

Hope for the Bonded Laborers



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Preface

An American friend a few years back returned to the United States after spending sometime in Pakistan. He said that there was too much suffering here and he could not take it anymore. There is little doubt that there is immense suffering in this part of the world particularly when one compares it with the quality of life in the West but we all perhaps cannot leave and this obviously is not the solution.

The tragedy is that things do not appear to be improving and the suffering is on the rise. This is due to a lot of factors including the incredible rise in population and dwindling resources; it should then not be surprising that poverty is on the rise in the country. The predicament can perhaps be appreciated by the fact that Pakistan is the size of Texas which is just one of the 50 states forming the United States. However, its population is more than 180 million as compared to 312 million in the United States.

A lot thus needs to be done and fast. However, our governments and institutions move at a pace as if we have all the time in the world. The people in the meantime continue to suffer and millions die each year due to preventable causes.

The poorest of the poor are the worst off in such a situation and there is hardly anyone offering to help in any substantial manner. The State comes up with cosmetic gestures like offering them one or two thousand rupees a month under the Benazir Income Support Program and we once in a while dole out a few rupees in the name of zakaat and charity and feel that we have fulfilled our responsibility. Have we?

There are millions of workers working in brick kilns and bonded laborers but we do not know their number as we do not even know our exact population; the last census in the country was done in 1998. We have been unable to undertake another one since then due to political exigencies. Resultantly, we can only analyze issues on the basis of conjectures and estimates. This does not lead to a scientific approach but it cannot be avoided.

Slavery is prohibited under the Constitution and bonded labor is unlawful under a 1992 Act. However, both persist in one form or another. All the three institutions of the States, namely the executive, legislature and judiciary, have

failed to deal with it. The media, being another important institution, find it not worth pursuing. The consequence is what we see almost every day: more suffering.

This book is based on research undertaken by SPARC and CLAD with the help of Solidarity Center which is an organization affiliated with the American trade union, AFL-CIO. It was funded by the US Department of State. It is a pity that it was funded by foreign agencies when it is Pakistan's problem and the local institutions should have taken interest in researching the subject.

In any event, each chapter of the book treads new ground and comes up with viable solutions that can help in alleviating the suffering of the bonded laborers. The last chapter titled '*the Invisible Helpers*' is based on research undertaken by the Brooke and is written by its advocacy head Delphine Valette. The Brooke kindly has permitted SPARC to include this chapter in the book which deals with improving the lot of the bonded laborers and the brick kiln workers in general by helping the equines owned by them. The better the plight of their equines, the better of they would be.

After all, the suffering in Pakistan is not confined to humans alone but extends to non-human animals as well.

We hope this book will help in generation of ideas to alleviate the poverty of brick kiln workers, and in introducing a more just, fair and equal society in Pakistan. We hope we will achieve this goal in our life time.

Anees Jillani

Executive Director SPARC

Foreword

Worker rights are an intrinsic part of fundamental human rights which are enshrined in the Universal Declaration of Human Rights. They have further been elaborated and guaranteed by the ILO Conventions wherein essential universal minimum standards have been established by five standards that are laid out in eight Core Conventions. These extend freedom of association and collective bargaining (C 87 & 98); elimination of all forms of forced and compulsory labor (C 29 & 105); abolition of child labor (C 138 & 182); and elimination of discrimination in respect of employment and occupation (C 100 & 111). The Government of Pakistan and social partners have jointly signed the Decent Work Country Programme (DWCP) - Pakistan 2010-15. This framework document has four broad areas of interventions: i) labor law reform; ii) employment generation through human resource development, with a focus on employable skills; iii) social protection expansion, including in the informal economy; and iv) tripartism and social dialogue promotion. In 2013, the European Union granted Generalized System of Preferences (GSP) Plus status to Pakistan allowing Pakistani products a duty-free access to the European markets. However, Pakistan is required to take affirmative action in implementing 27 international conventions including above mentioned eight ILO fundamental Conventions.

Brick kiln workers are among the most excluded and exploited workers in Pakistan. Most are illiterate, vulnerable, marginalized and many do not possess Computerized National Identity Cards (CNICs) and therefore cannot vote in local and national elections. A large number of brick kilns are not formally registered, and the few nascent organizations of brick kiln workers are weak and lack the capacity to advocate for meaningful change. Wages for brick kiln workers are exceedingly low and workers are paid based on the number of bricks produced. As a result, entire families – men, women, and children, including very young children – toil for long hours in hazardous working conditions only to earn a meager income.

Previous and present attempts to assist brick kiln workers, including efforts by government agencies, local and international NGOs, and donors, have largely remained ineffective to improve the abysmal working and living conditions. The persistent exploitation of brick kiln workers is the result of a variety of factors, including corruption, inadequate enforcement of labor laws, weak or non-existent labor inspection systems, and a hostile environment for worker

organizing. Pakistan's Bonded Labor System (Abolition) Act theoretically freed all bonded laborers and erased their debts. The Act also established criminal sanctions for those responsible for holding workers in debt bondage. However, successive governments have lacked the political will or capacity to enforce the law. While hundreds of workers are freed from debt bondage each year, the practice largely continues unabated and is especially prevalent in brick kilns.

The government recently required brick kilns to register in accordance with Pakistan's Factories Act. Registration would establish brick kilns as formal employers and should allow workers to access a variety of social benefits administered by the Government of Pakistan, including the Social Security, Employees' Old-Age Benefit Institution (EOBI) and Workers' Welfare Fund (WWF). However, the vast majority of brick kilns have not complied, without any repercussions, and workers remain marginalized and extremely vulnerable to exploitation.

Pakistani NGOs have attempted to intervene on behalf of brick kiln workers, but most efforts have lacked a long-term strategy or a holistic approach to the problem. Specifically, programs intended to improve the situation of brick kiln workers have failed to link brick production to socially conscious and accountable consumers, including the Government of Pakistan, international donors, international financial institutions (IFIs), and international NGOs.

Furthermore, brick production in Pakistan causes significant environmental damage. The use of outdated techniques and inefficient fuels, including fossil fuels and even old tires and plastic, contributes to air pollution and the emission of greenhouse gases. While brick kilns have traditionally been located in remote areas, rapid urbanization has brought residential areas closer to brick kilns in recent years, further intensifying the harmful impact of these practices. In addition to the rampant violations of internationally recognized worker rights, the environmental damage brick kilns cause creates an opportunity to leverage public and international donor funding to ensure that bricks are both "clean" and "green."

Although most bricks produced in Pakistan's brick kilns are used in small residential and commercial construction projects, a meaningful percentage is still used in projects supported either directly or indirectly by the Government of Pakistan and international donors. With the clear

pattern of worker exploitation in brick kilns¹ and no process to verify the source of bricks, it is safe to assume that bricks used in public and donor-supported projects are made by exploited workers, including bonded laborers and young children, who suffer from miserable social conditions.

and donor-supported projects are made by exploited workers, including bonded laborers and young children, who suffer from miserable social conditions.

Interventions by local and international organizations to date have not been able to adopt a holistic approach that addresses the multitude of problems in the brick kiln industry, including the reliance on child labor, a lack of educational opportunities for children, debt bondage, and hazardous working conditions. An effective solution must consider the needs of all stakeholders, including workers and their families, brick kiln owners, and international donors.

Institutionalizing the concept of decent work in Pakistan's brick kilns requires solving a variety of longstanding and complicated problems, including the de facto feudal system in much of rural Pakistan, the routine use of debt bondage, human trafficking within Pakistan, weak rule of law and state regulatory mechanisms, and corruption throughout the supply chain. A key point of leverage in overcoming these challenges is Government's spending and international donor funding for infrastructure projects. They can drive demand for “clean” and “green” bricks that are produced in brick kilns that respect internationally recognized worker rights and basic environmental standards.

However, realization of the above requires research on a variety of topics to help bolster lobbying and advocacy efforts for creating demand for bricks produced in decent working conditions. This book is a result of this need. It aims to document prevailing brick kiln industry practices, including violations of internationally recognized worker rights; external factors affecting these practices; and opportunities to promote decent work in the industry. It also examines approaches for reducing bonded and child labor in brick kilns.

¹*International and Pakistani organizations working on child rights, the elimination of debt bondage, and related issues have extensively documented the various forms of exploitation to which brick kiln workers are routinely subjected. SPARC, a longtime SC partner, has conducted significant research and reporting on working and living conditions for brick kiln workers, especially children, and has regularly included this information in its flagship annual report, The State of Pakistan's Children. Reports of exploitation of brick kiln workers are also common in the Pakistani media.*

The Solidarity Center acknowledges the invaluable contributions of the research teams of the Society for the Protection of the Rights of the Child (SPARC) and Centre for Labour Advocacy and Dialogue (CLAD) for preparing drafts on the different research topics contained in this book. We are particularly grateful to Mr. Adnan Sattar and Mr. Anees Jillani for editing, improving and finalizing this publication. The Solidarity Center also wishes to recognize its donor, the US DOS/DRL, for supporting the Solidarity Center's efforts to fund this kind of important and needed research to help improve the lives and livelihood of brick kiln workers.

Greg Schulze

Country Program Director
Solidarity Center - Pakistan

Introduction

There are two manifest merits to this new publication by SPARC. One: it invigorates and expands the literature on the subject. Two: it becomes a benevolent, non-violent weapon to advance the campaign for the elimination of a social evil.

This book is a welcome continuation of the determined and consistent contribution by SPARC to the emancipation of disadvantaged children in Pakistan. The organization's regular production of the annual State of the Children Reports has become a widely-cited reference to measure changes every 12 months. SPARC also conducts several grass-roots initiatives to protect child rights. Anees Jillani's passionate leadership, sustained over the past 2 decades and more, is accurately reflected in the decision to prepare and publish this study. The whole SPARC team managed ably by Mrs Jillani, spread across the country, also deserves credit for the enthusiasm and energy invested in this shared cause.

Written in a concise, evidence-based, non-emotive manner, the first chapter accurately summarizes the subject. Commencing with the components of what constitutes "decent work", the text highlights the specific context of conditions in the country. While identifying the historical and contemporary impact of poverty and severe disparity of incomes, the narrative points out that, on the average, even after covering functional expenses, a typical brick-kiln that engages... or rather, enslaves... about 35 families, still manages to obtain a net monthly profit of about Rs. 350,000.

The workers may remain stuck in poverty that is as solid as the bricks they toil to produce. The owners are able to smile all the way through the multiple layers of the upper middle class. After pointing out that despite the existence of Constitutional provisions which ban slavery and forced labor, as well as laws and instrumentalities, enforcement remains grossly inadequate, the chapter concludes with a brief yet powerful exposition of at least 10 practical, doable actions and measures which would ensure palpable improvements.

As part of one's own personal association with children's rights at the local, national and international levels, this writer has had the opportunity to experience how the enrichment of discourse by publications such as this, catalyses debate and often, purposeful movement towards reform and alleviation.

In providing orphaned or abandoned or distressed children with a family environment as in SOS Children's Villages. Or bringing out-of-school children into the educational mainstream as in the programme operated by Education for Sindh (EFS). Or by linking the opening of girls' schools in remote villages of Tharparkar with any other development activity through Baanhn Beli. Or conducting advocacy for fundamental rights through SPO (Strengthening Participatory Organization). Given the adoption of precisely tailored strategies, methods and optimal participation by people themselves, it is possible to use certain models for meaningful reform.

One such example is the Constituency Relations Groups (CRGs) sponsored and regularly supported by Baanhn Beli in parts of rural and urban Sindh and by SPO in all 4 provinces as part of their work as Members of the Free and Fair Elections Network (FAFEN). Bringing together citizens with officials in police stations, schools, hospitals, other public service utilities and elected representatives, for identification of problems and their possible solutions, the CRGs experience illustrates how the District Vigilance Committees envisaged by the Bonded Labor System (Abolition) Act 1992 and its Rules 1995, could ensure dialogue with, and progressive change by, the owners of brick-kilns.

Most importantly, as forcefully stressed in this publication's opening chapter, there is an urgent need to revise both Federal and Provincial Rules to create new conditionalities and connections between workers' rights and owners' privileges and profits. The relative success of CRGs serves as a source of hope and advancement.

In recent years, Provincial Assemblies have shown a heartening capacity to adopt new and unprecedented laws for the prevention of child abuse, forced marriages, domestic violence and other primitive tendencies. The ten specific actions to promote an agenda for decent work conditions and the practice of core labor standards as listed in this book should become the substance for opening a structured dialogue with elected representatives in each Province. Such dialogue followed up by recording actions taken, or not taken, and highlighting accountability of those responsible, should be accompanied by activism on these issues by public service civil society forums and media. The latter, in particular, should develop investigative journalism beyond sensationalist single-episode reports to sustained, in-depth and balanced analyses.

One is confident that this book will make a vital contribution towards accelerating the process of justice and equity for children enslaved by Bonded Labor.

Senator (r) Javed Jabbar

Member (2015-2017), Senate Forum for Policy Research,
former Chairman, SPARC.

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Toward Decent Work in Pakistan's Brick Kilns

Current Situation and Future Course of Action



Toward Decent Work in Pakistan's Brick Kilns

The concept of "decent work" was launched by the International Labor Organization in 1999.

The concept comprises of four components:

- employment
- social protection
- workers' rights
- social dialogue.

Employment here covers work of all kinds and applies not just to workers in the formal economy but also to unregulated wage workers, the self-employed and home workers.

Its social protection component covers adequate opportunities for work, remuneration and safety at work and healthy working conditions. Social security and income security are essential features in this context. It also entails adequate support in times of injury, sickness and old age.

The component relating to workers' rights emphasize the social relations of workers: the fundamental rights of workers, such as freedom of association, non-discrimination at work, and the absence of forced labor and child labor.

Under the social dialogue component, workers are stated to enjoy the right to present their views, defend their interests and engage in discussions to negotiate work-related matters with employers and authorities.

Conditions in Pakistan's brick kilns are a far cry from this ideal of "decent work".

Social and economic factors render the workers at the brick kilns vulnerable to exploitation. There are many ways to help these workers. One method analyzed and presented here focuses on the need for inserting a 'social clause' in Pakistan's public procurement framework requiring contractors to source bricks from certified units, i.e., the ones that comply with a set of minimum standards.

Mainstreaming 'decent work' and core labor standards into public procurement and robust enforcement of legal norms, especially those relating to minimum wage, bonded and child labor, and social security benefits, can eradicate the option of making profits out of workers' exploitation by invoking economic penalties and providing incentives to help the workers.

The core labor standards, or workers' fundamental rights, are articulated in ILO's 1998 Declaration on Core Principles and Rights at Work; and include rights, such as freedom of association and the right to collective bargaining; elimination of all forms of forced and compulsory labor; effective abolition of child labor; and the elimination of discrimination in respect of employment and occupation.

The Issue in Context

A person becomes a bonded laborer when his or her labor is demanded as a means of repayment for a loan.¹ A more comprehensive, and legal, definition of bonded labor, or debt bondage, is to be found in the 1956 United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions & Practices Similar to Slavery:

*"... the status or condition arising from a pledge by a debtor of his personal services or of 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."*²

Bonded labor has been in existence for centuries. In South Asia, it took root in the caste system which ordained certain tasks such as sweeping and other menial tasks for lower castes. Bonded labor is an extensive form of slavery.

In contemporary Pakistan, there is evidence of this practice in share-cropping, carpet-weaving, deep-sea fishing and brick kilns. In the latter sector, typically, work contractors, locally referred to as jamadar, solicit landless peasants with advances in exchange for their work at a brick kiln. It is also not uncommon for brick kiln owners to sell and purchase workers. Brick kiln workers and bonded sharecroppers are sometimes also sold and exchanged.

¹ *Anti-Slavery International, The Menace of Bonded Labor: Debt Bondage in Pakistan. (London 1996), p 14.*

² *Article 1 (a)*

Extreme poverty, lack of access to formal credit and alternative means of livelihood force the workers to mortgage their labor simply to secure some cash and shelter. Working in a brick kiln in miserable conditions become the only viable option for many. Advances are provided to male workers but their wives and children are included in the bargain. Additional money lent by the brick kiln owner for medicine, clothing, funerals and other ceremonies keeps on getting added to the principal debt.

With a certain percentage deducted off their piecemeal wage, it takes years for workers to pay off the debt. Sometimes, children inherit debts. Being illiterate as they mostly are, workers have little control over credit manipulation by accountants (munshis). Many activists believe that brick kiln workers could pay off their loans fairly easily if they were being paid a fair wage or at least the officially notified minimum wage.³

Likewise, access to healthcare and old age benefits would minimize the need for workers to borrow incremental money from the owner. Minimum wages and social security benefits would also provide a greater inducement for workers to send children to school rather than having them work on the brick kiln.

With a steady supply of indebted labor force and weak enforcement of labor laws, brick kiln owners make substantial profits, with virtually no risk. Most owners, on their own account, are able to recover their principal investment within a year or two of setting up the kiln. An average-sized brick kiln employing around 30-35 families is likely to make a monthly profit of around Rs 350,000, after meeting its operational costs.

Complying with the minimum wage provision and paying contribution toward social security and old age benefits as required under the law, would still leave an average brick kiln owner with a substantial monthly profit, not to mention several indirect dividends, such as a more motivated and healthier workforce. If the option to compete through low wages and poor working conditions gets closed off, brick kiln owners will need to compete in other, more constructive ways, like improved management and better work organization.

³As of March 2014, brick kiln workers in Multan district, to take just one example, were being paid Rupees 450 per 1000 bricks produced as against the minimum wage of Rupees 740 per 1000 bricks notified by the Government of the Punjab.

To alter the business regime in this sector, the public sector, which happens to be the main buyer of bricks, must always source bricks from units that comply with decent work requirements. This intervention can be complemented with greater awareness among private contractors, and builders, and non-governmental organisation (“NGOs”).⁴

Legal and Policy Framework

Slavery is prohibited under customary international law, and under various international conventions to which Pakistan is a party.

Article 11 of Pakistan's Constitution also prohibits slavery and forced labor. The same Article also prohibits employment of children below the age of 14 in “any factory or mine or any other hazardous employment”. The term ‘hazardous employment’ can cover work at the brick kilns.

Following a Supreme Court's judgment,⁵ the Government of Pakistan enacted the Bonded Labor System (Abolition) Act in 1992 (Act III) (“the BL Act”); rules under it were introduced in 1995.

The Act declares the practice of advance payments or *peshgi* illegal. The Act and the Rules require provincial governments to carry out inspections of places where bonded laborers are suspected to be, and establish District Vigilance Committees (“DVCs”) in every district for the purpose to identify, free and rehabilitate bonded laborers.

Organizations such as SPARC, have been using this law, in addition to the habeas corpus provision in the Code of Criminal Procedure 1898, to secure the release of bonded laborers. Unfortunately, in most cases the released workers have received no rehabilitation support from the government, and many of them consequently have ended up again being in debt bondage as they were unable to find alternative livelihoods.

Few brick kiln owners have ever faced prosecution for employing bonded labor.

The role of DVCs in curbing bonded labor has been minimal, except where they have received sustained support from the NGOs.

⁴Bricks can be traced back to the production site because of a baked-in label on all bricks.

⁵*Darshan Masih v the State*, PLD 1990 SC 513.

As a result, in order to achieve a long-term sustainable solution to the problem, factors that lead workers to enter into exploitative labor and credit arrangements must be looked into. Non-farm rural livelihoods, improved access to education, skill training, and access to formal sources of credit, must be introduced and supported. In immediate terms, considering the fact that brick kilns are there to stay, we need to do all we can to curb exploitative practices and help workers escape debt-bondage.

A sociologically grounded course of action requires an understanding of the political economy of brick kilns. The profit margins of owners could easily support minimum wages and provision of social security and old-age benefits. This in turn would help reduce the need for workers to secure new loans and enable them to pay off their debts.

At present, brick kiln owners operate in a no-risk, high profitability environment. Exploiting workers and manipulating credit arrangements allows them to keep the cost of production low with no fear of being convicted for illegal practices.

What Can Be Done?

Public procurement by the Government of Pakistan is governed by the Public Procurement Regulatory Authority Ordinance 2002 (No XXII) (“PPRA”) and the Public Procurement Rules 2004. All four provinces have passed similar provincial Public Procurement Acts and Rules. Apart from Balochistan, the provinces have also established regulatory authorities.

Essentially, the procurement laws are geared toward ensuring ‘efficiency’ and ‘transparency’ but fail to address human rights concerns.

There is no prohibition, for instance, on sourcing material from establishments that violate workers’ rights. Much like the Federal Rules, the Provincial Rules do not establish any incentives for securing human rights and decent work agenda. Specifically, the Rules while talking about ‘direct sourcing’ or ‘pre-qualification of suppliers’, can provide for preferential treatment to be given to bidders who ensure decent work conditions. No provision is present in relation to labor and trade union representation on the boards of regulatory authorities.

Admittedly, to operationalise these legal changes, we will need a certification mechanism with regard to decent work criteria and standards. The DVCs, being a legally-protected and representative entity, can take up this role. Based

on the decent work agenda and core labor standards, the following actions can be taken:

- All brick kilns are registered with the Provincial Governments.
- The freedom of joining a trade or labor union is given to all brick kiln workers.
- All brick kiln workers are paid the prescribed minimum wage.
- Access for brick kiln workers to social safety nets, like the Social Security Scheme and the Employees Old-Age Benefits Scheme is made mandatory.
- No bonded laborers or children are employed in hazardous tasks.
- All children in the age group five to 16 are enrolled in school as guaranteed under Article 25-A of the Constitution of Pakistan.⁶
- Efforts must be made to bring about changes in provincial laws to tie public procurement with decent work agenda and core labor standards.
- Efforts must be made to enhance the capacity of DVCs in relation to decent work criteria and certification process.
- The District authorities can issue a notification requiring government contractors to procure bricks from brick kilns certified by the DVC.⁷
- The provincial labor departments can enforce the labor law more rigidly and properly.

Changes in public procurement, consumer awareness of exploitative practices along with enforcement of minimum wage, social security, and employees' old-age scheme provisions, can substantially help eradicate profits from exploitation and increase economic risks associated with operating the system of bonded labor and other exploitative practices.

⁶Article 25 A, inserted into the Constitution through 18th Amendment provides that “the State shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law”.

⁷There is nothing in the PPRA Act or Rules that would prevent public agencies to pre-qualify contractors to advance certain social objectives. In fact, a harmonious and holistic understanding of law would suggest that subsidiary legislation, such as procurement acts, ought to be in conformity with the Constitution, which clearly prohibits bonded and forced labor and exploitation of workers.

Economics of Decent Work in Brick Making



Economics of Decent Work in Brick Making

Prior to putting the sun dried bricks in the brick kilns: the earth excavation, mixing, carrying of mixed clay moulding and putting them in stacks is done by the family members, including children. Each family is given a space for these operations. The workers and their families live around the kilns in mud houses, allocated by the owners.

In South Asia, the brick kiln owners trap families in bondage by handing out a considerable amount of money with high interest rates in return for work at the kiln. Due to low income rates and increasing inflation, workers are unable to pay off the debt owed to the brick kiln owner and at the same time feed their families. As a result, the worker and his family get trapped in a vicious cycle of debt bondage passed from generation to generation.

It is however important to recognize in this context that the brick kiln owners are not very rich. The industry operates on a small scale as owners have meager financial resources and lack access to institutional credit and other governmental support available to entrepreneurs operating in the regular sectors of the economy.

This is partly due to the fact that brick kiln industry forms part of what is known as the semi-formal sector. A majority of brick kilns are not registered with the government which leaves them outside the tax-net. The lack of registration and incorporation of brick kilns into the formal economy creates a vicious cycle where owners seek to draw profit out of a bonded, insecure and exploited workforce coupled with primitive labor-intensive technology. These practices, in turn, lead the owners to seek ways to evade the strictures of formalisation, including payment of taxes and compliance with labor laws.

At present, remunerations paid to brick kiln workers fall below the officially declared minimum wages by the provinces. They are also deprived of Employees' Old Age Benefit and Employees Social Security as owners shirk their obligations to make a contribution to EOBI and ESSI for each of the insured/registered worker.¹ If the workers were to have the social security cover, they would be entitled to a range of benefits including free healthcare in ESSI

¹Government of Pakistan, *National Climate Change Policy (Ministry of Environment, Islamabad 2011)*13.

and other public sector hospitals, education of children, grants (death or jahez) and pension. The benefits also include scholarships for workers' children to pursue higher education as well as entitlements of apartments in labor colonies constructed under the aegis of Workers' Welfare Fund (WWF).

Owners cite low profitability as a reason for their inability to pay contributions for the workers under these two schemes. They say that if they were to pay minimum wages and make contribution to EOBI and ESSI, they would have to pass down increased 'cost of production' to consumers. The rise in brick prices would impel general customers, in particular those belonging to the lower middle income strata to switch from the use of bricks to hollow cement blocks.

These assertions remain unchallenged due to lack of empirical research and an appropriate calculation of cost of brick making and its sale price. There is also a lack of research on the production and marketing of bricks, the cost of production and sale price as well as profits of the entrepreneurs.

Research Methodology

The authors herein undertook research to meet this unmet need. The objective was firstly to analyze key economic aspects of the brick kiln industry wherein costs of production, profitability and impact on profitability by incorporating decent work provisions such as minimum wage and contributions to ESSI/EOBI were assessed. Secondly, the research also documented different stages of the supply chain mechanism in place at brick kilns and various social safety nets in place for laborers.

The methodology used in the study incorporated both qualitative and quantitative research tools. In the first stage, a literature review was undertaken to ascertain the socio-economic conditions prevalent in brick kilns across Pakistan.

Primary research was conducted using quantitative and qualitative research tools such as questionnaires and focus group discussions (FGD's) with different stakeholders. Moreover, various consultations and meetings were held with brick kiln workers and owners, provincial labor department, civil society organizations, construction companies and individuals who constructed houses between the period of March–December 2013.

The cities of Karachi, Hyderabad, Sukkur, Pannu Aaqil, Lahore, Multan and Peshawar were visited during the course of the research. In addition, various meetings were held in Islamabad with developers, builders, building contractors, and suppliers.

Understanding Brick Kiln Workers

Precise numbers on brick kilns in Pakistan are hard to come by.² Estimates as to the total number of laborers in debt bondage vary tremendously from one source to another (See Table 1).

Bonded labor or debt bondage is not just a condition; it is a mechanism whose workings need to be observed. In the brick kiln sector, the standard recruitment practice is for the manager or recruiting agent of an upcoming or newly established kiln or one that requires extra hands to be on the look-out for low-paid landless peasants or the unskilled unemployed.³

The prospective workers are offered an upfront advance and a place for themselves and their families to lodge at the brick kiln. Entire families then move on to live and work on the brick kiln. Family units who take up work against an advance or what is known locally as *peshgi* usually carry out a specific set of tasks within the brick-making process. These tasks locally referred to as *pathera* involve the preparation of clay and unbaked bricks and invariably have an entire family, children included working together. The task of unloading baked bricks or what is known as *nikasi* in local languages is usually undertaken by male members of working families.

Those undertaking more specialized tasks, such as *jalai*, i.e., firing the kiln and baking bricks are paid a monthly salary. In most cases, however, they also seek an advance at the time of recruitment. *Patheras* are paid weekly wages by piece rate (per one thousand bricks), which vary from region to region and tend to be far lower than specified minimum wage.⁴

Due to prevalent socio-economic conditions and high inflation rates in the country, most laborers resort to seeking loans on top of the minimum wage so as to sustain a livelihood amongst other things such as weddings, or funerals. The amount accrued is then deducted from weekly wages and workers are obliged to work for the employer until the debt is paid off. The loans accrued carry high interest rates which at current wages seem impossible to pay off thereby ending up being passed onto future generations creating an irreversible cycle of bondage.

² *Pxi Unfree Labor in Pakistan, PILER*

³ *Manager; referred to locally in brick kiln sector as Jamadar.*

⁴ *For example, as of June 2014 the minimum wage in the brick kiln industry notified by the Punjab Wage Board was Rs 740 per 1000 bricks. However, in actual practice workers were being paid no more than Rs. 500 to Rs 550.*

Confronted with extreme poverty and vulnerability, an important characteristic of such families is their large family sizes; more than six children is a norm. Incidence of child labor in brick kiln industry is high, especially among older children. For parents, involving children in work rather than sending them to school offers an easy prospect of paying back their loan while also supplementing their meager income. However, the cost it entails is colossal as children are deprived of education; suffer poor health and also end up trapped in bonded labor.

Table: 1
Estimates on Number of Bonded Laborers in Brick Kilns in Pakistan

Organization	Year	Number
ILO	2001	> 1 million ⁵
Green Rural Development Organization	2006	1.2 - 1.3 million ⁶
Human Rights Commission Pakistan	N/A	3 - 8 million ⁷
Bonded Labor Liberation Fund	1992	8 million ⁸
PILER	2003	0.5 million ⁹
Inter Press Service	2012	4.5 million ¹⁰
PILER	2000	1 million ¹¹
SPARC	2012	2.25 million ¹²
PILER	2000	0.7 million ¹³
Women Workers Help Line	2013	10 million ¹⁴

⁵<http://laborwatchpakistan.com/?p=2173>, accessed 30.11.2013.

⁶<http://www.dailytimes.com.pk/default.asp?page>, accessed 30.11.2013.

⁷<http://tribune.com.pk/story/315246/> accessed 30.11.2013.

⁸<https://www.google.com.pk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&cad=rja&ved=0CEIQFjAD&url=http%3A%2F%2Fwww.sparcpk.org%2F> accessed 30.11.2013.

⁹<http://www.irinnews.org/report/76296/pakistan-bonded-laborers>, accessed 30.11.2013.

¹⁰<http://www.ipsnews.net/2012/10/pakistani-workers>-accessed 30.11.2013.

¹¹<http://idsn.org/caste-discrimination/key-issues/bonded-labor/pakistan>, accessed 30.11.2013.

¹²<http://www.dawn.com/news/768141/govt-urged-to-implement>, accessed 30.11.2013.

¹³http://www.martinfrost.ws/htmlfiles/bonded_labor.html, accessed 30.11.2013.

¹⁴<http://www.thefrontierpost.com/article/57749/Modern-slavery-Bonded-labor/>, accessed 30.11.2013.

These conditions suit brick kiln owners who need assured supply of workforce for the brick making and the ones who would opt for any type of work in return for a place to live and an advance payment. Special efforts are made by the brick kiln owner as well as the jamadar to hire an experienced team of jalai walas on a piece rate basis. All others employees such as an electrician, a tube well operator, a tractor trolley driver/mechanic and an accountant (munshi) are hired on monthly wage basis.

A committee of the ILO called the Committee of Experts on the Application of Conventions and Recommendations ("CEACR") has "asked the government to provide in its next reports updated information concerning the functioning of the District Vigilance Committees and implementation of a national policy and plan of action on bonded labor." As a result the CEACR is confident that Pakistan will "soon be in a position to undertake a statistical survey on bonded labor throughout the country, using a valid methodology in cooperation with employers' and workers' organizations and human rights bodies and institutions."

Brick Making: Cost, Sale and Profits

Cost of Brick Making

The brick making process, as any other economic venture, involves two types of costs: fixed and variable or running costs. The construction of a brick kiln plant requires:

- Land acquisition/ leasing
- Construction of water pond and laying of drains
- Construction of labor colony
- Installation of generator
- Construction of kiln

The estimated cost of constructing a brick kiln (See Table 2) with a capacity to make one million bricks is estimated to be around Rs. 5.5 million.

Table 2: Estimated Cost of Making a Brick Kiln

Organization	Unit Cost (Rupees)	Total Cost (Rupees)
Land acquisition – about 10 acres - normally through leasing	30,000/acre/year ¹⁵	
Construction of water pond on an area of around one acre. Making drains to the fields. Installation of (water) motor pump.	100,000 50,000 15,000	165,000
Construction of labor colony for 30 families in a cluster, each given a unit consisting of one 14-16 square yards room with open space for cooking.	100,000/unit	3,000,000
Installation of generator	150,000	150,000
Advance payment of “ <i>peshgi</i> ” ¹⁶	25,000 per family multiplied by 30	750,000
Making of kiln Chimney Boundary Bricks Other material Labor cost	200,000 100,000 6,500/1,000 X 70 = 455,000 200,000 225,000	1,080,000
Others		355,000

5,500,000

Source: Based on discussion and FGD's of authors with the stakeholders.

¹⁵ Cost of land reflected in table-2 for 1 million brick making in two months.

¹⁶ Though banned under law but a widely practiced phenomenon and, importantly, it is quite often at the insistence (better read “needs”) of the BK workers.

The non-wage cost of making one million bricks is estimated to be around three million, with coal being the most dominant part of the cost; estimated to take 87 percent of the total non-wage cost. Other heads of the cost account for the balance 13 percent; mud and miscellaneous account for Rs. 200,000 and Rs. 110,000.

As can be seen from Table 2, major cost components of construction are labor colonies, construction of kiln and *peshgis* (loans).

Table 3: One Million Brick Making: Estimated Non-Wage Cost

Expenditure Head	Unit Cost (Rupees)	Total Cost (Rupees)
Coal	4,500/ton X 580	2,610,000
Mud	200,000/circle	200,000
Electricity	30,000/month X 2	60,000
Imputed value of land cost	35,000/month X 2	70,000
Diesel for generator	20,000/month X 2	40,000
Misc		110,000

3,000,000

Source: Based on discussion and FGDs of authors with the stakeholders.

Remuneration to loaders of bricks from brick kilns and customers' place is not accounted in the table as the cost is borne by the contractor and transporter of the bricks. There is also a view that the cost of coal cited by owners is often overestimated. The coal procured for brick making is usually cheaper than that used in other industries, which tends to be more expensive. Brick owners also manage to procure coal at concessional rates (3500 to 4000 per ton) from truckers who are principally into the business of transporting agricultural produce but ferry coal on return journeys at a cheap rate.

If we were to take this factor into account, the actual non-wage cost would add up to somewhere between 260,000 to 270,000 rupees as against the above estimate. Additionally, in a large number of brick kilns, especially in the Punjab, toxic material such as automobile tires are mixed with coal, bring the cost of production further down.

More importantly, the cost of coal and mud also depends on the location of the brick kiln. The bricks in Hyderabad tend to get these inputs at a much cheaper rate as they are located closer to coal mines and the river bed as compared to those in Multan.

It is interesting to note that as high as 90 percent of the total wage cost is accrued by brick kiln workers employed on the basis of a piece rate contract while more than half of the total wages go to the brick makers; the *patheras* (See Table 4 below).

**Table 4: Estimated Wage Cost of One Million Brick Making
By Type of Workers**

Expenditure Head	Unit Cost (Rupees)	Total Cost (Rupees)
A. Piece Rate Worker		
Brick Maker (Pathera)	665/1,000 bricks X 1,000	665,000
Nikasi Wala	180/1,000 brick X 1,000	180,000
Jqlai Wala	40/1,000 brick X 1,000	40,000
Bharai Wala	180/1,000 brick X 1,000	180,000
Sub Total		1,065,000
B. Salaried Employees / Workers		
Munshi	15,000 X 2	30,000
Jamadar	15,000 X 2	30,000
Driver/Tube well operator	15,000 X 2	30,000
Others	10,000 X 2	20,000
Sub Total		110,000
Total		1,175,000

Source: Based on discussion and FGDs of authors with the stakeholders.

Sale Price

The end price of bricks varies tremendously from region to region. As of June 2014, the rate was as high Rs 8,000 per 1000 bricks in Lahore, Rs 6,000 in Multan and around 3,500 in Hyderabad. In addition to varying costs of production, the selling price has a lot do with demand for bricks. Evidently, with a greater level of public infrastructure development and private construction in Punjab, the market rates of bricks tend to be higher compared to Sindh and other provinces.

Using the higher end estimate of Rs. 7,400 per 1000 bricks, we can forecast that the owner of the brick kiln gets an estimated Rs. 5,400 per 1,000 bricks (See Table 5). The remaining amount of Rs. 2,000/1,000 bricks goes to the contractor and transporter of the bricks to the customers' place. However, it is inclusive of charges paid to loaders and un-loaders of the bricks.

Table 5: One Million Brick Making: Estimated Non-Wage Cost

Expenditure Head	Unit Cost (Rupees)	Total Cost (Rupees)
Sale price	7,400/1,000 bricks X 1,000	7,400,000
Amount paid for loading/unloading and transport	2,000/1,000 brick X 1,000	200,000
Net Sale price	5,400/1,000 bricks X 1,000	5,400,000

Source: Based on discussion and FGDs of authors with the stakeholders.

Profitability

A cycle of brick making involves digging clay and mixing it with water to make raw bricks through different moulds. The moulds are arranged in stacks and put inside the kiln which is ignited using coal. When the bricks are baked, they are taken out to cool and transported to various localities; a process that takes a maximum 45-60 days.

In a time frame of two months keeping in mind the cost and sale prices, we observed that the owners generate roughly a surplus of 1.2 million rupees by making and selling one million bricks (See Table 6 below).

Table 6: Current Income from Selling One Million Bricks

Income/Expenditure	Amount (Pak rupees)
Current Expenditures	
Inputs	3,000,000
Wages/salaries	1,175,000
Total	4,175,000
Current Sale	5,400,000
Current Income	1,225,000

Source: Based on FGD's with the stakeholders.

This surplus however, does not take into consideration the initial investment of Rs. 5.5 million made and the opportunity cost and the remuneration for the managerial and entrepreneurship services. Let us assume that instead the persons had put this amount in bank on a fixed term basis. This would have generated an annual amount of Rs. 770,000 at a 14 percent mark up rate. It would have taken couple of years for the mark up to level the initial amount of 5.5 million.

In comparison, this principal amount is recoverable within “five” cycles of brick production implying that theoretically just 14 months are required to recover the principal amount. Rest of the life span of the kiln, surplus of each cycle leads into additional profits that at current market rate remains well over rupees one million.

Brick Making Supply Chain

The processes involved in the production and marketing of bricks are the following:

- Arranging fuel for the brick kiln
- Procuring clay for brick making

- Creating moulds of bricks
- Putting moulds into the brick kiln for baking of clay
- Baked bricks taken out and cooled for the final product.

The owner has to ensure that a sufficient supply of fuel and other materials is available to keep the process of baking bricks continue unhindered. He does so by short listing suppliers of various types of fuel, mostly the coal supplier. The supplies are provided on a credit basis which extends up to a maximum of 45 days.

Since coal is the most expensive input in the process, the credit system provides a breathing space to the owner to use the coal, finalize the production process and market the bricks. Marketing of bricks is also based on a credit system but the number of credit days is shorter than those provided by the coal suppliers thereby helping owners pay back coal suppliers in due time.

The clay for brick making is done through digging around a specified area around the kiln; it is mostly done manually by kiln workers. Excavation of clay is also done at other sites in the locality by striking an agreement with the landowners who are paid fortnightly and whose clay then brought on tractor trolleys to the kiln.

Afterwards, the clay is mixed with water to make a doughy mixture and molded into bricks via rectangular molds. The molds are then dried by exposure to sunlight, stacked in vertical columns and counted to ascertain the total amount being taken to the kiln. This segment of brick making is undertaken by the families of brick kiln workers. The dried molds are then transported to the kiln by *bharai-walas* on donkeys. These transporters are paid on the basis of number of bricks moved by them. Afterwards, the *Jalai-walas* ignite the kiln and direct fire to specific areas to bake the bricks evenly and are paid on a monthly basis.

Finally, the freshly baked bricks are taken out from the kiln by *Nikasi walas* and are loaded onto donkeys that transport them to either trolleys or trucks. At times, bricks are directly loaded into trolleys/trucks from the kiln.

Table 7: Brick Making: Different Important Steps

Activity	Different Steps Involved	Remarks
Fuel for the Kiln	Short listing of: coal suppliers; scavenged material suppliers; other material for fuel suppliers.	Fuel is obtained including its' transportation by credit that is limited to normally a maximum of 45 days
Clay for Brick Making	Normally digging up from the specified area around the kiln. Otherwise, excavated through a prior arrangement including rate from other sites and brought on tractor trolleys to the kiln.	It is done by the families if it is from the site. Payment is integrated into the making of raw bricks and made on piece rate basis It is done by the use of excavators if it is from other areas. Payment is normally made on fortnight basis.
Raw (Un-baked) Brick Making	Mixing of clay with water and making dough. Carrying dough to the raw brick making place Putting dough into mould to make raw bricks. Drying of the bricks. \ Putting the dried bricks in stacks for counting purposes.	All process part of the work of BK workers/families. Payment is made for each 1,000 raw bricks made but with part deductions for the Peshgis.

Raw (Un-baked) Bricks to the Kiln	Using donkeys for carrying bricks to the kilns. Placing raw bricks in rows and columns in the kiln.	Done by Bharai walas. Payment on piece rate basis.
Baking the Bricks	The Jalai Walas ignites the kiln and puts on fire a specified area of the kiln. Proper and timely heating.	Most important task; quality the bricks linked with proper heating. Monthly wages are paid.
Bricks out of the Kiln	Using donkeys for taking bricks out the kilns and putting them either in trolleys and trucks or in stacks (not a common practice). At times, bricks are directly loaded into trolleys/trucks from kilns.	Done by Nikasi walas. Payment on piece rate basis and normally made by the brick supplier.

Source: Based on discussion and FGDs of authors with the stakeholders.

The baked bricks are then distributed as follows:

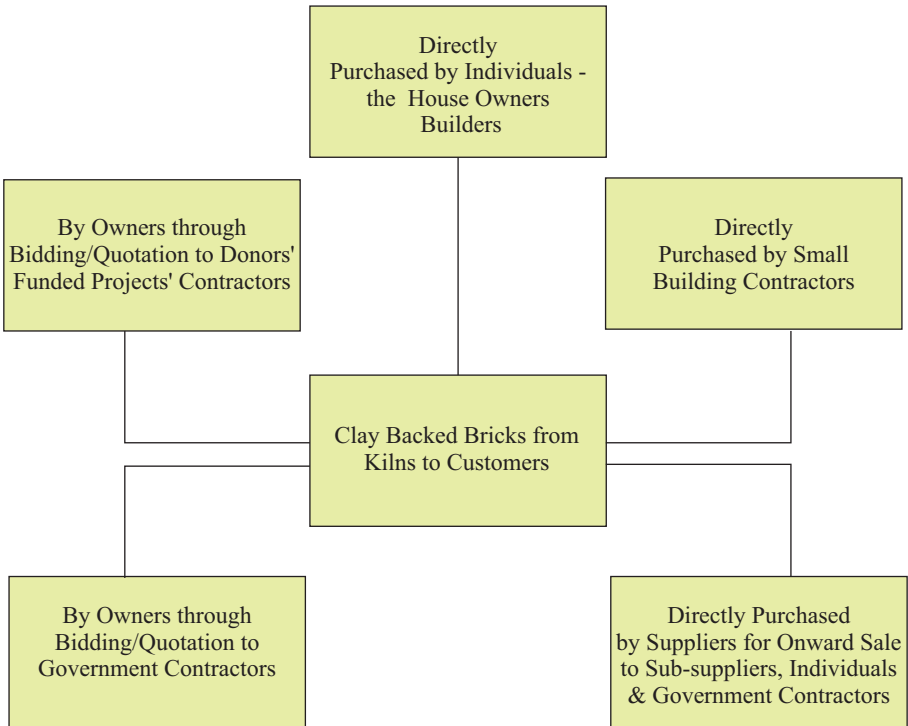
- Purchased by single individuals;
- Purchased by small building contractors;
- Purchased by suppliers for onward sale to sub-suppliers, individuals and government contractors;
- Sold through bidding/quotations in governmental projects; and
- Sale through bidding/quotation for donors' funded projects.

The “suppliers” have emerged as the most dominant players in the brick business. Orders for bricks are placed well in advance by them and bricks are bought on credit basis and additional supply is conditional on whether past dues have been cleared or not. The suppliers open 'marketing outlets' around

major housing construction sites and also take on board sub-suppliers in the area.

Small building contractors often procure directly from the brick kiln and are given a credit line of 15 days by the owners. Additional supplies of bricks are only made after clearing of past dues. Individual house builders also tend to buy bricks directly from the kilns as the cost is relatively cheaper than buying from suppliers in the market.

Bricks to Customers



Minimum Wages to Brick Kiln Workers

Brick kiln owners seldom comply with the official minimum wage requirements. They justify their non-compliance on grounds of poor revenues being generated in the brick making.

If the brick kiln owners raise the wages of their workers by 12 percent to bring them at par with the minimum wages, the additional cost of this raise for 30 workers would be around Rs. 32,400 per month. The monthly net profit of the owner in a month would still be Rs. 547,700 (deducting Rs. 32,400 from Rs. 580,100).

Elimination of Child Labor and Forced Labor

Latest researches reveal that improving the working and living conditions along with better wages will eventually decrease the instances of child labor as parents can afford to take their children out of the labor force. However, this issue is yet to be mainstreamed into the public discourse on child labor and bonded labor in the brick kiln industry.

The option of employing children and forcing workers to toil away in bondage simply has no moral or legal justification. On account of several owners interviewed in Hyderabad and Multan, children are ill-suited to undertake the painstaking tasks involved in making bricks.

There is little they add to overall productivity of a family.

Injuries and ill-health suffered by them in the process entail additional costs for parents, not to mention the days off and de-motivation they suffer as a result.

It is unfortunate that the owners fail to see the social and economic dividends of not using child labor. What is required then is a strict enforcement of law in the brick kilns, simply closing off the option for owners to engage in a “race to bottom” so to speak by milling profit out of child labor and forced labor.

Additionally, an amendment to public procurement framework requiring brick kilns to comply with core labor standards, which inter alia includes elimination of child labor and forced labor, is likely to serve as a strong incentive considering the huge size of the public sector as a market for bricks.

Social Coverage of the Brick Kiln Workers

A social coverage that provides income security in times of need, medical care, old age and survivor's pension and children's access to education requires registration of brick kilns as establishments under the Social Security Ordinance and the Employees' Old-Age Benefits Act and some of the other labor laws. The latter two laws through the ESSi; and the EOBI provide certain benefits to all the registered workers.

Such registration enables ESSi and EOBI to extend coverage of their benefits to the brick kiln owners. However, registration of brick kilns requires payment of contribution by the owners for the workers which would mean an additional labor cost of 12 percent to the employer.

Since, the benefits are available to the secured (registered) workers and their families, let us assume that the brick kiln owner makes registration of heads of working families. In a typical brick kiln, employing 30 families, the cost of registration of brick kiln workers with ESSis and EOBI will be Rs. 32,400 per month. The net profit, as calculated in Table 8, still remains more than half a million every month. Theoretically, the owner can recover the principal amount in “nine” production cycles, i.e., maximum in 18 months. Even if a rainy season is taken into account, even then whole amount is recoverable in 20 months time.

Table 8: Profit Implications of Registration with ESSis and EOBI

Variable	Profit after Incurring Cost
Monthly Contribution @ 12 % of minimum wage of Rs. 9,000 for 30 workers	$1,080 \times 30 = 32,400$
Monthly Profits of the Owners (dividing profit of Rs. 1,225,000 from a cycle by 2 to make an approximate estimate of monthly profit)	$1,225,000/2 = 612,500$
Net Profit of the Owner	580,100

The additional cost to the owner is insignificant in terms of his net profits each month, the benefits to workers delivered through provincial ESSIs and WWBs supported by the WWF, and EOBI are enormous.

Brick kiln owners point out their inability to pay minimum wages and make contributions to EOBI and ESSI due to low profitability of the business. However, it is hoped that this Chapter has shown the overall cost implications of implementing the minimum wage and extending social security cover to workers are fairly low.

Social dividends that would accrue in the form of a healthy and motivated workforce far outweigh the economic costs. Other aspects of the decent work agenda, namely the right to freedom of association and collective bargaining entail no economic costs at all. However, there is a case for incentivizing compliance with decent work and core labor standards requirements by incorporating a social clause in the public procurement framework, which rewards complying brick kilns through an opportunity to pre-qualify and bid for government infrastructure projects.

Sabur Ghayur
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Green and Energy Efficient Bricks:
Current Situation, Some Country Experiences
and Way Forward



Green and Energy Efficient Bricks

In Pakistan, it is estimated that as many as 5,000 brick kilns are concentrated in the province of Punjab and around 6,000 in the rest of the country. On the other hand, Kevin Bales estimates that there are approximately 7000 brick kilns in the country.¹ On average, more than 100 workers are employed at one brick kiln which makes the total labor force in this industry to over 700,000 at the end of the 1990s.² Today, however, it is estimated to be around 4.5 million.³

Brick making is a simple process, the soil is mixed with water and kneaded into dough which is cast into molds and shaped as bricks which are dried in the open and finally are stalked into the kiln. Bricks are heated to between 600 and 1100 degrees Celsius in the kiln. Primary fuels are coal, local biomass and any available low-cost fuel or scavenged fuel (i.e., waste oil, tires, battery cases, dung, etc.).

Traditional brick kilns emit thick black smoke containing several air pollutants (carbon monoxide, carbon dioxide, sulphur dioxide, nitrogen oxides) and fine particulate matter (coal fines, dust particles, organic matter), which present serious health hazards (human illnesses, animal and plant life destruction) to communities living around them.

Brick Kiln Types

Several types of brick kilns are employed for firing bricks, which can be classified into intermittent and continuous categories.

Intermittent Kilns

Intermittent kilns are the traditional types typically employed in Pakistan. In these kilns the bricks are loaded and then fired. When the baking is over, fire is allowed to die out. Next, the bricks are allowed to cool and then they are

¹ Kevin Bales, *Disposable People, New Slavery in the Global Economy*, (University of California, Press Berkeley / Los Angeles / London 1998).

² Muhammad Javaid Iqbal, "Bonded Labor in the Brick Kiln Industry of Pakistan," *Lahore Journal of Economics*, 2006, vol. 11, issue 1, pp 99-119.

³ <http://tribune.com.pk/story/604432/bonded-by-evil-brick-kiln-workers-continue-to-bake-amid-owners-cruelty/>

emptied. Afterward, the kiln is filled once more and fired. These types of kilns are common in developing countries. They are highly inefficient and labor-intensive. Coal is the primary fuel although any other cheaper fuel available is also mixed, like tires and waste biomass. These kilns are most primitive in technology and pollution. They are basically updraft kilns and have been categorized as Clamp, Scove and Scotch.

Continuous Kilns

In contrast, in a continuous kiln, fire is continuously kept burning. Bricks are loaded and emptied while the fire continues to burn. Continuous kilns are more energy efficient than the intermittent kilns.

Either the bricks move through the kiln or the fire moves within the kiln. There are different types of technologies available within this type and depending upon the technology, the productivity, efficiency and emissions vary. The main types of continuous kilns are:

- Hybrid Hoffman
- Bull's Trench (BTK)
- Habla Zigzag
- Vertical shaft (VSBK)

The Hoffman Kiln is a newer technology which is mainly employed as a replacement for older inefficient kilns. It is now the most widely used technology in China and has the capacity to use coal or natural gas.

Bull's Trench kiln (BTK) has found space in the sub-continent and is increasingly being used to replace the older technology mostly in India, Nepal, Pakistan and Bangladesh. It is based on a design developed by British engineer, W. Bull, in the late nineteenth century. It uses coal and a variety of other fuels, mostly solid fuels. It has two variants, namely: Moveable Chimney Bull's Trench Kiln (MCBTK) and Fixed Chimney Bull's Trench Kiln (FCBTK). MCBTK has been banned in a number of countries due to its high emissions.

Habla Zigzag Kiln, a variant of Habla Kiln, employs a zig zag tunnel to increase efficiency. It has larger capacity and is more efficient than other kilns. However, it needs a fan to draw air which requires a source of electricity.

Vertical Shaft Brick Kiln (VSBK) in recent years has become a technology of choice for replacing older inefficient and polluting technologies. Unlike other continuous kiln designs where the fire moves through the kiln, in this design the bricks move through the kiln. Bricks are loaded at the top and removed from bottom. It is highly efficient and has low emissions.

Table I
Typical Specific Energy Consumption in Brick Kilns in India

Kiln Type	Specific Energy Consumption (MJ/kg of fuel)	Pollutant Emission (mg/m ³)
Clamp (Biomass)	1.9 – 2.5	
Clamp (Coal)	1.2 – 1.75	
MCBTK	1.2 – 1.75	
FCBTK	1.1 – 1.4	500 – 1040
Habla Zig Zag	0.8 – 1.1	296 – 370
VSBK	0.7 – 1.0	78 – 80

Source: Mat (99)

Carbon Financing

Carbon financing mechanisms allow the offset of emissions in developed countries by the investment in emission reduction projects in developing countries.

Flexible Mechanisms under Kyoto Protocol

The Kyoto Protocol introduced three market-based, flexible mechanisms that enable Annexure I Parties (Developed Countries) to meet part of their emission reduction commitments in a more cost effective manner. These mechanisms also referred to as Kyoto Mechanisms, they include emissions

trading⁴, joint implementation⁵, and the clean development mechanism (CDM). Out of these, the most relevant to a developing country like Pakistan and to the brick kiln sector, is the CDM.

Established under Article 12 of the Kyoto Protocol, the CDM aims to help developing countries achieve sustainable development and mitigate climate change by enabling industrialized countries to acquire credits against their Kyoto targets in exchange for investing in emission reduction projects in developing countries.

The benefits accruing to developing countries include climate change mitigating technology, new investments and assistance with capacity-building. To prove that a project will result in real, permanent, verifiable reductions in Greenhouse Gases (GHGs), proof must be provided in the form of a project design document and activity reports validated by an approved third party in the case of CDM or JI projects.

Other Carbon Funding

Concerned with increasing pollution and its implications, a number of other “funding” facilities have been created. For instance, the Climate and Clean Air Coalition to Reduce Short-Lived Climate Pollutants (CCAC) was launched by the United Nations Environment Program (UNEP) in 2012. The CCAC aims to catalyze rapid reductions in short-lived climate pollutants to protect human health, agriculture and the environment. To date more than \$47 million has been pledged to the Climate and Clean Air Coalition. Mitigating Black Carbon and Other Pollutants from Brick Production is a part of the CCAC agenda.⁶

⁴The emissions trading mechanism, once it gets underway, will work like a commodities exchange, where you buy and sell allowances to “pollute” Green House Gases (GHGs). The mechanism provides an incentive for companies located in Annex I Parties to invest in clean technologies and improve energy efficiency. The companies can then sell surplus assigned amount units, if they go beyond their Annex I Party’s emission reduction limits, to companies who struggle to reach their targets in other industrialized countries.⁶⁷ Only Annex I Parties, which have binding GHG emission reduction commitments, can use the emissions trading mechanism.

⁵Joint implementation is another market mechanism that only takes place between Annex I Parties. Joint implementation is based on projects set up by one industrialized country within the territory of another Annex I Party that reduce GHG emission from the baseline scenario.

⁶<http://www.unep.org/ccac/Initiatives/BrickProduction/tabid/130320/language/en-US/Default.aspx>

Community Development Carbon Fund of the World Bank provides carbon finance to projects in the poorer areas of the developing world. The first tranche of the CDCF is capitalized at \$128.6.

There is also a Netherlands Clean Development Mechanism Facility;⁷ an Italian Carbon Fund which is open to the participation of Italian private and public sector entities;⁸ Prototype Carbon Fund whose mission is to pioneer the market for project-based greenhouse gas emission reduction;⁹ Climate and Development Knowledge Network which supports decision-makers in designing and delivering climate compatible development;¹⁰ Climate Finance Innovation Facility (CFIF) which supports activities ranging from feasibility studies to market assessments and legal reviews;¹¹ EIB Climate Change Technical Assistance Facility which provides advance funding for activities like pre-feasibility and documentation preparation associated with the development of project-based carbon assets (credits) under the CDM and JI;¹² DEG - Deutsche Investitions- und Entwicklungsgesellschaft mbH, which aims to establish and expand private enterprise structures in developing and emerging countries; EIB¹³ Post-2012 Carbon Credit Fund which considers projects under the auspices of the CDM or JI, in any operational stage from planning to operation construction stages and from PIN to registered CDM development stage.¹⁴

Additional finance facilities include the End-User Finance for Access to Clean Energy Technologies in South and South-East Asia (FACET);¹⁵ International Climate Fund (UK);¹⁶ International Climate Initiative (Germany);¹⁷ IRENA / Abu Dhabi Fund for Development (ADFD);¹⁸ KfW Development & Climate

⁷<http://www.cambioclimatico-regatta.org/index.php/en/financing-opportunities/item/fondo-holandesa-para-el-mdl-nmdlf>

⁸<https://wbcarbonfinance.org/Router.cfm?Page=ICF>

⁹<https://www.wbcarbonfinance.org/Router.cfm?Page=PCF&FID=9707&ItemID=9707>

¹⁰<http://www.climatefinanceoptions.org/cfo/node/267>

¹¹<http://www.climatefinanceoptions.org/cfo/node/3329>

¹²<http://www.climatefinanceoptions.org/cfo/node/46>

¹³<http://www.climatefinanceoptions.org/cfo/node/40>

¹⁴<http://www.climatefinanceoptions.org/cfo/node/47>

¹⁵<http://www.climatefinanceoptions.org/cfo/node/284>

¹⁶<http://www.climatefinanceoptions.org/cfo/node/331>

¹⁷<http://www.climatefinanceoptions.org/cfo/node/3325>

¹⁸<http://adfd.irena.org/>

Finance;¹⁹ NEFCO Carbon Finance & Funds; Seed Capital Assistance Facility;²⁰ the Global Environment Facility; GEF Small Grants Program; the Hatoyama Initiative (Japan); UNFCCC Adaptation Fund; UNDP/MDG Carbon Facility; Global Climate Partnership Fund; Global Energy Efficiency and Renewable Energy Fund (GEEREF); Interact Climate Change Facility (ICCF); Danish Carbon Fund;²¹ Umbrella Carbon Facility;²² ADB Carbon Market Initiative (CMI);²³ ADB Clean Energy Financing Partnership Facility (CEFPF);²⁴ and ADB Climate Change Fund (CCF).²⁵

Green Brick Projects

Usually any BK project that was executed with the aim of reducing pollution has been termed as a Green Brick Project (GBP).

In developing countries, a number of projects had been initiated which could be termed as GBP in which either carbon credits were given to the BK for converting to an energy efficient system or the BK shifted to utilization of a greener fuel.

Bangladesh

The Improving Kiln Efficiency in the Brick Making Industry in Bangladesh, a project initiated in 2009 is expected to be completed by 2016. The aim of this project is to support the brick-making sector of Bangladesh through purchasing the Certified Emission Reductions (CERs) generated from adoption of energy efficient Hybrid Hoffman Kilns (HHK). The 8 HHK plants are expected to be located within the greater Dhaka district. The project is supported by Carbon Finance Unit of the World Bank and complies with World Bank Operational Policies. In 2013, 6 out of the total 8 kilns were in operation. Of the two kilns not in operation, one kiln was dropped and the other is temporarily closed for technical maintenance.

¹⁹ <http://www.climatefinanceoptions.org/cfo/node/50>

²⁰ <https://wbcarbonfinance.org/Router.cfm?Page=DCF&ItemID=9713&FID=9713>

²¹ <https://wbcarbonfinance.org/Router.cfm?Page=UCF&ItemID=9715&FID=9715>

²² <https://wbcarbonfinance.org/Router.cfm?Page=UCF&ItemID=9715&FID=9715>

²³ <http://www.adb.org/projects/45273-001/detail>

²⁴ <http://www.climatefinanceoptions.org/cfo/node/3327>

²⁵ <http://www.climatefinanceoptions.org/cfo/node/3326>

In 2012, the Asian Development Bank established an equivalent of \$50 million credit facility in local currency at Bangladesh Bank (central bank) for relending to Participating Financial Intermediaries (PFIs) to construct more energy efficient and environmentally superior BKs [Adb14]. The World Bank has issued a Letter of Intent for the purchase of 800,000 tons of carbon credits from the FaL-G brick and block industry @ US \$5/ton of CO₂ equivalent. A Letter of Intent was signed to this effect by Mr. Ken Newcombe, PCF Fund Manager & Sr. Manager: Carbon Finance Business, World Bank and Kalidas, Director, INSWAREB at Washington on 3rd instant [Fal14].

India

In India, numerous projects have been initiated with the aim of reducing emissions from the BK process. “Vertical shaft brick kiln technology Energy-efficiency, brick-by-brick” project is one of the most successful of those projects. In this project, the Swiss Agency for Development and Cooperation, in conjunction with TERI and other agencies (Development Alternatives, Gram Vikas, MITCON, SKAT, and Sorane SA) proposed a systematic program to influence and augment brick production while seeking to conserve energy and benefit the environment. The idea was to successfully transfer the VSBK (vertical shaft brick kiln) technology.

In 1996, the first pilot kiln was established under the project at Datia in Madhya Pradesh. Subsequent to the initial pilot unit at Datia, three more units were set up under the project in other regions of the country (Kerala, Maharashtra, and Orissa). All these demonstrations established the energy efficiency, strong environmental performance, and sustainable nature of the technology.

In 2000, another three kilns were constructed in Madhya Pradesh. These successes consequently attracted several brick makers with the result that today there are more than 40 VSBKs operational in India.

Nepal

Like its neighboring countries, Nepal has also implemented GBPs. In one project, demonstration of biomass fuel generated as an alternative to coal in brick kiln in Lalitpur (2012) by Alternative Energy Promotion Centre (AEPC) of Nepal Government. In this project, it was demonstrated that biomass-based carbonized fuel (char) can substitute 50% of the imported and expensive coal to fire bricks. The environmental performance (45% less emission of SPM and

50% less emission of SO_x) of the kiln was further improved with the use of char as energy/fuel for brick firing.

Pakistan

In Pakistan, there have been numerous attempts at green bricks production. However, none of them have resulted in anything significant. In 2011, for example, the Pakistan Environmental Protection Agency, Ministry of Environment took the initiative to avail carbon credit facilities for all brick kiln owners after getting the Red Zone free from kilns. However, nothing much materialized from the initiative.

In 2008, the Energy Efficient Brick Production project was initiated with the help from Swiss Agency for Development and Cooperation. The aim of the project was to develop two demonstration projects based on the Vertical Shaft Brick Kiln technology with a focus of area in and around Rawalpindi. However, status of the project remains uncertain.

Significantly, Pakistan has a separate Federal Climate Change Ministry with a CDM Cell. National Climate Change Policy drafted in 2011 envisages access and effective use of the opportunities available “internationally for adaptation and mitigation efforts through Clean Development Mechanism (CDM)” and other financing options, such as Adaptation Fund (AF), Global Environmental Facility (GEF), World Bank's Forest Carbon Partnership Facility (FCPF) etc.²⁶ However, to date, no specific brick kilns related project has got off the ground under CDM or any of the aforementioned facilities.

Way Forward: Green and Energy Efficient Bricks in Pakistan

The growing consciousness towards sustainability and environment preservation has led to the transformation of entire industrial complex of the world. Developing countries have been the last to catch up, but making industries energy efficient with less pollution is nonetheless improving as well. One of these industries is the brick making industry which also happens to be the most polluting.

In Pakistan, there has not been much work done towards the implementation of Green Bricks making. Both Pakistan and the international community are to

²⁶Government of Pakistan, *National Climate Change Policy*.(Ministry of Environment, Islamabad 2011)13.

benefit if Green Bricks Production (GBP) is aimed in Pakistan. Benefits would be increased if a Green Brick Kiln (GBK) which uses greener fuel and employs a modern energy efficient design is aimed. Turning a brick kiln into a green refinery has two benefits.

Firstly, it reduces the amount of pollution. Secondly, it entails making the system energy efficient which in turn results in cost savings. Benefits can be further enhanced if it is to complement the GBK with a comprehensive social plan for the workers and their families, including access to social security and education for the children.

To make a brick kiln green, a two-fold approach is needed. Firstly, the brick kiln needs to become energy efficient. Secondly, efforts are needed to increase the share of greener fuel in the overall energy requirement of the kiln.

Project Scope

The project should focus on three areas namely:

- Generation of a bio-fuel;
- Energy efficient design of brick kiln;
- Socio-economic uplift system for the brick kiln workers.

Project Funding

Project funding can be sourced in four steps. In the first step, a pre-feasibility and feasibility study is required. In these studies, the technical issues of bio-fuel generation and brick kiln design should be studied. As both these areas can fall under Carbon Credit scheme, a number of above mentioned schemes could potentially finance the studies.

Once the technical feasibilities are complete, a study on the socio-economic uplift of the workers is required. The output of this study is development of a comprehensive plan to be executed along with the construction and operation of the brick kiln.

The third phase entails funding for the brick kiln construction. For this purpose, both donor agencies and private funding need to be pursued. Due to the project type, it falls under Carbon Credit schemes and numerous organizations can fund the project.

The fourth step is generation of funds while the brick kiln is in operation to ensure the implementation of socio-economic uplift project of workers – availability of minimum wages, access to health (social security) and schools for the children of brick kiln workers. Funding for this could be sourced from numerous donor agencies.

Future Research

Comprehensive research is needed to catalogue the details about the Pakistani brick kiln industry. This includes ascertaining size of Pakistan's brick kilns, utilization of fuel sources, emissions study over a broad spectrum of brick kilns, total labor employment and labor conditions, followed by a proposal of a green brick kiln and pilot project.

Adeel Ghayur

Sabur Ghayur

Legal Framework Governing Bonded Labor in the Brick Kilns



Legal Framework Governing Bonded Labor in the Brick Kilns

International Legal Framework

International law as it pertains to the question of slavery and practices akin to slavery, including debt bondage, workers' rights, child labor and child rights have a bearing on the way brick kilns operate in Pakistan.

Considering that recruitment in brick kilns often involve migration of families over long distances from one part of the country to another with promises of gainful employment, international legal provisions related to trafficking are also relevant. In fact, the international human rights law provides normative standards for governance and regulation of brick kilns, specifying minimum conditions that must be attained in every brick kiln for all workers, whether men, women or children.

In Pakistan, international law provisions cannot be a cause of action in a domestic court, until they are made part of the domestic law. In other words, they must be incorporated into domestic law through specific legislation. However, it is also an established principle that by signing up an international treaty, States undertake to abide by its provisions in good faith.¹ Additionally, where an ambiguity exists on a particular issue in domestic law, courts are expected to interpret domestic law in a way that creates harmony between domestic and international law.

The table below provides a list of relevant international conventions and declarations with Pakistan's ratification status. There are some international law provisions, which are binding on every State regardless of whether they formally sign up to relevant treaty provisions or not. For example, slavery is considered to be a customary international norm as well as a jus cogens or peremptory norm, or a norm in international law from which no derogation is permitted.² The same holds true for prohibition or torture and cruel and inhuman treatment.

¹Art 31 (1) of the Vienna Convention on the Law of Treaties (1969).

²T. Meron, *On a Hierarchy of International Human Rights*, 80 *American Journal of International Law (AJIL)* (1986), p.1 at p. 14

Table 1: Relevant International Instruments and Pakistan's Ratification Status

Conventions/ Declarations	Salient Provisions	Date of Signing	Ratification
<p>The Convention to Suppress Slave Trade & Slavery- 1926</p>	<p>Article 1 defines slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised”.</p> <p>Article 2 requires States to prevent and suppress slave trade.</p> <p>Article 5 imposes similar restrictions regarding forced labor.</p>		
<p>The Convention against Forced or Compulsory Labor 1930</p>	<p>Article 2 defines forced or compulsory labor as “work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”</p> <p>Article 5 requires Contracting Parties to prevent individuals or private companies from extracting forced labor.</p>		<p>December 23, 1957</p>

<p>The Right to Organize & Collective Bargaining Convention (No 98) 1951</p>	<p>Article 1 provides that workers “shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.”</p>	<p>May 26, 1952</p>	
<p>The Supplementary Convention on the Abolition of Slavery, Slave Trade & Practices 1957</p>	<p>Article 1 obligates Contracting Parties to “take all practicable and necessary legislative and other measures to bring about progressively and as soon as possible the complete abolition or abandonment” of debt bondage, serfdom and forced marriages.</p>	<p>September 7, 1956</p>	<p>March 20, 1958</p>
<p>The International Covenant on Civil & Political Rights 1976</p>	<p>Article 7 prohibits “cruel, inhuman and degrading treatment.”</p> <p>Article 8 outlaws slavery and slave trade, and forced or compulsory labor.</p> <p>Article 12 establishes the right to liberty of movement.</p> <p>Articles 21 and 22 provide for the right to peaceful assembly and freedom of association respectively.</p>	<p>April 17, 2008</p>	<p>January 23, 2010</p>

<p>The International Covenant on Economic, Social & Cultural Rights 1976</p>	<p>Article 6 provides for the right to work, “which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts.”</p> <p>Article 7 guarantees the right of “everyone to the enjoyment of just and favorable conditions of work”, including “fair wages and equal remuneration for work of equal value without distinction of any kind”. The same Article also guarantees safe and healthy working conditions and “rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.”</p> <p>Article 8 provides for the right to form and join trade unions.</p> <p>Article 9 guarantees “the right of everyone to social security, including social insurance.”</p>	<p>November 3, 2004</p>	<p>April 17, 2008</p>
<p>The Convention concerning Occupational Safety & Health and the Working Environment 1983 (No 155)</p>	<p>The Convention applies to all branches of economy as provided for in Article 1. The same article provides that if a Member exceptionally excludes a particular branch of economy such as “maritime shipping or fishing”, it is obligated to provide reasons for such exclusion.</p>		

	<p>Article 4 requires signatories to “formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment.”</p> <p>Article 9 obligates Members to enforce laws and regulations concerning occupational safety and health and the working environment through an effective system of inspection. The same Article requires that the enforcement system be based on penalties for violations of the laws and regulations.</p>		
<p>The Convention on the Rights of the Child 1990</p>	<p>Article 32 provides “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.” Para 2 of the same Article requires that States shall (a) provide for a minimum age or minimum ages for admission 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 the present article.</p>	<p>September 20, 1990</p>	<p>November 12, 1990</p>

<p>The Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor 2000 (No 182)</p>	<p>Article 1 requires Parties that ratify the Convention to “take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labor as a matter of urgency.”</p> <p>Article 3 defines the worst forms of child labor as 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 labor” as well as 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.”</p>		<p>October 11, 2001</p>
<p>The United Nations Protocol to Prevent, Suppress & Punish Trafficking in Persons, Especially Women & Children 2000</p>	<p>Article 3 defines trafficking broadly to “mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.” Significantly, under the Protocol definition, trafficking can be external as well as internal, i.e., within the boundaries of a State. The same article also establishes that “the consent of a victim of trafficking in persons to the intended exploitation... shall be irrelevant.”</p>		

As can be seen from the above Table, Pakistan has yet to sign a couple of international treaties with a bearing on bonded labor in brick kilns. These include the Protocol against Trafficking and the Convention on Occupational Safety and the ILO Convention concerning Occupational Safety.

Domestic Legal Framework

The Constitution of Pakistan

Article 11 of the Constitution of Pakistan specifically deals with the issue of slavery and bonded labor. It says that:

- (1) *Slavery is non-existent and forbidden and no law shall permit or facilitate its introduction into Pakistan in any form.*
- (2) *All forms of forced labor and traffic in human beings are prohibited.*
- (3) *No child below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment.*

Clause (4) of this Article 11, however, says that nothing in this Article shall be deemed to affect compulsory service:

- (a) *by any person undergoing punishment for an offence against any law;*
or
- (b) *required by any law for public purpose:*

Provided that no compulsory service shall be of a cruel nature or incompatible with human dignity.

Article 14 (1) of the Constitution is also relevant as it says that the dignity of man shall be inviolable.

Article 15 dealing with the right of freedom of movement of every citizen says that he shall have the right to remain in, and, subject to any reasonable restriction imposed by law in the public interest, enter and move freely throughout Pakistan and to reside and settle in any part thereof. Articles 16 dealing with the right to peaceful assembly, and article 17 concerning freedom of association are also relevant to the issue of bonded labor in brick kilns.

The Eighteenth Amendment to the Constitution added Article 25-A which provides that the State shall provide free and compulsory education to all children of the age of five to 16 years in such manner as may be determined by

law. The relevance of this constitutional provision to children working in brick kilns can hardly be overstated. The State is now duty bound to ensure that such children are allowed access to education.³

The Pakistan Penal Code, 1860

Sections 339 to 342 of the Pakistan Penal Code (“the PPC”) deal with wrongful restraint and wrongful confinement, laying down that no person has the right to wrongfully restrain or confine a person who has been lawfully provided this right under law. The penalty for the former is imprisonment for one month or payment of a fine and for the second the penalty is imprisonment for up to one year or a fine.

Sections 370, 371, and 374 of the PPC deals specifically with slavery:

Section 370 says that:

Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Section 371 states that:

Whoever habitually imports, exports removes, buys, sells, traffics or deals in slaves, shall be punished with imprisonment for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Section 374(1) says that:

Whoever unlawfully compels any person to labor against the will of that person shall be punished with imprisonment of either description for a term which may extend to five, or with fine or with both.

³For the full text of the amendment, see http://www.na.gov.pk/uploads/documents/1302138356_934.pdf

The Code of Criminal Procedure 1898

The Code of Criminal Procedure 1898 (“the CrPC”) allows for petitions to be filed in habeas corpus under its section 491 to free those who have been illegally confined.

Majority of the bonded laborers, mostly from brick kilns, have been freed under this section to date by the High Courts and lately by the Sessions Courts.⁴ The relevant portion of this section is sub-section (b) which states that the High Court has the power to issue directions of a habeas corpus if it believes that a person has been “illegally or improperly detained in public or private custody” through the evidence presented and must “be set at liberty.”

The Bonded Labor System (Abolition) Act 1992

The year 1990 marked another turning point in the history of the movement against bonded labor when a group of bonded laborers sent a telegram to the Chief Justice of the Supreme Court of Pakistan claiming that *'We are brick kiln bonded laborers. Our state of affairs can be inspected. We want to live like human beings. The law gives no protection to us'*.

The Chief Justice, Muhammad Afzal Zullah, set aside procedural requirements and initiated an inquiry. For the first time in Pakistan's history, a letter was treated as a writ petition.

The case, titled *Darshan Masih v the State*, PLD 1990 SC 513, was dealt with through a succession of interim orders allowing judges to review progress. This is the technique of 'rolling review' pioneered by the Indian Supreme Court a few years earlier. In the main ruling, the Court listed fundamental rights to life, liberty, dignity, equality and freedom of movement as being violated by the practice of bonded labor. In the final order, the Court ruled that the system of *peshgi* or advance payments was to be discontinued in future. The workers were still legally bound to pay back existing loans in excess of Rs. 5000. The owners could only recover the loans through legal means and not through any form of coercion. The owners were also barred from pressurizing workers to employ women and children. The Court pointed out the need for enacting a new law to eliminate the practice.⁵ Two years later, the then Nawaz Sharif Government enacted the Bonded Labor System (Abolition) Act 1992 (No III) (“the BL Act”); it extends to the whole of Pakistan.⁶

⁴www.laaltain.com/bonded-labor-in-pakistan-a-humanitarian-crisis/, accessed 19.10.2013.

⁵*Darshan Masih v the State*, PLD 1990 SC 513.

⁶{section 1 (2)}

This Act is a short piece of legislation comprising of 21 sections and elaborates on Article 11 of the Constitution *"to provide for abolition of bonded labor system with a view to preventing the economic and physical exploitation of the labor class in the country and for matters connected therewith or incidental thereto."*⁷

It abolishes the bonded labor system; and every bonded laborer stands freed and discharged from any obligation to render any bonded labor after the commencement of this law. The term 'bonded labor system' is defined to mean:

'the system of forced, or partly forced labor under which a debtor enters, or has, or is presumed to have, entered into an agreement with the creditor to the effect that:

- *in consideration of an advance (peshgi) obtained by him or by any of the members of his family whether or not such advance is evidenced by any document, and in consideration of the interest, if any, due on such advance;*
- *in pursuance of any customary or social obligation; or*
- *for any economic consideration received by him or by any of the members of his family,*

he would:

- *render, by himself or through any member of his family, or any person dependent on him, labor or service to the creditor, for the benefit of the creditor, for a specified period or for an unspecified period, either without wages or for nominal wages; or*
- *forfeit the freedom of employment or adopting other means of livelihood for a specified period or for an unspecified period;*
- *forfeit the right to move freely from place to place;*
- *forfeit the right to appropriate or sell at market value any of the property or product or his labor or the labor of a member of his family or any person dependent on him, and includes the system of forced or partly forced labor under which a surety for debtor enters, or has or is presumed to have entered into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labor on behalf of the debtor.*⁸

⁷Preamble, Bonded Labor System Abolition Act, 1992.

⁸{section 2 (e)}.

The term 'family', in turn, is defined to mean:

- *in the case of a male bonded laborer, the wife or wives, and in the case of a female bonded laborer, the husband of the bonded laborer; and*
- *the parents, children, minor brothers, and unmarried, divorced, widowed sisters of the bonded laborer wholly dependent on him.*⁹

Making of any advance in pursuance of the bonded labor system, or to compel any person to give any bonded labor or other form of forced labor, is also prohibited under this law {sec. 4}.

The Act terminates all obligations of a bonded laborer to repay any bonded debt, or such part of any bonded debt as remains unsatisfied immediately before it {sec. 6 (1)}. Creditors under the Act have been prohibited from accepting any payment against any bonded debt {sec. 8}.

The Act also takes away the jurisdiction of any civil court, tribunal or any other authority for the recovery of any bonded debt {sec. 6 (2)}.

Every decree or order for the recovery of bonded debt, passed before the Act and not fully satisfied before such commencement, is considered to have been fully satisfied {sec. 6 (3)}.

All bonded laborers who had been detained in civil prison, whether before or after judgment, were ordered to be released from detention by this Act {sec. 6 (10)}.

All property vested in a bonded laborer which was, immediately before the Act, under any mortgage, charge, lien or other encumbrance in connection with any bonded debt, in so far as it is relatable to the bonded debt, stood freed and discharged from such obligation. Otherwise, the bonded laborer has been given the right to claim mesne profits from the person who continues to have the possession {sec. 7}.

It categorically states that once this Act comes into force, every bonded laborer is free to leave his or her bondage and no person can bind any other through the system of advances. Further, the debt owed by the bonded laborer to the owner stands "extinguished" under Section 6.

⁹{section 2 (f)}.

Punishment of enslaving or attempting to enslave any person as bonded labor is mentioned under Section 11 which includes imprisonment of a minimum term of two years and a maximum term of five years or a fine of an amount not less than Rs 50,000 or both.

This Act introduced the concept of establishing District Vigilance Committees under Section 15 to:

- advise the district administration on matters relating to the effective implementation of the law and to ensure its implementation in proper manner;
- help in the rehabilitation of the freed bonded laborers;
- keep an eye on the working of the law;
- provide the bonded laborers such assistance as may be necessary to achieve the objectives of the law."

The Bonded Labor System (Abolition) Rules, 1995

For three years after the adoption of the Act, the government took no steps to enforce it until it was pressurized to issue a set of Rules in 1995 instructing provincial governments to carry out inspections of places where bonded laborers were suspected to be and set up Vigilance Committees in every district to identify, free and rehabilitate bonded laborers. However, implementation remained weak as confirmed by a High Court ruling in 1997.¹⁰

The BL Rules explain how the Act must be enforced. Rule 4(1)(a) empowers a District Magistrate to:

"inspect any premises or work place in his jurisdiction where he has reason to believe that bonded labor system is being enforced and make such examination of that place or any record, register or other documents maintained therein and may require any explanation of any person or record or document and take such measures as he may consider necessary for the purposes of the Act."

The District Magistrate also has the power under Rule 5 to designate his duties to Magistrates, Labor Officers, Labor Inspectors and Police Officers (not below the rank of Assistant Superintendent of Police or Deputy Superintendent of Police).

¹⁰ *Muhammad Siddique v Mansha, PLD 1997 Lah 428*

The BL Rules also explain the composition of the DVC, as detailed below:

Table 2: Composition of the DVCs

Chairman

(a) Deputy Commissioner of the District

Members

(b) A Police Officer not below the rank of Superintendent of Police as nominated by the Senior Superintendent of Police of the District

(c) District and Session Judge, retired or serving to be nominated by the Provincial Government

(d) President District Bar Association

(e) An elected representative of the District Council, to be nominated by the Local Government & Rural Development Department of the Provincial Government

(f) A Member of the Provincial Assembly, to be nominated by the Provincial Government in consultation with the Local Government & Rural Development Department of the Province

(g) A representative of the Labor, Manpower Department of the province not below the rank of Assistant Director Labor Welfare, to be nominated by that Department

(h) A representative of the Labor, Manpower & Overseas Pakistanis Division of the Federal Government, to be nominated by that Division

(I) A representative of the Provincial Education Department not below the rank of an officer in BPS-17 or a staff member of an educational institution run or controlled by the Provincial Government, to be nominated by that Department

(j) A representative of the Provincial Agriculture Department not below the rank of an officer in Basic Pay Scale 17, to be nominated by that Department

(k) A representative of the Provincial Health Department preferably a qualified physician, to be nominated by that Department

(l) A representative of a recognized body of workers, to be nominated, by the Provincial Labor & Manpower Department in consultation with that body

- (m) A representative of a recognized body of employers, to be nominated by the Provincial Labor & Manpower Department in consultation with that body
- (n) A representative of a registered or recognized NGO working for the protection of human rights, to be nominated by the District Administration with approval of the concerned Deputy Commissioner
- (o) A journalist of a standing competence and having experience of working in the field of human rights, to be nominated by the Federal Information Department
- (p) A representative of Provincial Social Welfare Department of the Province not below the rank of an officer in Basic Pay Scale 17, to be nominated by that Department
- (q) Two representatives of recognized social services, one from All Pakistan Women Association and one from any other body established to render services to the society at large for its development, to be nominated by the Federal Government

The practical application of this composition is highly problematic primarily because certain political members or highly influential persons who fall under the relevant categories are not interested in participating in this process. The composition should be less stringent and only those people who are genuinely interested in eradicating this practice should be allowed to participate to ensure that the essence of the BL Act and the BL Rules is upheld.

Despite the BL Act criminalizing the practice of keeping workers in bondage, few if any, prosecutions have occurred under the law to date. Some of the salient ones are discussed below.

In *Shabbir Hussain Kazmi and Others. V. Government of Pakistan*, 2006 PLC (CS) 49, the workers complained that their owners were “pressing them to work at their brick kilns against peshgis and on their refusal they were maltreated” while the owners stated that the workers had taken advances with an undertaking to work and their failure to keep the promise was resulting in great losses. The Court stated that the BL Act must be specifically enforced by the Governments to protect those who are being forced to work under the system of bonded labor in the brick kilns.

In a *Human Rights Case no. 5091 of 2006*, PLD 2007 SC 232, a complaint was received by the Supreme Court concerning the forcible detention of the Applicant's family by a brick kiln owner in Rajanpur. Following the complaint, a raid was conducted by the Police and 11 persons were recovered; six under the age of 15 years. A raid on a second brick kiln resulted in the recovery of seven persons where one of the seven freed was only one and a half years old which reveals that children are born into slavery and continue to live within this system.

The Supreme Court judgment resulted in the release of the bonded laborers from the two kilns with the recommendation that the BL Act should be enforced and the fundamental rights of these bonded laborers must be protected.

Some lawyers and organizations are continuing to provide pro bono support to brick kiln workers. They have secured the release of brick kiln workers held in bondage.

However, the litigation route has its flipside. In the absence of rehabilitation programs, many released workers have found themselves back in bondage with some other brick kiln owners. The owners are also known to file fraudulent cases of theft and other crimes against brick kiln workers who have moved the courts seeking release from bondage.

Judgement of Federal Shariat Court (2005)

Soon after the passage of the BL Act, brick kiln owners filed a petition in the Federal Shariat Court seeking a declaration that the Act was incompatible with the injunctions of Islam. The petitioners urged the Court to rule in the light of Islamic law on section 5 (all contracts and practices involving bonded labor to be void), section 6 (liability to repay bonded debt extinguished), section 7 (bonded laborers property to be freed from mortgage), section 8 (creditor barred from accepting payment against extinguished debt), and section 11 (punishment for enforcement of bonded labor).

The court held that the impugned definitions in the Act did not violate Islamic injunctions; rather, they were in line with religious ideals.

The Factories Act 1934 (No. XXV)

This Act is the primary document under Pakistani Labor Law which regulates the working conditions of workers at the workplace as well as their health and safety during working hours. Under this Act, a brick kiln falls under the definition of a factory as determined by the Orissa High Court in India (1966 LLC 256) and this decision was confirmed under the seminal Pakistani Supreme Court judgment of *Darshan Masih* in 1990.

The judgment states that since 1971, the Factories Act was applicable to the brick kiln industry in the Punjab and therefore the regulation of the kiln must be in line with the Factories Act.

As a consequence the workers at the kiln are entitled to the same rights and privileges awarded to the worker in a factory. However, the reality is clearly not reflecting the law due to ineffective implementation.

The Minimum Wages Ordinance 1961 (No. XXXIX)

This Ordinance establishes the power of the provincial governments to declare the minimum wages of a worker through notification in the official Gazette and prohibits the payment of wages below the minimum wage rate fixed under Section 9.

Violation of this minimum wage requirement by any employer may result in imprisonment and/or a fine.

It recognizes “juvenile workers” and defines them as workers who are not adults; this is a broad definition and results in including all those who are employed as children.

In October 2013, the minimum wages for unskilled workers was notified to be Rupees 10,000 per month. The Punjab Government had notified in 2012 that the minimum wage for brick kiln workers would be Rs 517 per 1,000 bricks. A majority of the kiln owners deducted from the wages interest on the debt supposed to have been extended to the worker as well as other costs and the laborer was left with no more than Rs 250 per 1,000 bricks.¹¹

¹¹*State of Human Rights in 2012, Human Rights Commission of Pakistan, 2013, p. 213.*

The Employment of Children Act 1991 (No. V)

This Act states in Section 3 that no child below the age of 14 shall be employed or permitted to work in any of the occupations set forth in Part I of its Schedule or in any workshop wherein any of the processes set forth in Part 11 of that Schedule is carried on.

Clause 11 of Part II of the Schedule mentions construction and building industry; it can be interpreted to include the brick kiln industry.

This Act also regulates the employment of children in occupations and processes that are not covered by it.

A child for purposes of this Act is defined to mean someone under the age of 14 years. With the insertion of Article 25-A in the Constitution, which makes education compulsory from age 5 to 16 years, there is a strong case for revising the minimum age up to at least 16 years.

The Children (Pledging of Labor) Act 1933 (No. II)

This Act was enacted on February 24, 1933, and remains in force in Pakistan. The Act extends to the whole of Pakistan.

The Act declares an agreement to pledge the labor of a child void.¹² It defines 'an agreement to pledge the labor of a child' to mean:

an agreement, written or oral, express or implied, whereby the parent or guardian of a child, in return for any payment or benefit received or to be received by him, undertakes to cause or allow the services of the child to be utilized in any employment, provided that an agreement made without detriment to a child, and not made in consideration of any benefit other than reasonable wages to be paid for the child's services, and terminable at not more than a week's notice, is not an agreement within the meaning of this definition.¹³

A 'child' is defined to mean a person who is under the age of 15 years; while 'guardian' includes any person having legal custody of or control over a child.

¹²Section 3.

¹³Section 2.

The Employees Social Security Ordinance 1965 (No X)

The Social Security Scheme was introduced under the West Pakistan Employees' Social Security Ordinance 1965. It was the first scheme for workers outside the public sector. The Provincial Employees' Social Security Institution (ESSI) was established under it to administratively handle the affairs under the law.

To secure an employee under this Ordinance, an employer must contribute an amount to the Institution (Rs 500 to the ESSI for each of the worker employed by him) which actually is the main source of income for all provincial ESSIs. The rates slightly vary in each province and are as follows:

- 7 percent of the total wages in Khyber Pakhtunkhwa.
- 6 percent of the wages up to Rs. 15,000 per month or Rs. 600 per day in the Punjab.
- 6 percent of the wages paid to insurable workers drawing wages not exceeding Rs. 10,000 per month or Rs. 400 per day in Sindh.

ESSI's in each province fall under the purview of their respective provincial labor departments and provide a range of health services and cash benefits. In terms of health services, they provide:

- Free medical care facilities to secured persons and their dependents through ESSI's own medical units as well as government hospitals.
- Hospitalization in medical units and government hospitals.
- Free medicines as prescribed by doctors in ESSI hospitals and/or specialists on panel.
- Dental care for injuries sustained in the course of carrying out duties.
- Facilities such as angioplasty and heart surgery.
- Hospitalization in Burn Trauma Care Center.

Cash benefits provided to the insured employees include:

- Sick benefits valued approximately 75 percent of the monthly wages.
- Free medical services at the ESSI Health Units and government hospitals;
- Sickness, injury and maternity benefits;
- Maternity benefits equal to one month's wages.

- Injury benefits equal to one month's wages.
- Death grant equal to a month's wages and survivor's pension..
- Disability allowance to secured persons who sustained disability of up to 20 percent as determined by a medical board.
- Half pension for those who fall between 21-6 percent on the disability scale and full pension for those above 66 percent on the scale.
- Survivor's pension
- Iddat benefit equal to a month's wage.

A separate court called the Social Security Court is established under the Ordinance to deal exclusively with issues under this law.

In July 2013, the Supreme Court directed the Punjab Chief Secretary to ensure that all brick kiln workers be registered as recipients of social security within a period of two weeks. There was a substantial increase in the issuance of social security cards following this directive; the number rose from a mere 192 in Punjab in July 2013 to 7,077 by October 2013.

The Employees Old-Age Benefits Act 1976 (No XIV)

This Act applies to every industry or establishment where five or more persons are employed by the employer. Brick kilns are covered by the definitions of industry and establishment. Under this Act, workers covered by it are entitled to receive a monthly pension of Rs 3600 upon reaching the age of 60 years in the case of males and 55 years in the case of females, with at least 15 years of contribution. Insured persons are entitled to avail benefits like, old-age pension (on the event of retirement), invalidity pension (in case of permanent disability), old-age grant as survivor's pension if the insured person dies before the nominated beneficiary. A contribution equal to 5% of minimum wages has to be paid by the employer (a minimum contribution of Rs 450 to the EOBI); and 1% of minimum wages by the covered employees.

Disability pension is provided to individuals with a 33 percent loss in earning capacity with at least 15 years of contribution. Survivors' pension (100% of the deceased minimum pension) is given to the spouse or orphaned children under 18, parents of the deceased and other dependents. The deceased should have at least 36 months of covered employment and be a pensioner at the time of death.¹⁵

¹⁵Shaikh (2010).

The EOBI is governed by a Board of Trustees comprising of nominees from government, unions and employers. Its functions include:

- Identification and registration of establishments and industries;
- Identification and registration of insured persons;
- Collection of contributions;
- EOBI Fund Management; and
- Provision of benefits as per laws.

The Workers Welfare Fund Ordinance 1971 (No. XXXVI)

An industrial establishment with an income of under Rs. 500,000 has to contribute 2 percent of the total amount to the Workers Welfare Fund (“WWF”) under the Workers' Welfare Fund Ordinance, 1971. The left over amount under the Companies Profit (Workers Participation) Act 1968 after distribution amongst workers is also earmarked for the WWF. The purpose of the WWF is to finance housing estates and construction of houses for workers, along with financing other programs for the welfare of workers, such as provision of marriage and death grants; provision of health and educational facilities; trainings; and skill enhancement.

The construction of schools, financing of school expenditures and giving merit scholarships are some of the other educational initiatives of the WWF. Education is provided free of cost up to the secondary level and scholarships are provided at the post-secondary level. The merit scholarship stipends range from Rs. 1,600 to Rs. 3,500 per month.

Technical education is also provided through industrial homes established for vocational training. The WWF is also in charge of running the schools it has constructed as is required under the Workers' Children Education Ordinance 1972. Under the latter law, the fund must provide free education until high school to one child of every worker who has been working in an establishment with ten or more employees.

Other Benefits

In addition to the above benefits, the brick kiln workers can claim benefits under the Industrial & Commercial Employment (Standing Orders) Ordinance 1968, can demand payment of wages under the Payment of Wages Act 1936; and registration of trade unions under the Industrial Relations Acts.

Conclusion and Recommendations

International law prohibits slavery and debt bondage; Pakistan's Constitution takes the same position. Despite this, Pakistan lacked a specific law dealing with the issue of bonded labor until 1992.

Litigation, however, in this field over the past two decades has also revealed the limitations of relying on the legal route alone for eradicating it. In the absence of alternative livelihood opportunities and protection from retaliation by brick kiln owners, released workers have often found themselves slipping back into exploitative conditions.

The role of the DVCs has been minimal and they seldom, if ever, meet.

No brick kiln owner has faced prosecution for continuing to use the peshgi system.

Implementation of the labor laws, including the laws dealing with social safety and minimum wage, remains weak in the brick kiln sector.

In addition to advocating for introducing minimum wage in the brick kilns, activation of the DVCs and formulation of rehabilitation and skills diversification programs for brick kiln workers, the following measures are recommended to improve legal protection of workers' rights:

- Getting all provincial governments to enact provincial laws dealing with the subject of bonded labor.
- Lobbying for specific hazardous tasks within brick-making industry to be included in the list of hazardous occupations under the Employment of Children's Act.
- Creating a consensus on revising minimum age for employment from 14 to at least 16 years.
- Calling upon the government to sign and ratify the ILO Convention on Promotional Framework for Occupational Safety and Health (No. 187).
- Revising the definition of “human trafficking” in the Prevention and Control of Human Trafficking Ordinance 2002 to include internal trafficking as provided for in the UN Trafficking Protocol.

Promoting Decent Work in Brick Kilns: An Overview of NGOs' Efforts



Promoting Decent Work in Brick Kilns

There are several stakeholders working for the promotion of “decent work” in the brick kiln industry in Pakistan. We are discussing herein the role of the NGOs that are actively working in this regard. Several NGOs in Pakistan have made attempts to address the issue of exploitative and inhuman patterns of employment found in this sector.

This chapter provides an overview of these efforts, identifies gaps in existing interventions, and puts forward recommendations for effective promotion of the decent work agenda in brick kilns.

The Solidarity Center

The Solidarity Center was established in 1997 and works in over 60 countries through a network of 24 field offices via the *'strengthening (of) the economic and political power of workers around the world through effective, independent and democratic unions'*.¹

Pakistan is one of the eight countries in Asia where it is working and also focusing on the brick kiln industry.

It has played an active role in establishing a support mechanism for social protection and decent work of brick kiln workers and bonded labourers;² and for the introduction of decent work ethics in the country.³

The Solidarity Center in partnership with SPARC and the Center for Labor Advocacy & Dialogue (“CLAD”) has been working in the provinces of Sindh and the Punjab to promote the “decent work” agenda in brick kilns.

¹<http://www.solidaritycenter.org/content.asp?contentid=407>, accessed 17.11.2013.

²The details of this project have been mentioned under par (a) of this section since this is a collaborative project conducted by all the concerned NGOs.

³http://www.clad.org.pk/decent_work.htm, accessed 27.11.2013.

SPARC

SPARC is working in the field of bonded child labor in the brick kiln sector, with a multifaceted approach. It aspires to eradicate conditions that lead to the employment of children.⁴ Through different projects and programs, the Society focuses specifically on decent work.

One such project titled, “*Support Social Protection and Decent Work of Brick Kiln workers and Bonded Laborers in Pakistan*”, was supported by funding from the European Union; the Bonded Labor Liberation Front, Bhandar Sangat, and ActionAid were its partners in this Project.

Bonded Labor Liberation Front

The BLLF was established with the aim of fighting against the bonded labor system, especially in the brick kiln industry. It is also a partner in the EU funded project for the promotion decent work in brick kilns in Pakistan.

The Justice and Peace Commission

Work by the Justice and Peace Commission on bonded labor began in 2004 with the aim of unionizing brick kiln laborers in the Multan district in the Punjab. The strategy was geared towards creating more awareness about the issue of bonded labor, especially in the brick kilns and the focus was on how a bonded laborer can break the cycle of exploitation.⁵

The Pakistan Institute of Labor Education & Research

PILER defines itself as a non-governmental organization dedicated to promoting a democratic and effective labor movement for the overall advancement of a socially just and equitable society where the fundamental rights of people are respected and guaranteed.”⁶

Action Aid

Action Aid has been working in Pakistan since 1992 and its primary aim is to fight for the human rights of the poor and downtrodden.⁷

⁴<http://www.sparcpk.org/CR.html>, accessed 17.11.2013.

⁵Interview, Zaman, Shah, Justice and Peace Commission, by Summaiya Zaidi, 11.11.2013.

⁶<http://www.piler.org.pk/index.php/explore/our-organisation>, accessed 17.11.2013.

⁷<http://www.actionaid.org/pakistan/about-us>, accessed 12.11.2013.

The brick kiln sector has been identified as one such area where Action Aid promoted its agenda through the EU Project. The Project focused on promoting social cohesion, employment and decent work among brick kiln workers and bonded laborers.⁸

Bhandar Sangat

Bhandar Sangat is working for the mobilization of working people and for raising awareness amongst them. It has worked with funding from several international donors, including the above mentioned EU Project.

Green Rural Development Organization

GRDO is working for bringing about better working conditions among peasants and agricultural workers in rural areas of Sindh. The primary activities of the GRDO have been fighting for the freedom of bonded laborers in the province and working for their rights as members of society. Other areas of focus include "environment, health, education and human rights."⁹

The Decent Work Agenda

The ILO has kept the notion of social justice at the heart of the Decent Work Agenda which according to it "sums up the aspirations of people in their working lives."¹⁰

This Agenda comprises of four main strategic objectives as identified by the ILO:

- the first deals with rights of workers;
- the second with employment;
- the third with protection of workers;
- social dialogue.

⁸Haqooq Parchar (June 2013), Action Aid Pakistan, p.4.

⁹<http://greenrural.net/?id=32>, accessed 27.11.2013.

¹⁰<http://www.ilo.org/global/topics/decent-work/lang--en/index.html>, accessed 11.11.2013

Promote and Realize Standards and Fundamental Principles and Rights At Work

This strategic objective aims to focus on "full and productive employment and decent work for all, including women and young people."¹¹ Its aim is to ensure that human rights include all rights of the workers which are guaranteed to each and every worker with no discrimination. Therefore, the fundamental freedoms¹² identified in the Constitution of Pakistan must be secured to all members of the society and the poor need to be guaranteed a safe environment where their fundamental rights are protected and promoted.

Pakistan is a signatory to and has ratified 34 ILO Conventions, including those specific to the eradication of child labor, and forced labor. However, these international commitments have not significantly altered the actual situation in the country.

Pakistan has enacted specific laws for the eradication of bonded labor, like the Bonded Labor System (Abolition) Act, 1992 ("the BL Act") and the Rules thereunder in 1995. However, the implementation of these provisions is quite weak.

Pakistan's experience has shown that the signing and ratifying of an international instrument is not enough and consistent efforts need to be made to ensure that such forced practices are eradicated from the employment policies.

During a four day workshop organized in Islamabad in March 2013, it was agreed by the provincial departments that "more amendments are needed to harmonize the provincial labor laws in line with Pakistan's ratified ILO conventions".¹³ These amendments are necessary for the successful application of the laws and conventions governing bonded labor.

Strategic Objectives

On October 30, 2013, SPARC held a consultation in Islamabad to promote decent work in brick kilns. The main aim of this Consultation was to bring various stakeholders together to discuss "decent work" and think through strategies that could be adopted to realize the aims of this agenda.

¹¹http://www.ilo.org/integration/themes/dw_mainstreaming/lang--en/index.html, accessed 11.11.2013.

¹²Chapter I, Part II

¹³Monthly Newsletter of UNDP Pakistan, March 2013.

The first decent work objective, which deals with the rights of workers, has been divided into six basic rights, namely:

- the right to be free;
- the right to participate;
- the right to decent wages;
- the right to decent living and working conditions;
- the right to legal aid;
- the right to education.

The projects and their respective achievements are highlighted below:

Right to Freedom from Bondage

The right to be free from slavery in any form is guaranteed under the Constitution which bans slavery under Article 11. However, in Pakistan's brick kiln sector this practice is still rampant and the laborers are bound through debts to the kiln, and therefore the kiln owner.

BLLF claims to have rescued thousands of bonded workers from slavery since January 1988 who belonged to different sectors like agriculture, brick kiln, and carpet industries. Almost all of them were freed through habeas corpus petitions filed in High Courts and with the intervention of the concerned authorities.¹⁴

BLLF also claims to have established bondage rehabilitation centers in Lahore called "Freedom Campus" to provide freed laborers shelter and protection until they are successfully rehabilitated.

SPARC has also been actively working in this area. Jheeni, a former worker from a brick kiln in Sindh, is a good example of a bonded laborer freed from bondage by the efforts of SPARC. She even rose to fame through a BBC documentary on the brick kiln bonded laborers of Pakistan and the kiln owner was forced to write off a total debt of Rs 800,000. She is just one of many that have benefited through the efforts of SPARC. Since 2005, about 17,533 bonded laborers have been freed and some are now working as free laborers in the brick kiln sector.¹⁵

¹⁴http://www.blfpak.org/about_files/Page509.htm, accessed 12.11.2013.

¹⁵ Interview, Thebo Zahid, by Summaiya Zaidi, 27.11.2013.

GRDO has worked with funding from several donors such as Trocaire International, which has provided funding for the project entitled "Release and Rehabilitation of Peasant and Brick Kiln Workers from Bonded Labor through Legal Aid, Advocacy and Awareness" since 2006. Another project titled "Eradication of Bonded Labor Practices from Five Districts of Sindh" has been made possible with funding from the Fund for Global Human Rights.¹⁶

The Bandar Hari Sangat claims to have established anti-bonded labor cells in the offices of Senior Superintendent of Police to facilitate the process of freedom from bondage. The purpose of these cells is to provide a forum for stakeholders to communicate information regarding kilns where such forms of slavery exist.¹⁷

The JPC has also successfully fought for the release of about 2000 bonded brick-kiln workers.¹⁸

Table 1: Number of Bonded Laborers Freed

Organization	Numbers Freed
BLLF	80,000
SPARC	17,533
GRDO	28,000
JPC	2,000

The Right to Political Participation

Since workers at the kilns are mostly migrants and have no permanent home, they are unable to register themselves as citizens of the country as they cannot provide basic information required for registration. NGO's have worked to promote this part of the decent work agenda through the provision of Computerized National Identity Cards (CNICs).

¹⁶<http://greenrural.net/?id=32>, accessed 27.11.2013.

¹⁷Interview, Bhagat Singh, Bhandar Sangat, by Summaiya Zaidi, 7.11.2013.

¹⁸Interview, Zaman, Shah, Justice and Peace Commission, by Summaiya Zaidi, 11.11.2013.

In this regard, the BLLF with the help of funding from Trocaire, worked on a project called *Rakhwalay* (Guards) in District Kasur in the Punjab. The specific aims of the project were to ensure that workers could demand their rights with a common voice and that key stakeholders could take proactive measures to ensure that bonded laborers receive their just entitlements.¹⁹ As a result of this project, BLLF says that it has successfully processed over 5,000 CNIC cards with the help of National Database and Registration Authority (NADRA) for brick-kiln workers in Lahore, Kasur, Pakpattan and Sheikhpura.²⁰

SPARC and Action Aid have worked together for the issuance of CNICs. Under one such CNIC Campaign in August 2011, SPARC provided 172 CNICs to workers in Tando Haider, Hyderabad. This was an important part of the Model Brick Kiln project and NADRA provided a mobile unit to expeditiously process the applications.²¹

SPARC has also successfully advocated for and provided CNICs to 1848 workers in brick-kilns in Hyderabad and Multan. The following table provides a breakdown of the statistics by location and gender:

Table 2: Breakdown of CNICs provided through SPARC

District	Processed		Total	Delivered		Total
	Male	Female		Male	Female	
Hyderabad	902	251	1153	628	213	841
Multan	1023	284	1307	811	196	1007
Total	1925	535	2460	1434	432	1848

¹⁹http://www.blfpak.org/about_files/Page314.htm, accessed 12.11.2013.

²⁰Interview, Naseem Imran, Bonded Labor Liberation Front, by Summaiya Zaidi, 7.11.2013.

²¹<http://sparcpk.org/oldsite/images/actionaid/Page%2009.jpg>, accessed 18.11.2013.

After obtaining the CNIC, more than 1200 bonded labourers registered as voters in Tando Haider area of Hyderabad District alone; and exercised their rights to vote by participating in the 2013 elections for the first time.²²

BHS has ensured the issuance of CNICs to 1100 brick-kiln workers and 700 have been distributed to their rightful owners.²³

JPC has helped with the issuance of 6000 CNICs to workers which enabled them to be registered as voters for elections as mentioned earlier and other social security schemes.²⁴

Table 3: Number of CNICs Issued by Organization

Organization	CNICs Issued
BLLF	5,000
SPARC	1,848
BHS	1,100
JPC	6,000

Right to Decent Wages

Financial exploitation is central to the issue of bonded labor in Pakistan. Despite working long hours, these workers are not given fair wages, and to top it all, the kiln owner deducts an arbitrarily decided amount from the worker's total debt at the time of payment of wages.

The BLLF and Action Aid, besides other organizations, advocated for the increase of wages of bonded laborers in the Punjab from Rs 200 per 1000 bricks to Rs 517 per 1000 bricks.²⁵

²²<http://sparcpk.org/oldsite/images/actionaid/Page%2004.jpg>, accessed 18.11.2013.

²³Interview, BhagatSingh, Bhandar Sangat, by Summaiya Zaidi, 7.11.2013.

²⁴Interview, Zaman, Shah, Justice and Peace Commission, by Summaiya Zaidi, 11.11.2013.

²⁵<http://www.maati.tv/2012/05/01/bonded-labor-seminar-1st-may/>, accessed 27.11.2013.

PILER, through its two year project titled "Mobilization for Livelihood Rights in Rural Sindh" (2013-2014), aimed to empower male and female workers in rural Sindh in two districts of Sindh, namely Umerkot and Sanghar.²⁶

Right to Decent Working & Living Facilities

Bonded laborers in the brick-kilns are mostly migrants and are thus forced to live in small colonies surrounding the kiln. The working and living conditions of these laborers are poor and there is a lack of access to basic sanitation and clean drinking water.

Roughly, 55 million people have no access to safe drinking water or primary health care services in Pakistan and about 100 million people are deprived of any sanitation.²⁷

SPARC tried to help in this arena by providing sanitation facilities and access to water and established six latrines (two for males and four for females) and two hand-pumps in each of their ten model brick-kilns in Hyderabad and Multan, making a total of 120 latrines and 40 hand-pumps.

SPARC also set up medical camps to provide free healthcare services to kiln workers and their families. Seven such camps were organized in Multan where 735 laborers benefited and three in Hyderabad where 689 workers availed these medical facilities.²⁸

A three-year project by PILER titled "Towards Health & Safety at Workplaces" (2012-2014) aimed to create awareness among all stakeholders of the "importance of keeping the workplace safe and healthy to ensure the well-being of workers." It aimed to urge the State and other key stakeholders to put in place enabling and worker-friendly legislation and effective implementation of laws and procedures.²⁹

Right to Legal Aid Services

Bonded laborers have little or no access to legal aid services to help them in striving for their right to safe working conditions and also their right to freedom.

²⁶<http://www.piler.org.pk/index.php/projects>, accessed 27.11.2013.

²⁷http://www.clad.org.pk/working_paper_3.htm, accessed 27.11.2013.

²⁸ Interview, ZaidThabo, SPARC, by Summaiya Zaidi, 26.10.2013.

²⁹<http://www.piler.org.pk/index.php/projects>, accessed 27.11.2013.

Both BLLF and SPARC have provided free legal aid services to bonded laborers. By 2013, SPARC had filed 23 cases in Hyderabad and a total of 413 laborers benefited. Eleven cases were filed in Multan as a result of which 255 bonded laborers were freed from bondage. SPARC had set up legal aid centers where bonded laborers could seek legal assistance on a pro-bono basis.³⁰

The BHS has successfully advocated 17 cases in the courts to have the *peshgi* system of advances declared as illegal.³¹ Action Aid also worked extensively in this area and provided legal assistance through the Police. Anti-bonded labor cells have been established for the specific needs of the brick-kiln bonded laborers.

Furthermore, the inspection of kilns by the Labor Department has been resumed in Punjab so as to regulate labor practices and District Vigilance Committees established under the BL Act have been notified in six districts of the Punjab.³²

Right to Education

SPARC in collaboration with Action Aid realized the dire need for provision of education to the young children of brick-kiln workers. The children at the kilns work alongside their families in the production of bricks throughout the day and their right to education under Article 25-A of the Constitution is continuously being ignored.

SPARC conducted a survey of the area which revealed that 80% of the people questioned stated that the reason their children did not attend schools was because schools were too far from the kilns. Almost all stated that there was no primary or secondary school available. Ninety percent of the parents said that they wished their children would be able to go to school while the remaining ten percent of the parents said that they would prefer that their child to work with them at the kiln. Eighty four percent of the parents stated that they would prefer their child going to school in the evenings.³³

SPARC under its EU Project and previously under its Project with Trocaire provided non-formal education at seven kilns in Multan; a total of 210 students were enrolled and teachers were provided with training.³⁴

³⁰ Interview, Naseem Imran, *Bonded Labor Liberation Front*, by Summaiya Zaidi, 7.11.2013.

³¹ Interview, Bhagat Singh, *Bhandar Sangat*, by Summaiya Zaidi, 7.11.2013.

³² Haqooq Parchar (June 2013), *Action Aid Pakistan*, p.4.

³³ *Educational Analysis on Brick Kiln Workers*, SPARC, Khan M.B, Sheikh, A. S, 2012, p.5-10.

³⁴ Interview, Zahid Thebo, SPARC, by Summaiya Zaidi, 26.10.2013.

PILER launched a three-year project entitled "Engaging Children, Youth & Communities for the Promotion of Social Cohesion & Resilience in Sindh". The aim was to use education as a tool among the poor and the vulnerable to "promote and strengthen social cohesion and resilience". There were a total of 3,140 beneficiaries of this project comprising of children, youth, teachers, etc.³⁵

However, the effectiveness of these initiatives was limited as they were not sustainable and all stopped when the donor funding ended; the Government did not extend any support. Only the Government, with its power to operate on a large scale can ensure that any meaningful impact is made.

Create Greater Opportunities for Men & Women to Secure Decent Employment & Income

One needs to recognize that "the principal route out of poverty is work"³⁶ but it is important that the "work" allows for that route out of poverty. Work at the brick kilns does not permit workers to evolve or to escape the shackles of debt bondage and therefore, the most important aspect of this objective is to provide an opportunity for decent work which caters to alleviation of poverty and elimination of its traps. To address this objective, two rights, i.e., the right to collective bargaining and the right to alternative employment opportunities, are analyzed below.

Right to Collective Bargaining

Collective bargaining has its roots in the idea that workers as a group wield more power and strength over the employer to address their concerns. This right to collective bargaining is realized in the creation of trade unions by workers in specific sectors to provide them with an avenue to voice their concerns to the employers.

The workers at the brick kilns generally are unaware of their rights to union activity and identify themselves as individuals rather than as a collective entity. The hold of the kiln owner is overwhelming.³⁷

³⁵<http://www.piler.org.pk/index.php/projects>, accessed 27.11.2013.

³⁶*Decent Work and Poverty Reduction Strategies; a Reference manual for ILO staff and constituents, ILO 2005, P.2:6*

³⁷*Interview, Punno Bheel, Kiln Worker and President Sindh Kiln Workers Union, Tando Haider, Hyderabad, by Summaiya Zaidi, 26.10.2013.*

To address this, the BLLF claims to have established 55 trade unions in the Punjab which have been registered with the Labor Department.³⁸ The BHS has established and registered nine trade unions with the relevant Labor Department in Sindh.³⁹

SPARC has successfully established seven trade unions during the period April 2011 to August 2013.

The workers working in the brick kilns that now have trade unions have the right to be a part of a trade union to allow them to collectively bargain with the owners for better wages and better working conditions among other basic rights. As a consequence, the workers are aware of their rights and can voice their grievances in an effective manner. SPARC has also registered two trade unions with collective bargaining agent status, namely: Friends Bricks Bhatta Mazdoor Ittehad and Anwar Bricks Bhatta Mazdoor Ittehad.⁴⁰

JPC had a specific program aimed at unionizing brick-kiln bonded laborers in the district of Multan and helped establish four trade unions and 13 collective bargaining agents (CBAs) there. These unions are actively advocating for the rights of the workers and the wage rates are much better on the brick kilns where unions are working. The unions have given them courage and legal entitlement to speak for their rights and this has brought major changes in their lives.⁴¹

Right to Alternative Employment Opportunities

NGOs have been working to provide workers with training to allow them to explore other employment opportunities, especially when the brick kiln is not in operation. The kilns usually produce bricks for about 8-9 months of the year and shut down during the monsoon season, even if the rains are delayed or do not arrive at all in the region. During this lean period, bonded laborers at the brick kilns have no other employment opportunities and are forced to incur more debt, resulting in further subjugation to the kiln owner.

SPARC, with the help of the Punjab Literacy Project for brick kilns in Multan, opened a skill center at Ajab Khan Noor Bricks Company for women workers. The workers were taught tailoring at this Center but SPARC hopes to revive

³⁸ Interview, Naseem Imran, *Bonded Labor Liberation Front*, by Summaiya Zaidi, 7.11.2013.

³⁹ Interview, Bhagat Singh, *Bhandar Sangat*, by Summaiya Zaidi, 7.11.2013.

⁴⁰ Interview, Zahid Thebo, *SPARC*, by Summaiya Zaidi, 26.10.2013.

⁴¹ Interview, Zaman, Shah, *Justice and Peace Commission*, by Summaiya Zaidi, 11.11.2013.

this Center to eventually teach them other income generating skills such as embroidery so that they may increase their income and succeed in reducing their debt to kiln owners.⁴²

Action Aid has established non-formal schools in the brick kilns of Punjab to "provide alternative sources of employment especially amongst the young."⁴³ The Punjab Government has also realized the importance of opportunities for alternative forms of employment for brick-kiln workers and, in 2010, launched the "Literacy and Non-Formal Education Department" project. The aim of this Project is to provide education to children (5-16 years) and adult workers in the brick kilns of Multan and Khanewal over a period of ten years. So far, a total of 23,000 children and 4,200 adults have been provided literacy, non-formal education, and skills training.⁴⁴

The BLLF has also worked in this area by increasing access to education for kiln workers.⁴⁵ The JPC has worked to increase the capacity of workers through different training workshops and media campaigns that highlight the issue of bonded labor.⁴⁶

Enhance the Coverage & Effectiveness of Social Protection For All

Social protection schemes are conceptualized as a broad framework which 'identifies risks against which the vulnerable are to be protected, chronically poor are assisted by raising their incomes through conditional cash transfers and income generating programs, social contracts are strengthened and growth is promoted'.⁴⁷

The ILO has identified three objectives under such social protection schemes:

- the first stresses the importance of extending the coverage and effectiveness of social security schemes;
- the second focussing on protection of labor which comprises decent

⁴²Interview, ZahidThebo, *Society for Protection of the Rights of Child*, by Summaiya Zaidi, 26.10.2013.

⁴³Haqooq Parchar (June 2013), *Action Aid Pakistan*, p.3-4.

⁴⁴http://www.pndpunjab.gov.pk/user_files/File/Literacy201213.pdf, accessed 27.11.2013.

⁴⁵Interview, Naseem Imran, *Bonded Labor Liberation Front*, by Summaiya Zaidi, 7.11.2013.

⁴⁶Interview, ZamanShah, *Justice and Peace Commission*, by Summaiya Zaidi, 11.11.2013.

⁴⁷*A Snapshot of Social Protection System in Pakistan, impact and Challenges for Workers' Rights, Global Network, 2010, p., 4.*

conditions of work, including wages, working time and occupational safety and health;

- the third aiming to work through dedicated programs and activities to protect such vulnerable groups.⁴⁸

Government Programs

Zakat

Islam requires a person to share his or her wealth with the poor. The Government in Pakistan collects this tax by deducting 2.5% each year on the First of Ramadan on all the savings accounts; the account holders can claim exemption from this if they so desire. The amount of zakat collected is then used for the benefit of the poor. Twenty five percent of it is spent on "various schemes like educational stipends (general and technical), stipends to students, health care (provincial and national), social welfare, and the remaining 75% given to the individuals directly."⁴⁹

Pakistan Baitul Maal

There are different schemes under which wealth from this source is distributed amongst the poor. One such scheme is the National Center for the Rehabilitation of Child Labor. The aim of this is to keep children away from hazardous forms of child labor and provide them primary education in a child friendly class room environment. It helps them with seeking opportunities for secondary and higher education to bring them into mainstream society.⁵⁰

The Benazir Income Support Program

The BISP was introduced in 2008 by the Pakistan People's Party Government and financed through the budget of the Federation. It is currently being deployed in all the four provinces. The initial allocation was Rs 34 billion (US \$ 425 million) in 2008-09; by the year 2012-2013, the allocated amount totalled Rs 70 billion for 5.5 million families which comes to about 18% of the country's population.⁵¹

⁴⁸<http://www.ilo.org/protection/lang--en/index.htm>, accessed 11.11.2013.

⁴⁹ *A Snapshot of Social Protection System in Pakistan...*, 2010, p. 5.

⁵⁰<http://www.pbm.gov.pk.html>, accessed 27.11.2013.

⁵¹<http://www.bisp.gov.pk/>, accessed 27.11.2013.

The Provincial Employees Social Security Institutions Scheme

The PESSI was introduced in 1967 with the aim of alleviating poverty faced by laborers and encouraging the provision and enforcement of their rights at work. The scope of the Scheme has been enhanced with the passage of time.

The Scheme provides medical care and cash benefits to employees working in industries or commercial establishments and their dependents.⁵²

The Employees Old Age Benefits Institution

Introduced in 1976, the EOBI provides old-age pension on retirement of the insured person; an invalidity pension in the circumstance that a worker is permanently disabled; an old-age grant for an insured person upon attaining superannuation age and a survivor's pension for instances where the dependants need assistance due to death of an insured person.

The EOBI works primarily through contributions equal to 5% of minimum wages paid by the employers to the EOBI. This provides insurance to workers if they fall ill, disabled in an accident or the instance of death of an insured person allows the benefit to be received by the widows.⁵³

The Workers' Welfare Fund

The WWF works primarily for the provision of safe and secure homes for workers in the form of colonies, including the construction of schools and hospital. This fund also finances the "education, training, re-skill and apprenticeship for the welfare of workers, marriage grants and death grants."⁵⁴

NGOs' Providing Brick Kiln Workers Access to Welfare Schemes

SPARC has successfully notified a total of 318 brick kilns with the Social Security Institution; by August 2013, 172 workers in Hyderabad had been provided social security cards. A total of 114 brick kiln workers at Multan have received Social Security Cards.

⁵²<http://www.sessi.gov.pk/>, accessed 20.11.2013.

⁵³<http://www.eobi.gov.pk/>, accessed 27.11.2013.

⁵⁴ *A Snapshot of Social Protection System in Pakistan, impact and Challenges for Workers' Rights, Global Network, 2010, p., 5-6.*

The BLLF has worked with different organizations and one such is Action Aid. The overall objective of the latter was to reduce poverty and socially include informal workers and bonded laborers and ensure that brick kiln workers have better access to social protection services and more productive employment.⁵⁵

BHS has advocated for workers' right to have access to social security schemes.⁵⁶ The JPC has issued around 400 Social Security Cards to workers with the coordination of the Social Security Institution. In Multan alone, 85 Social Security Cards were issued by the JPC to kiln workers who are now getting medical benefits through these cards.⁵⁷

Strengthen Tripartism & Social Dialogue

In order to attain this objective, it is important that an inclusive and coordinated approach is adopted with all stakeholders present for dialogue.

SPARC, along with the Solidarity Center, began a series of consultations in October 2013 and brought representatives of all stakeholders around the table to discuss issues of forced labor practices with a special focus on the promotion of clean bricks⁵⁸ through decent work.

Social awareness is one of the primary tools used in increasing the understanding of the workers with regard to their rights and entitlements under law so as to combat the exploitative nature of the owner and worker relationship. A brief description of programmes implemented by different organizations to promote this objective is given below.

SPARC and Action Aid, under the model brick kiln project, have implemented several awareness increasing programs to empower brick kiln workers. Methods deployed for these social awareness schemes include radio broadcasts, television shows and documentaries that create sensitivity and raise awareness on labor rights issues especially with regard to bonded labor practices.⁵⁹

⁵⁵ http://www.bllfpak.org/about_files/Page505.htm, accessed 12.11.2013.

⁵⁶ Interview, Bhagat Singh, Bhandar Sangat, by Summaiya Zaidi, 7.11.2013.

⁵⁷ <http://www.jpmslcp.org/>, accessed 18.11.2013.

⁵⁸ Clean bricks is a term used for bricks produced through non-exploitation of workers.

⁵⁹ http://modelbrickkiln.com/?page_id=6, accessed 18.11.2013.

During July and August 2010, SPARC conducted nine awareness raising seminars which were attended by kiln workers and owners in Hyderabad with the aim of sensitizing owners around the Model Brick Kiln project model. Such a model would entail the provision of health and sanitation facilities as well as provision of schooling, among other measures, to improve working conditions.⁶⁰ Between April 2011 and August 2013, SPARC produced five documentaries on bonded labor in Pakistan to raise awareness of issues concerning minimum wages and social security benefits. In addition, quarterly newsletters, theater performances, project brochures, banners and websites have been used by SPARC to create awareness of the issues surrounding bonded labor practices.⁶¹

The BHS has also been part of media campaigns for the eradication of forced labor practices. It aired a program on the FM in Mirpurkhas dealing with the rights of brick kiln workers. It also made documentaries to expose the practice of bonded labor, especially with regard to minimum wages and the roles of the various stakeholders in protecting the vulnerable kiln worker from exploitation. It also held theater performances and television programs aimed at the protection of rights of workers.⁶²

The GRDO organized a long march in Mirpurkhas in 2005. Protestors marched for 12 days despite facing resistance from several parties and as a consequence the Supreme Court of Pakistan took suo moto notice of their protest.⁶³

The Interactive Resource Center (IRC) has a significant online presence through its website called www.maati.tv which is now also broadcast on radio. IRC has organized a theater performance of kiln workers titled "Brick Kiln Workers Air their Grievances" which aims to highlight "the unjust treatment against the brick kiln workers" in 2013.⁶⁴ They have other performances as well one of which was held in Lahore in collaboration with Trocaire and NCABL. This was a 20 minute theater performance by the Multan Theatre Group on the implementation of BL Act. This theater performance was a "dramatized version of the stories of the brick kiln workers."⁶⁵ IRC and Trocaire with the help of the BHS organized the screening of four

⁶⁰<http://sparcpk.org/oldsite/images/actionaid/Page%2010.jpg>, accessed 18.11.2013.

⁶¹ Interview, ZahidThebo, SPARC, by Summaiya Zaidi, 26.10.2013.

⁶² Interview, BhagatSingh, Bhandar Sangat, by Summaiya Zaidi, 7.11.2013.

⁶³ Interview, Ghulam Hyder, GRDO, by Summaiya Zaidi, 7.11.2013.

⁶⁴ <http://www.maati.tv/2013/04/23/brick-kiln-workers>, accessed 18.11.2013.

⁶⁵ <http://www.maati.tv/2013/04/18/theater-performance>, accessed 18.11.2013.

documentaries in Mehrab Shah. This was attended by over 100 members of the community and the documentaries focused on the "miserable conditions of peasants in the southern region of Sindh and the prospect of a better life through building an understanding with the landlords."⁶⁶

A cultural mela was held in Lahore on February 27, 2013 where kiln workers presented their life experiences through creative art in an exhibition of 94 painting, 25 greeting cards, 56 sculptures (mud and plaster of Paris); around 145 workers took part.

Such activities create awareness of the plight of the workers among the general population of the country and assist in the promotion of their rights.⁶⁷

Decent Work Indicators in Pakistan

Through various consultations with different stakeholders, eleven indicators have been identified by the ILO to assist in the process of assessment of the decent work.⁶⁸ These indicators provide a basis for monitoring and evaluation of decent work. The indicators are listed below:

- Employment Opportunities
- Unacceptable Work
- Adequate earnings and productive work
- Decent hours
- Stability and security of work
- Combining work and family life
- Fair treatment in employment
- Safe work environment
- Social protection
- Social dialogue and workplace relations
- Economic and social context of decent work

⁶⁶<http://www.maati.tv/2013/02/08/screening-of-documentaries-on-bonded-labor-2/>, accessed 18.11.2013.

⁶⁷ *Report on Cultural Mela for Empowerment of Brick kiln Workers, organised by Association of Network of Community Empowerment and supported by ILO, 2013, p. 5.*

⁶⁸ *Pakistan Decent Work Country Program: Joint Statement on Pakistan Decent Work Country Program, ILO, 1999, p.13.*

Analysis and Recommendations

The decent work agenda is at the core of the work being undertaken by the NGOs and other stakeholders in the brick kiln sector. However, more work needs to be done and the following is a list of recommendations that may help the process of emancipation of these workers from this modern form of slavery:

- A joint strategy needs to be developed to further the decent work agenda through the relevant indicators and this strategy must serve as a guide for Decent Work Programs in Pakistan. This may also be used as a guide by organizations working for eradication of forced labor in other areas like agriculture, household worker, home-based workers, bangle industry, and carpet industry, amongst others.
- Effective and uniform monitoring and evaluations measures need to be adopted to regulate the work being done by all organizations in the brick kiln sector in Pakistan to allow for a unified set of standards followed by all concerned.
- Effective and joint measures need to be undertaken on an organized scale with the assistance of NADRA to ensure that all brick kiln workers have CNICs and are registered to avail social security and old-age benefits.
- The laws relating to bonded labor, specifically the BL Act, need to be adapted at provincial level.
- A formalized procedure for the identification of brick kilns needs to be developed and enforced by the provincial governments so that correct documentation of these kilns is followed. This will also enable NGOs to effectively identify the brick kilns that require interventions, and to spot kilns which are producing clean bricks.
- A central database needs to be established for the coordination of all the work done by all stakeholders in the brick kiln sector to avoid repetition.

This Chapter has analyzed the four main objectives of the decent work agenda in the context of brick-kilns and has highlighted the work done by a few NGOs to eradicate bonded labor and promote decent work.

It is evident that much more work needs to be done and significant efforts are required to systematically address the four components of the decent work agenda within the brick kiln sector.

A broad agreement is required on country specific decent work indicators already identified by the ILO. Government agencies and NGOs alike, however, require technical support to enforce these indicators and to monitor progress against them. In order to achieve this goal, support is required from all stakeholders, especially the Government of Pakistan as it has the resources to operate on the necessary scale and enforce relevant laws.

NGOs and members of civil society have limited resources and can do limited work. Their work is seldom if ever sustainable and thus is subject to availability of funds. Cooperation with the governments will enable them to reach every bonded laborer in Pakistan.

Invisible Helpers in Pakistan



Invisible Helpers in Pakistan

Poverty is widespread in Pakistan and is particularly predominant in rural areas. As many as 58.7 million people in Pakistan are living in poverty.¹ Nearly two thirds of the population live in rural parts of the country. In the Province of the Punjab, 19 percent of the households live below the poverty line and more than 70% of the households are landless.² People largely rely on informal sectors such as agriculture, livestock keeping, transport and construction to make a living.

Working donkeys, horses and mules provide vital support to such segment of the population by transporting goods and people, generating direct income for their owners including women. It is estimated that over 12 million marginalized people, directly and indirectly, depend on working equids for a living in Pakistan.³ Working equids also provide invaluable help to women who rely on them to lessen the burden of household chores. For women, those animals are also often those who feed their children and contribute to their access to education and healthcare.

There are over 4.7 million donkeys, mules and horses in Pakistan.⁴ Ninety-five percent of them are working donkeys. Nearly half of the equine population can be found in the Punjab with 2.4 million animals, of which over 2.2 million are donkeys.⁵

While working equine animals are not necessarily excluded from donors' and policy makers' definition of "livestock", they are rarely acknowledged, as the emphasis is on animals that primarily produce "food or fiber outputs". As a result they remain largely absent from livestock related policies, standards, guidelines, programmatic interventions, livestock statistics (including FAOSTAT which lists equids but not specifically working equids), and animal health systems, including human resources and budgets.

¹D. Valette, *Invisible Helpers: Women's views on the contributions of working donkeys, horses and mules to their lives*, The Brooke, 2014.

²SDPI, *Clustered Deprivation*, 2014

³*Ibid.*

⁴*Socio-economic survey by University of the Punjab*, 2006

⁵*Pakistan Livestock Census*, 2006

⁶*Ibid.*

This translates to working donkeys, mules and horses being excluded from livestock vaccination campaigns and their healthcare needs not being addressed, with equine specific drugs rarely being made available. The lack of attention to equine welfare is reflected in the training of vets and paravets which rarely includes an equine element. The chronic lack of attention to working equine animals in particular in relevant human development debates may be explained by a number of factors.

The main one is the assumption that if animals do not perform what are perceived as “livestock functions” - in particular if they do not produce “food or fiber outputs” (such as meat, wool or milk) - they do not carry a quantifiable value (monetary or nutritional) which benefits people's food security and livelihoods. The role of working donkeys, mules and horses is therefore seen as secondary, even if their labor contributes significantly to the income of the household and is often paramount to the survival of other livestock in the household as the working equine animal carries fodder and water for food production animals.

Secondly, if one looks at the overall livestock inventory, the number of working equids is comparatively small. Their critical role in agricultural systems and small urban and rural businesses as well as some countries' transport infrastructure therefore goes largely unrecognised by decision makers and implementers involved in relevant sectors. This is an important oversight and a missed opportunity to address livelihood strategies which millions of families in the developing world depend on.

The current gaps in understanding and reflecting women's priorities with respect to livestock keeping means that important opportunities for effective interventions are being missed. National governments, donors and UN agencies including FAO and IFAD involved in gender and livestock related projects and interventions must assess gender roles and specific needs with regards to livestock within the targeted community.

In an effort to bring attention to the links between women and working equids, Brooke Pakistan met with women in the Punjab Province in Pakistan in order to hear their views and experiences of having those animals and the difference they make to their daily lives.

This chapter highlights the findings from a participatory piece of research carried out in five communities. It shows the extent to which women rely on working equine animals for support in fulfilling their many roles within the household and the wider community. This includes help with heavy domestic

work, providing income, enabling them to play an important role in their communities (thereby enhancing their status), and providing savings by transporting goods, agricultural produce, water, firewood, animal feed and manure.

It shows the extent to which women rely on working equine animals for support in fulfilling their many roles within the household and the wider community. This includes help with domestic drudgery, providing an income for women and their families and enabling savings by providing transport for goods, water, firewood, animal feed, manure and other produce.

Their role also extends to the social sphere of women's lives, as they raise women's status in the community and provide them with opportunities to make their voices heard and to access loan and business opportunities.

The research highlights the devastating impact of the loss or sickness of a working equid on women and their families. It shows the importance of good equine welfare, as working equids in poor health, be it because they are overworked, suffer wounds, foot problems, or are not provided with adequate harnessing and access to nutritious food, shelter and water, are impaired in their ability to benefit women optimally. Therefore good equine welfare is not a luxury but a necessity for women and their families.

Working Equine Animals Are Important to Women

While working donkeys, mules and horses rarely make it onto the radar of policy makers and other development actors, for a large majority of the women we interviewed, they were one of the most, if not the most important livestock in their households.

When asked to rank their livestock, including working equids, 4 out of 5 groups across all communities put their horses and donkeys in the first position.

The primary reason for women ranking working equids highly was due to their income generation role. In the rubbish collection communities particularly, donkeys are the only source of income and families solely rely on them to earn money. But women also highlighted the multiple functions performed by equids alone and not by other livestock.

In particular, working donkeys and horses support women with household chores, and in performing social functions. In contrast the only function

performed by other livestock when available (mainly buffaloes and goats) was primarily nutritional (milk) and in bad times, in the case of goats, monetary (sold for cash). Women attached importance to working equids for their other livestock as donkeys and horses carry fodder for all livestock.

Women Have a Say in the Purchase of Livestock

It is often assumed that women have little say in household decisions that relate to the acquisition of an animal, as well as ownership and use of livestock.

In the context of working equids, the research found that the gender divisions of labor in these women's communities are not as clear cut as often presumed. When asked who makes decisions when purchasing animals, many said that they were consulted.

Women Care for Working Equids

The research showed that women are the primary and traditional care givers for livestock mainly within the household compound but also tending to production livestock such as cattle and goats outside their homes.

Working equids too are primarily looked after by women although children also help. All of the women interviewed highlighted their role as care givers to donkeys, mules and horses, providing feed and water, and cleaning shelters. Only the women from the Talianwala rubbish collection community in Pakistan said that feeding the animals was done by men.

All of the women interviewed said they used working equids for household chores. All of the five groups said that they used donkeys for income generation. In urban areas, rubbish collection is the main means of livelihood of the communities visited and women as well as men and children are involved in collecting rubbish. In rural areas, women use donkey carts to transport agricultural produce to the market or animal feed to local farmers.⁶ Sometimes, they are also used for social events.

⁶In India the general rule is that only women from female headed households (widows, single women, or women whose husbands are sick and unable to work) can use working equids for income generation. This is due to cultural factors, the time spent on household chores and child care, as well as the type of work involved, particularly in sectors which involve heavy lifting (for example, women do not load animals with bricks in the kilns).

Working Equids Help Women Care for Other Livestock

In communities engaged in livestock production, women highlighted that the help provided by working equids with household chores also benefits the other livestock they are looking after. They usually transport feed and water for the other animals, as well as taking sick small livestock such as calves, sheep or goats to health clinics. In effect, they enable families to keep other animals.

Working Equids Lighten Women's Burden by Reducing Their Labor and the Heavy Burden of Household Chores

Women highlighted the importance of working equids to support them in carrying out household chores, in particular transport of goods, fodder, water and crops from the field to the market or from the market to their homes. This saves them a lot of time and they are better able to care for their children and tend to other tasks within the home.

'Our donkeys are everything to us. Thanks to them the cycle of our houses runs. Without them we would suffer physically due to the extensive walking we would have to do every day,' one participant from Rasool Pura said.

In Cha Chakera, participants said that women who have a donkey cart can bring wood and fodder home in one hour and 30 minutes whilst it takes four hours for women who do not have a donkey. This was echoed by another group in Barthanwala, who said that donkey carts can transport a whole month's worth of firewood in a single day, whereas women who carry wood on their heads have to fetch it every day.

Therefore when an equid dies or is sick, it has a significant impact on women. "Without a donkey life is hard," one Kausar Bibi from Talianwala stated.

"Without a donkey we have to walk to get to work and we get very tired so we can't work properly and we come back home late and we are not able to do the other chores," one Rabia from Purani Sabzi Mandi said.

Working Equids Support Women in Generating Income That Benefits Them Directly and Indirectly

The critical importance and financial contributions of working equids to women themselves and their families was clearly acknowledged by all the women interviewed. All the groups use working equids for direct income generation either as the main source of income (rubbish collection communities) or as one of their sources of direct income generation.

“Donkeys earn their food themselves and even earn for us,” said one Nadia from Talianwala.

Whilst some women are not involved in generating direct income, they do still support family earning through indirect income earned by working equids used for homestead purposes, which result in savings particularly with regards to transport costs.

The reliance of women and their families on working equids means that the sickness or death of an animal has a major impact on income and therefore on the benefits they bring to women. Women have to use various kinds of coping strategies, including borrowing money, selling other livestock animals or taking up a loan to buy another donkey or horse and therefore become indebted.

“If our donkey dies, we feel bad because it has spent a long time with us and has done a lot for us, but the actual grief is about losing our source of income,” said Jamila Bibi from Purani Sabzi Mandi. “My donkey died last month and now I don’t have any work or source of income,” Rani Bibi from Rasool Pura lamented.

Working Equids Support Women in Carrying Out Social Functions and Increase their Opportunities for Community Engagement

Working equids do not only provide economic benefits but social advantages as well. Women said that working equids that they use or own play an important role in supporting them to carry out social functions and raise their status in the community. This is because these animals are assets that bring income and are also paramount in facilitating transportation for both equine and non-equine owners including in case of emergencies, for example taking people to the hospital.

The social benefits of donkey and horse ownership were less important in the rubbish collection communities due to the pressure of work. In other communities, women said that lending donkeys and horses in time of need or to help neighbors and relatives is common. Some women also see sharing their donkeys as an opportunity to meet their friends.

Women Have Limited Access to Equine Training and Extension Services

Despite their primary role in caring for equids the fact that they use working equids themselves, when asked about their sources of knowledge, the women said that they did not have access to any kind of education and training. Their knowledge was acquired through looking after the donkeys and horses themselves or from their husbands who benefited from being involved in working equine welfare groups established by Brooke Pakistan.

When asked about the possibility of attending training session, they said that whilst their participation in such training sessions would have to be discussed with their husbands, they would have an opportunity to attend. Only one group (from the rubbish collection community in Talianwala) did not express a wish to be trained. Most women interviewed in rural areas were interested in attending training and being engaged in equine welfare related activities.⁷

Women as Agents of Change: Lady Livestock Workers in Pakistan

Brooke Pakistan has been working with the Community Empowerment through Livestock Development and Credit (CELDAC) project to train rural women in equine management and primary treatment in their respective communities.

CELDAC is a partnership between the United Nations Development Program (UNDP) and Nestle Pakistan that teaches veterinary skills to women, enabling them to become “Lady Livestock Workers” (LLWs). The project runs in 22 districts of Punjab and Sindh provinces. The project focuses on women working with cattle, sheep and goats. 144 LLWs have so far been trained, 106 of which are in Punjab. LLWs were provided with training on basic livestock health management and extension services. The Brooke Pakistan has been training LLWs on equine management and primary treatment including wound dressing and heat stress management.

⁷*In India, women said that their main sources of information and knowledge were initially traditional practices but the formation of women's equine groups at Brooke India's initiative gave them an opportunity to strengthen their skills and adapt some of the traditional methods they used. Women stated that belonging to such groups allowed them to gain critical knowledge on how to look after their equids but also to have opportunities for loans through the groups' savings.*

Conclusion

The research shone a light on the critical importance of working equids in women's lives and the extent to which they rely on them for support in fulfilling their many roles within the household and the wider community.

For women from equine owning communities, the health and welfare of these animals are essential. A sick or a dead donkey or horse will have dramatic consequences for women and their families. Some women compared losing an animal to losing a limb.

Working equids in poor health are impaired in their ability to benefit women optimally, be it because they are overworked, suffer wounds, foot problems, or are not provided with adequate harnessing and access to nutritious food, shelter and water. Therefore good equine welfare is not a luxury but a necessity for women and their families. Without their help, women's burden increases, income decreases and women are less able to perform social functions, which in turn affects their status in the community.

Recommendations

- The departments in charge of Livestock in all the regions of Pakistan should consider working equids as critical and valuable livestock for people's food security and livelihoods.
- Working donkeys, horses and mules are at the cornerstone of tens of thousands of families' livelihoods in Pakistan and provide a support system for women. Therefore the health and welfare needs of those animals should be adequately addressed by government policies and programs alongside with other livestock. This includes allocating sufficient budget for equine drugs, including working equids in vaccination campaigns and other livestock initiatives, and providing training on equine health and welfare for government vets and livestock technicians.
- The departments in charge of Livestock in all the regions of Pakistan and donor agencies should give greater priority to ensuring women's access to extension services.
- Appropriate emphasis should be put on increasing the number of women being trained and employed as “agents of change”. Training

and information related to livestock keeping must take women into account and specifically incorporate equine health and welfare, including husbandry.

- Animal welfare legislation which specifically includes working equine animals should be adopted and effectively implemented through targeted and accessible awareness campaigns aimed at owners, users and carers.
- These awareness campaigns should specifically include women as women can be powerful advocates and need to be included in those campaigns.
- A dialogue between community based and non-governmental organisations working on gender and livestock, and organisations concerned with working equine welfare, should be initiated to better understand and explore the opportunities and benefits of collaborating on their mutual agendas. These organisations currently operate in silos which leads to missed opportunities for engaging women from equine owning communities, leaving them outside the scope existing initiatives.
- Working equids provide a significant number of benefits to women and their families. Although good equine welfare is sometimes seen as a luxury by development actors, it is a necessity as it has direct implications for people's welfare including women's and their families' access to food, education, and healthcare.
- Working donkeys, mules and horses must be recognised in gender and livestock policy and programming.
- Such recognition means, in practice, the inclusion of working equids among the animal species considered in livestock interventions aimed at women - something that does not generally happen currently.
- Greater emphasis should be put on gender analysis and women's participation in the development of livestock-related interventions aimed at women.

The Bonded Labor System (Abolition) Act 1992

&

The Bonded Labor System (Abolition) Rules, 1995



The Bonded Labor System (Abolition) Act 1992

(No. III)
March 17, 1992

An Act to provide for abolition of bonded labor system.

Whereas Article 11 (2) of the Constitution of the Islamic Republic of Pakistan prohibits all forms of forced labor.

And whereas it is necessary to provide for abolition of bonded labor system with a view to preventing the economic and physical exploitation of the labor class in the country and for matters connected therewith or incidental thereto.

It is hereby enacted as follows:

1. **Short Title, Extent and Commencement.**

- (1) This Act may be called the Bonded Labor System (Abolition) Act 1992.
- (2) It extends to the whole of Pakistan.
- (3) It shall come into force at once.

2. **Definitions.**

In this Act, unless there is anything repugnant in the subject or context:

- (a) "advance (*peshgi*)" means the advance (*peshgi*), whether in cash or in kind, or partly in cash or partly in kind, made by one person (hereinafter referred to as the creditor) to another person (hereinafter referred to as the debtor);
- (b) "bonded debt" means an advance (*peshgi*) obtained, or presumed to have been obtained, by a bonded laborer under, or in pursuance of, the bonded labor system;
- (c) "bonded labor" means any labor or service rendered under the bonded labor system;

- (d) "bonded laborer" means a labor who incurs, or has, or is presumed to have, incurred, a bonded debt;
- (e) "bonded labor system" means the system of forced, or partly forced, labor 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 (*peshgi*) obtained by him or by any of the members of his family, whether or not such advance (*peshgi*) is evidenced by any, document, and in consideration of the interest, if any, due on such advance (*peshgi*); or
 - (ii) in pursuance of any customary or social obligation; or
 - (iii) for any economic consideration received by him or by any of the members of his family;

he would:

- (1) render, by himself or through any member of his family, or any person dependent on him, labor or service to the creditor, or for the benefits 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 adopting other means of livelihood for a specified period or for an unspecified period; or
- (3) forfeit the right to move freely from place to place; or
- (4) forfeit the right to appropriate or sell at market value any of his property or product or his labor or the labor of a member of his family or any person dependent on him, and includes the system of forced or partly forced labor under which a surety for debtor enters, or has or is presumed to have entered, into an agreement with the creditor to the effect that in the

event of the failure of the debtor to repay the debt, he would render the bonded labor on behalf of the debtor.

- (f) "family" means:
 - (i) in the case of a male bonded laborer, the wife or wives, and in the case of a female bonded laborer, the husband of the bonded laborer; and
 - (ii) the parents, children, minor brothers, and unmarried, divorced, or widowed sisters of the bonded laborer wholly dependent on him;
- (g) "nominal wages", in relation to any labor, means a wage which is less than:
 - (a) the minimum wages fixed by the Government, in relation to the same or similar labor, under any law for the time being in force; and
 - (b) where no such minimum wage has been fixed in relation to any form of labor, the wages that are normally paid, for the same or similar labor, to the laborers working in the same locality; and
- (h) "prescribed" means prescribed by rules made under this Act.

3. Act to Override Other Laws, etc.

The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.

4. Abolition of Bonded Labor System.

- (1) On the commencement of this Act, the bonded labor system shall stand abolished and every bonded laborer shall stand free and discharged from any obligation to render any bonded labor.
- (2) No person shall make any advance under, or in pursuance of, the bonded labor system or compel any person to render any bonded labor or other form of forced labor.

5. Agreement, Custom, etc., to be Void.

Any custom or tradition or practice or any contract, agreement or other instrument, whether entered into or executed before or after the commencement of this Act, by virtue of which any person, or any member of his family, is required to do any work or render any service as a bonded laborer, shall be void and inoperative.

6. Liability to Repay Bonded Debt to Stand Extinguished.

- (1) On the commencement of this Act, every obligation of a bonded laborer to repay any bonded debt, or such part of any bonded debt as remains unsatisfied immediately before such commencement, shall stand extinguished.
- (2) After the commencement of this Act, no suit or other proceeding shall lie in any civil court, tribunal or before any other authority for the recovery of any bonded debt or any part thereof.
- (3) Every decree or order for the recovery of bonded debt, passed before the commencement of this Act and not fully satisfied before such commencement, shall be deemed, on such commencement, to have been fully satisfied.
- (4) Where, before the commencement of this Act, possession of any property belonging to a bonded laborer or a member of his family was forcibly taken by any creditor for the recovery of any bonded debt, such property shall be restored, within 90 days of such commencement, to the possession of the person from whom it was seized.
- (5) Every attachment made before the commencement of this Act, for the recovery of any bonded debt shall, on such commencement, stand vacated; and where, in pursuance of such attachment, any movable property of the bonded laborer was seized and removed from his custody and kept in the custody of any court, tribunal or other authority pending sale thereof such movable property shall be restored, within 90 days of such commencement, to the possession of the bonded laborer:

Provided that, where any attached property was sold before the commencement of this Act, in execution of a decree or order for the recovery of a bonded debt, such sale shall not be affected by any provision of this Act.

- (6) Subject to the proviso to subsection (5), any sale, transfer or assignment of any property of a bonded laborer made in any manner whatsoever before the commencement of this Act for recovery of bonded debt shall not be deemed to have created or transferred any right, or interest in or encumbrance upon any such property and such property shall be restored, within 90 days of such commencement to the possession of the bonded laborer.
- (7) If restoration of the possession of any property referred to in subsection (4) or subsection (5) or subsection (6) is not made within 90 days from the commencement of this Act, the aggrieved person may, within such time as may be prescribed, apply to the prescribed authority for the restoration of the possession of such property and the prescribed authority may, after giving the creditor a reasonable opportunity of being heard, direct the creditor to restore to the applicant the possession of the said property within such time as may be specified in the order.
- (8) An order made by any prescribed authority under subsection (7) shall be deemed to be an order made by a civil court and may be executed by the court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction the creditor voluntarily resides or carries on business or personally works for gain.
- (9) Where any suit or proceeding for the enforcement of any obligation under the bonded labor system, including a suit or proceeding for the recovery of any advance (peshgi) made to a bonded laborer, is pending at the commencement of this Act, such suit or other proceeding shall, on such commencement, stand dismissed.
- (10) On the commencement of this Act, every bonded laborer who has been detained in civil prison, whether before or after judgement, shall be released from detention forthwith.

7. Property of Bonded Labor to be Freed From Mortgage etc.

- (1) All property vested in a bonded laborer which was, immediately before the commencement of this Act, under any mortgage, charge, lien or other encumbrance in connection with any bonded debt shall, in so far as it is relatable to the bonded debt, stand freed and discharged from such mortgage, charge, lien or other encumbrance; and where any such property was, immediately before the commencement of this Act, in the possession of the mortgagee or the holder of the charge, lien or encumbrance, such property shall, except where it was subject to any other charge, on such commencement, be restored to the possession of the bonded laborer.
- (2) If any delay is made in restoring any property referred to in subsection (1) of the possession of the bonded laborer, such laborer shall be entitled, on and from the date of such commencement, to recover from the mortgagee or holder of the lien, charge or encumbrance, such mesne profits as may be determined by the civil court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction such property is situated.

8. Creditor Not to Accept Payment Against Extinguished Debt.

- (1) No creditor shall accept any payment against any bonded debt which has been extinguished or deemed to have been extinguished or fully satisfied by virtue of the provisions of this Act.
- (2) Whoever contravenes the provisions of subsection (1), shall be punishable with imprisonment for a term which may extend to three years, or with fine which shall not be less than 15,000 rupees, or with both.
- (3) The court convicting any person under subsection (2) may, in addition to the penalties which may be imposed under that subsection, direct such person to deposit, in court, the amount accepted in contravention of the provisions of subsection (1), within such period as may be specified in the order, for being refunded to the bonded laborer.

9. Authorities Who May be Specified for Implementing the Provisions of This Act.

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

10. Duty of District Magistrate and Other Officers Designated by Him.

(1) The District Magistrate authorized by the Provincial Government under section 9, and the officer designated by the District Magistrate under that section, shall, as far as practicable, try to promote the welfare of the freed bonded laborer by securing and protecting the economic interests of such bonded laborer so that he may not have any occasion or reasons to contract any further bonded debt.

(2) It shall be the duty of every District Magistrate and every officer designated by him under section 9 to inquire whether after the commencement of this Act, any bonded labor system or any other form of forced labor is being enforced by, or on behalf of, any person resident within the local limits of his jurisdiction and if, as a result of such inquiry, any person is found to be enforcing the bonded labor system or any other system of forced labor, he shall forthwith take such action as may be necessary to implement the provisions of this Act.

11. Punishment for Enforcement of Bonded Labor.

Whoever after the commencement of this Act, compels any person to render any bonded labor shall be punishable with imprisonment for a term which shall not be less than two years nor more than five years, or with fine which shall not be less than 50,000 rupees, or with both.

12. Punishment for Extracting Bonded Labor Under the Bonded Labor System.

Whoever enforces, after the commencement of this Act any custom, tradition, practice, contract, agreement or other instrument, by virtue of which any person or any member of his family is required to render

any service under the bonded labor system, shall be punishable with imprisonment for a term which shall not be less than two years nor more than five years or with fine which shall not be less than 50,000 rupees, or with both; and out of the fine, if recovered, payment shall be made to the bonded laborer at the rate of not less than 50 rupees for each day for which bonded labor was extracted from him.

13. Punishment for Omission or Failure to Restore Possession of Property to, Bonded Laborer.

Whoever, being required by this Act to restore any property to the possession of any bonded labor, omits or fails to do so, within a period of 90 days from the commencement of this Act shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to 1,000 rupees, or with both; and out of the fine, if recovered, payment shall be made to the bonded laborer at the rate of ten rupees for each day during which possession of the property was not restored to him.

14. Abetment to be an Offense.

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

Explanation: For the purpose of this section, "abetment" has the same meaning as is assigned to it in the Pakistan Penal Code (No. XLV).

15. Vigilance Committees.

- (1) Vigilance Committees shall be set up at the District level in the prescribed manner, consisting of elected representatives of the area, representatives of the District Administration, Bar Associations, Press, recognized social services and Labor Departments of the Federal and Provincial Governments.
- (2) The following shall be the functions of the Vigilance Committees, namely:
 - (a) to advise the District Administration on matters relating to the effective implementation of the law and to ensure its implementation in a proper manner;
 - (b) to help in the rehabilitation of the freed bonded laborer;

- (c) to keep an eye on the working of the law; and
- (d) to provide the bonded laborers such assistance as may be necessary to achieve the objectives of the law.

16. Offenses to be Tried by the Magistrate.

- (1) A Magistrate of the first class empowered in this behalf by the Provincial Government may try any offense under this Act.
- (2) An offense under this Act may be tried summarily.

17. Cognizance of Offenses.

Every offense under this Act shall be cognizable and bailable.

18. Offenses by Companies.

- (1) Where an offense under this Act has been committed by a company, every person who, at the time the offense was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offense and shall be liable to be proceeded against and punished accordingly.
- (2) Notwithstanding anything contained in subsection (1), where any offense under this Act, has been committed by a company and it is proved that the offense has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager or other officer of the company, such director, manager or other officer shall be deemed to be guilty of that offense and shall be liable to be proceeded against and punishable accordingly.

Explanation: For the purposes of this section:

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm means a partner in the firm.

19. Protection of Action Taken in Good Faith.

No suit, prosecution or other legal proceedings shall lie against Government or any officer of the Government for anything which is in good faith done or intended to be done under this Act.

20. Jurisdiction of Courts Barred.

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

21. Power to Make Rules.

The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

The Bonded Labor System (Abolition) Rules, 1995

S.R.O 723(I)/95. In exercise of the powers conferred by section 21 of the Bonded Labor System (Abolition) Act, 1992 (III of 1992), the Federal Government is pleased to make the following rules, namely:-

1. Short Title and Commencement.

- (1) These rules may be called the Bonded Labor System (Abolition) Rules, 1995.
- (2) They shall come into force at once.

2. Definitions.

- (1) In these rules unless there is anything repugnant in the subject or context:
 - (a) “Act” means the bonded Labor System (Abolition) Act, 1992 (III of 1992).
 - (b) “Authority” means authority prescribed under rule 3.
 - (c) “Chairman” means the Chairman of Vigilance Committee.
 - (d) “Fund” means Fund established under rule 9; and
 - (e) “Vigilance Committee” means the Vigilance Committee set up under rule 6.
- (2) All other expressions used but not defined in these rules shall have the meaning assigned to them under the Act.

3. Authority to Deal With Cases of Restoration of Possession of Any Property of Bonded Laborer or a Member of His Family.

- (1) The provincial Government shall, by notification in the official Gazette, establish one or more authorities to deal with cases of restoration of possession of any property under sub-section(7) of section 6 of the Act and specify the territorial limits within which each one of them shall exercise

jurisdiction under the Act.

- (2) An authority established under sub-rule (1) shall consist of an officer of the Provincial Government with experience as a judge of a civil court.
- (3) The bonded laborer or a member of his family himself or through a legal practitioner file an application before the authority for restoration of possession of any property that has been taken by creditor or attached, sold, transferred or assigned within the meaning of section 6 of the Act.
- (4) When an application under sub-rule (3) is filed, the authority shall hear the petitioner and the creditor or any other person acting on behalf of the creditor and after such further inquiry, as may be necessary may give such direction or pass or order as it deems proper.
- (5) As far as possible, the authority shall decided the application filed under sub-rule (3) within a period of 30 days from the date of the application has been filed before it.
- (6) The aggrieved person may file his application under sub-rule (3) with the authority within a period of seven years from the date of the commencement of these rules or from the date the cause of action arises.

4. Powers and Duties of the District Magistrate for Implementing the Provisions of the Act.

- (1) The Provincial Government shall, by notification in the official Gazette, confer upon every District Magistrate in the Province the following powers, namely:
 - (a) to inspect any premises or work place in his jurisdiction where he has reasons to believe that bonded labor system is being enforced and make such examination of that place or any record, register or other documents maintained therein and may require any explanation of any person or record or document and take such measure as he may consider necessary for the purposes of the Act;

- (b) to call for such information from the creditor or any other person as he may deem necessary for the discharge of his functions;
 - (c) to enquire into any matter relating to the implementation or violation of the provisions to the Act; and
 - (d) to exercise such other powers as may be conferred upon him for carrying out the purposes to the Act.
- (2) The Provincial Government may, by notification in the official Gazette, confer on a District Magistrate all or any of the following duties namely:
- (a) to mobilize Government and non-government organizations falling in his jurisdiction for the purpose that those should work together so as to bring to light the cases of bonded labor so that measures should be taken under the law for their freedom and rehabilitation;
 - (b) to urge academic institutions and vocational training schools to prepare programs for the education and training of workers freed from the bonded labor system;
 - (c) to persuade philanthropists and social welfare organizations to undertake activities to rehabilitate and promote the welfare of the freed bonded laborer by, securing and protecting the economic interest of such freed bonded laborer to enable him not to contract any further bonded debt; and
 - (d) to perform such other duties as may be conferred upon him for carrying out the purposes of the Act.

5. Other Officers to Exercise Powers and Perform Duties Conferred Upon a District Magistrate.

- (1) The District Magistrate shall, by an order in writing, designate all Magistrates, all labor officers, all labor inspectors and all police officers not below the rank of

assistant superintendent of police or deputy superintendent of police, performing functions within the territorial jurisdiction of a district under his control to exercise all or any of the powers and perform all or any of the duties be conferred or imposed upon him under rule 4.

- (2) An order issued under sub-rule (1) shall specify the territorial limits within which such powers or duties shall be exercised or carried by such officer.

6. Constitution and Meetings of the Vigilance Committees.

(1) The Provincial Government shall, by notification in the official Gazette, constitute in each district of the province a Vigilance Committee consisting of the following members namely:

- (a) Deputy Commissioner of the DistrictChairman.
- (b) A police officer not below the rank of Superintendent of Police as nominated the Senior Superintendent of Police of the District..... Member.
- (c) District & Sessions Judge, retired or serving to be nominated by the Provincial Government..... Member
- (d) President District Bar Association..... Member.
- (e) An elected representative of the District Council, to be nominated by the Local Government & Rural Development Department of the Provincial Government..... Member.
- (f) A member of the Provincial Assembly, to be nominated by the Provincial Government in consultation with the Local Government & Rural Development Department of the Province..... Member.

- (g) A representative of the Labor and Manpower Department of the province not below the rank of Assistant Director Labor Welfare, to be nominated by that Department..... Member
- (h) A representative of the Labor, Manpower & Overseas Pakistanis Division of the Federal Government, to be nominated by that Division..... Member.
- (i) A representative of the Education Department not below the rank of an officer in BPS-17 or a staff member of an educational institution run or controlled by the Provincial Government, to be nominated by that Department..... Member.
- (j) A representative of the Agriculture Department not below the rank of an officer in Basic Pay Scale 17, to be nominated by that Department..... Member.
- (k) A representative of the Health Department preferably a qualified physician, to be nominated by that Department..... Member.
- (l) A representative of recognized body of workers, to be nominated by the Provincial Labor & Manpower Department in consultation with that body..... Member.
- (m) A representative of a recognized body of employers, to be nominated by Provincial Labor & Manpower Department in consultation with that body..... Member
- (n) A representative of registered or recognized NGO working for the protection of human rights, to be nominated by the District Administration with the approval of the concerned Deputy Commissioner Member.

- (o) A journalist of a standing competence and having experience of working in the field of human rights..... Member.
 - (p) A representative of Social Welfare Department of the Province not below the rank of an officer in BPS-17, to be nominated by that Department..... Member
 - (q) Two representatives of recognized social service, one from All Pakistan Women Association and one from any other body established to render services to the society at large for its development, to be nominated by the Federal Government..... Member
- (2) As soon as the Vigilance Committee is constituted, the Chairman shall call the preliminary meeting of the Committee and designate one of the official members as Secretary who shall be responsible to record minutes of every meeting and, subject to the approval of the chairman, shall correspond with the concerned Government Departments or other agencies, maintain records of proceedings and correspondences and undertake all transactions that are necessary in carrying out the objectives of the Act and rules.
- (3) The Vigilance Committee shall meet in the first week of every month at a place and in the manner as directed by the Chairman.
- (4) An emergency meeting of Vigilance Committee may be convened at 48 hours notice in writing given to the Chairman, at least by seven members under their signature.

7. Functions of the Vigilance Committee.

- (1) Subject to the overall control of the Provincial Government, a Vigilance Committee shall be responsible to ensure that the objectives of the law are fully achieved and in particular shall perform the functions assigned to it under the Act.
- (2) The Vigilance Committee may, at anytime, call upon a department or an agency or a company or an employing establishment or firm or an individual employer or any other person to furnish it with such

information and documents as may be relevant or useful in connection with performance of its functions under sub-section (2) of section 15 of the Act.

- (3) The Vigilance Committee shall establish a complaint cell in the office of the Deputy Commissioner which shall be managed by its Secretary.
- (4) The Secretary or any member of the Vigilance Committee, on having the knowledge that at a work-place bonded labor was employed, he shall forthwith report to the District Magistrate for taking appropriate action under the Act.

8. Tenure of Office of Non-official Members.

- (1) A non-official member of the Vigilance Committee shall hold office for a period of two year from the date of his appointment as a member and shall be eligible for re-nomination.
- (2) An outgoing member may continue in office until the appointment of his successor.
- (3) No act or proceeding of the Vigilance Committee shall be invalid for reasons only of existence of a vacancy for reasons only of existence of a vacancy, or defect in the constitution of, the committee.
- (4) A person appointed as member of the Vigilance Committee to fill a casual vacancy shall hold office for the unexpired period of his predecessor.
- (5) A member of the Vigilance Committee may, by writing in his own hand addressed to the concerned Chairman, resign his office.
- (6) A member of the Vigilance Committee may be removed by the Provincial Government if he is convicted of an offense which in the opinion of the Provincial Government involves moral turpitude or if he has been absent from three consecutive meeting without leave of absence obtained from the Chairman.

9. Establishment of the Fund.

- (1) There shall be established for the rehabilitation and welfare of the bonded laborer a Fund consisting of:
 - (a) any initial or subsequent contribution made by the Federal Government or Provincial Government;
 - (b) such sums and contribution as may from time to time, be paid by any national or international organization ; and
 - (c) income from the investments made and properties and assets acquired out of the Fund.
- (2) The Fund shall be utilized to:
 - (a) finance the projects connected with the establishment of training institutes for the training of persons freed from bonded labor system.
 - (b) provide legal and financial assistance to the bonded laborer or their family members for the sake of protection of their rights under the Act.
 - (c) finance the other measures for the rehabilitation and welfare of free bonded laborer as envisaged in sub-section (1) of Section 10 of the Act.
 - (d) meet expenditure in respect of cost of management and administration of the Fund; and
 - (e) make investment in securities approved for the purpose by the Provincial Governments.
- (3) The Provincial Government may allocate any sum out of the Fund by the Vigilance Committees to perform their functions under the Act and these rules.
- (4) The Vigilance Committee shall quarterly furnish to the Provincial Government a statement of its accounts.

- (5) No sum shall be spent by the Vigilance Committee without approval, in writing, of the Chairman.
- (6) Each Vigilance Committee shall get its accounts audited subject to the direction and control of the Provincial Government.

10. Traveling Allowance and Daily Allowance of Non-official Members.

A non-official member of a Vigilance Committee shall be entitled to travel allowance and daily allowance at the rates determined by the Provincial Government from time to time, keeping with the established practices and prevailing cost of living.



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