear. . . . Local labor department inspectors have close connections with owners, and they pay them off. He is at the mercy of the factory owner,” NGO staff told Human Rights Watch.<sup>442</sup>

### ***Caste Bias***

As described above, caste bias also impedes law enforcement. Upper castes dominate local political bodies, the police and the judiciary, bonded labor vigilance committees, and child labor committees that are supposed to enforce the law on bonded and child labor, while most bonded laborers are Dalit.<sup>443</sup>

The practice of “untouchability” is illegal under Indian law. Compelling or enticing a member of a scheduled caste or scheduled tribe into forced or bonded labor is specifically outlawed under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. India’s constitution guarantees the right to life and liberty, abolishes the practice of “untouchability,” and punishes the enforcement of any disability arising out of the practice. Unfortunately, as Human Rights Watch has extensively documented, these protections are rarely implemented.<sup>444</sup> Without enforcement of this act or the constitution, the government is not cracking the foundation of this system that allows bonded labor to flourish.

Although a potentially powerful piece of legislation, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is hampered by police unwillingness to register offenses or their ignorance of the terms of the act itself. Under Indian law, a police officer is bound to enter in the station diary all reports brought to him concerning all cognizable and non-cognizable offenses. Failure to do so, or entering a report that was not made to him, is punishable under Section 177 of the Indian Penal Code. In most cases, however, the offending officer escapes punishment. The police take on the role of the judiciary and determine the merits of the case even before pursuing investigations. Cases at all levels are influenced by caste bias, corruption, and ignorance of procedures under the Atrocities Act.

The functions of the Indian police are governed by the Indian Police Act, 1861, the Code of Criminal Procedure, 1973, the Indian Penal Code, 1860, the Indian Evidence Act, 1832, the Constitution of India, and other state acts. The government of India has known about the extent of police corruption in the registration of cases at least since 1979 when the National Police Commission issued a devastating indictment of police behavior. Over two decades later, none of the police commission’s recommendations have been adopted, and police continue to detain, torture, and extort money from Dalits without much fear of punishment.<sup>445</sup> Police often escape liability for their own abuses of Dalits and are rarely punished for their negligence in the non-registration of caste-related cases.

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<sup>442</sup> Ibid.

<sup>443</sup> Human Rights Watch interview with Professor Sukhadeo Thorat, Jawaharlal Nehru University, New Delhi, March 9, 2002.

<sup>444</sup> Human Rights Watch, *Broken People*, pp. 139-52, [http://www.hrw.org/reports/1999/india/India994-09.htm#P1695\\_354939](http://www.hrw.org/reports/1999/india/India994-09.htm#P1695_354939).

<sup>445</sup> Under a section titled “Corruption in Police,” the National Police Commission’s report published the following findings: The scope of corruption and allied malpractices arise at several stages in the day to day working of the police. A few typical situations are listed below: (1) Bribe demanded and received for registering a case and proceeding with investigation. (2) Bribe connected with arrest or non-arrest of accused and release or non-release on bail. . . . (4) Extorting money by threatening persons, particularly the ill-informed and weaker sections of society, with conduct of searches, arrests and prosecution in court on some charge or the other. . . . (6) Fabricating false evidence during investigations of cases and implicating innocent persons or leaving out guilty persons on mala fide considerations. . . . (12) Bribery at the stage of recruitment to police.

National Police Commission, “Corruption in Police,” Chapter XXII, *Third Report of the National Police Commission* (New Delhi: Government of India, 1980), p. 26.

Even when cases are registered, the absence of special courts to try them can delay conviction for up to three to four years. Pursuant to the act, each revenue district within each state must designate a special court for the trial of such offenses. However, all Atrocities Act cases go to regular sessions courts, which are already overburdened with original and appellate jurisdiction over district-level civil and criminal cases.<sup>446</sup> According to Kiran Kamal Prasad, director of the Karnataka-based NGO JEEVIKA that frees and rehabilitates bonded laborers and trains government officials: “There are a large number of cases registered, but I can count on my fingertips the people prosecuted. Although the [Atrocities] Act has a bonded labor provision, I can’t think of a single case.”<sup>447</sup> Some state governments, including those of Maharashtra and Uttar Pradesh, have come under upper-caste pressure to repeal the legislation altogether.<sup>448</sup>

### **The Failure to Protect Bonded Children**

Government officials, from the secretary of the Ministry of Labour to various district magistrates, maintain that opening transitional schools for working children and distributing anti-child labor propaganda is preferable to enforcing the law that would remove and rehabilitate children and punish employers. While the former tactics are clearly useful, they presume that children are free to leave their work. For bonded children, who are not free, they provide little remedy.

NGOs that run transitional schools and conduct public awareness campaigns, and the students who attend their schools, report that employers use threats and intimidation to keep bonded children working. In Varanasi, where Human Rights Watch visited NCLP schools, many students were never bonded to begin with because the bonded children are too hard for the schools to reach. “There is no follow-up. NGOs will write down the names of child laborers, but we are not able to pull them out of work and into school,” said the director of a local NGO.<sup>449</sup> Studies by the National Labour Institute confirm that NCLP schools do not reach bonded children.<sup>450</sup>

In Karnataka, Human Rights Watch visited an NGO-run transitional school where the students had worked but were not bonded; many students had siblings who were bonded and, therefore, were unable to attend. For example, eleven-year-old Nusrath Farhana had been at the transitional school for four months when Human Rights Watch interviewed her. Before, she had been working picking worms without an advance, but her sister and brother, ages twelve and thirteen, were bonded for Rs. 3,000 (U.S.\$63) and were still working.<sup>451</sup> Twelve-year-old Mohammad A. had worked without an advance, but his sisters, ages eleven and fifteen, were still working to pay back Rs. 2,000 (U.S.\$42) and Rs. 10,000 (\$208), respectively.<sup>452</sup> Eleven-year-old Iqbal H. has two sisters, one twelve years old who works at cooking and one thirteen years old who works at reeling. Each owes Rs. 5,000 (U.S.\$104). When we asked if they wanted to come to the school, he answered: “If they were able to come, they would like to come. They are working so I don’t know when they would come.”<sup>453</sup> Similarly, Wasim N., age nine, has two sisters, ages ten and eleven, who together were bonded for Rs. 5,000 (U.S.\$104). Neither has ever attended school.<sup>454</sup>

Transitional schools need local and state governments to enforce the bonded and child labor laws so that they can reach bonded children. One school coordinator in Karnataka explained: “The impact of the Supreme Court decision has been increased awareness by the owners and parents, community awareness. But we have nowhere

<sup>446</sup> See Human Rights Watch, *Broken People*, p. 193, <http://www.hrw.org/reports/1999/india/India994-13.htm#TopOfPage>.

<sup>447</sup> Human Rights Watch interview with Kiran Kamal Prasad, JEEVIKA, Bangalore, Karnataka, March 25, 2002.

<sup>448</sup> Human Rights Watch, *Broken People*, pp. 188, 196-98, <http://www.hrw.org/reports/1999/india/India994-13.htm#TopOfPage>.

<sup>449</sup> Human Rights Watch interview with NGO director, Varanasi, Uttar Pradesh, March 12, 2002.

<sup>450</sup> The National Labour Institute, in a study of NCLP schools commissioned by the Ministry of Education, found that “awareness generation alone may not ensure participation of target groups [child in hazardous work] in this programme [NCLP].” National Resource Centre on Child Labour, V.V. Giri National Labour Institute, *National Child Labour Projects: An Evaluation*, p. 4.

<sup>451</sup> Human Rights Watch interview with eleven-year-old girl, Ramanagaram, Karnataka, March 29, 2002.

<sup>452</sup> Human Rights Watch interview with twelve-year-old boy, Ramanagaram, Karnataka, March 29, 2002.

<sup>453</sup> Human Rights Watch interview with eleven-year-old boy, Ramanagaram, Karnataka, March 29, 2002.

<sup>454</sup> Human Rights Watch interview with nine-year-old boy, Ramanagaram, Karnataka, March 29, 2002.

to go legally. There is no authority to ask. We as an NGO have no authority.”<sup>455</sup> “The NGOs are sandwiched between interested groups. We cannot fight against the owners,” added the group’s director.<sup>456</sup>

Where NGOs have managed to free bonded children, employers may continue to threaten the children and their parents, and insist that the parents repay the loans or pass down the advance to another child.<sup>457</sup> “When we release children,” said one NGO director, “employers will demand money from the parents and demand the child back.”<sup>458</sup> Another told Human Rights Watch: “By and large, most children say, ‘Given the choice, I would like to study.’ But then their parents, under the pressure of the master, succumb. They come to the school and plead with the children, and sometimes they go back. We try to convince the master that the loan was repaid [with the child’s labor], but they don’t agree.”<sup>459</sup> Staff from a third residential school told us: “Owners have come several times to the center to demand the child be sent back to repay the advance. We threaten to go to the police, so now they are not coming here—they are creating problems with the parents.”<sup>460</sup>

In some instances, parents are forced to send another child to the employer in exchange. Ten-year-old Mayekalai J. was bonded at age seven for Rs. 2,000 (U.S.\$42). Around 2000, one of his brothers convinced him to go to a residential school:

After I came here, I contacted my parents. I told them I was studying, but I didn’t tell where. My father had to pay back the Rs. 2,000—he could only give half at the time, so he asked if he could pay Rs. 1,000 then and 1,000 later, but the owner didn’t agree. The owner insisted that he send my other brother who had to work to pay the loan. It’s still not settled. I am afraid to go to the village because it is not settled yet with the owner.<sup>461</sup>

D.G. Sagar left a silk unit in 2000 for a transitional residential school. He told Human Rights Watch:

When I came to the school, the owners went to my parents’ house and created a problem. So my parents made an agreement that my brother would repay the money. It was an oral agreement—nothing was written. My brother is seventeen years old, and he is still working for the owner. Now when I go to my village, the owner still demands that I come to him. He says so many people are studying and not getting jobs.<sup>462</sup>

P. Kattaraman, who is Dalit, was bonded for Rs. 3,000 (U.S.\$63) when he was seven or eight years old. After he had worked about four years, an NGO volunteer convinced him to come to the residential school in 2000.

When I left my employer, money was not returned to the owners. Now my elder brother is working to pay off the advance. The owner demanded that I pay the advance, so there was a dispute and we worked out that my brother would work. . . . After I came here, my parents kept coming here [to the residential school] to force me to work. They came because the owner of the silk unit kept coming and making problems for my parents, but I decided to stay here. He would use vulgar language to my parents. When he went to my parents, they would come here [to the school]. Finally, I said I wouldn’t go back. So my parents said that they would send my other brother and the problem was solved. My brother paid the amount.<sup>463</sup>

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<sup>455</sup> Human Rights Watch interview with school coordinator, Karnataka, March 27, 2002.

<sup>456</sup> Human Rights Watch interview with NGO director, Karnataka, March 27, 2002.

<sup>457</sup> Human Rights Watch interview with director and employee of NGO running schools in Bangalore Rural District, Bangalore, Karnataka, March 25, 2002.

<sup>458</sup> Human Rights Watch interview with director of NGO running schools in Bangalore Rural District, Bangalore, Karnataka, March 25, 2002.

<sup>459</sup> Human Rights Watch interview with Kiran Kamal Prasad, JEEVIKA, Bangalore, Karnataka, March 25, 2002.

<sup>460</sup> Human Rights Watch interview with NGO activist, Karnataka, March 27, 2002.

<sup>461</sup> Human Rights Watch interview with ten-year-old boy, Magadi, Karnataka, March 27, 2002.

<sup>462</sup> Human Rights Watch interview with thirteen-year-old boy, Magadi, Karnataka, March 27, 2002.

<sup>463</sup> Human Rights Watch interview with thirteen or fourteen-year-old boy, Magadi, Karnataka, March 27, 2002.



Twelve-year-old T. Basheer, who had stopped working and enrolled in an NGO-run day school about one month before we interviewed him, told us: “The employers still want us to come to work. When we pass by the owners, they ask us where we are working. We say we are not working any more and we run.”<sup>464</sup>

In some cases, children are sent back to work. “The owners are very powerful,” explained a teacher at an NGO-run girls’ residential school.<sup>465</sup> As an example, she told us about a twelve-year-old girl who owed a Rs. 8,000 (U.S.\$167) advance whose parents had eventually removed her from the school and sent her back to work.<sup>466</sup>

NGO staff connected with three different schools also reported that silk unit owners had threatened their employees with violence for removing bonded children from silk units.<sup>467</sup> According to Solomon J.P., with the organization Movement for Alternatives and Youth Awareness (MAYA) that runs schools in Bangalore Rural District, “Our staff was threatened. Employers locked them up and beat them. Our women staff were called prostitutes, especially after we took this [child labor in silk] up. The police did not act.”<sup>468</sup>

The failure to enforce the law makes the work of NGOs and other internationally funded organizations that are trying to withdraw children from work and keep them in school difficult and, in some cases, impossible. It also handicaps the government’s own education programs, which, in any event, cover only a tiny fraction of working children. According to Kailash Satyarthi, whose organization, the South Asian Coalition Against Child Servitude (SACCS), works to free bonded children, NGOs can lobby employers to release non-bonded children, but for bonded labor, a multi-pronged approach that includes political and legal mechanisms is needed. “Without [enforcement of the] bonded labor law, we cannot create fear in the employer’s mind, and if employers don’t fear, then we can’t stop exploitation. It has to be dealt with as a crime.”<sup>469</sup>

## Education

Education is often presented as the solution to child labor. Indeed, it has an important role to play, although, as explained above, bonded children are not free to take advantage of what educational opportunities that may exist. When schools are unavailable, of poor quality, charge prohibitive school fees, or discriminate against Dalit children, children go to work instead.<sup>470</sup> The Indian government, with international aid, has taken some steps to improving access to education. These steps are important, but people with whom Human Rights Watch spoke highlighted the following areas still in need of improvement.

First, children still lack access to schools. A study of child labor in sari weaving in Varanasi district, sponsored by the National Labour Institute, found the following:

In Jamaaluddipnura (Bari Bazaar, Varanasi), there are about 450 families of which 90 percent are involved in saree weaving. The estimated number of children in the age group of 5-14 years, i.e. the school going age, is about 2000 (at an average of four children per family). There is only one school run by the city Municipal Corporation. The school register showed that 82 students from the locality are enrolled and on the date of our visit to the locality we found only 42 students. The only teacher present

<sup>464</sup> Human Rights Watch interview with twelve-year-old boy, Ramanagaram, Karnataka, March 29, 2002.

<sup>465</sup> Human Rights Watch interview with teacher, Bangalore Rural District, Karnataka, March 27, 2002.

<sup>466</sup> Ibid.

<sup>467</sup> Human Rights Watch interview with NGO director and employee, Bangalore, Karnataka, March 25 and 27, 2002; Human Rights Watch interview with NGO director and employees, Bangalore, Karnataka, March 25, 2002; Human Rights Watch interview with NGO director, Bangalore, Karnataka, March 25, 2002; Human Rights Watch interview with NGO staff, Bangalore Rural District, Karnataka, March 29, 2002.

<sup>468</sup> Human Rights Watch interview with Solomon J.P., Director, Movement for Alternatives and Youth Awareness (MAYA), Bangalore, Karnataka, March 25, 2002.

<sup>469</sup> Human Rights Watch interview with Kailash Satyarthi, South Asian Coalition Against Child Servitude (SACCS), New Delhi, April 1, 2002.

<sup>470</sup> See *India Education Report*, p. 48.

there (the other was absent) expressed his inability to absorb more students. . . . [A]ll the children were found to be sitting with their backs facing each other on the sides of the four feet narrow lane.<sup>471</sup>

Human Rights Watch went to a Dalit village in Varanasi District which had a NCLP school but no government school. According to villagers, there were about 1,200 or 1,300 children in the community, but the NCLP school was capped at fifty students—the rest of the children were working.<sup>472</sup> Social workers in Ramanagaram, Karnataka, a silk reeling area, noted that “[i]n one area there are seventy-two silk units and only one school.”<sup>473</sup>

Many schools that do exist, especially in rural areas, are of poor quality.<sup>474</sup> According to law professor Babu Mathew, an expert in child labor, “Technically, the government may have a school within 1.5 kilometers of a child, but it may have one teacher, no classroom, toilet, or drinking water.”<sup>475</sup> Human Rights Watch interviewed children who had dropped out of formal schools to attend better quality NGO-run schools designed not for them but for former child workers. For example, ten-year-old P. Shaheen told us: “Two months ago I was going to school, and I refused to go and my mother didn’t bother to make me. The teachers used to beat me. They asked me to write something, and I couldn’t do it, and they beat me, so I didn’t want to go back.”<sup>476</sup> Even where children are withdrawn from work and complete a transitional education program, they may subsequently return to work because of formal schools’ poor quality. Staff of an NGO that runs transitional schools told Human Rights Watch, “It’s hard for children to transition to regular schools because the regular schools are so bad they will drop out. I’m afraid for them when they leave here.”<sup>477</sup>

Dalit and low-caste children who attempt to attend school face discriminatory and abusive treatment at the hands of their teachers and fellow students. This is discussed above in the section, “Caste-Based Discrimination and Bonded Labor.”

According to the Indian government, in the 1997-1998 school year, 71.1 percent of children ages six to eleven were enrolled in primary school, 64.0 percent of girls and 77.7 percent of boys.<sup>478</sup> Net enrollment rates were higher in Karnataka and Tamil Nadu (88.6 percent and 84.6 percent, respectively) and lower in Uttar Pradesh (46.8 percent).<sup>479</sup> However, about half (52 percent) of primary school entrants drop out before grade five.<sup>480</sup> The drop-out rate in Uttar Pradesh is one of the highest in India and literacy the lowest.<sup>481</sup> These rates are much higher for Dalit children, as discussed above.

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<sup>471</sup> Sharma, *Child Labour in Sari Units of Varanasi*, sec. IV (based on field research conducted November 2000).

<sup>472</sup> Human Rights Watch group interview with Dalit villagers, Varanasi District, Uttar Pradesh, March 14, 2002.

<sup>473</sup> Human Rights Watch interview with social worker, Ramanagaram, Karnataka, March 29, 2002.

<sup>474</sup> For example, a 2001 study by the National Labour Institute for the Ministry of Labour found that in government schools: “the poor availability of basic teaching tools (such as blackboards) and also insufficient number of teachers and lack of proper training among the teachers would render the entire teaching a dull and drab affair for the children.” National Resource Centre on Child Labour, V.V. Giri National Labour Institute, *National Child Labour Projects: An Evaluation*, p. 4.

<sup>475</sup> Human Rights Watch interview with Babu Mathew, Professor of Law and Coordinator of Law and Society Cluster, National Law School of India University, Bangalore, Karnataka, March 25, 2002.

<sup>476</sup> Human Rights Watch interview with ten-year-old girl, Ramanagaram, Karnataka, March 29, 2002. Nine-year-old Wasim N. said: “I was attending a regular school before this one, but the teacher was asking me to do a lot of chores during school, and my mother said there wasn’t need for me to do all of that.” Human Rights Watch interview with nine-year-old boy, Ramanagaram, Karnataka, March 29, 2002.

<sup>477</sup> Human Rights Watch interview with NGO staff, Ramanagaram, Karnataka, March 29, 2002.

<sup>478</sup> Ministry of Human Resource Development (MHRD), Government of India, *Education For All: The Year 2000 Assessment Report*, (2000), Part II, Table 2.6 (citing MHRD, *Selected Educational Statistics 1997-98*; NCERT, State Directorates of Education, *VI All India Educational Survey*, (1997-98)).

<sup>479</sup> Ibid.

<sup>480</sup> UNICEF, *Official Summary—The State of the World’s Children 2002*, 2002, p. 25 (findings refer to the most recent data available between 1995 and 1999; the exact year is not specified).

<sup>481</sup> Planning Commission, Government of India, *National Human Development Report 2001*, March 2002, p. 56 (citing data from the Ministry of Human Resource Development).

## VII. LEGAL FRAMEWORK

Indian law and international law prohibit the use of bonded child labor. Under its own law and as a party to numerous international instruments, India is obliged to prohibit all forms of slavery, including debt bondage, child servitude, and forced labor, as well as to affirmatively protect children from economic exploitation and hazardous work.

### International Law

The practice of bonded child labor violates the Convention on the Suppression of Slave Trade and Slavery; the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; International Labour Organization (ILO) Convention No. 29 concerning Forced or Compulsory Labour; ILO Convention No. 105 concerning the Abolition of Forced Labour; and the International Covenant on Civil and Political Rights, to all of which India is a party.<sup>482</sup> Each of these documents explicitly prohibits slavery and forced or compulsory labor; debt bondage is among the practices prohibited. The Supplementary Convention on the Abolition of Slavery requires states parties to:

take all practicable and necessary legislative and other measures to bring about progressively and as soon as possible the complete abolition of . . . [d]ebt bondage . . . [and] [a]ny institution or practice whereby a child or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour.<sup>483</sup>

The convention defines debt bondage as:

the status or condition arising from a pledge by a debtor of his personal services or those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.<sup>484</sup>

In addition, ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which India has not ratified but should at its earliest opportunity, prohibits, for all persons under eighteen:

(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; . . .

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<sup>482</sup> Convention on the Suppression of Slave Trade and Slavery, signed at Geneva, September 25, 1926 (entered into force March 9, 1927, and ratified by India June 18, 1927); Protocol Amending the Slavery Convention, signed at Geneva, September 25, 1926, with annex, done at New York, December 7, 1953 (entered into force, December 7, 1953, and signed by India March 12, 1954); Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, adopted April 30, 1956, 266 U.N.T.S. 3 (entered into force April 30, 1957, and ratified by India June 23, 1960); ILO Convention No. 29 concerning Forced or Compulsory Labour, adopted June 28, 1930, as modified by the Final Articles Revision Convention, adopted October 9, 1946 (entered into force May 1, 1932, and ratified by India November 30, 1954); ILO Convention No. 105 concerning the Abolition of Forced Labour, adopted June 27, 1957 (entered into force January 17, 1959 and ratified by India May 18, 2000); International Covenant on Civil and Political Rights (ICCPR), arts. 8, 24, opened for signature December 16, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976, and ratified by India April 10, 1979).

<sup>483</sup> Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, art. 1.

<sup>484</sup> *Ibid.*, art. 1(a).

(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.<sup>485</sup>

India also is a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), which provides that states parties shall “recognize the right of everyone to the enjoyment of just and favourable conditions of work” and requires parties to protect “children and young persons . . . from economic and social exploitation.”<sup>486</sup> The Convention on the Rights of the Child, which India ratified in 1992, obliges states to “recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.”<sup>487</sup> The convention directs states to implement these protections through appropriate legislative, administrative, social, and educational measures and, in particular, to: “(a) provide for a minimum age or minimum ages for admissions to employment; (b) provide for appropriate regulation of the hours and conditions of employment; and (c) provide for appropriate penalties or other sanctions to ensure the effective enforcement of this article.”<sup>488</sup> States parties must also “take all appropriate . . . measures to prevent the abduction, the sale of or traffic in children for any purpose or in any form” and “protect the child against all other forms of exploitation prejudicial to any aspects of the child’s welfare.”<sup>489</sup>

Discrimination against members of scheduled castes and scheduled tribes is prohibited by the International Convention on the Elimination of All Forms of Racial Discrimination, to which India is a party.<sup>490</sup> Article 5 of the convention provides that states parties shall prohibit and eliminate all forms of discrimination in, and guarantee the right of everyone to equality before the law in the enjoyment of “[t]he rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration.” Article 6 provides that states parties shall “assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.”

The convention’s monitoring body, the Committee on the Elimination of Racial Discrimination, affirmed in 1996 that “the situation of Scheduled Castes and Scheduled Tribes” falls within the convention’s scope.<sup>491</sup> In August 2002, the Committee recognized caste-based discrimination as a form of descent-based discrimination and strongly condemned its practice as a direct violation of the Convention on the Elimination of all Forms of Racial Discrimination.<sup>492</sup> It further recommended that states parties adopt legislative and constitutional measures that would prohibit all forms of descent-based discrimination while ensuring measures to achieve internationally guaranteed rights for affected communities.

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<sup>485</sup> ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, adopted June 17, 1999, 38 I.L.M. 1207 (entered into force November 19, 2000), art. 3(a), (d).

<sup>486</sup> ICESCR, arts. 7, 10.

<sup>487</sup> Convention on the Rights of the Child, art. 32.

<sup>488</sup> Ibid. In addition, ILO Convention No. 138 concerning the Minimum Age for Admission to Employment establishes fifteen as the minimum age for admission to employment and eighteen for any work “likely to jeopardise the health, safety or morals of young persons.” ILO Convention No. 138 concerning the Minimum Age for Admission to Employment (“Minimum Age Convention”), adopted June 26, 1973 (entered into force June 19, 1976), arts. 2,3. The convention provides for certain exceptions to these age limits. India is not a party to this convention.

<sup>489</sup> Convention on the Rights of the Child, arts. 35, 36.

<sup>490</sup> International Convention on the Elimination of All Forms of Racial Discrimination, 660 U.N.T.S. 195 (entered into force January 4, 1969, and ratified by India December 3, 1968).

<sup>491</sup> Committee on the Elimination of Racial Discrimination, *Consideration of Report by India to the Committee on the Elimination of Racial Discrimination*, CERD/C/304/Add.13, September 17, 1996.

<sup>492</sup> Committee on the Elimination of Racial Discrimination, *General Recommendation on Descent-Based Discrimination*, No. XXIX, CERD/C/61/Misc.29/rev.1, August 22, 2002.

The right to education is set forth in the Universal Declaration of Human Rights, the ICESCR, and the Convention on the Rights of the Child.<sup>493</sup> Each of these documents specifies that primary education must be “compulsory and available free to all.” Secondary education, including vocational education, must be “available and accessible to every child,” with the progressive introduction of free secondary education.<sup>494</sup> The Convention on the Rights of the Child further specifies that states must “make educational and vocational information and guidance available and accessible to all children” and “take measures to encourage regular attendance and the reduction of drop-out rates.”<sup>495</sup>

The U.N. Committee on Economic, Social, and Cultural Rights has interpreted what is required to fulfill the right to education in a General Comment on article 13 of the ICESCR.<sup>496</sup> According to the committee, educational institutions must be both available in sufficient quantity and physically accessible, that is, “within safe physical reach, either by attendance at some reasonably convenient geographic location (e.g. a neighbourhood school) or via modern technology (e.g. access to a ‘distance learning’ programme).”<sup>497</sup>

Because different states have different levels of resources, international law does not mandate exactly what kind of education must be provided, beyond certain minimum standards. Accordingly, the right to education is considered a “progressive right”: by becoming party to the international agreements, a state agrees “to take steps . . . to the maximum of its available resources” to the full realization of the right to education.<sup>498</sup> But although the right to education is a right of progressive implementation, the prohibition on discrimination is not. The Committee on Economic, Social and Cultural Rights has stated: “The prohibition against discrimination enshrined in article 2 (2) of the [International Covenant on Economic, Social and Cultural Rights] is subject to neither progressive realization nor the availability of resources; it applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination.”<sup>499</sup> Thus, regardless of its resources, the state must provide education “on the basis of equal opportunity,” “without discrimination of any kind irrespective of the child’s race, colour, sex, language, religion, political or other opinion, national ethnic or social origin, property, disability, birth or other status.”<sup>500</sup>

## Indian Law

Indian law has long prohibited bonded labor, and regulated and restricted child labor. The practice of bonded child labor violates various provisions of Indian law, most significantly a complete prohibition of bonded labor

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<sup>493</sup> UDHR, art. 26; ICESCR, art. 13; Convention on the Rights of the Child, art. 28.

<sup>494</sup> Convention on the Rights of the Child, art. 28(1); ICESCR, art. 13(2); see UDHR, art. 26(1).

<sup>495</sup> Convention on the Rights of the Child, art. 28(1)(d), (e).

<sup>496</sup> *General Comment 13, The Right to Education*, Committee on Economic, Social and Cultural Rights, para. 6.

<sup>497</sup> *Ibid.*

<sup>498</sup> ICESCR, art. 2(1). See Convention on the Rights of the Child, art. 28. But see *General Comment 13, The Right to Education*, Committee on Economic, Social and Cultural Rights, para. 44: “The realization of the right to education over time, that is ‘progressively,’ should not be interpreted as depriving States parties’ obligations of all meaningful content. Progressive realization means that States parties have a specific and continuing obligation ‘to move as expeditiously and effectively as possible’ towards the full realization of article 13”; *General Comment 3, The Nature of States Parties Obligations*, Committee on Economic, Social and Cultural Rights, 5th sess., (December 14, 1990), para. 2: “Such steps should be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognized in the Covenant.”

<sup>499</sup> *General Comment 13, The Right to Education*, Committee on Economic, Social and Cultural Rights, para. 31. See also *General Comment 11, Plans of Action for Primary Education*, Committee on Economic, Social and Cultural Rights, 20<sup>th</sup> sess., U.N. Doc. E/C.12/1999/4 (May 10, 1999), para. 10; *General Comment 3, The Nature of States Parties Obligations*, Committee on Economic, Social and Cultural Rights, para. 2 (stating that the obligation to guarantee the exercise of rights in the International Covenant on Economic, Social and Cultural Rights without discrimination is “of immediate effect”).

<sup>500</sup> Convention on the Rights of the Child, arts. 28(1), 2(1); ICESCR, arts. 2, 13. See also CEDAW, art. 10; Convention on the Elimination of All Forms of Racial Discrimination, art. 5. The Committee on Economic, Social, and Cultural Rights has interpreted the prohibition on discrimination and the right to education in article 2(2) and 13 of the ICESCR in accord with the 1960 Convention against Discrimination in Education. *General Comment 13, The Right to Education*, Committee on Economic, Social and Cultural Rights, paras. 31, 33, 34.

and the mandatory rehabilitation of bonded laborers, and the prohibition on employing children under age fourteen in factories, mines, or other hazardous occupations.

In addition, under the Indian Penal Code, rape, extortion, causing grievous hurt, assault, kidnapping, abduction, wrongful confinement, buying or disposing of people as slaves, and unlawful compulsory labor are criminal offenses, punishable by up to ten years' imprisonment and fines. Under the Juvenile Justice Act, cruelty to juveniles and withholding the earnings of a juvenile are criminal offenses, punishable with up to three years' imprisonment and fines.

All of the practices described in this report constitute debt bondage and violate the Bonded Labour System (Abolition) Act, 1976, and the Children (Pledging of Labour) Act, 1933. This is true even in the rare instances where no advance has been taken against the child; the Bonded Labour System (Abolition) Act, 1976, includes within its ambit work for "nominal wages," defined by the Supreme Court as wages less than the minimum wage.<sup>501</sup> The bondage of Dalit children, the vast majority of those bonded, also violates the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

### ***Bonded Labor***

The use of bonded labor in all its permutations, whether of children or adults, explicitly violates India's Bonded Labour System (Abolition) Act, 1976, which prohibits the creation of bonded labor agreements and criminalizes attempts to compel a person to engage in bonded labor.<sup>502</sup> The act frees all bonded laborers, cancels any outstanding debts against them, prohibits the creation of any new bondage agreements, and orders the state to economically rehabilitate freed bonded laborers.<sup>503</sup> Although the act does not define rehabilitation, the Ministry of Labour has since launched a scheme under which the national and state governments contribute equally to the rehabilitation assistance allowance—now Rs. 20,000 (U.S.\$417)—due to each freed bonded laborer.

In 1997 the Supreme Court in *Union for Civil Liberties (PUCL) v. State of Tamil Nadu* directed the National Human Rights Commission (NHRC) to supervise the implementation of the Bonded Labour System (Abolition) Act, 1976, and progress made by state governments in light of the Court's orders, and ordered relevant authorities to comply with the NHRC's directives.<sup>504</sup>

The use of bonded labor also contravenes various constitutional provisions. Article 21 of the constitution guarantees the rights to life and liberty, which include, according to the Supreme Court, the right of free movement; the right to eat, sleep, and work when one pleases; the right to be free from inhuman and degrading treatment; the right to integrity and dignity of the person; the right to the benefits of protective labor legislation; and the right to speedy justice.<sup>505</sup> Article 23(1) of the constitution prohibits the practice of begar and other similar forms of forced labor and makes contravention of the article an offense punishable by law. Begar is an ancient caste-based obligation, "a form of forced labour under which a person is compelled to work without receiving any remuneration."<sup>506</sup> Forced labor, according to the Supreme Court, includes any situation "where a person provides labour or service to another for remuneration which is less than minimum wage . . . ."<sup>507</sup> The Supreme Court

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<sup>501</sup> *People's Union for Democratic Rights v. Union of India*, 3 SCC 235 (1982), paras. 259-60.

<sup>502</sup> Bonded Labour System (Abolition) Act (1976), secs. 4-6, 14, 16 (1976)

<sup>503</sup> Ibid.

<sup>504</sup> *People's Union for Civil Liberties (PUCL) v. State of Tamil Nadu, et. al.*, W.P. No. 3922/1985 (order dated November 11, 1997). The NHRC set up a Central Action Group in August 1998, which soon became defunct, and then a seven-member group in October 2000 to prepare a report on bonded labor and make recommendations.

<sup>505</sup> See S.K. Singh, *Bonded Labour and the Law* (New Delhi: Deep and Deep Publications, 1994), pp. 48-51.

<sup>506</sup> *People's Union for Democratic Rights v. Union of India [Asiad Workers' Case]*, 2 SCC 494, AIR 1982 S.C. 1473 (1982), para. 1486.

<sup>507</sup> *People's Union for Democratic Rights v. Union of India*, 3 SCC 235 (1982), paras. 259-260. See also *People's Union for Democratic Rights v. Union of India [Asiad Workers' Case]*, 2 SCC 494, AIR 1982 S.C. 1473 (1982), para. 1490 (holding that article 23 prohibits both paid and unpaid forced labor, so long as the worker's ongoing services to the employer contain the element of force or compulsion, including physical compulsion and compulsion under threat of legal sanction, for example an allegedly unpaid debt).

subsequently held in 1984 that the constitution requires bonded laborers to “be identified and released and on release, they must be suitably rehabilitated.”<sup>508</sup>

In addition, the Children (Pledging of Labour) Act, 1933, which is rarely used, calls for penalties to be levied against any parent, middleman, or employer involved in making or executing a pledge of a child’s labor, with the exception of agreements made in consideration of reasonable wages and terminable at seven days’ or fewer notice. The penalties for violating this law are a Rs. 50 (U.S.\$1.04) fine against the parents and Rs. 200 (\$4.17) fine against the middleman or employer.<sup>509</sup>

### **Caste and Bonded Labor**

The practice of “untouchability” is illegal under Indian law. Compelling or enticing a member of a scheduled caste or scheduled tribe into forced or bonded labor is specifically outlawed.

Article 17 of the constitution abolishes the practice of “untouchability” and punishes the enforcement of any disability arising out of the practice. Article 21 guarantees the right to life and liberty. The Indian Supreme Court has interpreted this right to include the right to be free from degrading and inhuman treatment, the right to integrity and dignity of the person, and the right to speedy justice.<sup>510</sup> Article 46 comprises both development and regulatory aspects and stipulates that: “The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and forms of exploitation.” As the article falls under the category of directive principles and not fundamental rights, it cannot be enforced by the state’s courts. Article 15(4) empowers the state to make any special provisions for the advancement of any socially and educationally backward classes of citizens, or for scheduled castes and scheduled tribes.<sup>511</sup>

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, defines any kind of forced labor, including bonded labor, as an “atrocities” if the victim is a member of a scheduled caste or tribe. Committing an atrocity is punishable with up to five years’ imprisonment and a fine.<sup>512</sup>

Unfortunately, as Human Rights Watch has extensively documented, these protections are rarely implemented.<sup>513</sup>

### **Child Labor**

There is no minimum age of employment.<sup>514</sup> Children under age fourteen are protected by the Child Labour (Prohibition & Regulation) Act, 1986, which prohibits their work in hazardous occupations and regulates their work in non-hazardous occupations. In addition, the Factories Act, 1948, forbids the employment of children under age fourteen in all factories, and allows fourteen and fifteen-year-olds to work only with a certificate of fitness from a doctor. Otherwise, children age fourteen and older are not protected, although like all workers, they are covered by the Bonded Labour System (Abolition) Act, 1976, discussed in the previous section.

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<sup>508</sup> *Neeraja Chaudhary v. State of Madhya Pradesh*, 3 SCC 243 (1984), para. 255.

<sup>509</sup> Children (Pledging of Labour) Act (1933), secs. 4-6.

<sup>510</sup> See S. K. Singh, *Bonded Labour and the Law* (New Delhi: Deep and Deep Publications, 1994), pp. 48-51.

<sup>511</sup> This particular provision was incorporated into the constitution through the Constitution (First Amendment) Act, 1951.

<sup>512</sup> Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (1989), sec. 3(1).

<sup>513</sup> Human Rights Watch, *Broken People*, pp. 139-52, [http://www.hrw.org/reports/1999/india/India994-09.htm#P1695\\_354939](http://www.hrw.org/reports/1999/india/India994-09.htm#P1695_354939).

<sup>514</sup> Article 32(2)(a) of the Convention on the Rights of the Child requires states to “provide for a minimum age or minimum ages for admissions to employment.” When ratifying the Convention on the Rights of the Child, India made no reservation to the definition of a child and declared that it would “take measures to progressively implement the provision of article 32, particularly paragraph 2(a), in accordance with its national legislation and relevant international instruments to which it is a state party.”

The Indian Constitution in article 24 also prohibits the employment of children under age fourteen in factories, mines, and other hazardous occupations. This provision is considered one of India's constitutionally-proclaimed fundamental rights. In addition, article 39 provides:

(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

A plethora of national laws regulate or prohibit various forms of child labor. The most significant is the Child Labour (Prohibition & Regulation) Act, 1986, which prohibits the employment of children under age fourteen in thirteen occupations and fifty-seven processes, including cloth printing, dying, and weaving and, as of 1999, sericulture processing and zari (gold thread) making.<sup>515</sup> The act also regulates the working conditions of children in legal occupations. Thus, children in occupations not designated as hazardous, such as mulberry cultivation and other agricultural work, are limited in the number of hours and days per week they may work. The law does not apply to children working for their immediate families (parents or siblings) or in schools that the government has established, financed, or recognized.<sup>516</sup> Violators are subject to three months to one year of imprisonment and a Rs. 10,000 to 20,000 (U.S.\$208 to \$417) fine.<sup>517</sup>

Although the Child Labour (Prohibition & Regulation) Act, 1986, unlike the bonded labor law, does not require rehabilitation, in 1996 the Supreme Court issued a groundbreaking decision outlining a framework for removing children from hazardous work, punishing employers, and rehabilitating the children. As already outlined in this report, in *M.C. Mehta v. State of Tamil Nadu & Ors.*, the Court, finding continued use of child labor prohibited by the Child Labour (Prohibition & Regulation) Act, 1986, ordered inspectors to identify children illegally employed, to immediately fine employers Rs. 20,000 (U.S.\$417) per child, and to deposit this money in a "Child Labour Rehabilitation-cum-Welfare Fund," the income on which can only be used for the child concerned.<sup>518</sup> Where the child is employed in a factory, mine, or other hazardous work, the Court ordered the state to employ an adult family member in lieu of the child or, where this is not possible, to deposit an additional Rs. 5,000 (U.S.\$104) into the fund on the condition that the child be withdrawn from his or her job and sent to school.<sup>519</sup> Parents should then receive the income on the Rs. 25,000 (U.S.\$521) for as long as they continue to send the child to school.<sup>520</sup> The Court charged the inspectors with ensuring that the children identified received free, compulsory education until age fourteen and charged the Ministry of Labour with monitoring the decision's implementation. The Court also called on the act's penal provisions to be used, and instructed states to conduct surveys to determine the extent of child labor in their territories.<sup>521</sup>

The Supreme Court further elaborated on this framework in 1997 in *Bandhua Mukti Morcha, et al., v. Union of India and Ors.*, ordering states to "evolve steps" to provide:

(1) compulsory education to all children either by the industries itself [sic] or in co-ordination with it by the State Government to the children employed in the factories, mine or any other industry, organised or unorganised labour with such timings as is convenient to impart compulsory education, facilities for

<sup>515</sup> Sericulture has only been included on the list of hazardous processes since 1998. Ministry of Labour, *Extraordinary, Part II*, sec. 3, sub-sec. (ii), July 23, 1998.

<sup>516</sup> Child Labour (Prohibition & Regulation) Act (1986), art. 3.

<sup>517</sup> *Ibid.*, part IV.

<sup>518</sup> *M.C. Mehta v. State of Tamil Nadu & Ors.*, 6 SCC 756, Writ. Pet. (C) No. 465/1986 (December 10, 1996), para. 29.

<sup>519</sup> *Ibid.*, para. 31.

<sup>520</sup> *Ibid.*, para. 32.

<sup>521</sup> *Ibid.*, para. 33.



secondary, vocational profession and higher education; (2) apart from education, periodical health check-up; (3) nutrient food etc. . . .<sup>522</sup>

In addition to or instead of the Child Labour (Prohibition & Regulation) Act, 1986, state labor inspectors also employ the Factories Act, 1948, which forbids the employment of children under age fourteen in factories and permits the employment of fourteen through seventeen-year-olds only with a doctor's certificate<sup>523</sup> However, the act applies only to factories employing ten or more people with the use of electric or other forms of generated power, or twenty or more people without the use of power.<sup>524</sup> Violators face up to two years in prison or up to Rs. 100,000 (U.S.\$2,083) in fines.<sup>525</sup>

In addition, the Beedi and Cigar Workers (Conditions of Employment) Act, 1966; the Contract Labour (Regulation and Abolition) Act, 1970; the Mines Act, 1952; the Plantation Labour Act, 1951; the Motor Transport Workers Act, 1961; the Shops and Commercial Establishment Act, 1961; the Minimum Wages Act, 1948; the Apprentices Act, 1961; and the Merchant Shipping Act, 1958, each address child labor in some fashion.<sup>526</sup> State laws also supplement these acts.

### ***The Right to Education***

Education is a fundamental right under Indian law. The Supreme Court held in 1993 that education up to age fourteen had become a fundamental right;<sup>527</sup> in December 2002, the 93rd Constitutional Amendment became law, adding to the list of fundamental rights a state obligation to provide free and compulsory education to all children ages six to fourteen.<sup>528</sup> The amendment narrows the constitution's directive principle on education to early childhood care and education through age six, and adds to the list of citizens' fundamental duties parents' and guardians' obligation to provide their children ages six to fourteen with opportunities for education. Activists have strongly objected to the exclusion of children up to age five and over age fourteen from the amendment and to the obligation placed on parents.

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<sup>522</sup> *Bandhua Mukti Morcha, et al., v. Union of India and Ors.*, Writ Pet. (C) No 12125 of 1984, February 21, 1997, para. 13.

<sup>523</sup> Factories Act (1948), secs. 67, 68.

<sup>524</sup> *Ibid.*, sec. 2(m)(i), (ii)

<sup>525</sup> *Ibid.*, sec. 92.

<sup>526</sup> For additional information on the child labor provisions of these laws, see Human Rights Watch, *The Small Hands of Slavery*, pp. 36-41.

<sup>527</sup> Article 45 of the Constitution of India reads: "The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years." See *J.P. Unni Krishnan v. State of Andhra Pradesh*, 1 SCC 645, Writ Pet. (C) No. 607 of 1992, February 4, 1993 (holding that the right to education enshrined in article 45 of the Constitution had acquired the status of a fundamental right).

<sup>528</sup> 93<sup>rd</sup> Constitutional Amendment Bill, November 28, 2001; "President's Nod for Education Bill," *The Hindu*, December 16, 2002.

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