

Human Cost of Making Bricks

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In India, thousands of women, men and children slave away in the brick kilns. Common to almost all brick kilns is the use of violence, over or implicit. Women and girls, however, are profoundly affected. Many girls and young women are raped, numbers of families are held as virtual slaves, and those who survive often struggle to overcome poor health, illiteracy and poverty. This report, focusing on the widespread exploitation of brick making families, reviews the situation of women, children and men from both indigenous and non-indigenous communities. It generates reliable analysis and information, with a clear agenda to protect women and children exposed to the worst conditions.

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The stories of the young women and girls who work in brick kilns all across in India speak volumes:

Priya in Himachal Pradesh lives with her five children in a brick kiln yard. She becomes pregnant, but receives no rest. The brick owner expects her to work 12 hours a day. He often beats her children when they are late or refuse to work. “I had no food for 5 days after my last childbirth”, she says. Priya was released along with 69 other bonded labourers a month later.

Lakshmi in Bihar was gang raped when she was only 16. “I was screaming, but they continued to beat and rape me”, she says. Lakshmi’s mother was shot when opposing her daughter’s kidnapping. Sometime later her father found her where they had left her. Her recovery will take years.

Research from countries in South Asia points to enormous challenges faced by the brick making families. In Pakistan, for instance, an attempt has been made to monitor a Supreme Court judgment concerned with brick kiln workers. It was found that almost 50 per cent of the workers’ wages were deducted for adjustment towards advance payment [APFOL 1995]. Due to their indebtedness, restrictions on their movement were reported. Some members of the family were also reported to be kept as hostages. In addition, human trade was a common feature at the brick kilns and some workers reported being sold more than ten times. The modern forms of slavery in the context of globalization of the world economy, with special reference to brick kilns in Pakistan were also explored in a study undertaken by Bales (2000). In this study, key informants reported practices of torture. According to these sources, a young worker will have his leg burned in the kiln oven for a second if he lifts his head or causes trouble, while the other workers are forced to watch. At times, widows are forced to serve as prostitutes for the kiln owner or manager in order to reduce their debts. The sale of entire families was also found to be the main way for the kiln owners in remote areas to recruit new workers (Bales, 2000). The gender perspective has also been taken into consideration while surveying the industry in India and Pakistan. It was found that the younger the women were when they started work, the more children they lost [Mitha and al. 1989]. Cases when minors were kidnapped or the women kept nude under strict vigilance in their off hours so that they

may not flee at night were highlighted as well [Saran 1990]. Cases of rape of female workers even in the presence of their male relatives were reported. Besides, few scholars have concentrated on the issue of child work at the brick kilns. It was observed that in most of the cases the children were forced to work to supplement the family's income during their mother's or siblings ill health, or during their mother's pregnancy or delivery period [Komala in Rao 2000]. Disparities of wages among the child workforce were also found. It was also outlined that they were not benefiting from any welfare schemes; neither the government nor NGOs were taking any step to improve their overall condition.

When we began the research for this report, we became convinced that the conditions are tantamount to bondage although it is against the law. Over the course of one year, we covered many districts, initially in Bihar, where we collected more than hundreds of personal stories of workers. We visited 8 districts of Punjab and Bihar states. These were Kapurthala (Punjab), Patna, Baxur, Saran, Bhagalpur, Muzzaffarpur, Madhubani and Gaya (Bihar). We selected the brick kilns where inter-state and inter-district migrant workers are employed as they are generally thought to be more labour exploitative. To make a comparative study, another district where the labour supply to the brick kilns is mainly local was selected. Areas where Naxalites are active were investigated as well. In all of these areas, we saw a continuum of exploitation and violence that shatters women's lives, and we saw how impunity for these crimes had become endemic.

We prepared for each visit by developing a set of questions to guide interactions, although we often found that a less rigid approach provided more information. The identities of those we met were not revealed to protect them. We collected first-hand data and testimonies by meeting women, men and children working at brick sites; brick owners; labour contractors; and brick kiln owners' associations. We met them in their workplaces and homes, on the street, and in restaurants. We also met with government representatives to find out what they were doing for the brick making families and how they were approaching gender issues. In addition to field-based interviews and information collection, we relied on research and analysis from independent researchers, government reports, and articles published in Hindi and English newspapers.

In this report, we introduce you to many of the women and children we met who were forced and deceived to migrate to work in the brick kilns.

We direct our findings and conclusions to those with the power to make a difference. Indifference is not an option. We believe that despite what they have experienced and the intensifying attacks on their lives and human rights, many of the women are able to transcend their own suffering and discover in themselves the courage to rebuild their lives and families, if supported, or if given a chance. We also want to promote action, and have included realistic strategies to protect families working at brick sites.

II

Brick-making, Money and Corruption

India is the second largest brick producer in the world with an annual production of 100 billion bricks. Throughout India, however, many of the families making bricks are working against a debt owed to the owner of the kiln. As the debt builds up, the families

lose more and more of their freedom. These debts pose a special danger to their children who are also likely to struggle economically and repeat the cycle of poverty.

The practice of paying a lump sum to individuals and families at the beginning of the season was prevalent in all the brick industries surveyed. In a few cases, however, only traveling charges required for migration to other states were being paid. This is particularly true of migrant labourers working in the Mandi district (Himachal Pradesh), the Kapurthala district, (Punjab) and the Baxur district (Bihar). In Bihar State, especially in the Bhagalpur and the Saran districts, the advance amount did not exceed 500 rupees. Besides, it was reported that “the amount being given to female workers as advance, was in any case less than 150 rupees”. One brick owner we met at Gogha, Bhagalpur even said he did not provide “advance” to the workers since it can be treated as a “bonded debt”. In other districts, however, the amount paid as “advance” was significantly higher. The research team came across cases of tribal workers from Ranchi and Gumla districts (Jharkhand) working in the brick kilns of Muzaffarpur (Bihar). In one instance, 2,000 rupees were given as advance for a family of 14, with five earning members. In another case, an advance of 3,100 rupees was given to a migrant woman from Ranchi, who had four children.

The amount of advance ranged from Rs.500 to Rs.6,000 rupees in the particular case of the Baxur district, Bihar. An employer also maintained that 50 per cent of the earnings of the labourers for the season were given as ‘advance’ (Dumraon, Bihar). While surveying the brick kiln unit, however, it appeared that Rs. 2,000 were given to the brick molders. In other brick kiln units of the district, the amount of advance had reached 3,000 rupees, but in that particular case, part-payments were made at different intervals. In Madhubani district, the advances ranged from 800 rupees to Rs. 5,000. It is interesting to note that in one instance, a labourer engaged in loading work was reported to be given an ‘advance’ of Rs. 5,000, while his employer denied to provide any advance to the labourers engaged in brick moulding and loading activities. The advances to brick molders were, however, extremely low compared to that of other districts.

“Rs. 10,000 are spent on 70 *pathera* labourers, and Rs. 2,000 for each fireman, while no advance is given to the 60 workers engaged in loading activities (employer, Jhanjharpur - Madhubani, Bihar).”

In another brick industry where all the labourers being employed were migrant and tribal labourers, the advances were considerable, as Rs. 4 lakhs was said to be spent for the payment of advance to 175 people (employer, Badeshar Ashtan village, Madhubani), which corresponds to an average of Rs. 2,286 per person.

In Fathua, Patna district, the amount paid as ‘advance’ was said to depend on the number of earning members being engaged at the brick industry. Rs.1,000 were given to an individual, and Rs. 2,000 for a ‘couple’ (of brick molders). In one industry surveyed in Mashauri block, while the *munshi* maintained to give Rs. 400 to 500 as advance to the labourers, a tribal girl engaged in loading activities reported that she was given 100 rupees as advance.

Research has also shown that emergency loans, in the form of formal loans or grants for consumption purposes were rarely provided to the labourers. However, one brick owner whom we met at Dumraon, claimed that the labourers were provided loans without interest, up to Rs. 2,500 (Baxur, Bihar). In Gogha, it was alleged that these loans were being contracted by women only. The maximum amount had been fixed to Rs. 200

(employer, Kahalgeon, Bhagalpur). In the same way, in Saran district, it was also confirmed that the labourers were falling into debt “in time of crisis” (female worker, Kapsher village). In one brick kiln factory surveyed in Muzaffarpur, the maximum amount of loan was fixed at 5,000 rupees (Kharouna, Muzaffarpur, Bihar).

A number of factors are responsible for the debts the labourers owe the employer. The brick-making work is of seasonal nature. In brick kilns, the working days are hardly 120-180 days in a year.

Since they have no other skill, they usually remain idle during rainy season. This compels them to ask for further loan, but it is hardly enough to survive. This idleness during rainy season is the second most important factor responsible for the rise of debt year after year. In addition, they have no social security cover. As such, during contingency of sickness, work injury, maternity, old age, etc. the whole burden of medical care falls on the shoulders of the worker. Further, these contingencies lead to lesser production and, as such, lesser wages. In case of prolonged illness of loved ones they have to beg the owners for fresh loans. This adds to their existing burden. Marriages and deaths are other occasions, that call for extra expenditure and compels the workers to ask for further loans [APFOL 1996].

III

What it's like being a brick worker?

The work in the brick-making industry varies from different areas. The brick kiln workers usually get up early in the morning, generally before sunrise. The owners provide each brick making family with one or more molds. Standard sized mounds are prepared from earthen paste. Adults and children put these balls in the molds to prepare bricks. The brick-making process continues till they have used up the earthen paste. On an average, they work 10 to 14 hours in a day. One labourer involved in the preparation of earthen paste, and brick-laying work can prepare up to 500 bricks a day. Then follows the process where the ‘katcha’ bricks are heated before being baked as final bricks. In this process, “firemen” are involved. Their shift is usually 12 hours. The final process involves carrying bricks out of the kiln for onward transportation to the market. The labourers involved in this process also work long hours, i.e. from 11 to 14 hours a day.

The brick workers have a long story of migration. Many of the labourers we met have migrated to Bengal. The vast majority was being engaged as ‘firemen’, while some performed the work of ‘loaders’. We have covered such cases in Patna, Bhagalpur, Baxur and Madhubani districts (Bihar). Few workers have migrated to Assam, Kathmandu (Nepal), Dharbhanga, Saharsa, Haryana and Nagaland state. In a brick kiln surveyed in Mashauri block, Patna some other workers have worked in Gaziabad, Secunderabad, Manipur, Orissa and Bengal. These migrant labourers hardly work for more than a season in the area where they migrated.

The proportion of people from Scheduled Tribes in the total workforce also varies from one field to another. However, the ‘tribals’ found at the brick kilns don’t work until their thirties. In Nalanda, it was also admitted by one brick kiln owner that senior persons are not being employed, as they are not in a position to cope with the unloading process; it was claimed that the workers ‘themselves’ pressure the employer not to employ these labourers (employer, Pawapuri - Nalanda, Bihar). In Mashauri block, Patna district tribal workers account for 70 per cent of the total workforce; all were coming from West

Singhbhoom, Jharkhand. However, 'adivasi' were not being employed in some of the brick kiln units in the study (Madhubani). It is particularly true of Baxur, Saran and Madhubani districts (Bihar). In one instance, however, all of the workers engaged were migrants (Madhubani). The labour supply originated from Ranchi and Golpalganj (Jharkhand) in case of *pathera* labour, from Allahabad zone (Uttar Pradesh), in case of firemen, and from Bengal to meet the demand for earth cutters (Badeshar Ashtan village, Madhubani). In the same region, it was also said that to meet the labour demand in 10 brick industries, 500 labourers had migrated from Nepal (employer, Badeshar Ashtan village, Madhubani).

In the same way, at some kilns only men were engaged in brick-making activities (Baxur, Saran). At other kilns the women are very few. At other times, the women outnumber the men (Mashauri, Patna). And finally, in very few industries, women are not employed, but the children are said to labor along with male workers (Saran, Madhubani). Even in one instance, the child workforce was said to be constituted of girl child labourers only (Madhubani). The child labourers contacted during field survey were engaged in loading activities, to the extent of 60 per cent, while the remaining 40 per cent were mainly involved in brick-moulding and to a lesser extent in carrying coal.

Families must work hard because the piece rate pays just enough to get by, and a lost day means greater debt or going hungry. For the brick molders the rate fixed per thousand ranges from Rs. 100 to 150. In a few districts, brick moulding and earth cutting were said to be two concurrent activities performed by the same labourers. In the Kapurthala district, Punjab, Rs.150 were being paid to earth cutters. One earth cutter, a widow in her 1970s, however, reported daily wages of Rs 30 in Madhubani district (Sitapathi village, Madhubani). Some marginal practices in terms of payment of wages were reported in other districts too. In one brick kiln unit surveyed, there was no contract between the labourers and the management, for the payment of wages. The said wages were not immune from fluctuation. In the same way, though brick moulding activities had been carried on for the last three months in Mashauri block of Patna district, the rate has not yet been announced to the workers in one investigated unit (moulder, Mashauri, Bihar).

The same type of contract is prevailing for loading and unloading activities. However, one female worker reported daily payment of wages (Barshar village, Madhubani, Bihar). According to the labourers met during field visits, the payment for loading activities varies from Rs. 40 to 60 per thousand bricks. In Gaya, however, the payment for loading activities, especially for the tribal workers, was Rs. 25 per thousand bricks. Tribal populations, especially women and children, are in any case earning less than Rs. 40. This is particularly true of Palamu labourers who are being employed at the brick kilns of Saran district (Bihar). The same payment has been reported in the case of local labourers, especially women engaged at the brick kilns surveyed in Baxur, Saran and Madhubani districts (Bihar). In the sampled brick industries of the Mandi district, Himachal Pradesh, and Bhagalpur and Saran districts of Bihar, male workers were reported to be paid slightly higher wages that is 50 rupees per thousand. However, one female worker in the Kharaiua village of Madhubani district, as well as a tribal girl (West Singhbhoom) working at Mashauri, Patna district reported wages exceeding Rs. 50. Finally, as far as unloading activities are concerned, brick kiln owners were giving Rs. 20 to 30 as payment to the labourers for such work.

For the workers involved in the process of firing bricks in the kiln, they were all paid on salary basis. It can be seen from the tale of the labourers that their wages ranged between Rs. 1,500 to 1,800 per month. In some brick kiln fields, there was no difference in treatment of firemen and “helpers”; they were getting the same wages. In Baxur district, the wages seem to be lesser than the other districts covered. A child worker who was replacing his father, however, continued to be paid Rs. 45 per day; or Rs. 1,350 in a month. In Bhagalpur district, the wages ranged from Rs. 1,600 to 1,800 for firemen. However, one “mistry” reported disparities in wages in Bhagalpur division; the monthly wages were said to be 1,300 rupees in the Gogha region (mistry, Sabour). Those who perform the work of “mistry” usually receive a salary of about 2,000 rupees per month while in Bengal the labourers hardly earn more than Rs. 1,600 to 1,700. An owner whose brick kiln was newly set-up even claimed “monthly wages of Rs. 3,750, including other expenses, such as beedi, tea, pan, tobacco” in Kharaiua village of Madhubani district (Bihar).

It should be said that many of the workers rely on the *munshi* for the calculation of their wages and the accounts of their outstanding debts. They are not aware of the deductions being made if any, or those specified by the Central Government by general or special order or permissible under the Payment of Wages Act, 1936. However, in one brick kiln unit surveyed in Madhubani district, labourers engaged in loading activities mentioned deduction for Holi festival (muslim woman, Khaira Sibotar village). In the context of Saran district, it was said that fifty bricks were cut out of every thousand (pathera labour, Sargati Musahar Toli village). If we place the monthly production of “katcha” bricks by a “pathera labour” at 14,000, it implies the loss of approximately Rs. 600 worth of brickwork for a four-month period. Lastly, it was alleged that the labourers are burdened with interest on the advances taken at the beginning of the season (Sargati Musahar Toli village, Saran).

IV

Another Day Older and Deeper in Debt

Based on the information given by families working in brick fields, it was clear that subsistence wages, increasing debt, corruption, unenforced laws, violence and sexual abuse in the workplace, are all combined to create a trap of poverty and in the worst cases, debt bondage.

During field visits, the labourers reported discrepancy between the scheduled wage rate and the rate paid to the workers. In one instance, it had reached the extent of not paying any wages to the labourers. Here is the tale of a worker engaged in loading activities in Bhagalpur division:

“Most of the time we are not given the committed amount. In two brick kilns, I did not get a paise though I worked for the whole season (Neatola village, Bhagalpur, Bihar).”

In Mashauri block of the Patna district, two female workers, one from Orissa and the other one from Jharkhand, have been kept as hostages. According to the statement of one of the victims, the women were severely beaten and had to survive on a starvation wage. In one case, for seven years a tribal worker was denied the possibility of leaving the brick kiln even during off-season (police inspector, Mashauri, Patna, Bihar).

In the same way, one fireman reported that at times, the *peshgi* system transformed into bonded labour:

“When I was working in Bengal, one day I approached the owner to get an advance. He replied that in my name few people have contracted loans of Rs.1,500 to 1,600, and that I have to work to repay these loans (fireman, Jhakhuria village, Bhagalpur, Bihar).”

The structure of payment prevailing in the industry also contributes to the system of slave labor. In many of the brick kiln units under survey, the workers were said to receive substitute -payments in the form of food allowance. This feature was reported in all the districts surveyed.

The amount given as food allowance was also said to vary from one laborer to another. In Bhagalpur the labourers engaged in brick moulding and loading activities reported weekly payments in the range of 100 to 150 rupees. According to a family engaged in loading activities in Muzaffarpur, an amount of 200 rupees is given as food allowance for two adults and one child in Patna district.

However, firemen were getting higher payments. Irregularities in terms of payment at the end of the season were also reported. Unlike other districts, this system of payment was not prevailing in the case of local labourers whom the research team met in Saran district (Sargati Musahar Toli village). Tribal workers were, however, getting food allowance. The common practice is to give 100 rupees as food allowance (female worker, Palamu, Jharkhand). In the same district, however, there was one case where an “*adivasi*” was paid a lesser amount:

“This is off-season so I am getting 70 rupees per week for food. After, I will earn 14 rupees per day that means 390 rupees on a monthly basis (minor worker, Ranchi, Jharkhand).”

In the Baxur district, the same system of payment was made applicable to local and migrant labourers. The interviewees in the study were receiving Rs. 100 to 300 as food allowance. In Mashauri block of the Patna district, the amount given to local labourers as food allowance was higher than that of “tribal labourers”. Those who were performing the work of moulders were paid Rs. 150, while firemen would receive Rs. 200.

The situation of tribal workers seems to be worse than that of other districts as far as the payment for food allowance is concerned. A minor worker engaged in loading work reported to be getting 80 rupees per week as food allowance (*adivasi*, West Singhbhoom, Jharkhand).

In the same way, the situation of migrant labourers is at times not better than that of tribal workers. One family released from bonded labor in Himachal Pradesh reported:

“We were getting Rs. 300 to 400 as wages per month. We were loading, on average 2,000 to 2,500 bricks in a day. My wife, the three older children, and me were working. Since we were not getting payment ‘on time’, and we had to manage for our survival, we were selling ‘broken bricks’ on the market, and sometimes we were also getting tips from buyers of bricks (male worker, Uttar Pradesh).”

This raises the important question of supplementary sources of income for the brick kiln workers, e.g. in-kind payment in the form of broken bricks that can be sold off.

The rationale for calculating the amount to be given as food allowance is explained below:

“This is mostly based on total production. Half the amount is paid to the laborer, and the other half is deposited in view of the final payment (*sardar*, Mashauri).”

However, the final accounting was not immune from tensions between the labourers and the management. Migrant workers met at their workplace in Kapurthala, Punjab maintained:

“Only 4,000 rupees were being paid at the end of the previous year. Four members in my family are involved in brick moulding, i.e. my wife, the two older children, and me. We were all working 14 to 15 hours by day. Even we were not paid any advance (male worker, Madhya Pradesh).”

The following cases are also typical of the economic exploitation of the tribal workers:

“In Benares, I was to be paid 32 rupees for loading, and Rs. 22 for unloading. I didn’t get anything at the end of the season, but the travelling fare to Ranchi (Muzaffarpur).”

“I have earned Rs. 5,000 for the whole season, but only half was given at the end of the season along with the train fare to Gumla (Uraon tribal, Gumla, Jharkhand).”

The condition of tribal workers migrating alone, especially unmarried girls, has also been reported to be worse than that of workers migrating in groups as in the following case:

“Before joining this brick kiln in Muzaffarpur, I worked in Calcutta, West Bengal. The rate of payment for loading was 20 rupees per thousand. I was getting Rs. 45 per week as food allowance, and I could get only 700 rupees at the end of the season (tribal worker, Gumla, Jharkhand).”

V

Brick Owners’ Tale

The survey clearly shows that workers are not benefiting from most of the labour laws, which, if properly applied could have brought significant improvement to their lives.

Among the major factors reported as responsible for the present state of affairs is the corruption on the part of the implementing agencies.

In Bhagalpur division, one industry owner however, insisted that there is little chance of influencing government officials with the fixed system of taxation. In other regions, the common practice is to give extra money to the mining inspectors, as the total production exceeds the quota fixed by the government. In this connection, one employer of Nalanda outlines:

“We cannot produce beyond 6 lakhs of bricks. In a season’s time, we produce up to 35 lakhs. We are compelled to pay this illegal money.”

On the basis of the information given by the employers, the amount of bribe ranges between less than a thousand rupees to 35,000 rupees. The mining department is among the government authorities systematically involved in the corruption. In Saran district, one brick kiln owner admitted to pay 15,000 rupees as an extra to the mining department. In Madhubani, the Bihar state chairman of All India Brick and Tiles Manufacturing Association claimed to spend 35,000, 15,000 and 25,000 rupees to bribe the mining, labor and income tax department. That particular brick kiln owner has a quota allowing him to produce only 6 lakhs, but he actually produces 55 lakhs. In fact, there is much evidence to the effect that the “bhatta” owners are influential people, are present in all political parties, and as such have a strong lobby in these parties. The police and the administrative machinery give them full cooperation and protection as well. However, in Mashauri it was highlighted that in case an owner refuses to bribe the mining inspector, the common practice is to issue a notice under which the owner is accused of running another brick kiln. The same owner reported corruption on the part of the police, as:

“The police officers also ask for money. Once, an employer refused to give money and he was put behind the bar. The “Thana-In-Charge” involved him in another crime. Consequently, money was recovered from his position. (Mashauri, Patna, Bihar)”

Besides, we made the presumption that the labour authorities overestimated the number of inspections being made at the brick kiln units. Visits of the brick kilns were reported at every 3 or 4 weeks. In Bhagalpur, the labor officer met during the field survey even went to the extent of saying that inspections were made twice in a month. Some employers however, admitted that they hardly see the labor inspectors at their brick kilns. From the employees’ tale, it seems that whenever the labor enforcement authorities undertake inspections, they mostly interact with the migrant labourers. In Patna, the government formalities incumbent upon the inter-state migrant workmen were seen as a limitation to earn better livelihood, especially in Haryana and Varanasi, though most of the labourers met during our field investigation were actually violating the legislation in force. Most commonly, the government authorities stand on the employer’s side. The implementing agencies are satisfied with the payment of wages. In few instances, however, the minimum wages were not being implemented for certain work like loading and unloading (LEO, Chapra Sardar block, Saran), and the maintenance of records was also a prevalent problem (labour officer, Bhagalpur). It is also revealing that the vast majority of government servants met during the course of the survey denied the employment of children at the brick kilns, though we have met with many child labourers.

In a few districts, legal action has effectively been taken against employers. In Bhagalpur for instance, thirty cases have been lodged under the Child Labor Act from 2000 to 2002 and ten claims were registered under the Minimum Wages Act (labor officer, Sabour). In Muzaffarpur, five claims and fifteen prosecutions were registered under the Minimum Wages Act (maintenance of records). In the Punjab, sixty to seventy cases are registered every year under the following acts: Factories Act, Minimum Wages Act, Payment of Bonus Act, Employees’ Provident Fund Act, and Equal Remuneration Act (Labor Commissioner of Punjab).

In Bihar, none of the workers met during field survey were benefiting from any of the provisions made in the Payment of Bonus Act. In this regard, one can see that throughout the season, a laborer can prepare up to 1 lakh bricks, but he can seldom participate in the share of profit.

According to the brick owners, they also face work problems faced by the workers. The vast majority of industry owners, from far-off villages to urban areas, reported loss of advances given to the workers at the beginning of the season. The amount of losses were in the range of 10,000 to 1,00,000 rupees. Only for the cases of workers attempting to escape from the brick industry, an employer reported the loss of Rs. 25,000. In most of the units surveyed, the employers were very critical of the tribal workers in this regard. Similarly, some of the industry owners had a difficult time with the contractors hired to meet with the labor supply.

“I have given 25,000 rupees to a contractor to bring the labor from Katihar. He had a contract for 15 workers, but only 6 have come to work. The employer was not giving the full wages to the workers; a way to recover the amount lost (key informant, Khuran Sarai village).”

In some cases, the contractors fled with the advances meant for the workers. This practice has been reported in five districts.

According to the tale of the employers, this business is no doubt a very lucrative one for the contractor:

“10 lakhs rupees were given to one Bengali contractor to meet the demand in different brick kiln units. The workers were to come from West Singhbhoom, but the contractor didn't show up (munshi, Mashauri, Bihar).”

From the evidence that the research team had, it appears that the amount of commission usually ranges between Rs.5 to 10 per thousand bricks. We have for instance met with a contractor who provided 200 (local) workers to 30 brick kilns of Mashauri and Jehanabad district. With a conservative output of 60,000 bricks being moulded in a season by each worker, 1,20,000 lakhs rupees are taken from these workers and paid to the contractor.

The contractor's perspective is however introduced below:

“I was to be given 1,10,000 rupees. The rate of wages for brick moulders was fixed at 100 rupees per thousand bricks, but the owner cut the wages at 90 rupees. And I had to pay from my pocket. 49 lakhs were produced during that season. 1 lakh rupees was lost because the workers escaped. They even deserted their village. The employer reduced that amount from my commission.”

It is also a great business for owners of brick kilns. India's brick kilns have an annual turnover of more than 2 billion US dollars. Bricks are needed for the rapidly expanding infrastructure. Field research shows that the investigated units have a production ranging from 200,000 to 5 million bricks in a year, with an average of 1.6 million. 16 per cent of the brick kilns produce less than 500,000 bricks in a year, 25 per cent, from 500,000 to 1 million, 16 per cent from 1 million to 1.5 million, and finally 21 per cent from 1.5 million to 2 million bricks. Besides, 20.5 per cent of the units surveyed produce 2 million to 4 million bricks, and 4 per cent exceed an annual production of 5 million bricks.

In some of the units surveyed, the industry owners have developed paths to increase the productivity, such as investing on new technology to mould the soil, or using cycle, wheelbarrow, trolley, or donkey for the transportation of bricks (instead of being carried on the head of the workers). However, there are clear signs that the work is more labour intensive in some units. The number of workers employed by unit ranges from 50 to 175. No significant difference in terms of workers was found among the units having an annual production of less than 1.5 million bricks. The total number of workers is hardly reaches 85. However, for the units having a production up to 3 million bricks, the number of workers increases to 145 and nearly 180 for the units reaching a production of 4 million bricks.

The life of the workers largely depends on the brick kiln owners. On the continuum of exploitation, we have the consumers, including the government, contracting them for construction work. Very few prospectives are there for the workers. No union ever stands for the rights of these workers, and the community-based organizations have rarely used welfare activities as an entry point to the industry. The laws that are there are not implemented. Having said this, the brick kiln owners face work problems caused by the workers. From our perspective, these problems do not have the same weight as the exploitation of workers and the abuse of women and the girls.

VI Women and Violence

Men and boys as well as women and girls are the victims of violence, but women, much more than men suffer sexual abuse and violence. Women experience violence because they are women, and often because they do not have the same rights that men do. During field research, we heard accounts of beatings, gang rapes and murder and so much of this violence against women goes largely unpunished. No woman in a brick kiln is exempt from violence and exploitation. In the worst kilns, women are raped or economically forced or left with little choice but to serve as prostitutes.

Left with few options for employment, many women and girls are brought to other states where they work as brick loaders. Tribal villages have also become sources of trafficked women because poverty forces women to seek work at any cost. Recent research and field investigation indicate that women suffered the most in the brick kilns.

Rape is common throughout India, particularly in troubled areas where the violation has a much wider political agenda than simply the expression of power. According to crime statistics, one woman is raped every six hours in Bihar on an average. Evidence suggests that the number of rapes reported in government statistics are in fact, considerably lower than actual occurrences. Several case studies illustrate the government's failure to prosecute cases of rape. Differential rates of prosecution are compounded by corruption and caste and gender bias, even at the trial level. Women specific crimes are largely unreported by the survivors. Witnesses, should they exist, rarely agree to come forward to testify or corroborate the victim's statement.

According to the District Superintendent of Police (DSP), met at Dumraon, tribal populations working at brick sites are also under the grips of criminal elements at times. Two rape cases were reported from the same police station, Brahampur in 1998 and 1999; 1 kilometer separated the two brick kiln units. Another rape was reported in 2000. All the rape victims happen to be Ranchi labourers. Their age ranged between 20 to 30 years. Two of them belong to the same village in Ranchi. Here is the statement of one of the victims:

“I was sitting with my husband in our hut. My husband asked for food and I served him. In the meantime a person named Dadan came. He lifted me and I was raped in the field and threatened not to say anything about it (statement of rape victim, DSP Dumraon, Baxur, Bihar).”

The DSP, Dumraon felt:

“In the above-mentioned cases, two rapists are accused and are facing trial. According to the same District Superintendent of Police, women workers rarely report these cases. At every instance, the police officers of the concerned police station reached the workplace and tried to convince them to file a complaint. Left with very few opportunities to earn their livelihood, the labourers do not want to get involved in this legal process”.

While surveying the brick kilns of Baxur district, one brick kiln owner reported the rape of a Ranchi labourer, aged 36, at his brick industry. Though she was raped the first year she joined the brick kiln, she worked for three years more after the incident according to the same employer. In this regard, very few employers refused to employ women at brick sites to prevent sexual violence against them (employer, Dumraon, Baxur, Bihar). Another brick kiln owner from Sadhpur, Saran district confirmed the same. On the last

day of investigation in Baxur district, a tribal woman was gangraped and murdered. She was 18 years old.

In other districts under survey, atrocities against women are committed either by the brick kiln owners or managers. Though it is difficult to establish the culpability of the employer in this particular case, here is the tale of a *sardar* in charge of *pathera* labour who had come to know about the exploitation of a girl child labourer working at the brick field where he managed the labour:

“At 10 years of age she was brought to the brick industry to prepare food for the staff. She was getting food, money, and clothes. For that, “she was going” with the employer. At 13 years of age, she carried a child. She also had an affair with a guard working at the kiln. This guard encouraged her to file a complaint against the employer to the police station. After that, they fled away to Patna. The owner was put in jail for 4 to 5 days. He convinced the Muslim “sardar” who brought her from Ranchi to change his witness to say that she was in fact working at Patna, not at Mashauri. That sardar was given 30,000 rupees to make a false statement before the Court. In the trial session, the tribal girl could not turn up. The case was declared false (sardar, Mashauri block, Patna, Bihar).”

It was also outlined by the same key informant that the common practice is to give money as compensation to the ‘victims’, and that it never comes to the knowledge of police authorities (sardar, Mashauri block, Patna, Bihar).

Though in most of these cases, there is a form of resignation on the part of the labourers, at other times, the workers assert their position as a collective entity:

“One day all Ranchi labours planned to leave my kiln. An 18-20 year old girl was pregnant. I was worried because I had read in the newspaper that an owner was put behind the bar. There was an allegation of rape, and he was sent to jail for 2 to 3 years. Then I approached a doctor and called him at the brick kiln to abort the child. At that time, she was in her third month of pregnancy. She resumed work after 15 days rest. I then realised that many people are involved in the sexual exploitation of the female workers. One day I even caught a *brahil* who was sleeping with a girl. Nobody was protesting against these activities. I fired that *brahil*. The Ranchi labourers slowed down their output, and wanted that *brahil* to come back. But I stayed very firm to my decision (employer, Pawapuri, Nalanda, Bihar).”

In few districts, sexual exploitation of female workers was said not to occur. In Bhagalpur division for instance, it was maintained that:

“The workers belong to the neighborhood and are mostly known to each other. Tribals when they are coming over here, what they do among themselves, this is up to them. Such things may occur when migrants stay throughout the year. Here the labourers come for six months (employer, Gogha village, Kahalgeon, Bhagalpur, Bihar).”

Protective measures for the benefit of female labourers have also been deployed as:

“We have our own guards. Mostly tribal women are kept inside a gated place. So, there is low occurrence of these things (munshi, Gogha bazar, Kahalgeon, Bhagalpur, Bihar)”

The workers also insisted that:

“If there were misbehaving the workers would not come over here (worker, Neatola village, Sabour, Bhagalpur, Bihar).”

The research team has been, however, informed by other key informants, particularly the Superintendent of Police and a police officer posted in Bhagalpur division whom we met at Madhubani, that the complaints of workers have been registered with the local authorities of Bhagalpur. There was a clear mention of an interrelated case of

rape of a woman in which the woman's relatives actually murdered the rapist. This case is the only one explicitly concerned with the rape of a local woman.

The electronic media has also reported atrocities committed against tribal women working in brick fields. Apart from sexual violence and victimization, the media, however, rarely considers these women newsworthy. The dearth of women's voices and perspectives has policy implications, too.

The research team has also identified strategies that can make a difference in the lives of women and their children working in brick kilns. These strategies focus on giving women and their families opportunities and transition services tailored to their unique needs. They promote education, better health care, improved economic opportunities and public awareness, recognizing violence against women and the forums for redress.

VI What Can Be Done?

Recommendation I:

Help the workers fight for their rights through advocacy and leadership training.

The workers involved in the industry usually come from environments where there is no respect for human rights. Women, men and children in the industry are disposable and drawn from the poor, vulnerable and dispossessed.

We believe there is a need to create the environment for recognition of workers' rights. The National Human Rights Commission is an expression of India's concern for the protection and promotion of human rights. Despite physical and sexual torture committed against brick kiln workers, very few complaints of human rights violations have been submitted to the state human rights commissions. Priority should be given to activating the state human rights commissions, ensuring that legal redress comes within the reach of children, women and men working in brick kilns. Documenting human rights violations is also seen as an important dimension of legal advocacy.

With the support of legal and gender advocates, imparting leadership training can also be an effective tool to empower the workers to exercise their legal rights. Legal aid teams specializing in human rights issues have pioneered some effective programs to protect and represent workers in extreme cases.

Recommendation II:

Campaign to combat gender violence.

The campaign that we propose is an effort to help women working at brick sites, survive the intense attacks on their lives and human rights. In order to build integrated support services that respond effectively to victimized women and girls in the brick kilns, priority should be given to enhancing the capacity of women in legal skills, advocacy, gender and case work. This can be done by facilitating skills transferring through connecting women's advocacy NGOs, which possess greater experience in women's rights advocacy, with other organizations willing to take up the issue. Aside from high-level campaigning, there is a need to find alternatives for the victims of gender violence. This can be achieved through mobilizing community support for a public hearing on women's human rights in order to bring more women's voices into the process, and increase the

accountability of governments to gender concerns. Through such a public hearing, awareness on women's human rights will be raised and measures for prevention of gender violence and the rehabilitation of survivors will be proposed. Legal aspects can also be dealt with by involving legislators, judges, lawyers and the state human rights commissions. Law enforcement agencies and medical personnel can also be targeted to protect women with a view to changing attitudes concerning the roles and status of men and women in relation to violence against women and girls.

Recommendation III:

Give all children the opportunity to go to school and stay in school

In the brick kilns, education levels are low and the educational needs of children continue to be unmet. One of the most effective ways to combat abusive child labor is to focus on the education of children. Both formal and non-formal education gives children knowledge, self-confidence, practical skills and hope for a bright future. Research has established that every year of schooling increases individual wages for both women and men. Some groups in India have initiated skills training courses where girls learn about social issues, civic involvement, health, nutrition and child care. Others deal with the problems associated with early marriage and early pregnancy. Still others train teachers, develop curricula, and provide literacy classes where children can learn in a supportive environment. It is possible to get some insights from these experiments. Education also prepares girls to be better mothers. Educated mothers are more likely to use family planning to space their births at healthy intervals, to seek pre-natal and post-natal care and have births attended by trained personnel. They are more proactive about seeking care for illness, and are more aware of preventive measures such as vaccinations. Educated mothers also provide better hygiene and nutrition for their children. Investing in programs to help children stay in school and complete their education in their villages is as important as giving them the opportunity to study in the places where they migrated. In combination with less formal educational activities, child panchayats can be formed to ensure the children's rights and encourage them to participate in matters that affect them.

Recommendation IV:

Tailor health services for brick-making families

The brick-making families need health services and support that are designed to meet their special needs, taking into consideration the unique risks they face. The brick kiln is a health hazard for the younger children. Malnourished and exhausted, they are doubly exposed to accidents, infections of the stomach, lungs and skin where the coal settles. The condition of pregnant women is also particularly difficult at the brick kilns. Young mothers and their children are at a severe disadvantage. They are pregnant more often, have higher rates of child mortality, and are likely to remain in poverty. The consequences of poverty for the children in terms of nutrition and health care are profound, too. We found that it is not enough simply to make family planning and reproductive health services available in the community. To be effective, health programs must reach out to women and girls at their workplace to increase their knowledge of options they may not know exist. Local groups should operate reproductive health programs that provide services and information to married women and unmarried girls about a range of issues, including sexual health, family planning, HIV/AIDS prevention

and childbearing. Civil society organizations can also work with men in leadership positions, including doctors, who can influence other men and serve as advocates for women's health and human rights.

Recommendation V:

Give indigenous women better income-earning options.

Due to rural unemployment, indebtedness and land alienation, women and girls make up a significant percentage of the migrant workforce in a brick kiln in India. To facilitate the process of rehabilitation of women and girls victimized by brick owners, groups in India could work to undertake programs in rural areas prone to forced migration, such as promoting savings and providing credit and start-up funds to women to help them stay out of poverty and away from exploitative work. We have found that a loan program can be built and expanded quickly if built around small groups of women who share neighbourhood, occupational or other ties.

Recommendation VI:

Create awareness and accountability.

Consumer's power can be among the factors determining the women's & children's exploitation in the industry. It is also one of the most neglected areas. To raise people's consciousness and further appeal to the consumers to promote "Child Labor Free Bricks", mass awareness drives should be conducted in residential areas and areas where construction programmes are undertaken by the government, with the main focus on important cities. To build and sustain public debate on the issue, efforts can also be made to broadcast strong messages against the negative implications related to the industry through free radio/ TV public service announcement slots at the national and local level.

Take Action Now!

Community organizations can also help by setting up information booths at bus terminals and train stations to provide information and support to potential victims. Others can advocate for enforcement mechanisms to combat trafficking and forced migration and help tribal peoples access welfare schemes. Still others can organize community meetings to discuss issues relating to trafficking, health and labour rights.

You can also join the Itta Bhatta Bandhua Mazdoor Mukti Abhiyan to know more about initiatives in India along with ideas on how you can get involved and make a difference.

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Appendix I : National Laws Applicable to Brick Kilns

The Bonded Labour System (Abolition) Act, 1976

This Act is concerned with the system of usury under which a debtor or his descendants or dependants have to work for a creditor without reasonable wages or with no wages in order to pay back a debt (Malik, 1992). Any system of forced, or partly forced labour, which any workman being contract labor as defined in the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970), or an Inter-State migrant workman as defined in the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979), is required to render labour or service in circumstances of the nature mentioned... or is subjected to all or any of the disabilities referred to..., is also considered as bonded labour system. In *Bandhua Mukti Morcha v. Union of India*, it is also held that the existence of forced labor will give rise to a presumption that the labourer is required to work for some economic consideration and is a bonded labourer ((1984) 3 SCC 161; 1984 SCC (L&S) 389).

The Minimum Wages Act, 1948

This Act provides for minimum rates of wages for time and piecework in certain employments. In the same connection, exaction of labor and services against payment of less than the minimum wages amounts to forced labor and violates article 23 of the Constitution of India (*People's Union for Democratic Rights v. Union of India*, (1982) 3 SCC 235: 1982 SCC (L&S) 275) (Malik, 1993: 1480). Payment of wages less than the minimum wage on the ground of less performance or output is also considered illegal (*Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161: 1984 SCC (L&S) 389, para 20).

The Contract Labor (Regulation and Abolition) Act, 1970

The Contract Labor (Regulation and Abolition) Act regulates the employment of contract labor in certain establishments and provides for its abolition in certain circumstances. It compels the contractors to whom this Act applies to execute any work through contract under and in accordance with a license, which may contain such conditions, including, conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labor. Every employer and contractor is also held responsible for maintaining registers and records giving particulars of contract labor employed, the nature of work performed by the contract labor, and the rate of wages paid to the contract labor.

A provision is also being made under the Contract Labor (Regulation and Abolition) Central Rules that no wage period shall exceed one month (Malik, 1993: 297). The contract labor shall also be exempt from any deduction of any kind except those specified by the Central Government by general or special order in this behalf or permissible under the Payment of Wages Act, 1936 (4 of 1936).

Facilities of sufficient supply of wholesome drinking water, sufficient number of latrines and urinals, washing facilities and first-aid facilities are to be provided. Where 20 or more women are employed as contract labor, crèche facilities shall also be made available.

The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979

The proposed legislation applies to every establishment in which five or more Inter-State migrant workmen are employed. The establishment proposing to employ Inter-State migrant workmen is required to be registered with registering officers. Likewise, every contractor who proposes recruits or employs Inter-State migrant workmen is required to obtain a license from the specified authority both of the State to which the workman belongs (home state) and the state in which he is proposed to be employed (host state) [Malik 1993: 1303]. The contractor is also required to issue to every workman employed by him, a passbook containing the details of the employment.

Specific guidelines have been indicated regarding the wages payable to Inter-State migrant workers. He is to be paid wages from the date of his recruitment. The Inter-State migrant workman is also entitled to a displacement allowance equal to fifty per cent of the monthly wages payable to him or seventy-five rupees, whichever is higher, and a journey allowance of a sum not less than the fare from the place of residence of the Inter-State migrant workman in his State to the place of work in the other State in addition to his wages. The amenities that are required to be provided to the workers include regular payment of wages to such workmen, provision of suitable residential accommodation, adequate medical facilities, free of charge, and suitable conditions of work taking into account that they have migrated from another State.

The Equal Remuneration Act, 1976

The Equal Remuneration Act provides for the payment of equal remuneration to male and female workers, and for the prevention of discrimination against women in the matter of employment, on the ground of sex.

The Act came into force in respect of employment in different establishments. It includes activities connected with construction, such as the “setting of tile, marble, brick, glass and stone” [Malik 1993: 911].

The Factories Act, 1948

This Act consolidates the law regulating labour in factories. It emphasizes the health, safety and welfare of workers engaged in any premises where ten or more workers are working, and in any part of which a manufacturing process is carried on. It provides for effective arrangements to maintain sufficient supply of wholesome drinking water, sufficient latrine and urinal accommodation, including separate enclosed accommodation for male and female workers, and adequate and suitable facilities for washing. First-aid boxes equipped with the prescribed contents are also to be provided in every factory. In factories wherein more than thirty female workers are ordinarily employed, a suitable room for the use of children under the age of six years of such women, is to be maintained.

Other arrangements shall also be made in order to prevent injuries of the workers' health. In this regard, the State Government may make rules prescribing the maximum weights, which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories or in carrying on any specified process [Malik 1993: 961].

The Workmen Compensation Act, 1923

This Act provides for the payment by certain classes of employers to their workmen of compensation for injury by accident. It also applies to occupational diseases peculiar to that employment. Amounts of compensation have been fixed in accordance with the nature of disablement resulting from the injury and the corresponding loss of earning capacity.

The Payment of Bonus Act, 1965

This Act provides for the payment of bonus to persons employed in certain establishments on the basis of profits or on the basis of production or productivity. It applies to every factory and every other establishment in which twenty or more persons are employed on any day during an accounting year. The calculation of gross profits is the first step towards the calculation of the bonus. It depends on the net profit of the establishment as per balance sheet and profit and loss account [Malik 1993: 1579]. Once gross profits are calculated, the figure for available surplus out of which bonus is to be paid, is calculated after deducting certain amounts known as prior charges [Malik 1993: 1580]. Every employee is entitled to be paid bonus, in accordance with the provision of this Act, by his employer in an accounting year, provided he has worked in the establishment for not less than thirty working days in that year [Malik 1993: 1582]. However, any employee shall be disqualified from receiving bonus under this Act, if he is dismissed from service for fraud, or violent behaviour while on the premises of the establishment, or theft, misappropriation or sabotage of any property of the establishment. In any case, every employer is bound to pay a minimum bonus, which shall be 8.33 per cent of the salary or wage earned by the employee during the accounting year or one hundred rupees, whichever is higher, whether or not the employer has any allocable surplus in the accounting year.

The Employees' Provident Funds and Misc. Provisions Act, 1952

This Act provides for the institution of provident funds, family pension fund and deposit-linked insurance fund for employees in factories and other establishments.

At this point, it shall be noted that the brick industry has been added to the list of non-factory industries to which the Employees' Provident Funds Act, 1952 has been made applicable.

The employer is under a legal obligation to pay a contribution to the Employees' Provident Fund equal to eight and one-third per cent of the basic wages, dearness allowance and retaining allowance, if any, to each of the employees whether employed by him directly or by or through a contractor. The employee's contributions, on the other hand, shall be equal to the contribution payable by the employer in respect to him and may, if any employee so desires, be an amount exceeding eight and one-third per cent of his basic wages, dearness allowance and retaining allowance, if any. It is further established that an amount not exceeding one-fourth of the total amount payable as contribution by the employer as well as the employee, is to be paid, from time to time, to the Family Pension Fund. For the purpose of providing life insurance benefits to the same employees, an amount, not being more than one per cent of the aggregate of the basic wages, dearness allowance and retaining allowance (if any) is also to be paid to the Deposit-linked Insurance Fund by the employer.

The employer is also required not to reduce wages, whether directly or indirectly, of any employee to whom the Scheme or the Insurance Scheme applies by reason only of his liability for the payment of any contribution to the Fund or the Insurance Fund or any charges under this Act [Malik 1993: 443].

The Child Labor (Prohibition and Regulation) Act, 1986

The Child Labor (Prohibition and Regulation) Act, 1986 prohibits the engagement of children who have not completed their fourteenth year of age in specified occupations and processes and regulate their conditions of work in certain other employments.

For the purpose of adding other occupations and processes to the Schedule, the Child Labor Technical Advisory Committee was formed. The brick industry has recently been added to the listing of hazardous occupations.